

CSOs policy in trying times

Lessons learned from Azerbaijan

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Abstract

This research was conducted to support the work of NGOs in difficult conditions. During the research, the boundaries of difficult conditions for NGOs were identified, in which the capabilities of their activities were assessed and practical recommendations were made. The main focus of this research that focuses on the history of CSO development in Azerbaijan, problem description, policy option and recommendation.

The survey was carried out with by the author of policy paper via SurveyMonkey and covers the period September-October 2018. Survey conducted among 3 NGO Coalition: National Platform of CSF, Government and Civil Society Dialogue Platform on Open Government Partnership Initiatives and EITI NGO Coalition. Some media experts and representatives from international organizations were involved to survey process.

Despite the voluntary responds and stagnation period of CSOs in Azerbaijan, the rate of answers was higher than expected, 51 leading organizations responded all of questions.

Key words: civil society, non-governmental organization, Azerbaijan, authoritarian regime, difficult context, limited funded, entry barriers.

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Introduction

For almost five years, the situation of civil society has been very difficult in Azerbaijan. Summer 2014 – while Azerbaijan was chairing the Committee of Ministers of the Council of Europe – was characterised by a harsh crackdown on civil society. The crackdown on independent civil society has had a profoundly negative effect on the ability of CSOs and citizen activists to promote the development of open society and democracy in the country.

For several years, civil society was only engaged in self-defense, and therefore detached from the people, could not contribute to solving the problems of the population, so communication weakened. The public participation of civil society, which it so propagandized, was minimized. The powerful voice of civil society has disappeared, which is the herald of political, economic, and social themes.

Dozens of organizations have closed, hundreds of organizations have suspended their activities, thousands of specialists left the country. The educational programs implemented throughout the country have decreased by several times. Projects related to human rights, democracy, and good governance are reduced to zero. Civil society is not able to protect not only the rights of the nation, but even its own.

Despite all the recommendations, registration of NGOs, their funding and activities continue to be limited. Civil society without free and independent funding and activity is weakening each time, losing human resources, its infrastructure is falling apart, access to the audience is declining, its image is weakening.

During the past 5 years, forms of prosecution were different: the arrest of bank accounts, the investigation, the ban on leaving the country, checks at the border. Some of them, have been solved, but some still remain relevant. There is private, and not total approach to the solving problems. If somebody's grants are registered secretly, this does not mean solving the problems of civil society. On the contrary, the selective approach deals a great blow to unity, solidarity. The already weak civil society has split even more. Mistrust was sown. This list can be continued because the persecution has given rise to serious consequences, and their elimination is more difficult than any legislative changes.

Social activity in the country has visibly decreased, organizations have closed, people left the NGO sector or the country in general. The situation has not changed for donors. Following the rules of December 4, 2015, no donor organization is registered in the country. Not only donors, but also embassies operating in the country, the offices of

the EU and the UN cannot provide NGOs with grants directly, or have difficulties in this matter.

Now there are no those arrests and attacks that took place before 2014. The problems of some organizations have been solved privately. Some arrested bank accounts were opened, money was returned. Part of the projects are secretly registered. Some superficial changes to the law have been made, but this does not seriously change the picture. The consequences are very difficult - intractable lawyers and human rights activists have quieted down. It seems that civil society has reconciled with its fate, has left the country or has moved into another sector. There is practically no educational, monitoring, advocacy work. And the work being done is weak and retail. There is no stability and sustainability. In addition to a group of NGOs close to the authorities in the regions, it is almost impossible to meet with people, and to hold events as well. To talk openly about any problem is almost equal to the attempt. The rest of civil society deals with "soft" topics. Priorities are social and cultural themes. NGOs carry out free rites of circumcision, iftar, commemoration ... That is, the situation is comical ... This picture is too far from the mission of civil society.

Civil society development in Azerbaijan

In Azerbaijan, CSOs continue to operate in highly restrictive legal environments that limit access to funding—particularly foreign funding—with virtually no space for independent advocacy. CSOs in Azerbaijan have weak organizational capacities, and little public support. Countries that have long been led by repressive regimes further tightening control over the civil sector. Restrictions take a variety of forms, but commonly focus on restricting CSOs' access to funding, increasing reporting requirements, and state harassment of CSOs criticizing the work of the government or holding it accountable. Independent civil society has been abolished as a result of observations due to pressure of the repressive authorities of the region through mobilization of resources that are crucial to the activities of NGOs. Now, instead of real civil society institutions that have once been a part of the global and national dialogue platforms, these authorities are very active in filling the places with the NGOs that are dependent and controlled by the state's financial resources. Independent NGOs have been fragmented and weakened in Azerbaijan, as a result of increasing toughening both legal and practical barriers hindering the activities of an independent civil society. Thus, independent civil society institutions in these countries have faced serious difficulties in implementing their organizational missions. Therefore, in order to get out of the situation, they have acted in various ways and have chosen different tactics to survive and maintain their existence as soon as possible, not as long term strategic plans. Thus, a group of independent NGO leaders from Azerbaijan are forced to leave the country and live in exile. While some of them are currently active, most of them have either changed their occupation or generally stopped their activities. While other independent NGOs remain in the country, they prefer to suspend their activities temporarily for maintaining their reputation and keep passive position to be insured from possible effects. Finally, the latter group of independents did not keep up the pressure changing their positions and acting among government-oriented NGOs within the boundaries of the government. Repressive governments seeking maximum profit from this opportunity also "benefit" from the previous influences of independent NGOs, creating civil society-government partnership and dialogue platforms through their representation providing examples of the false cooperation of NGOs with state bodies. At the same time, by promoting NGOs that have lost their independence they fill the created gap with constructive co-operation forms. The main focus of this research that focuses on the history of Civil Society Institutions (CSI) in post-Soviet space, of which Azerbaijan and Central Asia are also part of it, is quite shorter in comparison with OECD countries. This has also impacted to the role which they play. Thus, if 5-10 percent of GDP fell to the share of the civil society sector if in OECD countries in 2014, this figure amounted less than 1 percent in post-Soviet countries.

Although post-Soviet countries have always been in the spotlight of foreign donors, CSOs also had a special role in transition period from planned economy to the market economy in some countries.

Furthermore, the research analysis revealed that CSOs in post-Soviet space have encountered more problems during the last decade. Unfortunately, instead of involving CSOs into solving the existing problems, governments are trying to impose more control over them in the recent years. Additionally, governments endeavor to limit the role of CSOs within the framework defined by them, and refrain involving them into country's development priorities and, regard them as service providers in best scenario. In fact, governments should see CSOs as generators of new ideas just like innovation labs, and use their alternative ideas to formulate state policy, and benefit from their good intentions and voluntary contributions. Therefore, the government and CSOs should have policy frameworks on taking advantage from the potential of CSOs in order to minimize possible gaps, properly identify their roles and priorities, and balance their interests. In practice, Azerbaijan and governments of Central Asia that do not have a framework of policy in this field preferred to narrow down activity scope of CSOs, formed at the expense of local and foreign resources and offer alternatives in many areas, by various means for a while instead of accepting them as trusted partners. Despite the fact that the government-driven initiatives and their implementation ways in this regard are different in various countries, targets were identified given to a common interest. The main goal of the repressive policy against CSOs in these countries was to weaken the democratic institutions as a whole and turn them into a nominal sphere of action by creating rules and regulatory instruments that keep this sector under control. When it comes to Azerbaijan, this notorious practice has the following stages of repressive policies taken against democratic institutions.

At the first phase of repression, political opposition parties of the country have been weakened through imposing restrictions over fundamental freedoms, especially the freedom of assembly and association. This stage, which began with increasing pressure after 2003 presidential election, continued its active phase by 2010. Many opposition activists were arrested on similar accusations trumped up charges (illegal weapon possession, sale and use of drugs, refusal to follow police orders, resistance to police, organization of coup d'état, support for terrorism, etc.) and some activists were lured with money, or forced to stop their activities due to compromising information. At this stage, the security authorities of the government have done significant work in the field of creating intrigue and distrust, lack of confidence within the oppositional forces. Furthermore, the actions on funding the activities of pro-government political parties as well as political parties represented in the parliament has been started since 2010. Thus, the period of independence of the political parties has come to an end.

The second phase of the repression has started since 2010, and at this stage, freedom of speech and expression were restricted, and the independent press has been targeted and sidelined. First of all, activities of local representatives of foreign media were banned; broadcasting of radios funded from abroad was suspended. It is worth highlighting that media broadcasting companies that functioning under the state monopoly have refused to pay payments of newspapers and magazines. Moreover, the accumulation of debts in printing houses, and interference of tax and customs authorities into activities of media have led to the suspension of most publications related to the opposition and independent position. In the period of increasing financial and administrative burden on the activities of media agencies, the state support program for mass media has been launched. Similarly, provided grants presented within the framework of this program as well as the flats allocated for journalists played an important role in controlling the last remnants of the independent media. Furthermore, one of the key features of this stage is the expansion of coverage and broad access of readers to government media and new media companies financed by oligarchs. This stage could be also highlighted with records of imprisonments and expelling of well-known journalists from the country. Thus, as a result of all this, the international status of Azerbaijan has been deteriorated.

At the third phase of repressions that began since 2014, independent CSOs have been massively targeted and continued to be sidelined. Initially, the bank accounts of the selected NGOs and their leaders were blocked, and later, the funds were seized on bank accounts without the right of cases to be defended in courts. At this stage, majority of chairmen of NGOs have been banned from traveling abroad; some of them were subject to special inspections by the customs control service at border checkpoints while traveling, some human rights defenders, well-known NGOs chairmen were imprisoned for accusations on abuse of power, illegal entrepreneurial activities and corruption; tax penalties and sanctions were imposed on independent NGOs and their executives and accountants were investigated by prosecutor office officials and statement of explanation was demanded from them. Moreover, new severe rules and regulations on terms of foreign funding, grants and registration of foreign donors have come into force. It should be noted that, in this phase, the Council on State Support to NGOs has demonstrated exceptional behavior against the activities of independent NGOs.

Finally, in the fourth phase of the repressions, independent advocacy and representation institutions were sabotaged, independent lawyers were disbarred from the Collegium of Advocates and the right of representation in court cases was extended only to members of the Collegium of Advocates. Thus, this has increased the difficulties in the field of protection of rights of citizens as well as NGOs.

Similarly, the government tried to justify its repressive policy against democratic institutions, especially the CSOs with following arguments:

- Lack of transparency of programs and projects financed by foreign donors and existence of undisclosed intentions that are in collision with the interests of the state;
- Appropriation of grant funds by NGOs, corruption cases in this sector, lack of transparency and accountability in NGO activities;
- Breach of the legislation requirements in regard to the internal management rules of NGOs, management, undemocratic election of members of the supervisory board, and absence of rotation of its members;
- Violation of the requirements of the Azerbaijani legislation by NGOs, breach of grant registration requirements, non-compliance with tax legislation;
- Involvement of NGOs into political activities, serving to the interests of opposition political parties and participating in anti-government activities;
- Cooperation of NGO leaders with foreign intelligence agencies, acting as foreign agents, betraying the state interests, their participation in joint projects with the enemies of the government;
- Non-legitimacy of NGOs, illegal organization of their activities, involvement in money laundering.

Through these and other excuses, Azerbaijani authorities have managed to silence only independent NGOs and have further toughened the registration of new NGOs. The government has achieved the following goals as a result of a consistent policy against independent NGOs.

- Suspended relationships between independent NGOs and international organizations and foreign donors, eliminated topics linked to cooperation with Azerbaijan from their program.
- Achieved to impose control over the financial flows of independent NGOs; their activities have been seized through blocking financial channels.
- Undermined image of independent NGOs through defamation charges such as grant appropriators, tax-avoiders, working for foreign intelligence for independent NGOs;
- Tightened the NGO legislation which has lead the international organizations and donor institutions to leave Azerbaijan or restricted their activities in the country.
- Filled the gaps through involving pro-governmental NGOs and their coalitions.
- Expelled active NGO representatives from the country or achieved weakening of their critical thoughts and positions by forcing them to remain silence.

Problem description

NGOs in Azerbaijan face serious obstacles to operating independently due to excessive legal and regulatory restrictions. The Cabinet of Ministers regulations issued in January 2017, as part of the government's review of laws regulating NGOs and donors, offer limited prospect for fundamentally improving the operational environment for NGOs. Although the new regulations simplify some procedures for registration of foreign grants, they leave intact the large discretion of the authorities to arbitrarily deny their registration.

Restrictions of CSOs activities in Azerbaijan can be grouped as follows:

1.Administrative restrictions. An authority to interfere into the activities of NGOs in Azerbaijan is granted to the Presidential Administration, Ministry of Justice (MoJ), Ministry of Finance (MoF), Ministry of Taxes (MoT) and the State Council on State Support (SCSS) to NGOs.

Executive authorities, namely presidential administration have imposed substantial control over the activities of NGOs, and thus, made them totally dependent on them through requiring for 'permission requests'. In particular, the events held in the regions are organized under the joint authorization of the Presidential Administration and the local executive authorities. It is worth highlighting that the progress of events is monitored both by security agencies and executive committees.

The registration of newly founded NGOs, including extracts from the registry for 2 years on registered NGOs, registration of every single grant agreement, service contracts, granting foreign organizations the right to act as a donor are falling under the responsibility of the Registration and Main Notarial Office of the Ministry of Justice (MoJ) who acts as central executive committee agency.

a) Entry barriers. The Registration Law and the NGO Law are the primary laws regulating registration procedures for NGOs. The Registration Law establishes a timeframe for registration of NGOs of up to 40 working days. The Registration Law allows for the extension of the deadline for an additional 30 days in exceptional cases when the MoJ identifies the need for additional review of documents. In contrary, the Registration Law defines a two-day registration period for commercial entities. The registration of NGOs and commercial entities are both regulated under a single Registration Law and the application for registration of both types of entities comprises the same documents under Article 5 of that Law. The Registration Law provides that "if within the term established under this article, no refusal will be submitted on state registration, these structures shall be deemed as registered by the State. In this case, the relevant executive authority of the Republic of Azerbaijan, no later than within 10 days, shall issue the certificate on state registration to the

applicant.” However, we are not aware of any instances when this provision has been applied in practice.

State registration of NGOs may be rejected only if: (1) there is another NGO registered under the same name; (2) the documents submitted for state registration are inconsistent with the Constitution, the Registration Law, or other laws of Azerbaijan, (3) the NGO’s goals, duties or activities are inconsistent with Azerbaijani law, or (4) the registration documents contain false information.

In fact, state registration of organization still remains a challenge for NGOs. It is very difficult to register as either a domestic or foreign NGO in Azerbaijan. The Government of Azerbaijan has lost at least seven cases before the European Court of Human Rights, which has found denials of registration to violate the freedom of association.

Although the domestic laws do not prohibit NGO operation without state registration, in practice, NGOs cannot operate effectively as they cannot receive foreign funding, open a bank account and enjoy other prerequisites of a legal entity. MoJ imposed practical obstacles to the possibility register of NGOs. Registration procedures are problematic, precisely due to the exercise of government discretion in denying applications. Many groups applying for registration are denied such registration. In many instances, the shortcomings identified in letters of rejection could have been corrected during the process of the MoJ’s consideration of the application and should not have been considered valid reasons for rejecting registration. For example, in the *Ramazanova and others v. Azerbaijan* case, for example, the MoJ denied the applicants’ documents for reasons such as not including a provision on the territorial area of the association's activity. The registration process is burdensome and time-consuming. There are no clear and justifiable grounds for the denial of registration. The application is rejected in case of minor deficiencies. The legal provision allowing the MoJ to prolong the periods for consideration of documents for up to 30 days, as well as the fact that such delays are implemented “without showing any grounds.” There is no practice of an independent and impartial judicial review within a reasonable time in case of rejection of the CSO’s registration application. Complaints regarding a decision to reject state registration of an NGO may be lodged in court.

Certain provisions of the law about the registration procedure are not always properly implemented or subject to broad interpretation. For example, the MoJ occasionally misses the timelines for decision making in regards to registration of an NGO. An important ECtHR case, *Ramazanova and others v. Azerbaijan*, concerned a complaint submitted by four Azerbaijanis whose requests to register an association was repeatedly deemed technically insufficient for varying reasons and the decision

on registration was delayed beyond the time frames established in the Registration Law. Multiple appeals to Azerbaijani courts were unsuccessful.

According to the U.S. State Department's Country Reports on Human Rights Practices 2017 notes: A number of legal provisions allow the government to regulate the activities of political parties, religious groups, businesses, and NGOs, including requiring NGOs to register with the Ministry of Justice if they seek "legal personality" status. Although the law requires the government to act on NGO registration applications within 30 days of receipt (or within an additional 30 days, if further investigation is required), vague, onerous, and nontransparent registration procedures continued to result in long delays that limited citizens' right to associate. Other laws restrict freedom of association, for example, by requiring deputy heads of NGO branches to be citizens if the branch head is a foreigner. Authorities routinely rejected the registration applications of NGOs whose names contained the words "human rights," "democracy," "institute," and "society." Laws affecting grants and donations imposed a de facto prohibition on NGOs receiving cash donations and made it nearly impossible for them to receive anonymous donations or to solicit contributions from the public.¹

According to the Civic Freedom Monitor: Azerbaijan, prepared by ICNL, dated 21 March 2018 ², registration still remains a challenge for NGOs. It is very difficult to register as either a domestic or foreign NGO in Azerbaijan. The Government of Azerbaijan has lost at least five cases before the European Court of Human Rights, which has found denials of registration to violate the freedom of association.

On 17 October 2017, President Aliyev signed changes to the These changes have significantly simplified the registration of legal entities with foreign investment. These entities can undergo the registration process electronically within 2 days. Unfortunately, there were no changes as to the registration of non-commercial entities. The difference in processing registration of commercial and non-commercial legal entities raises questions as there is no legal rationale to justify it.

On 26 January 2017, the Cabinet of Ministers issued new regulations for establishing a "Single Window" mechanism to streamline the grant registration process. According to the new procedures, obtaining grant registration processes for multiple agencies were merged. The new procedures of "Single Window" mechanism was not implemented yet. Despite the fact that 1 year and 9 months have passed since the changes made in the law on the establishment of a new online shop service platform in January 2017, no progress has been carried out in this direction. The Ministry of Justice responsible for this matter has not declared any timeline in regard to the

¹ <https://www.state.gov/documents/organization/277385.pdf>

² <http://www.icnl.org/research/monitor/azerbaijan.html>

development of an on-line platform yet. Therefore, there is not any expectation on the launch of such platform in the near future.

The current legislation grants the Ministry of Justice a wide discretion in denying NGO applications for state registration, especially in terms of human rights NGOs. This has led to a huge number of NGOs denied of registration and acting as unregistered groups in Azerbaijan. The Ministry of Justice registers only organizations that receive support or letter of assurance from central and local executive authorities. This document, which is not envisaged by law, plays an essential role in the registration process. For instance, youth organizations should receive support or letter of assurance from the Ministry of Youth and Sport, the organizations promoting culture from the Ministry of Culture, organizations dealing with ecological issues from the Ministry of Ecology and Natural Resources, and organizations that desire to operate in the regions should receive letter of assurance from Local Executive Committees and submit it to the Ministry of Justice along with the registration documents. Thus, during 2017-2018, 237 NGOs is registered, it means that an average of 115-120 organizations are registered annually. There has been neither legal nor practical change in the direction of simplifying the registration process over the last year. This has also been confirmed by the results of the survey conducted among 51 leading NGOs. It should be noted that about 86 percent of survey respondents answered "No" the question "Has the simplify the procedures for establishing and registering and have been removed the discretionary actions that limit their ability to operate of CSOs in Azerbaijan?" and 90 percent of survey respondents answered "No" the question "Is the deny of the registration of CSOs on clear grounds that are legitimate under international law?".

On October 2018, according to the letter addressed to the Members of OGP Criteria and Standard Subcommittee,³ noted that there were more than 4289 NGOs operating in Azerbaijan and during 2017-2018, 237 NGOs are registered by MoJ. Only a limited number of NGOs however are able to function effectively and display a sound capacity⁴. This number includes other types of non-commercial organizations, such as education institutions, sport associations, cultural organizations, etc.

For comparison, in the neighboring Georgia, which has rather simple NGO registration procedures, there were at least 20,206 registered non-profit organizations in 2014. In Estonia, with its population of 1,3 million, featured by the highest level of sustainability among Central and Eastern Europe and Eurasia countries in the USAID CSO Sustainability Index, there are more than 30,000 NGOs, which benefit from a supportive legal environment, infrastructure, and public image and are strong

³ https://www.opengovpartnership.org/sites/default/files/Azerbaijan_Letter_20180922.pdf

⁴ USAID CSO Sustainability Index for Central and Eastern Europe and Eurasia 2014

advocates and service providers⁵. Azerbaijan's 4289 NGOs for a 9,8 million inhabitants cannot effectively represent the population's civic initiatives⁶. While there are 221,000 formally registered non-commercial organizations in Russia, the country with the largest population covered by this edition of the Index, there are fewer than 5,000 registered organizations in Montenegro, the country with the smallest population.⁷

b). Obtain an extract of a registration certificate. NGOs are obliged to register every single change to founding documents or factual prerequisites with the MoJ and obtain an extract of a registration certificate to continue operation. It is prohibited to operate without such an extract. A failure to comply with the regulation leads to administrative liability. NGOs are forbidden to operate by non-registered facts or information. Only upon confirmation of registration of such changes, NGOs can freely enjoy the benefits of its legal entity status, such as the use of bank accounts or signing grant agreements. The several amendments have already severely hampered the effective operation of some of the NGOs. If the authorities reveal any of such unregistered changes (e.g., during inspections, review of the application of registration of other changes), NGOs will automatically receive a monetary penalty without an opportunity to rectify the shortcomings. The new regulation has a punitive aspect rather than the one to promote regulatory compliance with the NGO law. Such a new rule creates a complicated procedure for NGOs to follow and is not compatible with the self-governing nature of NGOs. In practice, it results in NGOs having to apply for registration of various facts recorded during registration, such as many members, actual address and other factual changes multiple times.

At the moment, the number of organizations that haven't received an extract from the register by the Ministry of Justice is higher than the number of registered ones. In case of issuing this document, the Ministry's exclusive jurisdiction discourages independent NGOs from applying for receipts on a timely basis, since they are afraid of an official rejection. On the other hand, inactive NGOs are not interested in acquiring this document. Regardless of such obstacles, this requirement is still valid given to previous terms of conditions. Those organizations that receive grants from the Council on State Support to Non-Governmental Organizations mostly seek to obtain this document. The reason is those organizations that didn't receive the extract from register from the Ministry of Justice are unable to pass technical inspection the calls for grants announced by the Council on State Support to Non-Governmental Organizations.

⁵<https://www.usaid.gov/europe-urasia-civil-society>

⁶ https://www.usaid.gov/sites/default/files/documents/1863/2010complete_document.pdf

⁷ [http://actngo.info/wp-content/uploads/2018/10/CSOSI-2017-Regional-](http://actngo.info/wp-content/uploads/2018/10/CSOSI-2017-Regional-Report.pdf?fbclid=IwAR1eqpxSZmjdTmfjOCRA2jSPthTvWV09Q11npKOMltROtqGs_WTup6mQa0)

[Report.pdf?fbclid=IwAR1eqpxSZmjdTmfjOCRA2jSPthTvWV09Q11npKOMltROtqGs_WTup6mQa0](http://actngo.info/wp-content/uploads/2018/10/CSOSI-2017-Regional-Report.pdf?fbclid=IwAR1eqpxSZmjdTmfjOCRA2jSPthTvWV09Q11npKOMltROtqGs_WTup6mQa0)

c). The registration of every single grant contract and service agreement. On 11 January 2017 the Cabinet of Ministers of Azerbaijan made some changes to the Rules on Registration of Grant Agreements (Decisions) of the Republic of Azerbaijan. Overall, the changes aim to simplify the process, but have mostly technical nature. Below we provide a short summary of the changes:

1. The deadline for submission of a grant registration application to the Ministry of Justice (MoJ) has been extended from 15 to 30 days. This change is a positive, as the previous deadline was too short for proper preparation of documents issued abroad, which includes obtaining them apostille, translation and mailing of originals.

2. The list of documents which a donor shall submit to MoJ has been shorted. Donors do not need to submit the following documents which were requested before:

- *Proof of submission of annual financial report to the Ministry of Finances (MoF);*
- *Opinion of the Ministry of Finance;*
- *Copies of donor's registration documents with MoJ;*
- *Power of attorney.*

3. There is no need to submit notarized copies of the translations. NGOs can translate these documents themselves, which may save them time and financial resources.

4. The grant agreements can be registered as service agreements, which exempts donors from additional registration with the MoF, if grant agreements envision provision of services and works.

By October 2018, a handful of organizations were able to register their grants funded by foreign donors. When making such a decision, an intimate involvement with, and loyalty to the government are taken as a key indicator. At the same time, an identity of a donor is also crucial during the decision-making process. For instance, the registered grant/service contracts are mainly the winners of the latest EU and UN competition, however, some of them have failed to register their grants. Furthermore, several agencies have had additional registration over previous contract with USAID. The grants of other donors, especially the NED, the EED were last registered in 2013. Therefore, some organizations continue their work secretly without registering their grants using the bank account of the third country or by cash financing. There are also some organizations, which act not as NGO, but partners on behalf of a new commercial organization with the status of a limited liability company. However, the number of this kind of organizations is very few. According to the results of the anonymous survey conducted among the 20 leading NGOs who participated in the consultation meeting held by the European Union

on August 30, five of them informed that they had a registered grant contract, 4 had service contacts, whereas 7 have established limited liability companies.

As the legislation governing grants registration stands now, the multi-step complex registration procedure for grants and donors remains in place, and the government represented in the process by MoJ still has unlimited discretion to decide whether to register a grant or to deny such registration.

This has also been confirmed by the results of the survey conducted among 51 leading NGOs. It should be noted that about 85,71 percent of survey respondents answered "No" the question "Has the law been amended to restrict the powers of the Ministry of Justice during the registration of grants?".

d). Studying the Activities of Non-Governmental Organizations. The Rules of Studying the Activities of Non-Governmental Organizations, Branches or Representative Offices of Foreign Non-Governmental Organizations" approved by the decree # 11 that dates back to 28.12.2015 of the Collegium of the Ministry of Justice of the Republic of Azerbaijan. According to the rules, employees of the relevant department of the Ministry of Justice have following privileges before NGOs: 1) To check the relevance of NGO activities with the charter (statute); 2) To request compliance with the requirements of the law; 3) To ask the submission of annual financial reports; 4) To abide by the legislations on grants and accounting policy; 5) To submit necessary information (documents) on financial and economic activities with an aim to study their compliance with relevant laws; 6) To demand response to the survey questionnaires; 7) To inspect and retrieve copies of such information (documents). It should be noted that during the study of NGO activities certain feedbacks were solicited and discussions were conducted. According to the rules, the study of NGOs' activities should be carried out within 30 days. The terms of study of NGOs activities can be prolonged up to 30 days, based on the written consent of the head of the justice body.

e) Challenges complying with reporting requirements. Azerbaijani NGOs have difficulty complying with financial reporting requirements. Many NGOs have limited capacity to comply with such requirements and are under threat of being punished for non-compliance.

The Decree № 201 of the Cabinet of Ministers of the Republic of Azerbaijan dating back to 25th of December, 2009 underlines that NGOs as well as offices and representatives of foreign non-governmental organizations should compile their annual financial reports in accordance with the National Accounting Standard for NGOs, and should submit the annual reports to the Ministry of Finance prior to the 1st April of the following year.

f). Impose tax penalty. Along the criminal prosecution of NGOs, a large number of domestic and foreign NGOs have been subjected to tax proceedings leading to heavy

finances imposed under the domestic tax legislation. The Ministry of Taxes conducts inspections to check the fulfillment of tax liabilities of NGOs. The tax investigations stem from same alleged failure of NGOs to register grants with the Ministry of Justice. Dozens of domestic and foreign organisations were handed huge financial penalties by the tax authorities. At least 10 foreign and 17 domestic organisations were handed huge financial penalties by the tax authorities. According to the expert calculations, the tax penalties imposed on local organizations amount to 1 million manat and the tax penalties imposed by foreign NGOs exceeds 3 million manats. All foreign organisations subjected to such tax inspections were forced to close down their offices in Azerbaijan whereas many local NGOs stopped their activities.

g). State control of CSOs. The Council on State Support to NGOs keeps pro-governmental NGOs under constant surveillance with an aim to mobilize relevant NGOs, to create their unions, and thus, form unilateral positions among them. Pro-governmental NGOs are endeavoring to demonstrate a joint dialogue between state - CSOs institutions through getting involved in platforms together with governments. The institutions created for this purpose are also under the total control of the government, and they are only serving to finance the activities of pro-governmental political parties, the press and NGOs that create an open public image. For instance, State Support Fund for Mass Media controls press by financing publication of newspapers and donating apartments to reporters. Similarly, the Council of State Support to Non-Governmental Organizations allocates grants to NGOs as well as funds trips of their chairmen to abroad in order to impose control over civil society. At the same time, the Youth Foundation provides financial support to youth organizations to keep the younger generation under control. It is worth highlighting that the Council of State Support to Non-Governmental Organizations, created 10 years ago, has spent 29 562 570 AZN to NGOs by financing 3896 projects since its inception. For detail information year by year, please see the table # 1.

Table # 1. The amount of allocated for implementation of project financed by Council of State Support to Non-Governmental Organizations (2008-2017)

Years	The amount of allocated for implementation of projects, manats	Number of financed project
2008	1 200 000	191
2009	2 067352	247
2010	2 102000	352
2011	2 045416	338
2012	2 031000	348
2013	3 414632	474
2014	2 928292	386

2015	5 255343	520
2016	5 369535	556
2017	3 149000	484
Total	29 562570	3896

Additionally, 76 million manats were allocated for the support of media through the State Fund for Support of Mass Media Development (SFSMMD) from the Reserve Fund of the President of the Republic which envisaged within the state budget for 2010-2015. Since 2013, more than 300 journalists have been provided with apartments. According to the 2013 report released by the SFSMMD, 22 396 316 manat was spent to the construction of the first building, and 34 million manat was allocated for the construction of the second building.

2. Legal restrictions. Serious restriction has been made to the laws governing the NGO sector. The main changes were in 2013 and 2014, and up to 40 changes to the NGO law. The registration of NGOs in Azerbaijan and the laws regulating their activities do not meet international standards. Nevertheless, immense changes have been made in the laws regulating the activities of NGOs, and the Code of Administrative Offenses (CAO) in the last decade, and restrictions have become more severe. Thus, NGOs were subject to a centralized registration of grant contracts since 2009, and starting the year of 2014 new requirements have come into force in regard to the registration of foreign donors and the right to provide grants. Additionally, the CAO has adopted a new series of uncompromising and severe penalties and sanctions in case of violations of these requirements. December 17, 2013 marked the adoption of the first package of comprehensive amendments to a number of laws regulating NGO activities, which entered into force on 1 February 2014 with the adoption of the presidential order⁸. This has been followed by another set of amendments adopted on 17 October 2014 resulting in further regulations on NGOs. In 2015, series of rules have been adopted to secure the implementation of the new laws on funding to NGOs: a) On June 5, 2015, the Cabinet of Ministers adopted new rules on registration of grant agreements⁹; On October 21, 2015, the Cabinet of Ministers adopted a decree on "On registration of contracts on provision of services and works at the expense of foreign financial sources by non-governmental organizations, as well as branches or representative offices of foreign non-governmental organizations"¹⁰; and c) On October 22, 2015, the Cabinet of Rules on Obtaining the

⁸ The Law of Azerbaijan on Making Amendments to the Law "On non-governmental organizations (public unions and funds)" dated on 17 December 2013 (№ 849-IVQD), The Law of Azerbaijan on Making Amendments to the Law "On State Registration of Legal Entities" dated on 17 December 2013 (№ 848-IVQD), and the Law of Azerbaijan on Making Amendments to the Law "On Grant" dated 17 December 2013 (№ 852-IVQD)

⁹ Adopted by the decision No 216 of the Cabinet of Ministers dated 5 June 2015

¹⁰ <http://e-qanun.az/framework/31456>

Right to Provide Grants in the Republic of Azerbaijan by Foreign Donors were adopted by the Cabinet of Ministers on October 22, 2015, and entered into force with their publication on December 4, 2015. The Rules established the procedure according to which foreign donors obtain registration (pre-approval) from the government in order to provide grants to Azerbaijani NGOs.¹¹

On December 28, 2015 the Collegium of the Ministry of Justice (MoJ) also adopted Rules on Studying the Activity of NGOs and Branches or Representations of Foreign NGOs, which was made public on February 13, 2016. These Rules provided broad powers to the MoJ to inspect and punish NGOs in Azerbaijan.

During 2015 four rules regulating changes to CSO legislation were approved:

1. Rules on registration of Grant agreements (decisions)
2. Rules on obtaining right to allocate grant by foreign donor organizations
3. Rules on registration of service agreements of NGOs and representatives or branches of foreign NGOs funded through external funding sources
4. Rules on investigation of activities of NGOs and representatives or branches of foreign NGOs
5. On October 31, 2017, the Parliament of Azerbaijan adopted changes to the Civil Procedure Code, which introduced new requirements for all entities, including CSOs, to hire licensed “advocates” (i.e., members of the Bar Association) to act on their behalf in domestic courts. The Bar Association remains under the full control of the government and the MoJ, and lawyers’ loyalty to the government is a factor in the admission process. This requirement is expected to reduce CSOs’ access to justice in the courts, as many cannot afford expensive licensed advocates. In addition, the 800 members of the Bar are insufficient to deal with the full caseload of the courts. Furthermore, only a few members of the Bar are willing to undertake the risks associated with providing legal assistance to CSOs on cases related to registration, taxation, or undue state interference in their work. In a country with a high density of political prisoners and politically-motivated arrests, this new requirement threatens to cut off CSOs’ already limited access to legal support.

3. Independent funding restrictions. Since 2014, the access of local NGOs to funding sources provided by foreign have been toughened through relevant changes made in the legislation. Granting of NGOs to grants was almost impossible. Furthermore, the benchmark for maximum amount of in-kind donations is set, and the CAO impose harsh penalties in case of its violation.

The Rules on “Obtaining right to allocate grant by foreign donor organizations” approved by Decision No 339 of the Cabinet of Ministers dated October 22, 2015. . In the

¹¹ 15 <http://e-qanun.az/framework/31488>

past the normative-legal acts of Azerbaijan did not consider obtaining any right to allocate grants, in other words the process was free.

According to the existing rules, all donor organizations that want to work in Azerbaijan should be registered, get license and obtain right to act as donor organization. There will be requirement on financial-economic justification of grants, i.e. why particular grant is important. All services and activities within a project should be separately registered at the Ministry of Justice. Finally, grant receiving organization needs to get review from related state agency (for example agricultural grants need review from the Ministry of Agriculture). As seen several layer filter is expecting to be applied and I do not believe any donor would come to Azerbaijan since now.

Another concerning issue is that donor organization should obtain this right for each grant separately. For example, if the donor organization signs 100 grant agreements, it should apply 100 times. The same rule is applied for sub-grants and any changes to grant agreements.

After the long discussion, on 25 January 2017 the Cabinet of the Cabinet of Ministers made important changes to the donor registration rules in Azerbaijan. Below is a short summary of the changes:

- The ban on signing grant contracts with a foreign donor that did not obtain the right to provide grants in Azerbaijan has been lifted.
- The donor registration and grant registration processes are merged into one process.
- The opinion of the Ministry of Finances about the financial economic expediency of the grant shall not be requested by the Ministry of Justice (MoJ) from the donor or recipient within a grant registration application. Donor does not have to obtain this opinion in advance.
- MoJ has only 1 working day to check the grant/donor registration package and inform the donor/applicant if it is complete.
- MoJ shall send documents to the MoF for its opinion, including by electronic submission.
- MoF now has 7 days to provide its opinion and not 15 as before.
- MoF can extend this period for 7 days not and 15 days as before.
- Donor's registration documents are no more required as part of the grant registration package.
- Notarized translation of the documents is not required.
- If MoJ's opinion on the grant is negative, the donor or recipient has to be informed within 3 working days.

While the regulations for foreign donors have been relatively relatively simplified, however, there is not any record of data on those applied for registration. It is worth to

note that only the European Union and the representation of Council of Europe in Azerbaijan conduct regular consultations with local civil society.

According to the Law, NGOs in Azerbaijan can receive foreign funding only from foreign donors that have an office in Azerbaijan, signed an agreement with MoJ and have Ministry of Finance's opinion on financial-economic expediency of a grant. There is no progress on this matter by October 2018. This has also been confirmed by the results of the survey conducted among 51 leading NGOs. It should be noted that about 86 percent of survey respondents answered "No" the question "Are changes in requirements related to the obligation for foreign donors to obtain the right to provide grants and simplification of procedures for using funding opportunities?". Additionally, 90 percent of survey respondents answered "No" the question "Has been eliminated the necessity for foreign donors to obtain the right from the Government of Azerbaijan to provide each individual grant and service contract?".

At present, access to foreign aid will have been almost impossible for over a year. The only funding source for local CSOs is now offered by the State Council, however this body does not have sufficient budget to support the NGO Coalition in its entirety.

To this date, a handful of organizations were able to register their grants funded by foreign donors. When making such a decision, an intimate involvement with, and loyalty to the government are taken as a key indicator. At the same time, an identity of a donor is also crucial during the decision-making process. For instance, the registered grant contracts are mainly the winners of the latest EU and UN competition, however, some of them have failed to register their grants. Furthermore, several agencies have had additional registration over previous contract with USAID. The grants of other donors, especially the NED, the EED were last registered in 2013. Therefore, some organizations continue their work secretly without registering their grants using the bank account of the third country or by cash financing. There are also some organizations, which act not as NGO, but partners on behalf of a new commercial organization with the status of a limited liability company. However, the number of this kind of organizations is very few. According to the results of the anonymous survey conducted among the 20 leading NGOs who participated in the consultation meeting held by the European Union on August 30, five of them informed that they had a registered grant contract, 4 had service contacts, whereas 7 have established limited liability companies.

4. Political restrictions. In fact, the creation of various obstacles in the field of restriction of NGO activities in Azerbaijan is the result of a systematic and an ideological approach. An approach formulated in recent years through the application of the same methods by repressive regimes does not only serve to sideline NGOs engaged in diverse activities; it is also a part of a plan targeted for mega goals. Moreover, governments that seek to impose restrictions over fundamental freedoms through elimination of civil society

institutions (CSO), political opposition and free press are concurrently aiming to establish a closed society within the country, suppress free press and remove alternative ideas. This trend is particularly observed in countries where its revenues increased thanks to exports from natural resources. Governments is monopolizing these revenues, and thus, making political parties, press, and CSOs dependent on them through allocation of funding in these direction. It should be noted that mass media, CSOs and political parties are becoming to build their activities based on the needs and interests of government in order to avoid losing government funding which was received not only on legal basis, but also illegal financial incentives. Consequently, this policy makes these institutions to support government's actions through offering their services. As oppressions become widely spread, these entities are competing with each other to demonstrate their effectiveness to a government by presenting their services more openly and in bigger scope. One of the main functions of these organizations, which are fully controlled by the authorities, is to fill the existing gaps. Thus, pro-governmental political parties are imitating as opposition parties in the parliament. Besides, the mass media, especially TVs functioning under governmental control are masquerading before the public with an aim to display an availability of pluralism in the country.

In result of difficult context, modern civil society is in its infancy. NGOs emerged after independence, gradually mobilised public opinion around a variety of social issues, and developed with support of international donors. Their operations have been recently restricted (especially since 2013) but social activism and civil society's development continue in the face of enormous difficulties. Fundamental freedoms are constitutionally guaranteed but, in practice, subject to restriction. Space for political competition is limited and accountability of state institutions poor.

Preservation of political stability is the government's priority, which rests upon the provision of security and on oil revenues. There are external and internal factors challenging stability and threatening the state building process, such as powerful neighbors (ie Russia and Iran) and signs of religious radicalism.

In principle, democratic institutions and separation of powers exist. The judiciary is formally independent. Checks and balances on the executive however are not strong and effective. Property rights appear to be subject to frequent violations.

In the context of Worldwide governance indicators, produced by World Bank Institute, in 2016, Azerbaijan ranks very low on the voice and accountability indicator, ahead of Tajikistan and below Yemen. Performance has declined significantly in the period under review. The second lowest score in 2015 is on control of corruption. Although the trend in this case is reversed as scores have increased in the last 3 years.



Figure. 1. Worldwide governance indicators, World Bank Institute, 2017

5. Environmental restrictions. The effectiveness of activities of NGOs depends on press freedom, and creation of an enabling environment for other democratic institutions. Currently, problems in this area create serious obstacles by limiting the cooperation opportunities for NGOs and prevent information support to their activities.

The responsibility of NGOs has also aggravated. According to the amendments to the NGO law, the NGO can be abolished by a court decision based on the appeal of the Ministry of Justice if the NGO has been instructed to remove more than two written warnings or violations within one year. Administrative responsibility is also painful; the Code of Administrative Violations, which entered into force in 2016, imposes heavier penalties on NGOs. The amount of these penalties exceeds 25,000 manats.

6. Conceptual restrictions. Other limitations are associated with the concept of civil society itself. Civil society includes numerous associations representing a great variety of interests, and is thus an extremely broad and diverse concept, as well as the concept of civil society is much older. The transition processes in Central and Eastern Europe, for example, in Poland solidarity movements contributed to the fall of the communist regimes, similarly, various human rights groups and labor movements played an important role in the democratization of many Latin American countries. In the in the recent past, the EuroMaidan events in Ukraine are widely perceived as major international setbacks to Azerbaijan. The Ukrainian events alarmed Azerbaijan political elites, who feared the possibility of a local color revolution during the electoral cycle. To thwart the perceived color revolution threat, Azerbaijan authorities adopted strategies

that combined a political, administrative and intellectual assault on the Western ideas of democracy promotion.

The government's restrictive approach to civil society continued to be an issue in Azerbaijan's participation in multinational bodies during the year. In March 2017, Azerbaijan withdrew from the Extractive Industry Transparency Initiative (EITI) following the country's suspension from the EITI Board in October 2016 for failing to make satisfactory progress on civil society engagement. In June 2017, the Steering Committee of the Open Government Partnership (OGP) extended Azerbaijan's inactive status for an additional year due to unresolved constraints on the civic space for CSOs. The Steering Committee further mandated its Criteria and Standards Subcommittee, in consultation with civil society and government, to develop an updated set of recommendations to improve the unresolved issues. The Steering Committee's recommendations are focused on two main areas— simplification of the registration process for CSOs and simplification of the regulations on access to funding. The Dialogue Platform of State and Civil Society for Promotion of OGP, established in September 2016, continued its attempts to foster dialogue between the CSOs and government to contribute to the implementation of the OGP's recommendations; however, there has still not been any significant improvement in the operational environment for CSOs

Policy options

The prevalence of wide-ranging national problems in Azerbaijan like regular increase in oil revenues for many years, dominance of centralized and authoritarian governance system, including monopoly in political decision-making process, lack of political will of the authorities to build dialogue with different interest groups and parties, an absence of a regular dialogue platform between the CSOs and the government, an incompetence of the legal framework, non-functioning of the existing legislation, high level of corruption, and an imitation of the democratic institutions have considerably narrowed the overall public-political circle in the country. Over the past five years, the Azerbaijani authorities have created more concrete problems to hinder the activities of local and foreign NGOs, and prevent their total development. These problems are as following:

- The current legislation has restricted the scope of their activities through applying legal measures;
- Public image of CSOs was deliberately damaged through running regular anti-campaigns in the state-run media outlets, and their access to the electorate has diminished;
- The geography of their activities was narrowed, access to the regions was restricted through administrative tools and employment of full control mechanisms;
- The recycling process of cadre was weakened due to an influx of experts to other (business and academic) sectors, reproductions were decreased as well as due to an absence of specialized personnel, educational and practical skills were not able to complement each other;
- The legitimacy has been restricted, the flow of new NGOs into the sector have been blocked through the existing legislation and the centralized regulatory means;
- Involvement of volunteers has been toughened by legislation and their contributions have been reduced;
- Due to the absence of financial sustainability, jobs were shot down and skilled cadres abandoned NGOs;
- An internal cooperation culture and practices of NGOs have declined; and solidarity, mutual trust and healthy competition among NGOs was not formed;
- The institutionalization process on joint activities was developed weakly, and therefore, internal conflict management, and settlement mechanisms of NGOs did not work;
- CSOs have become polarized, individualized or marginalized, and their activities was either politicized or overlapped with government policy;
- International organizations showcased double standards in relation to the activities of Civil Society Institutions (CSIs), their lobbying and mediation

activities were weakened, and some organizations lost their commitment to democratic values, domestic reputation of international donors fell. Moreover, during the repression of the authorities against the CSOs, many international organizations have yielded the existing reality.

Thus, an absence of legal restrictions and financial shortages as well as an application of fabricated impediments in the establishment process of new NGOs, suspension of staff recycling and emergence of new experts have had a negative impact on public activity. Besides, it has brought about the decline in the quality and performance of the product (project), and weakened co-operation of social media organizations in the field of social propaganda.

Apparently, NGOs in Azerbaijan are exposed to numerous restrictions and pressures. In this case, the main mission in front of them is to survive through keeping their existence and to continue their activities regardless of difficult conditions. To achieve this goal, NGOs are looking for different alternatives. These alternatives can be grouped as follows.

- Reform of laws and regulations governing nongovernmental organizations and their access to independent funding, in accordance with recommendations made by the Venice Commission.
- Immediate and enforceable guarantees that the EU and its institutions are able to fund independent civil society organizations without undue hindrance;
- An end to politically-motivated prosecutions of human rights defenders, journalists, civil society and political activists;
- The quashing of convictions against human rights defenders, journalists, civil society and political activists who have been released, and the removal of ongoing restrictions on their freedom of movement;
- Reform of laws and regulations, which restrict independent media and freedom of speech, including on the internet.
- Reform participation of independent NGO in decision-making process and public control processes, improve the law on public participation.
- Reform NGOs involvement in public service. Non-government organizations should expand participation in public service fields and ensure its implementation given to merit and open competition.
- Implementation decree on the application of “single window” principle in the procedure of presenting grants by foreign donors on the territory of the Republic of Azerbaijan, should create an online service platform by single window system for the facilitation of registration process and activities of NGOs.

Policy recommendations

First need to change the legislation - on NGOs, on grants, donations. We must return to the situation that existed before 2014. It is necessary to stimulate a large number of donors, NGOs, and this requires significant measures. Then it is necessary to solve a problem that lasts for years - to reduce the gap between civil society and the government. In order to build a bridge and increase confidence, various efforts are needed. The concept of NGOs should be revised. Non-governmental organizations should not be perceived as anti-government. There should be communication and an increase in the number of joint projects. For the prosperity of the country, an expert base of NGOs, their experience and efficiency should be used. At the forefront should be the national interests that unite the nation, it is necessary to declare an internal truce. Of course, to make it artificially impossible. This is impossible without the presence in the country of human rights, democracy, good governance, free media, fundamental reforms, advancement, since all these are links in one chain. The fact is that all that will happen sooner or later, it is inevitable.

What benefits and capacities can CSOs demonstrate given to the current difficult situation?

- 1) To divert its focus onto Azerbaijan in order to ensure financial support, and seek to find an access to the domestic sources and local resources (crowd funding). Moreover, NGOs should transit into business models and benefit from social entrepreneurship opportunities.
- 2) To strive for effectiveness and productivity on implementation of the projects, ensure an accountability and transparency, and should give preference to visual and digital activities.
- 3) To merge into coalitions for joint and coordinated activities (building inter-sector links) and through coalitions, and should become a dialogue partner between the government and business.
- 4) To should identify stakeholders and partners in local and international levels through eliminating barriers from the laws regulating their activities. Furthermore, they should achieve a legal and an enabling regulatory reform through participating in a common platform together with them.
- 5) To create an internal electorate for their management procedures, adoption of regulation tools and rules, formation of internal audit institutes, increase participation in transparency and accountability initiatives, and restore their damaged image with the help of social propaganda, strengthen its legitimacy.
- 6) To involve volunteers and youth to the organizational in their activities, should bring novelties to the activity strategy through applying innovative methods at

trainings and seminars, should be able to clearly express its mission and strategic goals.

- 7) Should use social network and digital NGO opportunities, give preference to visual and online activities, and use opportunities of E-Government platform.
- 8) Should be more active in international initiatives, should conduct monitoring of full and timely implementation of obligations of Azerbaijan at international platforms (such as OGP etc.), and should achieve a dialogue with the government for an adoption of advices of international organizations.

What should the government do in this difficult situation?

1. The following articles should be eliminated from the Law on Non-Government Organizations (Public Associations and Foundations):
 - Paragraph “Foreigners and stateless persons entitled to permanent residence in the Republic of Azerbaijan can be founders and legal representatives of non-government organizations on the territory of the Republic of Azerbaijan” of article 9.1-1.
 - Paragraph “Non-Government Organizations, as well as branches of foreign non-government organizations or representatives should present information on the amount of donation and those who gave the donation to the relevant executive authority in accordance with the procedure established by the relevant executive committee. Bank operations or any other operations of those who did not present information on the donation cannot be performed.” of article 24-1.5;
 - Statute “Recorded contract on providing services at the expense of foreign funding sources or report on performance of work should be presented to the relevant executive committee by Non-Government Organization” of article 24-2.1.; statute “NGOs that do not possess a contract, provide services or perform activities based on non-registered contract are responsible under the Code of Administrative Offenses of the Republic of Azerbaijan” of article 24-2.2; articles 31.3., 31.3.1., 31.3.2. and 31.3.3. on measures of responsibility towards Non-Government Organizations, intended as suspension of NGO activities;
2. “Study of compliance of activities of NGOs, as well as activities of foreign NGO branches and representatives with their statutes (regulations) and with the legislation of the Republic of Azerbaijan” named article #30-1.
3. The requirement on possessing a right to give grants for foreign donors should be cancelled.
4. Identify tax and other concessions for stimulating the activities of non-governmental organizations.
5. Expand participation of non-governmental organizations in public procurements;

6. Extend the participation of non-governmental organizations in the field of social services;
7. It should encourage the commercial sector to support non-governmental organizations. Non-governmental organizations should be provided with offices and equipment on favourable terms.
8. It should encourage the involvement of volunteers in the activities of non-governmental organizations.
9. The non-commercial law subject should be taught in the humanitarian faculties of universities.
10. NGOs should be involved in the activities of the permanent committees of the Parliament of the Republic of Azerbaijan, Cabinet of Ministers of the Republic of Azerbaijan and regulatory bodies of central executive authorities who is dealing with legislative issues.
11. Broad representation of non-governmental organizations should be ensured in all Public Councils created by central and local executive authorities.
12. The Parliamentary Committees and Executive Authorities together with NGOs should conduct joint public hearings on the draft budgets, reports on their implementation as well as normative-legal acts;
13. Public discussion on the issues with a public importance should be conducted jointly by relevant executive authorities and NGOs .

What should international organizations, especially the European institutions do in this complex situation?

1. They should define human rights and freedoms as a priority in their activities in Azerbaijan, and should take steps that will help to improve and have an impact on the openness of the government's human rights discussions. Furthermore, they should exert an influence over decision-making process related to legitimacy, and should focus on the activities affecting root causes of existing problems through taking on a political pioneering responsibility;
2. Should create opportunities for language and professional experience, carry out short-term trainings, and allocate special funds for language courses of local NGOs.
3. Should request the participation of NGOs in the process of allocation of grants to the government, terminate employment with individual contracts, should make competitions available only to local NGOs and allocate grants not only to Civil Society Institutions, but also to NGOs coalitions as well.

4. Should provide organizational, technical and financial support to Civil Society Institutions with an aim to establish and maintain NGO houses (office creation for joint use with NGOs and regular funding opportunities).
5. Should intensify institutional developmental programs and initiatives targeted for the development of research-oriented independent CSOs. Moreover, it should provide both technical and financial support for local think tanks aimed at promoting access to regional and global markets.
6. Should increase their support to younger generation through scholarship programs and study tours, especially teaching the European.

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Brief information about survey

Date and Duration

Possession of survey started in 11 September 2018 and ends 8 October 2018 and finalized during the 4 weeks.

Design

Questionnaires have been developed on the base of updated Recommendations for the Government of Azerbaijan made by Criteria and Standards Subcommittee of Steering Committee (SC) of OGP dated on September 25, 2017. The questions provided the respondent with a defined set of answers on the base of multiple choices.

Objective

An objective of this survey is to provide policy makers with data that can be used to better understand of the level of implementation of Recommendations produced by OGP SC for the Government of Azerbaijan on September 25, 2017.

Survey method of data collection

The survey has been created on "survey monkey tool" and mailed questionnaires to respondents. Response time was four weeks. Email invitations and reminders were sent regularly to 3 NGO Coalition:

- 1) National Platform of CSF
- 2) Government and Civil Society Dialogue Platform on Open Government Partnership Initiatives
- 3) EITI NGO Coalition
- 4) Media experts
- 5) International organizations

Despite the voluntary responds and stagnation period of CSOs in Azerbaijan, the rate of answers was higher than expected.

Thus, more than half of members of the National Platform of CSF has been responded. The members of the national platform reached 63 organizations.

Also, nine members of Government and Civil Society Dialogue Platform on Open Government Partnership Initiatives were among the respondents.

Besides, eight members of EITI NGO Coalition, two media experts and two representatives of international organizations have been responded to the questions. Most of the prominent lawyers have been responded to the questions by email.

Results of Survey

- 1) Has the simplify the procedures for establishing and registering and have been removed the discretionary actions that limit their ability to operate of CSOs in Azerbaijan?

Answered: 51 Skipped: 0

Responses	respondents	
	in per cent	number
Yes	3,92	2
No	86.27	44
Partially	9.80	5

- 2) Is the deny of the registration of CSOs on clear grounds that are legitimate under international law?

Answered: 51 Skipped: 0

Responses	respondents	
	in per cent	number
Yes	1.96	1
No	90.20	46
Partially	7.84	4

- 3) Has the revise the Code of Administrative Offences to reduce the number of penalties and prevent excessive harshness for CSOs?

Answered: 50 Skipped: 1

Responses	respondents	
	in per cent	number
Yes	4.00	2
No	86.00	44
Partially	10.00	5

- 4) Has the law been amended to restrict the powers of the Ministry of Justice during the registration of grants?

Answered: 50 Skipped: 1

Responses	respondents	
	in per cent	number
Yes	0.00	0

No	86.00	43
Partially	14.00	7

- 5) Are changes in requirements related to the obligation for foreign donors to obtain the right to provide grants and simplification of procedures for using funding opportunities?

Answered: 50 Skipped: 0

Responses	respondents	
	in per cent	number
Yes	1.96	1
No	86.27	44
Partially	11.76	6

- 6) Has been eliminated the necessity for foreign donors to obtain the right from the Government of Azerbaijan to provide each individual grant and service contract?

Answered: 51 Skipped: 0

Responses	respondents	
	in per cent	number
Yes	0.00	0
No	90.20	46
Partially	9.80	5

- 7) Has been eliminated the necessity for a foreign donor to have an agreement with the Ministry of Justice and register its representative office in Azerbaijan, in order to be a grantor?

Answered: 49 Skipped: 2

Responses	respondents	
	in per cent	number
Yes	0.00	0
No	95.92	47
Partially	4.08	2

- 8) Has been excluded foreign donors that operate on the base of bilateral and multilateral agreements from the obligation to obtain the right to provide grants?

Answered: 48 Skipped: 3

Responses	respondents	
	in per cent	number
Yes	0.00	0
No	91.67	44
Partially	8.33	4

- 9) Has been eliminated the need to obtain the opinion on 'financial-economic expediency' in order to issue or receive a foreign grant?

Answered: 49 Skipped: 2

Responses	respondents	
	in per cent	number
Yes	0.00	0
No	87.76	43
Partially	12.24	6

- 10) Does simplify financial operations for NGOs. In particular, bank operations related to grants and donations should remain independent and not be subject to any state interference?

Answered: 50 Skipped: 0

Responses	respondents	
	in per cent	number
Yes	0.00	0
No	92.16	47
Partially	7.84	4