

**FREEDOM NOW, INDEPENDENT LAWYERS NETWORK, AND THE ELECTION  
MONITORING AND DEMOCRACY STUDIES CENTER –**

**JOINT SUBMISSION TO  
THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS**

**UNIVERSAL PERIODIC REVIEW: AZERBAIJAN  
44<sup>th</sup> SESSION  
HUMAN RIGHTS COUNCIL – UPR WORKING GROUP**

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**Introduction**

1. Freedom Now, the Independent Lawyers Network, and the Election Monitoring and Democracy Studies Center (EDMS) jointly submit this report to assist the UN Human Rights Council in its review of the policies and practices of the Government of Azerbaijan (“Azerbaijan”). Freedom Now is a non-partisan, non-governmental organization (“NGO”) that works to protect individuals and communities from government repression and defends human rights through direct legal support, targeted high-leverage advocacy, and capacity-building analysis and assistance. The Independent Lawyers Network is an Azerbaijan-based non-profit NGO committed to strengthening the role of the lawyers to protect human rights and freedoms through strategic litigations and advocacy. It has provided legal services to NGOs and individuals like journalists, human rights defenders, and activists since 2020. EMDS is a non-partisan NGO based in Azerbaijan working on building the democratic election system, protection of civil and political rights, and the formation of democratic institutions in Azerbaijan.
2. This report focuses on Azerbaijan’s continued restrictions on civil society and the right to freedom of association, particularly as it relates to the registration of NGOs and access to funding. Such practices violate the government’s obligations under the Universal Declaration of Human Rights (“UDHR”)<sup>1</sup> and the International Covenant on Civil and Political Rights (“ICCPR”).<sup>2</sup>
3. Azerbaijan has a well-documented history of using legislation to control associations that it deems threatening or anti-government. Under Azerbaijan’s NGO law, the government can interfere with an organization’s operations and funding, or even shutter them completely. Moreover, prosecutors have used the criminal code to imprison NGO leaders for ostensibly failing to adhere to regulations.<sup>3</sup> Amendments between 2013 and 2015 gave authorities broad discretion to dissolve, fine, and freeze assets of NGOs for infractions of

<sup>1</sup> *Universal Declaration of Human Rights*, art. 20, G.A. Res. 217A (III), U.N. Doc A/810 (1948).

<sup>2</sup> *International Covenant on Civil and Political Rights*, art. 22, S. Exec. Rep. 102-23, 999 U.N.T.S. 171 (1966).

<sup>3</sup> For example, in August 2014, Azerbaijani authorities arrested human rights activist Rasul Jafarov and accused him of repeatedly failing to properly register grants from foreign funders to his organization Human Rights Club. Despite this violation being under the Registration Law, Jafarov was charged with a series of criminal code violations.

administrative regulations.<sup>4</sup>

4. During Azerbaijan's third Universal Periodic Review ("UPR") in 2017, it was presented with six different recommendations to amend its NGO regulation process to comply with international standards. Azerbaijan only took note of these recommendations.<sup>5</sup>

## Restrictions on NGO Registration

5. One of the earliest recognitions of Azerbaijan's failure to sufficiently register NGOs was the 2007 European Court of Human Rights decision *Ramazanov v. Azerbaijan* which found that an undue delay in registering an NGO constituted an interference with the right to freedom of association.<sup>6</sup> In response, Azerbaijan claimed that Law on State Registration and State Register of Legal Entities ("Registration Law") as well as subsequent 2013 amendments to the law corrected this issue.<sup>7</sup> This is not the case and the current experience of NGOs in Azerbaijan is that there are still significant obstacles to registration.<sup>8</sup>
6. In 2005, Azerbaijan amended the Registration Law to separate the registration system for commercial and non-commercial entities.<sup>9</sup> Additional changes introduced a simplified registration process for commercial organizations but failed to make any changes to the process for NGOs.<sup>10</sup> For example, a commercial entity could receive registration in five days,<sup>11</sup> but it would take up to 60 days for an NGO to complete the process.<sup>12</sup>
7. The Registration Law requires an organization to register itself with the authorities in order to carry out certain formal though essential activities, such as opening a bank account in its name. However, numerous independent domestic NGOs as well as foreign NGOs with offices in the country have been unable to complete the registration process. The Independent Lawyers Network has assisted in at least five cases between 2021 and 2023 of local NGOs seeking a registration

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<sup>4</sup> *Breaking Point Azerbaijan*, Freedom Now and Human Rights House Foundation (May 2015), available at <https://www.freedom-now.org/wp-content/uploads/Report-Breaking-Point-Azerbaijan-5-12-15.pdf>, pgs. 27-28.

<sup>5</sup> *Report of the Working Group on the Universal Periodic Review – Azerbaijan*, ¶¶ 141.35, 141.52, 141.61, 141.66, 141.73, and 141.74, available at A/HRC/39/14. *Report of the Working Group on the Universal Periodic Review – Azerbaijan (Addendum)*, ¶¶ 25-28, available at A/HRC/39/14/Add.1.

<sup>6</sup> *Ramazanov and others v. Azerbaijan*, Application No. 44363/02 (Feb. 1, 2007), available at <https://hudoc.echr.coe.int/eng?i=001-79301>

<sup>7</sup> *Action report, submitted in response to a communication from seven NGOs in the Ramazanov Group of Cases of 17 September 2014*, DH-DD(2014)1163 (Oct. 6, 2014), available at:

[https://hudoc.exec.coe.int/eng#%7B%22EXECIdentifier%22:%5B%22DHDD\(2014\)1163E%22%5D%7D](https://hudoc.exec.coe.int/eng#%7B%22EXECIdentifier%22:%5B%22DHDD(2014)1163E%22%5D%7D)

<sup>8</sup> In addition to the Registration Law there are a collection of equally problematic laws used by Azerbaijan to restrict civil society. These include the Law on Non-Governmental Organizations, the Law on Grants, the Law on Registration and the State Registry of Legal Entities, the Code of Administrative Offences, the Civil Code, and the Tax Code.

<sup>9</sup> *On making additions and changes to the Law of the Republic of Azerbaijan "On State Registration and State Register of Legal Entities"*, Republic of Azerbaijan (June 28, 2005), available at <https://e-qanun.az/framework/10705>.

<sup>10</sup> *Id.*

<sup>11</sup> *Law on State Registration and State Register of Legal Entities*, Republic of Azerbaijan (Dec. 12, 2003), arts. 7(1) and 7(2), available at <https://e-qanun.az/framework/5403>.

<sup>12</sup> *Id.*, art. 8.

who faced these specific obstacles.

8. One of the most persistent obstacles is that the law permits the Ministry of Justice to return documents to applicant NGOs due to deficiencies. The Independent Lawyers Network is aware of at least nine NGOs who submitted applications in 2022 and 2023 and received letters from the Ministry citing deficiencies in the applications and returning the materials. Five of these NGOs resubmitted the required materials (see Appendix A).
9. Article 8(3) of the Registration Law states that the Ministry shall identify all deficiencies in one review, but in practice, the Ministry returns applications multiple times. This tactic of repeated returns is used extensively to effectively deny NGOs registration.<sup>13</sup> Domestic courts have ruled that the Ministry is “returning the registration documents for rectification” and not “refusing to register” the NGO in question which allows the Ministry to repeatedly return the documents and indefinitely lengthen the registration process.<sup>14</sup> Moreover, the Ministry is supposed to review and respond to registration applications within 30 days, but this rarely happens.
10. The Ministry has also relied on Article 11(3.1) of the Registration Law to block registrations. Under this provision, registration can be denied if the application is in breach of the Constitution of Azerbaijan, the Registration Law, or any other legislation.
11. The European Commission for Democracy through Law (“Venice Commission”) has found that the 2013 amendments to the Registration Law failed to address previously identified shortcomings. The registration process remains lengthy and burdensome as applicants are often required to submit additional documentation that is not required under the law.<sup>15</sup> The Commission determined that the further restrictions “seem to be intrusive enough to constitute a *prima facie* violation of the right to freedom of association.”<sup>16</sup> The Commission added that “in general, the enhanced state supervision of NGOs seems to reflect a very paternalistic approach towards NGOs and calls again for sound justification. The same holds for new and enhanced penalties that can be imposed upon NGOs even for rather minor offences.”<sup>17</sup> The Commission concluded further that “globally, the cumulative effect of those stringent requirements, in addition to the wide discretion given to the executive authorities regarding the registration, operation and funding of NGOs, is likely to have a chilling effect on the civil society, especially on those

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<sup>13</sup> *Submission by International Partnership for Human Rights pursuant to Rule 9(2) of the Committee of Ministers’ Rules for the Supervision of the Execution of Judgments*, International Partnership for Human Rights (May 6, 2021), available at [https://www.iphronline.org/wp-content/uploads/2021/05/Rule-92-Ramazanova-group-of-cases-44363\\_02-1.pdf](https://www.iphronline.org/wp-content/uploads/2021/05/Rule-92-Ramazanova-group-of-cases-44363_02-1.pdf).

<sup>14</sup> *Mehman Aliyev and Others v. Azerbaijan*, Application No. 46930/10 (May 20, 2021), ¶ 8, available at <https://hudoc.echr.coe.int/eng?i=001-210013>. Paradoxically, Azerbaijan’s Supreme Court has also ruled that returning the application does amount to a refusal. See *Bashirli and Others v. Azerbaijan*, Applications Nos. 18555/15 and 34068/15 (Feb. 23, 2023), ¶ 24, available at <https://hudoc.echr.coe.int/eng?i=001-223101>.

<sup>15</sup> *Opinion on the Law on Non-Governmental Organisations (Public Associations and Funds) as Amended of the Republic of Azerbaijan*, European Commission for Democracy Through Law (Dec. 15, 2014), ¶ 47, available at [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2014\)043-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)043-e) (Venice Commission 2014 Report).

<sup>16</sup> *Id.* at ¶ 91.

<sup>17</sup> *Id.* at ¶ 92.

associations that are devoted to key issues such as human rights, democracy and the rule of law.”<sup>18</sup>

12. The Human Rights Committee in its periodic review of Azerbaijan expressed concern about “restrictive legislation negatively affecting the exercise of freedom of association, including stringent registration requirements for public associations and NGOs, broad grounds for denial of registration and temporary suspension or permanent closure of NGOs.”<sup>19</sup>
13. Although the law and European Court decisions pre-date the current UPR reporting period, the issue still resonates today. Azerbaijan rarely abides by the amended laws and still causes lengthy delays for NGOs seeking to register. In May 2021, the European Court issued 25 judgments finding Azerbaijan violated its citizens’ right to freedom of association by failing to register NGOs.<sup>20</sup> Although, the government has since registered several NGOs mentioned in the Court’s decisions, at least eight remain unregistered as of September 2022 (see Appendix B for a full list).<sup>21</sup>

## Operating environment for NGOs

### *Burdensome oversight*

14. The 2013 amendments to the Registration Law expanded reporting and oversight requirements. NGOs are required to inform the government of any change in the registration application or founding documents, including a change in the number of group members (potentially even covering unaffiliated individuals who participate in demonstrations or other events) as well as changes to the terms of employment for managers and deputy managers.<sup>22</sup> Any changes must be registered with the state in order to take effect. As a result, NGOs are banned from implementing new activities that have not yet been registered. NGOs that fail to update their registrations may face penalties under the Code of Administrative Offences.<sup>23</sup>
15. The government is also authorized to monitor organizations’ compliance with their own statutes. While the mechanism for such monitoring is not entirely clear, the Venice Commission has noted that although authorities may monitor compliance with domestic law, it should generally be the NGO itself, and not the government, that monitors compliance with an organization’s own statutes.<sup>24</sup>

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<sup>18</sup> *Id.* at ¶ 93.

<sup>19</sup> *Concluding observations on the fourth periodic report of Azerbaijan*, Human Rights Committee (Nov. 16, 2016), at ¶ 40, available at <https://tinyurl.com/2vb8t244>.

<sup>20</sup> *Azerbaijan: European Court of Human Rights declares the refusal to register 25 NGOs illegal*, CSO Meter (May 20, 2021), available at <https://csometer.info/updates/azerbaijan-european-court-human-rights-declares-refusal-register-25-ngos-illegal>.

<sup>21</sup> *Communication from Azerbaijan concerning the group of cases of Ramazanova and others v. Azerbaijan (Application No. 44363/02)*, Committee of Ministers of the Council of Europe (July 7, 2022), available at [https://hudoc.exec.coe.int/eng?i=DH-DD\(2022\)692E](https://hudoc.exec.coe.int/eng?i=DH-DD(2022)692E).

<sup>22</sup> *Law of the Republic of Azerbaijan "On State Registration and State Register of Legal Entities"*, Republic of Azerbaijan (Dec. 17, 2013), arts. 9.3 and 9.4, available at <https://e-qanun.az/framework/26851>.

<sup>23</sup> *Id.*

<sup>24</sup> *Venice Commission 2014 Report*, ¶ 69-74, 77.

16. In addition to increased registration, reporting, and oversight obligations, the revised Law on Non-Governmental Organizations provides for expanded liability if an NGO failed to meet these onerous regulations. Authorities can suspend or terminate an NGO's operation if more than two written warnings or instructions have been sent by the authorities to the NGO regarding its alleged violation of an administrative requirement.<sup>25</sup> According to domestic lawyers, there is nothing to prevent the government from sending multiple notifications or communications regarding a violation within a short period of time – thereby subjecting the NGOs to the possibility of suspension or liquidation for a single violation.
17. The law requires that the punishments applied in any field should be bound by the principles of legality and proportionality and should be within reasonable limits to achieve the desired goal. Many penalties against NGOs are harsh and disproportionate. The Code of Administrative Offenses includes in at least eight articles related to the activities of NGOs.<sup>26</sup>
18. Harsh fines are imposed for administrative violations, such as: Obtaining a grant without a grant agreement where those funds maybe be confiscated, and officials will be fined with a penalty between €1,380 and €2,770. Legal entities can be fined from €4,440 up to €8,330;<sup>27</sup> similar harsh penalties are determined for several other circumstances.<sup>28</sup> These fines are heavily burdensome as NGOs are often unable to pay due to restrictions on access to funds.

#### *Unhindered activities: freedom of assembly*

19. Although there is no legislation that specifically regulates NGO gatherings, there is an unofficial permission system for NGOs to hold any events and meetings, especially outside of Baku. According to local activists, NGOs must notify the local executive authorities of upcoming events and in turn receive a letter of consent from the Presidential Administration. These requests can be denied at the discretion of the authorities and as the process is extra-legal, there is no recourse for NGOs to appeal the decision. Additionally, responses came too late which jeopardizes NGO activities and impacts the quality of their work.<sup>29</sup>

### **Prohibitions on Foreign Funding**

#### *Foreign grants*

20. Azerbaijan's regulations concerning registration and access to grants have previously been criticized by UN bodies. In its concluding observations of the fourth periodic review of Azerbaijan, the Committee on Economic, Social, and

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<sup>25</sup> *Law on Non-Governmental Organizations*, Republic of Azerbaijan, art. 31(3).

<sup>26</sup> *Code of Administrative Offenses*, Republic of Azerbaijan (Dec. 29, 2015), available at <https://e-qanun.az/framework/46960>. See arts. 432, 465, 466, 579, 580, 581, 582, and 598.

<sup>27</sup> *Id.*, art. 432.3.

<sup>28</sup> *Id.*, arts. 432.4, 466, and 579.

<sup>29</sup> *Azerbaijan 2021 Country Report*, CSO Monitor (Nov. 2022), page 23, available at <https://csometer.info/sites/default/files/2022-11/2021%20Azerbaijan%20CSO%20Meter%20Country%20Report%20ENG.pdf>

Cultural Rights noted its concern that restrictions on grants hinder operations by human rights organizations, in particular.<sup>30</sup> The Human Rights Committee expressed similar concerns about restrictions on foreign funding during its periodic review of Azerbaijan.<sup>31</sup>

21. The strict reporting obligations include the reporting of grant agreements<sup>32</sup> and service contracts<sup>33</sup> to the Ministry of Finance.
22. In July 2014, President Aliyev annulled the previous rules on foreign grants and ordered the Cabinet of Ministers to devise new rules on grant agreements. When these rules were adopted in October 2015, they greatly complicated the process of issuing foreign grants.<sup>34</sup>
23. First, foreign donors must obtain approval from the government for each grant contract. In order to get this approval, the foreign donor must receive an opinion from the Ministry of Finance that certifies the financial and economic expediency of the grant. Once this is completed, the recipient NGO must then receive approval from the Ministry of Justice to receive the grant.<sup>35</sup> Furthermore, the rules stated that if the problem identified by the intended grant project was already being addressed by the government, then this would be grounds for issuing a rejection. In other words, the state can refuse to give approval to a foreign grant if the government concluded that "needs are met" in some area. Such vague rules are open for wide interpretation and possible abuse.
24. This process was somewhat streamlined in 2017 when the government adopted what is known a "single-window" system in which recipient local NGOs are allowed to apply to local authorities on behalf of the foreign donors to obtain a right to issue a grant for foreign donors.<sup>36</sup> However, this revised process still maintains a high-level of bureaucracy and allows the government broad discretion in denying foreign funding.
25. In May 2021, the Cabinet of Ministers approved amendments that would allow

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<sup>30</sup> *Concluding observations on the fourth periodic report of Azerbaijan*, Committee on Economic, Social, and Cultural Rights (Nov. 2, 2021), at ¶ 10, available at <https://tinyurl.com/mpc9jwjt>.

<sup>31</sup> *Concluding observations on the fourth periodic report of Azerbaijan*, Human Rights Committee (Nov. 16, 2016), at ¶ 40, available at <https://tinyurl.com/2vb8t244>.

<sup>32</sup> *On approval of the "Regulation of registration of grant agreements (decisions)"*, Cabinet of Ministers of the Republic of Azerbaijan (June 5, 2015), available at <https://e-qanun.az/framework/30212>

<sup>33</sup> *On approval of the "Regulation on the registration of contracts on the provision of services or the performance of works by non-governmental organizations, as well as branches or representative offices of non-governmental organizations of foreign countries at the expense of foreign financial sources,"* Cabinet of Minister of the Republic of Azerbaijan (Oct. 21, 2015), available at <https://e-qanun.az/framework/31456>.

<sup>34</sup> *On approval of the "Rule for obtaining the right to give grants by foreign donors in the territory of the Republic of Azerbaijan,"* Cabinet of Ministers of the Republic of Azerbaijan (Oct. 22, 2015), available at <https://e-qanun.az/framework/31488>

<sup>35</sup> *Overview of the Changes to NGO Legislation Adopted of 17 December 2013 by the Parliament of the Republic of Azerbaijan*. Guluzade and Bourjaily (prepared for the International Center for Not-for-Profit Law) (Feb. 19, 2014), available at <http://dev01.icnl.org/programs/eurasia/Overview%20of%20Dec%2017%20Law.pdf>.

<sup>36</sup> *Foreign funding for NGOs in Azerbaijan: What has the "single window" principle changed?* Election Monitoring and Democracy Studies Center (May 2017), available at <https://smdtaz.org/wp-content/uploads/2017/05/Foreign-funding-for-NGOs-in-Azerbaijan.pdf>



reporting of foreign grants to be done via a web portal.<sup>37</sup> While such a step would greatly improve the process, the portal is still not functional.

### *Donations*

26. NGOs are not allowed to receive donations by foreigners or anonymous donations. The only valid donations are those accepted through a transfer to an NGO's bank account. Moreover, only NGOs whose primary purpose is charity, according to its charter, can accept in-cash donations of up to €109.<sup>38</sup> The passport details of each donor must be registered, and NGOs need to report the amount of received donations as well as the identity of the donor to the Ministry of Justice and Ministry of Finance. Any bank transactions relating to donations can not be conducted without this information. NGOs can use the donation they received only after the notification given by the Ministry of Justice after a review period of 15 to 30 days to determine whether the donations were given in accordance with the law.<sup>39</sup>

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<sup>37</sup> *Azerbaijan to allow for electronic submission of NGO documents*, CSO Monitor (May 12, 2021), available at <https://csometer.info/updates/azerbaijan-allow-electronic-submission-ngo-documents>

<sup>38</sup> *On the approval of the "Rule for submitting information on the amount of donations and the persons who made the donation received by non-governmental organizations, as well as branches or representative offices of non-governmental organizations of foreign countries"*, Cabinet of Ministers of the Republic of Azerbaijan (Oct. 21, 2015), art. 1.3, available at <https://e-qanun.az/framework/31255>

<sup>39</sup> *Id.*, arts. 1.5. *Law on Non-Governmental Organization*, Republic of Azerbaijan, art. 24(1.5).

## Conclusion and Recommendations

27. Freedom Now, the Independent Lawyers Network, and the Election Monitoring and Democracy Studies Center propose Azerbaijan adopt the following measures to ensure compliance with its international human rights obligations:
- Revise the Law on State Registration and State Register of Legal Entities, Law on Non-Governmental Organizations, the Law on Grants, the Law on Registration and the State Registry of Legal Entities, the Code of Administrative Offences, the Civil Code, and the Tax Code to abide by international standards of freedom of association.
  - Amend relevant laws to ensure that the Ministry of Justice cannot repeatedly request revised applications from NGOs.
  - Repeal penalties against NGOs that are contained in the Code of Administrative Offences. Remove inadequate liabilities against NGOs that are also contained in the Code.
  - End criminal investigations into NGOs.
  - Extend an invitation to the UN Special Rapporteur on freedom of peaceful assembly and of association to conduct a country visit.
  - Remove legal barriers for foreign donors, anonymous donations, and in-cash donations.