



**Permanent Mission
of the Republic of Azerbaijan
to the UN Office and other
International Organizations**

GENEVA

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The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and with reference to the Latter's request dated 3 April 2018 has the honour to transmit herewith information on the role, composition and functions of bar associations as requested by Mr. Diego Garcia-Sayan, Special Rapporteur on the independence of judges and lawyers.

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Enclosure: 4 pages



Geneva, 28 May 2018

Office of the United Nations
High Commissioner for Human Rights
GENEVA

Information on the communication of UN Special Rapporteur on the independence of judges and lawyers on the role, composition and the functions of bar associations

1. Information on the way the legal profession is organised and regulated in your country. What are the legal bases for its establishment (e.g. constitutional provisions; ordinary law or other)?

The legal basis for the establishment of the legal profession is the Law of the Republic of Azerbaijan on Lawyers and Legal Practice (hereinafter referred to as "the Law"), which was adopted by the Parliament on 28.12.1999. Organization and regulation of the legal profession are mainly carried out by afore-mentioned law, the Charter of the Azerbaijani Bar Association, as well as other by-laws adopted by the Bar Association.

2. Main legal provisions protecting the right of lawyers to freely join or create a local, national or international association, and mention the existing associations.

According to the Law, the Azerbaijani Bar Association, which is a non-state, independent, self-governing institution unites all lawyers (member to the Bar Association) who are acting in the Republic of Azerbaijan. A person who is not a member of the Bar Association may not carry out legal practice. Thus, no association or another kind of professional organisations (bar) could be established by the lawyers. However, any lawyer may freely join any local, regional or international organisation/association irrespective of the field of activity of that organisation/association.

3. Does a professional association of lawyers play a role in the regulation of the profession?

(a) the exact domination body;

As it was mentioned above, the legal profession is regulated by the Law and by-laws adopted by the Bar Association. The exact domination body for legal practice is the Azerbaijani Bar Association and no other organisation is authorised to regulate relations in the legal profession.

(b) the legal basis for its establishment (e.g. constitutional provisions; ordinary law or other);

Law of the Republic of Azerbaijan on Lawyers and Legal Practice, which was adopted by the Parliament on 28.12.1999.

(c) whether the association has been established as an "independent" and self-governing association;

According to Article 9 of the Law, the Azerbaijani Bar Association, which is a non-state, independent, self-governing institution unites all lawyers (member to the Bar Association)

who are acting in the Republic of Azerbaijan. As it was mentioned the Law was adopted in 1999, however the new Bar Association was established in 2004.

(d) the composition and appointment process of the executive body of the association.

The executive body of the Bar Association is its Presidium (Board), which is composed of 15 members. In order to become a member of the Presidium, a person should have been a lawyer at least for three years, has authority among the members and has no disciplinary sanctions imposed upon him/her.

4. Information on the relationship between the association of lawyers and the Executive, Legislative and Judiciary powers. In particular, please provide information on the role of the Ministry of Justice and/or the judiciary in relation to the establishment and functioning of this association.

As according to the Law, the Bar Association is an independent organisation, no other institution may interfere in affairs of the Bar Associations. Regarding the relationship with the branches of power:

I) Executive branch: mainly defines the amount and mechanism of payment of the hourly rates that are payable to the lawyers who render free legal aid upon state order, especially in criminal cases.

II) Legislative branch: the Bar Association regularly cooperates with the Parliament, as well as attend public discussion held in the Parliament on different draft laws, especially which has a deal with the legal practice.

III) Judiciary: a member (lawyer) of the Bar Association is a sitting member of the Judicial Legal Council that is the self-governing body of the judiciary. Also one of the Bar members is also a member of Judges Selection Committee, that functions under the Judicial Legal Council and ensures selection of candidates to judicial positions.

To sum up, no other organisation interferes in the establishment or functioning of the Bar Association.

5. Please provide information on the role that professional associations of lawyers play with regard to:

(a) the admission process to the legal profession;

Admission to the legal profession is ensured by the Lawyers Qualification Commission that is composed of 11 members, where 5 members are lawyers (appointed by the Presidium), 3 members are judges (appointed by Plenum of the Supreme Court), and 3 members are legal scholars (appointed by the Ministry of Justice). The Commission functions according to its Charter adopted by the General Meeting of the Bar Association, and Rules on Holding Qualification Examinations adopted by Presidium of the Bar Association.

(b) the conduct of disciplinary proceedings against lawyers;

The disciplinary proceeding is conducted by the Lawyers Disciplinary Commission that is composed of 13 lawyers, where members of the Commission is elected by the General Meeting of the Bar Association. The Commission functions according to its Charter adopted by the General Meeting of the Bar Association.

(c) provision of legal aid;

Irrespective of the stage whether it is an investigation or a court proceeding, legal aid in criminal cases is solely rendered by lawyers. In another type of cases, in-court representation of the person could either be carried out by a lawyer or by a person's close relative who may be non-lawyer. Also, an employee of the company may represent his/her company (employer) in courts. These rules are defined in the procedural codes accordingly.

(d) the protection of individual lawyers from any form of intimidation, hindrance, harassment or improper interference in the exercise of their functions;

According to the Charter (Article 1.1) of Azerbaijani Bar Association, one of the main goals of establishing the Association is to ensure the protection of the procedural and social rights of its members (lawyers). In its daily activity the Bar Association keeps regular ties with prosecution, judicial and other public authorities, in case if any verbal complaint received to the Association from those organisations in order to timely interfere the process to eliminate any misunderstanding between those authorities and lawyers, where the main purpose of this action is to solve the problem in field rather that issue to be reviewed by the Disciplinary Commission or the Presidium. It would be relevant to look at the last 5 months statistics about complaints against lawyers and disciplinary measures taken about. During past 6 months, 97 complaints have been submitted. 6 complaints out 97, were submitted by different organizations and remaining 91 were submitted by persons. Only 10 disciplinary measures were taken against lawyers in this regard.

(e) the development and implementation of legislation concerning the free exercise of the legal profession and the administration of justice.

One of the main targets of administration of justice is to provide peoples with simplified access to justice, while high-quality legal aid is an essential condition for it. According to Article 61 of the Constitution, the state shall provide high-quality legal aid to people, which means the state is responsible to maintain the quality of legal aid. For this purpose, the Bar Association has been established upon the Law, where such quality is provided by the Bar Association. Consequently, it is impossible to secure high-quality legal aid without a condition to freely exercising the profession.

Current acting legislation on legal profession secures free exercise of the legal profession from any hindrance.

Also, the Bar Association is regularly reviewing its by-law and the Law to improve them in conformity with the progressive international standards. For this reason, the Association regularly submits its proposals on improving its field legislation to the legislature.

6. Is membership in the professional association of lawyers mandatory to practice law in your country? In case membership is a prerequisite to practice law, please provide detailed information on the measures the State has taken to ensure access to justice in cases where there is a shortage of lawyers in the whole country or part of its territory.

A person who is not a member of the Bar Association may not carry out legal practice (Article 9 of the Law). According to the reports from international organisations, the number of lawyers in Azerbaijan per capita is one of the lowest in the region. However, Azerbaijani state has taken serious steps to raise the number of lawyers throughout the country. Particularly, President Ilham Aliyev have recently (22.02.2018) issued an executive order on support to the improvement of the legal profession. In that document, the Bar Association is advised to raise the number of the lawyer. That is why in January 2018 the Bar Association held written test examinations for admission to profession. 607 out of 1966 lawyer candidates passed the exam to the verbal stage. Currently, verbal examinations are being conducted. Till now 293 candidates attended the verbal exams, where 262 of them has completed exam process successfully. Currently, the total number of the members is 1039, and by the end of this year, the number will reach minimum 1400.

Besides, the Bar Association has announced a new round of admission process, which will be conducted on a regular basis. Once 200 candidates application is collected, the admission exam will be held.