



**Universal Periodic Review of Azerbaijan – Fourth cycle
44th session of the UPR Working Group**

**Submission on
“Corruption and Freedom of Association in Azerbaijan”**

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Submitted by:

Public Association for Assistance to Free Economy (PAAFE)

About the organization:

Public Association for Assistance to Free Economy (PAAFE) was registered by the Ministry of Justice of Azerbaijan on May 26, 2006. PAAFE is a non-governmental organization operating fully on a non-profit basis. The organization’s mission is to ensure the rule of law, economic freedom and good governance. The main directions of work of the organization are promoting economic freedoms, good governance and economic development, and the protection of economic and social rights, freedom of association and information.

Over the 17 years, PAAFE published 36 analytical reports, research, and policy papers and initiated more than 80 cases regarding freedom of information, association, and economic and social rights before domestic and international courts. The organisation has successfully completed nine domestic court cases and two European Court on Human Rights cases.

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Introduction

1. The United Nations Sustainable Development Goal 16 promotes peaceful and inclusive societies for sustainable development, provides access to justice for all, and builds effective, accountable, and inclusive institutions at all levels. The 2030 Agenda for Development refers to concrete actions to fight against corruption, namely “significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime to corruption”.
2. International reports have demonstrated that, in terms of scale, corruption in Azerbaijan stands out as a particularly negative example, not only in its region or among oil-gas countries with transition economies but in the whole world. According to the 2021 Corruption Perception Index of Transparency International, Azerbaijan scored 30 out of 100 and ranked 128th out of the 168 countries reviewed, while in 2022, the country fell to 157th out of 180 countries and scored 23 out of 100.¹
3. The fifth pilot round of monitoring under the Istanbul Anti-Corruption Action Plan of the Organization for Economic Co-operation and Development (OECD) in 2022 shows that Azerbaijan was not entirely prosperous in none of the 68 indicators in 13 directions of anti-corruption work.²
4. The Addendum to the second compliance report (26-29 October 2020) on the Fourth evaluation round of the Group of States Against Corruption of the Council of Europe (GRECO) related to Corruption prevention in respect of members of parliament, judges, and prosecutors, shows that the recommendations regarding the asset disclosure of members of parliament, judges and prosecutors have not completed by the government of Azerbaijan.³
5. The current narrow environment for civil society organizations significantly reduces public participation in anti-corruption efforts in Azerbaijan. The authorities of Azerbaijan made legislative amendments to laws regulating NGO operations adopted in 2013-2015, which significantly impeded the right to freedom of association in Azerbaijan. Despite the broad international reactions, criticism and recommendations, the government of Azerbaijan did not make any significant steps to ensure the freedom of association and free operation of CSOs in the country.

¹ <https://www.transparency.org/en/cpi/2022/index/aze>

² <https://www.oecd-ilibrary.org/docserver/3ae2406b-en.pdf?expires=1680420013&id=id&accname=guest&checksum=A359F577747F5D229AB18DBC11519259>

³ <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680a28742>

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6. During the previous Universal Periodic Review in May 2018, Azerbaijan accepted a number of recommendations on preventing corruption, ensuring transparency, public participation, and freedom of association, more specifically:
- Continue to enhance transparency in public entities and to strengthen its legal and policy framework to eradicate corruption in the public sector.⁴
 - Amend the Code of Administrative Offences, the Law on Grants and the Law on NGOs to eliminate requirements for re-registration and to simplify regulations on access to funding.⁵
 - Permit peaceful civic activity by ending cases against NGOs and independent media, removing undue restrictions to accessing foreign grants and amending laws regarding the registration, operation, and funding of NGOs, in accordance with the recommendations of multilateral institutions, and ending the blocking of independent and opposition websites.⁶
 - Guarantee the full exercise of the rights to freedom of assembly, expression and association, also by improving the environment for NGOs to freely carry out their activities.⁷
 - Remove legislative and practical obstacles to the registration, funding and operation of NGOs.⁸
 - Take all necessary measures to support the development of a vibrant civil society, in particular by simplifying the rules on the financing of NGOs.⁹
 - Amend laws restricting the activities of civil society, including the Code of Administrative Offences and the law on grants and amend the law on NGOs in order to simplify NGO registration and their access to funding.¹⁰
 - Revise the Law on NGOs in order to promote the development of civil society.¹¹

⁴ A/HRC/39/14, Para. 140.107

⁵ A/HRC/39/14, Para. 141.35

⁶ A/HRC/39/14, Para. 141.52

⁷ A/HRC/39/14, Para. 141.59

⁸ A/HRC/39/14, Para. 141.61

⁹ A/HRC/39/14, Para. 141.62

¹⁰ A/HRC/39/14, Para. 141.66

¹¹ A/HRC/39/14, Para. 141.61

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- Revise restrictive NGO and grant legislation from early 2014 and bring it into line with international standards.¹²
 - Review and amend legislation related to the registration of NGOs and their financial means, with a view to guaranteeing the independence of civil society representatives.¹³
 - Enhance the protection of journalists, human rights defenders and NGOs by removing undue restrictions to access foreign grants and amending NGO legislation, particularly regarding the registration, operation and funding of NGOs.¹⁴
 - Review its legislation regarding NGOs in order to ensure a safe and enabling environment for them to operate and have free access to funding.¹⁵
7. On January 31, 2022, the Westminster Magistrates Court of London ordered that a member of the Parliament of Azerbaijan, Javanshir Feyziyev and his family forfeit £5.64 million held in various bank accounts after ruling the funds "arise from criminal conduct" and "money laundering".¹⁶ The court that Feyziyev, his wife Parvana Feyziyeva, their son Orkhan, and a nephew, Elman Javanshir, must hand over a total of £5.64 million after finding "key elements of money laundering". "Having exhaustively considered the evidence filed," district judge John Zani told Westminster Magistrates' Court, "I am entirely satisfied that there was a significant money laundering scheme in existence in Azerbaijan, Estonia and Latvia at the relevant time."¹⁷ The National Crime Agency (NCA), which was investigating the international money laundering ring, had applied to the court to seize £15.3m of suspect funds from the family. Law enforcement bodies of Azerbaijan have not started any investigation in this regard yet.
8. On April 15, 2018, the independent external Investigation Body published a report on the allegations of corruption within the Parliamentary Assembly of Council of Europe (PACE), which say that there are substantial grounds to believe that members of the Parliament of Azerbaijan, Elkhan Suleymanov and Muslum Mammadov engaged in the activity of a corruptive nature.¹⁸ The Investigation Body's report suggests that Suleymanov and Mammadov distributed money among some PACE members to lobby in favour of Azerbaijan in human rights issues. Finally, the Council of Europe sanctioned both MPs, but Azerbaijan authorities have not initiated any investigation in this regard.

¹² A/HRC/39/14, Para. 141.70

¹³ A/HRC/39/14, Para. 141.73

¹⁴ A/HRC/39/14, Para. 141.74

¹⁵ A/HRC/39/14, Para. 141.75

¹⁶ <https://www.theguardian.com/business/2022/jan/31/azerbaijan-laundromat-court-orders-family-to-hand-over-56m-brought-into-uk>

¹⁷ <https://www.bbc.com/news/uk-60203664>

¹⁸ <https://assembly.coe.int/Communication/IBAC/IBAC-GIAC-Report-EN.pdf>

9. On February 20, 2022, the international investigative report on Swisse Bank money laundering says children of the former head of Nakhchivan AR parliament, Rza, Seymur and Baharkhanim Talibovs, received over \$21 million between 2007 and 2012 from three shell companies that were part of two vast money laundering systems, the Troika and Azerbaijan Laundromats.¹⁹ Currently, Rza Talibov is the head of the department in the State Migration Committee, and Seymur Talibov is a member of the Nakhchivan AR parliament. The report also disclosed that the current head of Baku city executive authority Eldar Aziziov earned with a similar scheme \$4 million in 2005.²⁰ In this period, Azizov served as the head executive authority of Ganja, the second-largest city in Azerbaijan. Law enforcement bodies of Azerbaijan have yet to start any investigation in this regard.
10. On December 28, the Baku city Appeal Court ruled to return the confiscated real estate of AZN32 million of the former general of the Ministry of National Security Akif Chovdarov, which was charged with 12 years for severe crimes, including corruption. Chovdarov spent five years in prison and was pardoned by the president's decree on the base of the coronavirus pandemic.²¹
11. On February 9, 2023, the Supreme Court of Azerbaijan ruled a similar decision²² and lifted the arrest on two confiscated apartments of another former general of the Ministry of National Security, Subahir Gurbanov, which was charged with 14 years imprisonment in the frame of the same criminal case with Chovdarov. Gurbanov also spent in the prison five years and was released by the same president's decree.
12. On July 28, 2020, the Commission on Transparency in Extractive Industries (CTEI) was annulated by the presidential decree.²³ CTEI was established after abandoning Azerbaijan from the Extractive Industry Transparency Initiative. The presidential decree on establishing CTEI was considered public participation in the reporting process in extractive industry and cooperation with civil society organizations.²⁴ Currently, the State Statistical Committee is responsible for reporting on the extractive industry. However, the new presidential decree does not consider public participation and cooperation with SCOs.
13. On February 27, 2022, the president of Azerbaijan adopted 2020-2022 National Action Plan for Promoting Open Government.²⁵ The Action Plan considered three

¹⁹ <https://www.occrp.org/en/suisse-secrets/sons-of-azerbajani-strongman-vasif-talibov-received-millions-from-money-laundering-systems>

²⁰ <https://www.rferl.org/a/occrp-investigation-credit-suisse-corruption-suissecrets/31714489.html>

²¹ <https://www.amerikaninsesi.org/a/6896066.html>

²² <https://www.azadliq.org/a/mtn-subahir-qurbanov/32263606.html>

²³ <https://e-qanun.az/framework/45507>

²⁴ <https://e-qanun.az/framework/35174>

²⁵ <https://e-qanun.az/framework/44619>

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articles related to public participation and restoring enabling environment for the civil society:

Name of action	Evaluation indicator	Executive body	Period
5.1. Taking measures to expand and improve the activities of civil society institutions in accordance with the principles of Open Government, increasing support for projects and initiatives of non-governmental organizations.	Number of events and supported projects and initiatives involving NGOs	State Support Council for Non-Governmental Organizations	2020-2022
5.2. Preparation and adoption of proposals related to simplification, electrification and improvement of state registration of non-governmental organizations, including branches or representative offices of non-governmental organizations of foreign countries	Prepared proposal package and adopted normative legal acts	Ministry of Justice	2020-2021
5.3. Preparation and adoption of proposals related to the simplification, electrification and improvement of procedures for registering grant agreements (decisions)	Prepared proposal package and adopted normative legal acts	Ministry of Justice	2020-2021

However, the 2022 report of the State Statistics Committee on implementing the "2020-2022 National Action Plan on Promotion of Open Government" doesn't cover the actions mentioned above.²⁶ In other words, Azerbaijan's government still needs to implement measures related to public participation, the simplification, and the improvement of state registration of NGOs and procedures for registering grant agreements.

14. On July 2 and 27, 2021, the State Support Agency for Non-Governmental Organizations of Azerbaijan organized two online meetings with national NGOs to discuss reforms in the legislation related to the registration and operation of NGOs.²⁷ However, in 2022 and 2023, the Agency has not continued these activities. Also, On December 15, 2021, opposition MP Erkin Gadirli after broad discussions with national and international civil society organizations, applied to the Parliament draft amendment²⁸ to laws on non-governmental organizations (public associations and foundations), State registration and state register of legal entities, and Grant but have not considered yet.

15. On March 30, 2020, Elchin Mammad, the head of the Sumgayit Youth Legal Education NGO and the editor of the "Yukselis Namina" website, was detained²⁹

²⁶ https://www.stat.gov.az/menu/2/itm/source/ITM_2022.pdf

²⁷ <https://modern.az/az/news/300112/qht-lerle-novbeti-onlayn-gorus-kecirilib>
https://azertag.az/xeber/QHT_lere_Dovlet_Desteyi_Agentliyinin_Musahide_Surasi_uzvu_QHT_numayendeleri_ile_onlayn_formatda_gorusub-1822059

²⁸ <https://realplatforma.org/document/QHT-lerin-fealiyyet-sheraitinin-yaxshilashdirilmesi>

²⁹ <https://www.amerikaninsesi.org/a/h%C3%BCquq-m%C3%BCdafi%C9%99%C3%A7isi-h%C9%99bs-edilib-/5352136.html>

with controversial charges like "theft" and "illegal possession of weapons and ammunition" and on October 17, 2020, the Sumgayit city court sentenced him to four years in prison.³⁰ In January 2023, the US State Department included the name of Elchin Mammad in the 20 worldwide political prisoners under the "Without Just Cause" campaign.³¹

16. On May 30, 2019, the Registration and Notary General Department of the Ministry of Justice refused to provide a new extract from the register for the Public Association for Assistance to Free Economy (PAAFE).³² PAAFE was one of the NGOs faced with a politically motivated criminal case seized on bank accounts in 2014. After two years, the court lifted the ban on April 18, 2016. However, after this period, PAAFE cannot legally operate. The issue is that since May 2014, PAAFE 11 times applied to the Ministry of Justice to update the information about the organization. But unfortunately, all application was illegally rejected. According to the current legislation, NGOs can only operate with the extract from the state register, which must be renewed every two years. On February 16, 2023, the European Court on Human Rights (ECtHR) ruled that there had been a violation of Article 1 of Protocol No. 1 to the Convention regarding the seizing of bank accounts of PAAFE.³³ Accordingly, the Government of Azerbaijan must pay €3000 compensation for all applicants as damage. PAAFE is not able to receive any compensation from the government.
17. On January 7, 2023, the General Prosecutor's Office applied an order to seize AZN100,000 from the Center for National and International Studies (CNIS) bank accounts in the International Bank of Azerbaijan.³⁴ CNIS also was one targeted NGOs during the NGO crackdown in 2014. The organization's bank accounts are still blocked. On February 16, 2023, the ECtHR decided that there had been a violation of Article 1 of Protocol No. 1 to the Convention regarding the seizing of bank accounts of CNIS as well.³⁵ But the organization cannot receive compensation in the amount of €3000.

Recommendations

³⁰ <https://www.pen-international.org/news/iy85mmw0e5tdfj5765tzj20mn8x55f>

³¹ <https://www.state.gov/withoutjustcause>

³² <https://www.azadliq.org/a/qht-avropa-mehkemesi/32275899.html>

³³ <https://hudoc.echr.coe.int/eng#%7B%22documentcollectionid%22:%5B%22JUDGMENTS%22%22%5D%2C%22itemid%22:%5B%22001-223022%22%22%5D%7D>

³⁴ Annex 2

³⁵ <https://hudoc.echr.coe.int/eng#%7B%22documentcollectionid%22:%5B%22JUDGMENTS%22%22%5D%2C%22itemid%22:%5B%22001-223022%22%22%5D%7D>

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18. Adopt an Anticorruption Action Plan, which should consider assessing the situation, specific, measurable actions, budget and timeline at the Parliament level with participation of civil society organizations. Develop the assessment of reporting systems for implementation of activities.
19. Enact amendment to Law on Access to Information and Commercial Secret and ensure transparency of founders and beneficiary ownership of legal entities—open registry of real estate, vehicles, and other assets for the public.
20. Adopt the law and related legislative documents on public disclosure of the assets and income of government officials, members of parliament, judges and prosecutors. Also, it is essential to consider responsibility in the Criminal Code regarding violating legislation on public disclosure of assets and income. In this case, the amendments are necessary to the Anticorruption Law and Criminal Code and the establishment of a particular government agency which should review disclosures and initiate claims on violations before law-enforcement bodies.
21. Enact amendments to the laws on non-governmental organizations (public associations and foundations), State registration and state register of legal entities, Grant, and Code of Administrative Offenses, and simplify state registration of non-governmental organizations, including branches or representative offices of non-governmental organizations of foreign countries, and eliminate obstacles for access of NGOs to domestic and international grants.
22. Ensure public participation in all levels of decision-making in development of state programs, public investment and other socio-economic projects.