

Independent Reporting Mechanism

Republic of Azerbaijan Special Report

Development and Implementation of Republic of
Azerbaijan's Open Government Partnership Action Plan
2020–2022 and Implementation of Open Government
Partnership Steering Committee Recommendations

Open
Government
Partnership



Independent
Reporting
Mechanism

I. Introduction

The Open Government Partnership (OGP) is a global partnership that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive, and accountable. Action plan commitments may build on existing efforts, identify new steps to complete ongoing reforms, or initiate an entirely new area. OGP's Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments follow through on commitments.

In 2015, international civil society organizations (CSO) submitted a letter of concern to OGP, triggering OGP Response Policy on the grounds that the deteriorating operating environment for the civil society in Azerbaijan had reached the point "where it seriously threatens the ability of CSOs to engage effectively in OGP."¹ In response to these concerns, in 2016, OGP's Steering Committee designated Azerbaijan as an inactive member.² In 2017, the C&S Subcommittee of OGP issued recommendations to the Government of Azerbaijan (GoA) to address the operating environment for the civil society, recommending simplification of the CSO registration process and the regulations to access funds.³ In 2018, OGP's Steering Committee resolved to extend Azerbaijan's suspended status for a full action plan cycle, pending the completion of a number of milestones, including the action plan development roadmap, and outlined the need for the IRM's action plan assessment.⁴

This report provides an independent assessment of the development and implementation of Azerbaijan's 2020–2022 Action Plan with specific focus on the progress on the implementation of recommendations issued to the government of Azerbaijan by the Criteria and Standards (C&S) Subcommittee of OGP's Steering Committee under the OGP Response Policy.⁵ Consequently, all sections of the report are structured to highlight progress, processes and trends relevant to the implementation of these recommendations.

The IRM has partnered with independent consultant and legal expert, Natia Khantadze, to carry out this assessment. For a full description of IRM's methodology, please visit <https://www.opengovpartnership.org/about/independent-reporting-mechanism>.

¹ Publish What You Pay, letter to Open Government Partnership, 2 March 2015, <https://www.opengovpartnership.org/wp-content/uploads/2019/07/OGP-enquiry-request-letter-PWYP-CIVICUS-ART19.pdf>.

² Open Government Partnership, *Resolution of the OGP Steering Committee Regarding the Status of the Government of Azerbaijan in OGP*, Open Government Partnership, 4 May 2016, <https://www.opengovpartnership.org/wp-content/uploads/2001/01/OGPSteeringCommitteeResolutiononAzerbaijan-2.pdf>

Open Government Partnership, *Resolution of the OGP Steering Committee Regarding the Status of the Government of Azerbaijan's Participation in OGP*, Open Government Partnership, 28 June 2017, https://www.opengovpartnership.org/wp-content/uploads/2019/07/Azerbaijan_final-inactivity-resolution_June282017.pdf.

³ Criteria and Standards Subcommittee, *Updated Recommendations for the Government of Azerbaijan*, Open Government Partnership, 25 September 2017, https://www.opengovpartnership.org/wp-content/uploads/2017/09/Azerbaijan_Final-Recommendations_Sept2017.pdf.

⁴ Open Government Partnership, *OGP Resolution on the Participation of Azerbaijan in the Open Government Partnership*, Open Government Partnership, 5 December 2018, https://www.opengovpartnership.org/wp-content/uploads/2019/07/Azerbaijan_SC-resolution_12052018.pdf.

⁵ Open Government Partnership, Criteria and Standards Subcommittee, *Updated Recommendations for the Government of Azerbaijan*, September 2017, <https://www.opengovpartnership.org/wp->

[content/uploads/2017/09/Azerbaijan_Final-Recommendations_Sept2017.pdf](#); "OGP Response Policy," Open Government Partnership, <https://www.opengovpartnership.org/ogp-response-policy/>.

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II. Overview

2.1. Executive Summary

The drafting of Azerbaijan’s 2020–2022 Action Plan started in 2019 with the development of the roadmap. The process included a number of meetings and consultations with the wider civil society outside of the OGP National Platform. The civil society formed a working group, prepared comprehensive recommendations on improving CSO legislation, and proposed the legislative amendments package to GoA. The wider civil society considered the commitments on improving the operating environment for the civil society as the most important part of the OGP action plan. The draft proposal prepared by the civil society working group addressed all of the major legislative restrictions and policy changes recommended by OGP in 2017. GoA included two commitments aimed at improvement of the CSO environment in the action plan. However, the commitments were broadly formulated and did not incorporate specific proposals on legislative changes as proposed by the civil society.

Out of seven recommendations issued by the C&S Subcommittee of OGP, only one (recommendation 1.1) has been partially addressed. The change has been the launching of the electronic portal for CSOs that allows the electronic submission of registration documents (including amendments to these documents). At the time of writing this report, this electronic program is still in the testing phase. Besides the creation of the online registration tool, status quo of other issues subject to recommendations under **simplification of registration process for CSOs** has not changed. There continues to be an overly broad legal requirement for CSOs to re-register (obtain an extract) when they make changes to their charter and other founding documents (recommendation 1.2). In terms of the Code of Administrative Offences, this code has not been revised to reduce the number of penalties for CSOs (recommendation 1.3).

Legislation sets different rules for the state registration of commercial and non-commercial organizations, and the procedure for non-commercial entities is substantially longer. In practice, the process of CSO registration remains non-transparent, highly selective, and unpredictable. Requests by MoJ for additional documentation happen not once—as foreseen by the law—but multiple times and the process often results in *de facto* refusal of registration. Civil society activists who were not given registration note that often the ministry does not provide a formal refusal but keeps the case pending without providing justification for months, or years. Independent CSOs are operating as initiative groups without the status of a legal entity which limits their opportunity to receive grants, establish offices and recruit staff. As a result, civil society activists often work based on individual service contracts with foreign donors, which are also registered with the Ministry of Justice.

Recommendations on **simplification of regulations to access funding** (recommendations 2.1, 2.2, 2.3, 2.4) have not been addressed. Cumbersome regulations governing foreign grant registration remain in force and continue to significantly restrict access to foreign funding. There have been no changes to the regulations on the obligation for foreign donors to obtain the right to provide grants (recommendation 2.2). The grant-awarding and grant-receiving organizations are required to register the grant contracts and to declare all donations with MoJ within 15 days. Any changes in the grant agreements and any subsequent agreements require registration with MoJ. Regulations requiring foreign donors having to seek an agreement from

the MoJ and having a representative office registered in Azerbaijan remain in force (recommendation 2.2). According to sources interviewed for this report, registration requirements give MoJ broad discretion that enables a selective approach. When organizations apply for registration of foreign grant contracts with all required documentation, they are often not granted registration and are not provided with any explanation. Since 2018, the legislation has not changed, although MoJ has registered several foreign grants.⁶ However, according to some civil society representatives interviewed for this report, the CSOs that are already funded by governmental grants, or who have support letters from government representatives, can register grant contracts within a few days, while others lacking the support of GoA are often unable to register grant contracts in time, or at all.

Recommendation 2.3, which addressed the obligation to obtain an opinion on “financial and economic feasibility” in order to issue or receive a foreign grant, is no longer considered to be a challenge in practice. While the requirement remains in force, CSOs were trained on preparing the documentation, and, in practice, the Ministry of Finance (MoF) has been issuing these opinions without delays or complications.

There has been no progress on simplification of financial operations for CSOs (recommendation 2.4). CSOs are asked by private banks to provide notification from MoJ for each installment to be transferred based on the grant contract. There are cases of registered organizations with registered grants whose bank accounts remain frozen.

2.2. Overview of Operating Environment for Civic Space

Since 2018, the civil society operating environment has not seen major deterioration although there have been cases of harassment and intimidation of human rights activists and infringements of freedoms of assembly and expression of government critics.⁷ The Prosecutor General’s Office dropped the charges against some CSOs, and the president of Azerbaijan pardoned more than 50 political prisoners.⁸ There were no cases of dissolution of CSOs by the courts and administrative fines were not imposed on CSOs. The criminal case against the American Bar Association and International Research and Exchanges Board (IREX) has been dropped by the Prosecutor General’s Office and the bank accounts of these organizations were unfrozen.⁹ The criminal case was dropped against at least one local CSO (formerly, Election Monitoring Center), although the major criminal case against the CSOs opened by the prosecutor general of Azerbaijan in 2014 has not been closed.¹⁰

According to the Council of Europe Parliamentary Assembly rapporteurs, GoA continues its “troubling pattern of arbitrary arrest and detention of government critics” and “the misuse of the administrative detention”.¹¹ There have been media reports on the alleged surveillance of journalists, activists, lawyers, and members of the opposition using spyware—Pegasus system—to access the data of hundreds of individuals to monitor their activities.¹² Spyware allows to read text messages, record phone calls, track GPS data, secretly record calls, and transmit this data to its operators.¹³

The civil society landscape in the country is fragmented.¹⁴ CSOs that are involved in politically sensitive work, such as election monitoring, anti-corruption and transparency issues, or protection of civil liberties, encounter strict controls. They continue to struggle from the lasting effects of the events described as “the crackdown” in 2013–2014.¹⁵ Representatives of these groups cite the legal, political, organizational, and financial problems that hinder their free

operation.¹⁶ Many of them are often detained for short periods of time or are interrogated by the security services.¹⁷ Some CSO leaders are checked at the border and required to undergo stricter border control.¹⁸

Many civil society activists tend to also be members of political parties.¹⁹ In interviews these activists noted that the persecution of political party activists, such as arrests during rallies, restrictions on election campaigning, or meetings with voters, has resulted in these individuals moving to the civil society sphere to be able to voice their concerns and continue being publicly active.²⁰

In April 2021, a new Agency of State Support to Non-Governmental Organizations of the Republic of Azerbaijan was created.²¹ According to the law, it is an independent legal entity governed by a Supervisory Board and executive director. The Supervisory Board consists of 11 members appointed by the president of Azerbaijan, out of which 8 are selected from the CSOs and 3 from the representatives of GoA. The Supervisory Board appoints the executive director. According to the Agency, it will allocate grants for non-governmental organizations (NGOs), support their dialogue with state institutions, and provide capacity-building trainings for them.²² According to the Agency, it has provided approximately 400 NGOs with grants per year, with a maximum amount of 10,000 AZN (ca. 6,000 USD). There are plans to increase the grant amount and provide medium-size grants in the amount of 30,000 AZN (ca. 18,000 USD) and larger grants in the amount of 50,000 AZN (ca. 30,000 USD).²³ According to the information provided for this report by the representatives of the Agency, in the years 2019–2020, the former NGO council has provided CSO grants in the amount of 4.3 million USD.²⁴ The agency website regularly publishes information on organizations receiving grants with titles of projects and funding amounts.²⁵

Overall, the general operating environment for civil society remains restrictive.²⁶ According to some representatives of the international and local CSOs, although MoJ has registered several foreign grants—due to restrictive CSO legislation and the selective approach of the MoJ—many local CSOs, that are not financed by the governmental funds, are not able to register as legal entities, cannot keep their permanent offices or their staff, and are operating as individuals based on service contracts.²⁷

Currently there are only two civil society coalitions left in the country: the Eastern Partnership Civil Society Forum national platform and OGP platform, “and they are slowly dying, without the change of the legislation we can’t talk about the improvement of the civil society environment.”²⁸

Restrictions for Human Rights Lawyers

In past years, there have been several cases and reports of restrictions to the free operation of human rights lawyers who represent civil society leaders in local and international courts.²⁹ The Bar Association has disbarred, suspended, or prosecuted more than 20 human rights lawyers in recent years, such as Yalchin Imanov, Shahla Humbatova, and Irada Javadova.³⁰ In May 2021, disbarments of the lawyers Shahla Humbatova and Irada Javadova were overturned after the Bar Association of Azerbaijan withdrew the claims against them.³¹ The number of lawyers had been increasing in recent years. However, as of 2018, Azerbaijan had 16 lawyers per 100,000 inhabitants—the lowest ratio among Council of Europe member countries.³² Legal amendments in 2018 restricted the right to represent clients in court to members of Azerbaijan’s Bar

Association; these amendments have been criticized as restrictive and discriminatory.³³ The practices of arbitrary disciplinary proceedings and disbarments have negatively influenced the operating environment of civil society.³⁴ Some activists and candidate lawyers described the examination process as biased and spoke of cases of examiners using various pretexts to fail candidates who had previously been active in civil society.³⁵ According to experts there are only a few independent human rights lawyers in the country who can represent the interests of the civil society members and take high profile human rights cases.³⁶

The COVID-19 Pandemic and the 44-day war

In the last two years, the operating environment for civil society in Azerbaijan was substantially affected by two major events: the COVID-19 pandemic and the 44-day war in fall 2020. During the COVID-19 pandemic, the government reports that implementation of the OGP action plan continued.³⁷ However, due to the spread of the pandemic, on 25 March 2020, GoA introduced restrictions without proper consultations with civil society.³⁸ International organizations and human rights activists noted restrictions—including the limitations to freedom of movement—were used selectively to silence government critics, including critics of the irregularities concerning the response to the pandemic.³⁹ In September 2020, the 44-day war (27 September–10 November 2020) started and martial law was introduced, further limiting political freedoms including: freedom of movement, freedom of assembly, and access to information.⁴⁰ This has limited opportunities for the civil society to organize their activities in person and to implement their projects.⁴¹

Media Law

On 30 December 2021, Mili Mejlis (parliament) adopted the law introducing new regulations for media, including the establishment of the media register and a number of restrictions on the publication of media content in general that may lead to restriction of protected speech under ECHR.⁴² The law also includes limitations on publishing information regarding criminal investigations, prosecutions, or administrative violations cases and requirements for the establishment of media entities that may restrict the public sphere access of a number of legal corporations or individuals.⁴³ The commissioner for Human Rights of the Council of Europe has raised concerns over the new regulations stating that the law would “further restrict the ability of journalists and media actors to work freely and independently and would also undermine the right of individuals to receive information from a plurality of reliable sources.”⁴⁴ Representatives of local civil society and international donor organizations interviewed for this report raised their concerns about the new amendments as they believe they have the potential to further restrict free access to information for the independent journalists in the country. An independent journalist interviewed by the IRM researcher, noted that “journalism [has become] a licensed activity now. If I am not a registered journalist, I cannot get access to the information.”⁴⁵ The law has been in force since February 2022.

⁶ European Center for Not-for-Profit Law (ECNL) Stichting and MG Consulting LLC, *CSO Meter: Assessing the civil society environment in the Eastern Partnership countries: Azerbaijan Country Update*, ECNL Stichting and MG Consulting LLC, 2020, 9, <https://csometer.info/sites/default/files/2020-11/CSO-Meter-Country-Update-Azerbaijan-2020-English.pdf>.

⁷ Amnesty International, *Azerbaijan: Gender-Based Reprisals Against Women Must Stop*, Amnesty International, n.d., <http://eurasia.amnesty.org/wp-content/uploads/2021/05/azerbaijan-gender-based-reprisals-against-women-must-stop.pdf>; “Condemnation of rights violations surrounding the 1 December 2021 protest in Baku,” Human Rights

House Foundation, 7 December 2021, <https://humanrightshouse.org/statements/condemnation-of-rights-violations-surrounding-the-1-december-2021-protest-in-baku/>.

⁸ U.S. Department of State, *2020 Country Reports on Human Rights Practices: Azerbaijan*, U.S. Department of State, 30 March 2021, <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/azerbaijan/>; interviews conducted with representatives of civil society organizations by the IRM researcher in March–April 2022.

⁹ U.S. Department of State, *2020 Country Reports on Human Rights Practices: Azerbaijan*.

¹⁰ U.S. Department of State, *2020 Country Reports on Human Rights Practices: Azerbaijan*; interviews conducted with representatives of civil society organizations by the IRM researcher in March–April 2022.

¹¹ “Rapporteurs respond to reports of mass arrests of demonstrators in Azerbaijan,” Council of Europe Parliamentary Assembly, 31 July 2020, https://pace.coe.int/en/news/7971/rapporteurs-respond-to-reports-of-mass-arrests-of-demonstrators-in-azerbaijan?fbclid=IwAR3fIHO-NL8AUfvtZ6Mu1NAkoVMcUq7qKUYFoJpIDvu_PV5MIJGLp14qNM.

¹² “Israeli-Made Spyware Used to Monitor Journalists and Activists Worldwide,” Organized Crime and Corruption Reporting Project, 18 July 2021, <https://www.occrp.org/en/the-pegasus-project/israeli-made-spyware-used-to-monitor-journalists-and-activists-worldwide>; “Azerbaijan Suspected of Spying on Reporters, Activists by Using Software to Access Phones,” Radio Free Europe/Radio Liberty, 18 July 2021, <https://www.rferl.org/a/azerbaijan-pegasus-spying-nso/31365076.html>; “Azerbaijan: Pegasus Spyware Perfect Fit for Regime Intimidation,” Institute for War & Peace Reporting, 31 August 2021, <https://iwpr.net/global-voices/azerbaijan-pegasus-spyware-perfect-fit-regime-intimidation>; “Forsenic Methodology Report: How to catch NSO Group’s Pegasus,” Amnesty International, 18 July 2021, <https://www.amnesty.org/en/latest/research/2021/07/forensic-methodology-report-how-to-catch-nso-groups-pegasus/>.

¹³ “Life in Azerbaijan’s Digital Autocracy: ‘They Want to Be In Control of Everything,’” Organized Crime and Corruption Reporting Project, 18 July 2021, <https://www.occrp.org/en/the-pegasus-project/life-in-azerbaijans-digital-autocracy-they-want-to-be-in-control-of-everything>.

¹⁴ Interviews with representatives of multilateral organizations operating in Azerbaijan, March–April 2022,

¹⁵ “Addressing the human rights situation in Azerbaijan at the 28th Session of the UN Human Rights Council,” International Federation for Human Rights, 24 February 2015, <https://www.fidh.org/en/region/europe-central-asia/azerbaijan/17056-addressing-the-human-rights-situation-in-azerbaijan-at-the-28th-session-of>.

¹⁶ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹⁷ Interviews with representatives of multilateral organizations operating in Azerbaijan, March–April 2022; Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹⁸ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022. See also International Partnership for Human Rights (IPHR), European Human Rights Advocacy Centre (EHRAC), Human Rights Club (HRC), Key concerns and recommendations on the protection of fundamental rights in Azerbaijan, IPHR, EHRAC, and HRC, February 2020, 9, <https://www.iphronline.org/wp-content/uploads/2020/02/final-Key-Human-Rights-Concerns-in-Azerbaijan.pdf>.

¹⁹ Interviews with representatives of multilateral organizations operating in Azerbaijan, March–April 2022.

²⁰ Interviews with representatives of multilateral organizations operating in Azerbaijan, March–April 2022.

²¹ İlham Aliyev, “Azərbaycan Respublikasının Qeyri-Hökumət Təşkilatlarına Dövlət Dəstəyi Agentliyinin NİZAMNAMƏSİ,” [REGULATION of the State Support Agency for Non-Governmental Organizations of the Republic of Azerbaijan], President of the Republic of Azerbaijan, 19 April 2021, <https://president.az/az/articles/view/51178>.

²² Interviews with the representatives of the Agency of State Support to Non-Governmental Organizations of the Republic of Azerbaijan by the IRM researcher in April 2022.

²³ Interviews with the representatives of the Agency of State Support to Non-Governmental Organizations of the Republic of Azerbaijan by the IRM researcher in April 2022.

²⁴ Interviews with the representatives of the Agency of State Support to Non-Governmental Organizations of the Republic of Azerbaijan by the IRM researcher in April 2022.

²⁵ Azərbaycan Respublikasının Qeyri-Hökumət Təşkilatlarına Dövlət Dəstəyi Agentliyi, “Agentlik 2022-ci il kiçik qrant müsabiqəsinin nəticələrini elan etdi,” 19 July 2022, <https://e-grant.az/news/48>.

²⁶ Interviews with representatives of multilateral organizations operating in Azerbaijan, March–April 2022.

²⁷ ECNL Stichting and MG Consulting LLC, CSO Meter, 9; interviews with the representatives of international and local civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

²⁸ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

²⁹ IPHR, EHRAC, HRC, *Key Concerns*, “Human Rights Lawyers Denied Access to the Azerbaijani Bar Submit Case to European Court of Human Rights,” EHRAC, 16 December 2020, https://ehrac.org.uk/en_gb/human-rights-lawyers-denied-access-to-the-azerbaijani-bar-submit-case-to-european-court-of-human-rights/.

³⁰ EHRAC, “Disbarred human rights lawyers”; See the EHRAC special report, “The Azerbaijani human rights lawyers who have been disbarred, suspended, or criminally prosecuted”

https://ehrac.org.uk/wpcontent/uploads/2021/03/EHRAC-Azerbaijani_Resource_guide_01-2.pdf; Commissioner for 9

Human Rights of the Council of Europe, "Dunja Mijatović: Report Following Her Visit to Azerbaijan from 8 to 12 July 2019," Commissioner for Human Rights of the Council of Europe, 22 December 2019, <https://rm.coe.int/report-on-the-visit-to-azerbaijan-from-8-to-12-july-2019-by-dunja-mija/168098e108>; "Irada Javadova," EHRAC, 5 October 2021, https://ehrac.org.uk/en_gb/resources/irada-javadova/; "Lawyer Disbarred for Disclosing His Client's Torture Allegations in Prison Seeks Justice from the European Court of Human Rights," EHRAC, 18 July 2019, https://ehrac.org.uk/en_gb/yalchin-imanov-disbarred/; EHRAC, *Azerbaijani Human Rights Lawyers Who Have Been Disbarred, Suspended, or Criminally Prosecuted*, EHRAC, January 2021, https://ehrac.org.uk/wp-content/uploads/2021/03/EHRAC-Azerbaijani_Resource_guide_01-2.pdf; "Namazov v. Azerbaijan," Department for the Execution of Judgements of the ECHR (HUDOC-EXEC), 30 May 2020, [https://hudoc.exec.coe.int/ENG#:{%22EXECIdentifier%22:\[%22004-55353%22\]}](https://hudoc.exec.coe.int/ENG#:{%22EXECIdentifier%22:[%22004-55353%22]}).

³¹ Shahla Humbatova, "Disbarment of Shahla Humbatova and Irada Javadova overturned," Lawyers for Lawyers, 6 May 2021, <https://lawyersforlawyers.org/en/disbarment-of-shahla-humbatova-and-irada-javadova-overturned>.

³² European Commission for the Efficiency of Justice (CEPEJ), "European Judicial Systems CEPEJ Evaluation Report," CEPEJ, 2020, <https://rm.coe.int/evaluation-report-part-1-english/16809fc058>.

³³ Diego García-Sayán, "Mandate of the Special Rapporteur on the Independence of Judges and Lawyers," 12 January 2018, <https://www.ohchr.org/sites/default/files/Documents/Issues/Judiciary/Communications/OL-AZE-1-2018.pdf>.

³⁴ U.S. Department of State, *2020 Country Reports on Human Rights Practices: Azerbaijan*.

³⁵ U.S. Department of State, *2020 Country Reports on Human Rights Practices: Azerbaijan*.

³⁶ Interviews with representatives of multilateral organizations operating in Azerbaijan, March–April 2022.

³⁷ This information was received by the IRM from Vusal Huseynov (Chief of State Migration Services) on 25 February 2023.

³⁸ Organization for Security and Co-operation in Europe (OSCE), *Part II, Impacts on Democratic Institutions and Human Rights*, OSCE, 73, <https://www.osce.org/files/f/documents/8/d/462726.pdf>.

³⁹ OSCE, *Part II: Impacts*, 88; "The Pandemic Further Restricts the Right to Protest," Civicus Monitor, 16 June 2021, <https://monitor.civicus.org/updates/2021/06/16/pandemic-further-restricts-right-protest/>; "Azerbaijan: Crackdown on Critics Amid Pandemic," Human Rights Watch (HRW), 16 April 2020,

<https://www.hrw.org/news/2020/04/16/azerbaijan-crackdown-critics-amid-pandemic>; "Azerbaijan: Relentless Crackdown on Opposition," HRW, 19 August 2020, <https://www.hrw.org/news/2020/08/19/azerbaijan-relentless-crackdown-opposition>.

⁴⁰ See Ilham Aliyev, *Decree of the President of the Republic of Azerbaijan on Declaring Martial Law*, unofficial translation, rm.coe.it, 27 September 2020, <https://rm.coe.int/16809fbcfb>; U.S. Department of State, *2020 Country Reports on Human Rights Practices: Azerbaijan*.

⁴¹ Interviews by the IRM researcher with representatives of civil society organizations in Azerbaijan in March–April 2022.

⁴² "Legal Analysis on the Law of the Republic of Azerbaijan 'On Media'," OSCE, 24 February 2020, <https://www.osce.org/representative-on-freedom-of-media/512935>.

⁴³ "Legal Analysis on the Law of the Republic of Azerbaijan 'On Media'," Articles 15 and 26.

⁴⁴ Dunja Mijatović, commissioner for human rights of the Council of Europe, letter to Ilham Aliyev, president of the Republic of Azerbaijan, 18 January 2022, <https://rm.coe.int/letter-to-ilham-aliyev-president-of-the-republic-of-azerbaijan-by-dunj/1680a542ac>; "Legal Analysis on the Law of the Republic of Azerbaijan 'On Media.'"

⁴⁵ Khadija Ismaylova, interview by author; interviews with representatives of multilateral organizations operating in Azerbaijan, March–April 2022.

III. Progress on Implementation of Recommendations

On 25 September 2017, the OGP C&S Subcommittee issued updated recommendations for Azerbaijan. Recommendations addressed “the unresolved constraints on the operating environment for civil society organizations” and were focused on the CSO registration process and access to funding by CSOs.⁴⁶ Below is the assessment of how these recommendations have been addressed.

Simplify registration process for Civil Society Organizations	
1.1 Simplify the procedures for establishing and registering CSOs in Azerbaijan and remove discretionary actions that limit their ability to operate.	Changed partially
Enable the online registration of CSOs, including the ability to amend registration documents.	Changed
Fulfill the registration of CSOs within set time limits.	Did not change
Registration of CSOs should only be denied on clear grounds that are legitimate under international law.	Did not change
1.2 Eliminate requirement for CSOs to obtain an extract (registration certificate) every two years. Registration should be a one-time procedure; CSOs should not have to periodically re-register or re-register under a newly enacted law.	Did not change
1.3 Revise the Code of Administrative Offences to reduce the number of penalties and prevent excessive harshness for CSOs.	Did not change

Simplify regulations to access funding	
2.1 Introduce changes to limit the discretion to arbitrarily deny grant registration or eliminate this procedure.	Did not change
2.2 Introduce changes related to the obligation for foreign donors to obtain the right to provide grants. Some concrete proposals to do this are:	Did not change

Eliminate the necessity for foreign donors to obtain the right from the Government of Azerbaijan to provide each individual grant and service contract.	Did not change
Eliminate 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.	Did not change
Exclude foreign donors that operate on the base of bilateral and multilateral agreements from the obligation to obtain the right to provide grants.	Did not change
2.3 Eliminate the need to obtain the opinion on “financial and economic feasibility in order to issue or receive a foreign grant.	Did not change
2.4 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.	Did not change

Ensuring a non-discriminatory, transparent, and non-selective process of registration for all CSOs

One of the improvements cited by MoJ, is the introduction of the electronic notary. It enables CSOs to electronically receive notary services, including for CSO documentation. According to the representative of MoJ the portal was introduced in 2021.⁴⁷ It enables submission of changes to CSOs’ documents in order to change their registration data, for example, if the CSO elects a new chairperson this information could be changed online via this platform. Or if a CSO has a new address, this platform allows the online submission of the documents. Experts believe this system still needs to be improved but that in the future, it will reduce the timeline for the registration of the changes.⁴⁸ However, this service does not address the core problem related to the practices of registration of CSOs.

CSO legislation sets different rules for the state registration of commercial and non-commercial organizations. The registration procedure for non-commercial organizations is substantially longer and there is no reasonable justification for such a differentiated approach.⁴⁹ The law of the Republic of Azerbaijan on state registration and state registry of legal entities regulates the registration requirements for legal entities, and establishes different requirements and procedures for the registration of the commercial and non-commercial entities.⁵⁰ Registration of a business corporation (including a branch of a foreign legal entity) is conducted within three days.⁵¹ But the registration timeline for a non-commercial organization (including the representations or branches of foreign non-commercial legal entities) is longer. If no irregularities occur it may take up to 30 days, and if there are irregularities, applicants will be given an additional 30 days to address them.⁵² The list of required documents for the registration of CSOs is longer than that for the registration of commercial entities.⁵³

Court cases show that MoJ has systematically applied procedures defined by the law in an arbitrary manner. This arbitrary practice resulted in a number of ECHR judgments against Azerbaijan, collectively known under the name of the Ramazanova group of cases.⁵⁴ It consists of ten cases, among which there are two recent judgments of ECHR on *de facto* registration refusal by MoJ for 25 CSOs in 2021.⁵⁵ In the case of all 25 of these applicants (that are combined in two cases) ECHR has found “that the Ministry of Justice did not comply with the requirements of domestic law concerning the registration procedure, which resulted in an unlawful refusal by the national authorities to register the associations in question.”⁵⁶ ECHR confirmed that MoJ has unlawfully denied registration to the aforementioned 25 applicants using different tactics such as arbitrary delay of registration or failure to issue a definitive decision on the refusal of registration.⁵⁷ According to ECHR, this practice violates the freedom of association protected under Article 11 of the European Convention of Human Rights.⁵⁸

In the judgments on the Ramazanova group of ten cases, ECHR has ordered individual and general measures to be taken by the GoA.⁵⁹ According to information provided by the representative of MoJ on the execution of individual measures ordered by ECHR for the Ramazanova group of cases, 14 NGOs were registered over the last few years because of the decisions of ECHR, and another 5 are in the process of registration. However, some NGOs that applied to the ECHR and who were offered to register their organizations by MoJ did not express the will to do so.⁶⁰ Representative of MoJ did not provide information for this report on execution of the general measures, such as changes of the state registration and NGO legislation ordered by the ECHR on Ramazanova group of cases. According to CoE Execution of Ramazanova group of cases remains under the supervision of the Committee of Ministers.⁶¹

This arbitrary application of the registration procedures by MoJ is combined with a selective approach towards the registration that favors less critical CSOs.⁶² A representative of an international organization supporting the civil society in Azerbaijan noted that most of the organizations they are giving small grants to are not registered. In the current portfolio of funding, none of the organizations were registered. In the last portfolio, out of 17 projects, only 2 were registered. According to the same organization, among the independent organizations in the last year, only Baku Human Rights House was able to register.⁶³

GoA provided the statistics of the number of CSO registrations, pointing out the increase in the registrations, and indicated in the interviews that this increase is evidence of the improved practice of registration for CSOs in general.⁶⁴ However, the statistics do not include data on the time taken for processing cases, the total number of applications, or the number of cases approved and rejected. The representatives of international organizations, international civil society, and local independent CSOs interviewed for this report do not share the government’s view that the increase in the number of registrations shows improvements in the overall registration process.⁶⁵ The representatives of civil society interviewed for this report stated that independent CSOs are still not able, and in some cases are afraid, to register as a legal entity. “We refuse to apply to MoJ. I am afraid they will register us and after that they will revoke our registration. We are not a legal entity, but we are a public initiative. We can be the target of prosecution if we have a legal entity... They would accuse me and all our observers of illegal

activity. Now we are not targets of any kind of accusations. It is not safe for us to be a legal entity.”⁶⁶

In practice, MoJ does not hold to the 60-day registration timeline (an initial 30 days, followed by 30 days to address any irregularities). Moreover, they act contrary to the law, which requires all deficiencies in the registration documentation to be identified in one review, by sequentially addressing the new deficiencies in the same registration documentation after the applicant submits the amended documentation. This practice results in a lengthy registration process that can last for months, exceeding the timeline set out by the law for the registration of non-commercial entities. This practice makes the registration process unpredictable and not transparent. It is coupled with the selective approach applied by MoJ, where some CSOs are registered in a few days or in a week, and some are *de facto* refused registration. In addition, the law envisages a long list of documents required for the registration of non-commercial organizations that also includes the document certifying the right of permanent residency for the registration of foreign non-commercial organizations.⁶⁷ Several civil society actors interviewed for this report noted that MoJ uses its discretion in an arbitrary manner, granting registrations based on support letters from state institutions.⁶⁸ In addition to the aforementioned 25 applicants to ECHR, there are other local and international CSOs that have been *de facto* refused registration, and there are also some CSOs that have been awaiting registration for months or years. For example, the East–West Management Institute has been operating in Azerbaijan for more than 10 years, and for that entire period, MoJ did not register the organization. The Baku office of this organization implemented a project without formal registration even though part of this project has been funded by GoA.⁶⁹ This selective application of the law by MoJ creates barriers for the free operation of CSOs. According to the experts interviewed for this report, as a result, many independent CSOs operate without any legal identity.⁷⁰

This non-transparent and selective registration process translates into a less favorable and legally uncertain environment for civil society. Lack of status as a legal entity deprives them of opportunities to act in an organized manner and to plan.⁷¹ Because a legal identity is a basic condition for the operation of CSOs, failure to register translates into an inability to acquire grants as an organization,⁷² to benefit from tax exemption, to have an organizational bank account, to be able to recruit staff, and to have an organized structure.

The one-time procedure of the registration of CSOs

According to legislation, CSOs are obliged to register amendments to their charter and other founding documents.⁷³ CSOs must file a written application at MoJ to register these amendments. MoJ will register the amendments if it decides they are in compliance with the law and only after their registration will the amendments be effective, and the CSO will be able to receive a new extract from the state registry containing the updated registration information. The information on re-registration of CSOs is not publicly available and thus it is impossible to know the number of CSOs who were not able to obtain the extract from the state registry.

According to the CSO Meter 2020, some CSOs were not able to renew their registration information.⁷⁴ However, in the interviews this issue has not been raised by the CSO representatives. Many CSOs interviewed for this report do not have registration, therefore the question of re-registration is not relevant.

Revision of the Code of Administrative Offenses to reduce the number of penalties and prevent excessive harshness for CSOs

The high administrative fines for CSOs are still in effect according to the Administrative Offenses Code of Azerbaijan.⁷⁵ There have been no changes in the amount of the fines and they remain disproportionate compared to the nature of the administrative misconduct. Currently CSOs could be fined for any violation of the CSO legislation; the failure to register minor changes into the state registry, such as a change of the founder's phone number, could be fined in accordance with Article 579 of the Administrative Offenses Code of Azerbaijan, which varies from 2,500 to 3,000 AZN (ca. 1,500–1,800 USD).⁷⁶ In addition, if CSOs (including foreign NGOs) fail to promptly eliminate violations reported in the notice or instruction of the relevant executive body, they can be fined 2,500– 3,000 AZN (ca. 1,500–1,800 USD).⁷⁷ If a CSO fails to register a grant, it could be fined in the amount of 5,000–7,000 AZN (ca. 3,000–4,100 USD),⁷⁸ or if it fails to include information about the amount of donations in the financial report it could be fined 5,000–8,000 AZN (ca. 3,000–4,650 USD).⁷⁹ In some cases the amount of the administrative sanctions is higher for CSOs than for commercial entities.⁸⁰

Representatives of GoA and of civil society stated administrative fines have not been enforced against CSOs in the last four years. There were no liquidations of CSOs initiated by MoJ during this time.⁸¹ In an environment where many independent CSOs operate without a legal identity, these fines cannot be applied to them. It is true there are no recent cases of CSOs being fined, but considering the shrinking organized independent CSO activity in the country it cannot be interpreted as a sign of substantive change in the policy. Most of the CSOs operate based on service contracts and donations are not a common source of funding for them.⁸² "To be very open and direct, very few organizations retain their offices, their staff, their vehicles, and the resources to sustain their operations despite the challenging times. Their activities have shrunk tremendously in all the organizations. Very often it is project-based and this project is very often presented as a service contract and as the main form of operation. And the service contract is about the consultancy."⁸³

Without a legal identity, it is impossible to impose fines on a non-registered group as a CSO, which is one of the rationales explaining why many critical CSOs prefer to stay unregistered. However, as long as the legislation remains in force there is a possibility of these harsh administrative sanctions being applied to those organizations that are registered as legal entities.

Ensuring a non-discriminatory, transparent, and non-selective process of grant registration for CSOs (elimination of the registration requirement)

CSOs are required to register their grant contracts with MoJ.⁸⁴ This requirement also applies to amendments of the existing grant contracts and to sub-grants.⁸⁵ As mentioned above the “single portal” principle has been introduced, but it has not affected the registration practice much. In the interview, representatives of the international organizations stated that they try to register grants only for “the organization that is close to the government” and “in that case the grant contract was registered in one week. This electronic platform does not provide a transparent registration process, because MoJ has an individual approach. The whole idea is that there is a review process, there is a timeline, there is a kind of transparent set of criteria that is considered, but none of that is applied.”⁸⁶

Compared to previous years (2014–2018) some progress has been made in the registration of foreign grants. Few cases of the registration of foreign grants have been reported.⁸⁷ According to the information provided by the representative of MoJ for this report, at least 5 local NGOs and 12 international organizations were able to register foreign grants, and the total amount allocated from the foreign grants “over the past five years, was about 178 million AZN (ca. 104.7 million USD).”⁸⁸ However, the representatives of international organizations and both international and local CSOs stated these grants were registered in a highly selective and non-transparent manner. “The registration of foreign grants is a selective process. They don’t register foreign grants for any CSO, they do it in selective cases.”⁸⁹ Legislative restrictions remain in place, both for the registration of NGOs and grants, including foreign grants. There are cases when the grant contracts are registered in a few days, especially if the recipient CSO has support from GoA. For example, an EU grant through the Eastern Partnership Civil Society Forum was registered after five months because of the involvement of high-level political officials.⁹⁰

There are cases of grants not registered for months or years. “They stretch the time until the parties lose their interest. And every donor organization has its own timelines and deadlines for certain funds to be allocated before they expire. And they know about that, and they use that as the leverage, understanding that at the end we will say ok, we don’t need this grant or use the other channels, give service contracts.”⁹¹

The information on the foreign grant registration provided by MoJ to the IRM researcher is not reliable. In it MoJ mentioned a case of registration of a foreign grant contract for a local CSO. However, the representative of that CSO said that the lengthy registration process did not allow them to start the project in time; when the grant was finally registered it coincided with the start of the pandemic and none of the activities envisaged by the project could be implemented because of the new restrictions. In the end, this CSO was not able to start the project.⁹² Despite the fact that the project was canceled, and money was not transferred to the CSO, the representative of MoJ included this case in information on the registration of the grant contracts.

Overall, according to the representatives of the international organizations and local CSOs, there were single cases when they were able to register the grants and in most of them these grants were primarily for the support of economic projects.⁹³ The grant registration rules are applied in an inconsistent manner that tends to favor the CSOs that have support from state

institutions. The practice of the registration of foreign grants remains highly selective and non-transparent.

Elimination of regulations for foreign donor organizations related to their right to issue a foreign grant

No progress has been achieved on the elimination of the regulations for foreign donor organizations related to their right to issue a foreign grant. Foreign donor organizations are obliged to conclude an agreement with MoJ in accordance with the law on NGOs.⁹⁴ In practice, several foreign grant contracts have been registered by MoJ. While registration is required in a number of countries, in Azerbaijan the foreign donor organizations are also required to have the opinion on the grant's financial and economic feasibility issued by the relevant executive body to obtain the right to award the grants.⁹⁵ Representatives of the international CSOs interviewed for this report stated that MoJ does not apply the regulations on registering the right to issue the grant in a non-discriminatory manner.⁹⁶ One donor organization noted that due to this practice, they no longer issue grant calls for proposals.

Elimination of the requirement for foreign donor organizations to register their representative office at MoJ

No changes have been introduced to eliminate the requirement for the foreign donor organizations to register their representative office at MoJ.⁹⁷ The law requires the right of permanent residency for founding or representing a foreign NGO.⁹⁸ According to several representatives of international non-governmental organizations interviewed for this report they have tried for years to register their office; some gave up and some still continue their efforts.⁹⁹ There are several international donors working in the country who tried to register their offices and are still not registered.¹⁰⁰ Meanwhile they operate based on the service contracts. Current regulations allow non-registered offices of international NGOs to register service contracts.¹⁰¹

Elimination of grant-registration requirements for foreign donors

Foreign donor organizations are obliged to obtain the right to provide grants from MoJ.¹⁰² To obtain the right to provide a grant, the foreign donor organizations are required to obtain the financial- and economic-feasibility opinion issued by the "relevant executive body", which is currently MoF.¹⁰³ Despite the detailed procedure established under the current regulations, registration of grant contracts remains a highly selective process, both for the foreign donor organizations and for the CSOs.¹⁰⁴ Representatives of the international CSOs and of the international donor organizations are concerned about the selective approach MoJ is practicing in this process. This selective approach is applied also to the registration of grant contracts for the organizations operating based on bilateral agreements.

Elimination of service contract registration requirements for CSOs

NGOs are required to register their service contracts if their service is financed by foreign funds.¹⁰⁵ Unlike grant contracts, the revenue from service contracts is considered taxable income.¹⁰⁶ In the interviews conducted by the IRM researcher, representatives of the local CSOs and international donor organizations stated they operate based on individual service contracts and CSO representatives are able to register them at MoJ.¹⁰⁷ The international organizations

that are not registered in the state registry of Azerbaijan are allowed to conclude individual service contracts.¹⁰⁸

Elimination of the obligation to obtain the right to provide grants for donor organizations that operate on the base of bilateral and multilateral agreements

This obligation has not been abolished. Organizations operating based on bilateral and multilateral agreements are required to register their grant contracts.¹⁰⁹ The same applies to local CSOs that are recipients of these grant contracts. Representatives of these organizations note that the registration process of the grant agreements remains non-transparent and selective. MoJ registers the grant contracts of organizations who are provided with support letters from the state agencies within a few days, as opposed to those CSOs who are not provided the support letters from the state.¹¹⁰

Elimination of the obligation to obtain the opinion on “financial and economic feasibility” to issue or receive a foreign grant

The obligation to obtain the opinion on “financial and economic feasibility” is still in force.¹¹¹ The opinion has to be provided by the “relevant executive body” which has been MoF. One of the challenges for CSOs is the lack of specific requirements or indication of the type of information to be submitted to MoF. In the interviews, one of the experts stated that in practice they recommend CSOs write and submit “the good essay” and to indicate information on the number of jobs to be created, the amount of taxes to be paid, regions to be covered by the project, the names of the state programs it will cooperate with, the names of key personnel, etc. One of the experts interviewed for this report noted that, for those NGOs who followed these recommendations, it was not an issue to receive approval from MoF.¹¹² According to this expert there were no cases when MoF refused to give this opinion. It was not difficult to obtain.¹¹³ This was also confirmed by the representative of the ministry interviewed for this report.¹¹⁴

Simplification of financial operations for NGOs

Bank operations related to the grants are still bureaucratic and burdensome. CSOs are asked by private banks to provide notification from MoJ for each installment that will be transferred based on the grant contract. “When the grant contract is registered it can be transferred in five installments and every time the bank would ask for this document.”¹¹⁵ According to a local CSO interviewed for this report, their organization is registered but their bank account is still frozen, even though they have registered the grant. The organization’s accountant calls the bank and for each bank transaction the bank checks if they have this grant registration certificate. After this check, the bank unfreezes the bank account for the organization, makes the transaction, and closes it again.¹¹⁶ “There should not be a problem like this in our case because our organization is registered, and the grant contract is registered too. I have heard there is the informal instruction for the commercial banks that they should work like this with the foreign grants.”¹¹⁷

A few bank accounts were unfrozen in 2021, but not all. For example, the bank accounts of the Democracy and Human Rights Resource Center remained frozen, and the organization was unable to operate.¹¹⁸ Meanwhile, many CSOs that are not registered by MoJ do not have any bank accounts in the name of the organization.

Another challenge is the strict regulation of private donations. Local CSOs and international donor organizations are required to declare all donations irrespective of amount. Charities must declare donations to MoJ starting from 200 AZN (ca. 117 USD). Donations should be accepted only by transfer to the bank account.¹¹⁹ Cash donations are only allowed to charity CSOs and sums above 200 AZN require declaration.¹²⁰ CSOs need to submit the information about who made the donation to MoJ within 15 days of receiving the donation, and the donations should be transferred to the bank account of the CSO.¹²¹ Bank, or any other transactions, on non-reported donations are not allowed.¹²² Due to these strict regulations, many abstain from donating money to CSOs.¹²³

⁴⁶ Open Government Partnership, Criteria and Standards Subcommittee, *Updated Recommendations for the Government of Azerbaijan*, September 2017, https://www.opengovpartnership.org/wp-content/uploads/2017/09/Azerbaijan_Final-Recommendations_Sept2017.pdf

⁴⁷ Interviews with representatives of local and international CSOs conducted by IRM researcher in March–April 2022; ECNL Stichting and MG Consulting LLC, *CSO Meter*, 5, 18.

⁴⁸ Interview with representatives of local experts conducted by IRM researcher in March 2022.

⁴⁹ ECNL Stichting and MG Consulting LLC, *CSO Meter*, 9.

⁵⁰ Law on the state registration of the legal entities, Articles 7.1, 8.1–4.

⁵¹ Law on the state registration of the legal entities, Articles 7.1.

⁵² Law on the state registration of the legal entities, Articles 8.2.

⁵³ ECNL Stichting and MG Consulting LLC, *CSO Meter*, 11.

⁵⁴ See Ramzanova group of cases that includes: "Islam-Ittihad Association and Others v. Azerbaijan, Application no. 5548/05," HUDOC-EXEC, 13 November 2014, <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22ISLAMITTIHAD%20ASSOCIATION%20AND%20OTHERS%20v.%20Azerbaijan,%22%22documentcollectionid%22:%5B%22GRANDCHAMBER%22,%22CHAMBER%22%22%22itemid%22:%5B%22001-147866%22%5D%7D>; "Aliyev and Others v. Azerbaijan, Application no. 28736/05," HUDOC-EXEC, 18 December 2008, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-90340%22%5D%7D>; "Ramzanova and Others v. Azerbaijan, Application no. 44363/02," HUDOC-EXEC, 1 February 2007, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-79301%22%5D%7D>; "Ismayilov v. Azerbaijan, Application no. 4439/04," HUDOC-EXEC, 17 January 2008, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-84461%22%5D%7D>; "Nasibova v. Azerbaijan, Application no. 4307/04," HUDOC-EXEC, 18 October 2007, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-82825%22%5D%7D>; "Tebieti Mühavize Cemiyeti and Israfilov v. Azerbaijan, Application no. 37083/03," HUDOC-EXEC, 8 October 2009, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-94854%22%5D%7D>; "Jafarov and Others v. Azerbaijan, Application no. 27309/14," HUDOC-EXEC, 25 July 2019, paragraph 95, <https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2227309/14%22%22documentcollectionid%22:%5B%22JUDGMENTS%22,%22DECISIONS%22%22%22itemid%22:%5B%22001-194613%22%5D%7D>; "Abdullayev and Others v. Azerbaijan, Applications nos. 69466/14 and 12 others," HUDOC-EXEC, 20 May 2021, paragraph 33, <https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2269466/14%22%22documentcollectionid%22:%5B%22JUDGMENTS%22,%22DECISIONS%22%22%22itemid%22:%5B%22001-210018%22%5D%7D>; "Mehman Aliyev and Others v. Azerbaijan, Applications nos. 46930/10 and 11 others," HUDOC-EXEC, 20 May 2021, paragraph 44, <https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2246930/10%22%22documentcollectionid%22:%5B%22JUDGMENTS%22,%22DECISIONS%22%22%22itemid%22:%5B%22001-210013%22%5D%7D>; "Azerbaijan: Rule 9.2 communication to the Committee of Ministers of the CoE (Ramzanova group of cases)," International Partnership for Human Rights, 6 May 2021, <https://www.iphronline.org/azerbaijan-rule-9-2-communication-to-the-committee-of-ministers-of-the-coe-ramazanova-group-of-cases.html>.

⁵⁵ "Abdullayev," paragraph 33; "Mehman," paragraph 44.

⁵⁶ "Mehman," paragraph 44; "Abdullayev," paragraph 33.

⁵⁷ "Azerbaijan: Rule 9.2 communication to the Committee of Ministers."

⁵⁸ "Jafarov," paragraph 95; "Abdullayev," paragraph 33; "Jafarov," paragraph 44. Mehman Aliyev and Others v. Azerbaijan and Abdullayev and Others v. Azerbaijan encompass more than 25 civil society organizations that have been refused the registration in violation of Article 11 of the European Convention of Human Rights, which guarantees the freedom of association.

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- ⁵⁹ See information on the execution of Ramazanova Group cases <https://hudoc.exec.coe.int/eng#%7B%22EXEIdentifier%22:%5B%22004-1607%22%7D%7D>.
- ⁶⁰ Interview with representatives of the MoJ conducted by the IRM researcher in April 2022.
- ⁶¹ See <https://hudoc.exec.coe.int/eng#%7B%22EXEIdentifier%22:%5B%22004-1607%22%7D%7D>.
- ⁶² ECNL Stichting and MG Consulting LLC, *CSO Meter*, 11.
- ⁶³ Interview with representatives of international organization conducted by the IRM researcher in April 2022.
- ⁶⁴ Interview with representatives of the GoA conducted by the IRM researcher in April 2022.
- ⁶⁵ Interviews with representatives of international organizations and local and international CSOs conducted by the IRM researcher in March–April 2022.
- ⁶⁶ Interview with representative of local civil society conducted by the IRM researcher in April 2022.
- ⁶⁷ ECNL Stichting and MG Consulting LLC, *CSO Meter*, 10-11; also confirmed interviews with representatives of international organization and local and international CSOs conducted by the IRM researcher in March–April 2022.
- ⁶⁸ “Even among CSOs, those that are receiving direct subsidies from the government (such as the Writers’ Union, the Painters’ Union, etc.) are treated preferentially compared to independent CSOs. The main problems identified in the previous report remain.” ECNL Stichting and MG Consulting LLC, *CSO Meter*, 9; also confirmed interviews with representatives of international organization and local and international CSOs conducted by the IRM researcher in March–April 2022.
- ⁶⁹ Interview with local expert conducted by IRM researcher in March 2022.
- ⁷⁰ Interviews with representatives of international organization, of local and international CSOs conducted by the IRM researcher in March–April 2022.
- ⁷¹ Interview with representative of local civil society conducted by the IRM researcher in April 2022.
- ⁷² See the Law on Grants, Article 3.2..
- ⁷³ See the Law of the Republic of Azerbaijan on Non-Governmental Organizations (Public Associations and Foundations), Article 14; Law of the Republic of Azerbaijan on State Registration and State Registry of Legal Entities, Article 9.
- ⁷⁴ ECNL Stichting and MG Consulting LLC, *CSO Meter*, 13.
- ⁷⁵ See above section—Proposed amendments targeting the restrictive regulation of the registration and operation of CSOs, Code of Administrative Offenses Articles 579 and 580; ECNL Stichting and MG Consulting LLC, *CSO Meter*, 8, 12; IPHR, *Submission by International Partnership for Human Rights pursuant to Rule 9(2) of the Committee of Ministers’ Rules for the Supervision of the Execution of Judgments: Comments on the implementation of the Ramazanova group of cases (application no. 44363/02)*, IPHR, 8, https://www.iphronline.org/wp-content/uploads/2021/05/Rule-92-Ramazanova-group-of-cases-44363_02-1.pdf.
- ⁷⁶ See <https://e-ganun.az/framework/46960>, Article 579, or IPHR, *Human Rights*, 8.
- ⁷⁷ See Code of Administrative Offenses, Article 580.
- ⁷⁸ Code on Administrative Offenses of Azerbaijan, Article 432; IPHR, *Human Rights*.
- ⁷⁹ Code on Administrative Offenses of Azerbaijan, Article 466; IPHR, *Human Rights*.
- ⁸⁰ According to IPHR, “For example, failure to submit an income report by an NGO will be fined between 8,000 and 15,000 AZN (approximately 4,000 to 7,500 EUR), while a commercial legal entity would only be fined 40 AZN (approximately 20 EUR). IPHR, *Human Rights*, 8.
- ⁸¹ Interview with the representative of MoJ conducted by the IRM researcher in April 2022. Also confirmed by representatives of civil society in the interviews conducted by the IRM researcher in March–April 2022.
- ⁸² Interviews with representative of international and local civil society conducted by the IRM researcher in March–April 2022.
- ⁸³ Interview with representative of local civil society organizations conducted by the IRM researcher in April 2022.
- ⁸⁴ See the Law of the Republic of Azerbaijan on Non-Governmental Organizations (Public Associations and Foundations), Article 24.2.1, and also the Law of the Republic of Azerbaijan on Grants, Article 4; Cabinet of Ministers of the Republic of Azerbaijan *On approval of “Rule on Registration of Grant Agreements/Contracts (Decisions/Orders)”*, Cabinet of Ministers of the Republic of Azerbaijan, 14 June 2015, Articles 1.2, 1.4, and 1.5, https://www.icnl.org/wp-content/uploads/Azerbaijan_ResAzer.pdf; “Failure to register the grant contract by CSO’s will constitute an administrative misconduct and CSO will be fined from 5,000 up to 7,000 AZN (approximately 3,000–4,100 USD) in accordance with the code of administrative offenses,” Article 432.
- ⁸⁵ See the Law of the Republic of Azerbaijan on Grants, Article 4.1.
- ⁸⁶ Interview with representatives of international organization conducted by the IRM researcher in April 2022.
- ⁸⁷ ECNL Stichting and MG Consulting LLC, *CSO Meter*, 17.
- ⁸⁸ Interview with the representative of MoJ conducted by the IRM researcher in April 2022.
- ⁸⁹ Interview with local expert conducted by the IRM researcher in March 2022.
- ⁹⁰ Interview with local expert conducted by the IRM researcher in March 2022.
- ⁹¹ Interview with the representatives of international organization conducted by the IRM researcher in April 2022.
- ⁹² Interview with the representative of local CSO conducted by the IRM researcher in April 2022.
- ⁹³ Interview with the representatives of international organization conducted by the IRM researcher in April 2022.

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- ⁹⁴ See the Law of the Republic of Azerbaijan on Non-Governmental Organizations (Public Associations and Foundations), Article 12.3.
- ⁹⁵ See the Law of the Republic of Azerbaijan on Grants, Article 2.5.
- ⁹⁶ Interview with the representative of an international CSO conducted by the IRM researcher in March 2022.
- ⁹⁷ See Law of the Republic of Azerbaijan on state registration and state registry of legal entities, Articles 2.0.7, 4.1, 4.2.1, 5, and 6.1.1; also, the Code on the Administrative Offenses, Article 582, declares the operation of the branches of the foreign non-governmental organizations without registration as administrative misconduct and envisages the fine in the amount of 5,000–8,000 AZN (approximately 3,000–4,700 USD).
- ⁹⁸ See the Law of the Republic of Azerbaijan on Non-Governmental Organizations (Public Associations and Foundations), Article 9.1.1, and the Law of the Republic of Azerbaijan on State Registration and State Register of Legal Entities, Article 5.4.4.1.
- ⁹⁹ Interviews with the representatives of international and local CSOs conducted by the IRM researcher in March–April 2022.
- ¹⁰⁰ Interviews with the representatives of international and local CSOs conducted by the IRM researcher in March–April 2022.
- ¹⁰¹ Interviews with the representatives of international and local CSOs conducted by the IRM researcher in March–April 2022.
- ¹⁰² See the Law of the Republic of Azerbaijan on Non-Governmental Organizations (Public Associations and Foundations), Article 12.3; Cabinet of Ministers of the Republic of Azerbaijan, Resolution No.339, *Procedure for Foreign Donors to Obtain the Right for Provision of Grants in the Territory of the Republic of Azerbaijan*, unofficial translation, Article 2, 22 October 2015, https://www.legislationline.org/download/id/7530/file/Azerbaijan_resolution_procedure_foreign_donors_2015_en.pdf; Cabinet of Ministers, *On approval*.
- ¹⁰³ See the Law of the Republic of Azerbaijan on Grants, Article 3.2.
- ¹⁰⁴ Interviews with the representatives of international and local CSOs conducted by the IRM researcher in March–April 2022.
- ¹⁰⁵ See the Law of the Republic of Azerbaijan on Non-Governmental Organizations (Public Associations and Foundations), Article 24.3; Cabinet of Ministers of the Republic of Azerbaijan, *On "Rules on registration of service contracts on provision of services or implementation of work by NGOs, as well as by branches or representations of foreign NGOs from foreign sources,"* Cabinet of Ministers, 20 November 2015, Article 24.3, https://www.icnl.org/wp-content/uploads/Azerbaijan_rulesonservice.pdf.
- ¹⁰⁶ ECNL Stichting and MG Consulting LLC, *CSO Meter*, 17.
- ¹⁰⁷ Interviews with the representatives of international and local CSOs conducted by the IRM researcher in March–April 2022.
- ¹⁰⁸ Cabinet of Ministers, *On "Rules on registration of service contracts,"* Article 2.
- ¹⁰⁹ Interviews with the representatives of multilateral organizations conducted by the IRM researcher in March–April 2022.
- ¹¹⁰ See above on the grant registration of CSOs.
- ¹¹¹ See the Law of the Republic of Azerbaijan on Grants, Article 2.5; also see Cabinet of Ministers, *Procedure for Foreign Donors*, Article 2; Cabinet of Ministers, *On approval*.
- ¹¹² Interview with one of the local experts conducted by the IRM researcher in March 2022.
- ¹¹³ Interview with local expert conducted by the IRM researcher in March 2022.
- ¹¹⁴ Interview with the representatives of MoF conducted by the IRM researcher in April 2022.
- ¹¹⁵ Interview with local expert conducted by the IRM researcher in March 2022.
- ¹¹⁶ Interview with the representative of a local CSO conducted by the IRM researcher in April 2022.
- ¹¹⁷ Interview with the representative of a local CSO conducted by the IRM researcher in April 2022.
- ¹¹⁸ In 2021, bank accounts of ABA and IREX were unfrozen according to 2021 Country Reports on Human Rights Practices: Azerbaijan; U.S. Department of State, *2021 Country Reports on Human Rights Practices: Azerbaijan*.
- ¹¹⁹ See the Law of the Republic of Azerbaijan on Non-Governmental Organizations (Public Associations and Foundations), Article 24.1.4.
- ¹²⁰ See the Law of the Republic of Azerbaijan on Non-Governmental Organizations (Public Associations and Foundations), Article 24.1.4; Cabinet of Ministers of the Republic of Azerbaijan, *On "Rules on submission of information about amount of donation received by NGOs as well as by branches or representations of NGOs of foreign states and about the donor,"* Cabinet of Ministers of the Republic of Azerbaijan, 13 November 2015, Articles 1.2–3, https://www.icnl.org/wp-content/uploads/Azerbaijan_Azerdonate.pdf.
- ¹²¹ Cabinet of Ministers, *On "Rules on submission of information about amount of donation,"* Article 1.3.
- ¹²² See the Law of the Republic of Azerbaijan on Non-Governmental Organizations (Public Associations and Foundations), Article 24.1.4. Also see Articles 1.2–3.
- ¹²³ Interviews with representatives of local civil society conducted by the IRM researcher in March–April 2022.

IV. Multi-Stakeholder Process Throughout Action Plan Development

In 2017, OGP adopted the OGP Participation and Co-Creation Standards intended to support participation and co-creation by civil society at all stages of the OGP cycle. All OGP-participating countries are expected to meet these standards. The standards aim to raise ambition and the quality of participation during development, implementation, and review of OGP action plans.

OGP's Articles of Governance also establish participation and co-creation requirements a country or entity must meet in their action-plan development and implementation to act according to the OGP Process. Due to the lack of documentation on the level of civil society involvement in the development of the action plan and the lack of reasoned response by the government on the proposals on the CSO environment, **IRM did not find sufficient evidence that Azerbaijan met "Involve"—the required minimum level of collaboration during the development of the action plan.**

Please see Annex 1 for an overview of Azerbaijan's performance implementing the Co-Creation and Participation Standards throughout the action plan's design and implementation. A country is acting contrary to OGP process when it does not meet (1) "involve" during the development or "inform" during implementation of the action plan, or (2) the government fails to collect, publish, and document a repository on the national OGP website in line with IRM guidance.

Table 1. Level of Public Influence

IRM has adapted the International Association for Public Participation's "Spectrum of Public Participation" to apply it to OGP.¹²⁴

Level of public influence		During development of action plan
Empower	The government handed decision-making power to members of the public.	
Collaborate	There was iterative dialogue AND the public helped set the agenda.	
Involve	The government gave feedback on how public inputs were considered.	
Consult	The public could give inputs.	✓
Inform	The government provided the public with information on the action plan.	
No Consultation	No consultation	

4.1. Multi-Stakeholder Forum

Formally, the Multi-Stakeholder Forum (MSF) (OGP national platform) was created in 2016 and

consists of 10 representatives of GoA and 34 representatives of civil society.¹²⁵ General information with the memorandum describing the mandate of the MSF is available on the website of the OGP national platform.¹²⁶ The document does not contain the detailed procedure for the selection of members of the platform but states that “membership in the platform is open to any representative of civil society, parliament, and government who support the initiative and all members have equal rights and duties.”

Information about the members of OGP national platform appears to be out of date. During interviews, the IRM researcher was advised by the representative of GoA to meet with the representatives of GoA who were not listed as members of the platform. It was explained that the suggested list included only persons involved in the OGP process. Mr. Vusal Huseynov was the only member of MSF included in the suggested list; another four persons were not listed as members of the OGP platform on the website.¹²⁷ IRM was not provided with the updated list of the members of MSF.¹²⁸

The MSF has been open to participation from civil society. However, some CSOs that were invited refused to join. Some CSOs stated they avoided becoming members due to potential reputational damage as they decided that joining this forum would negatively affect their image as independent civil society actors.¹²⁹ According to these individuals, the government was involved in the selection of some MSF members from civil society and only a few of the organizations present in MSF are not receiving funding from GoA.¹³⁰ CSOs that formally joined MSF noted that the platform represents a good channel for dialogue with the government and provides an opportunity for informal interactions, which has contributed to building trust and decreasing hostility. However, during the focus group meeting with the IRM researcher, they noted that, while the platform allows civil society members to talk about their concerns, there is usually no action taken by the government’s representatives. Two civil society members referred to this process as “imitation”.¹³¹ One of the CSO representatives who is part of MSF mentioned that they are part of the platform because back in 2016, when the platform was created, they believed it could change something. Afterward this person did not see any meaningful results and considers the platform to be “window dressing”. That said, they noted that although there are efforts from the civil society co-chair himself—as well as the civil society—to change the situation, the government has not treated the forum as a decision-making body. “In these six years of the platform, nothing has changed to make our operations or funding easier. Even the border control challenge for members was not removed, which is the easiest step to undertake. It means that all our efforts are just in vain. Yet I think that having the platform is better than not having it at all—at least it improves the communication space, but we are too distant from the real dialogue yet.”¹³²

4.2. Development of the Action Plan

In February 2019, the government of Azerbaijan published an open call and sent an email to interested parties about participation in the meeting for development of the roadmap for the new OGP action plan.¹³³ The process is widely regarded by the stakeholders as open, with many CSOs invited to participate. IRM was not provided with the list of organizations that joined the process; however, several donor organizations and experts interviewed for this report noted that only a few organizations that are considered independent joined the process formally.¹³⁴

In May 2019, the Commission on Combating Corruption made a public announcement on its website inviting all interested parties to participate in the action-plan development process. The

action-plan development began in June 2019 and concluded with the adoption of the plan in February 2020.

Participation in the drafting process and level of collaboration

During the creation of the roadmap, CSO representatives proposed to GoA the drafting methodology for the OGP action plan. The proposed methodology contained specific, measurable indicators for intended results of commitments. For example, there were indicators for measuring the outcomes for improvement of the CSO environment.¹³⁵ GoA did not adopt the proposed methodology but accepted the proposed general directions as themes and included them in the final version of the roadmap.

A number of meetings (at least five) were held during the drafting process of the Azerbaijan 2020–2022 Action Plan.¹³⁶ All interested CSOs were invited to participate in the meetings and to submit their proposals. According to media reports, the civil society coordinator of the OGP national platform and some other MSF members participated in the meetings.¹³⁷ Topics discussed in these meetings included increasing the transparency and electronic delivery of services in the health sector; increasing transparency in the work of the Ministry of Education (MoE); improvements of electronic services; and increasing the financial transparency and public participation in state budget discussions.¹³⁸ GoA provided the IRM researcher with limited documentation regarding the proposals from the CSOs and the status of their consideration during the drafting process of the OGP action plan. The information provided mostly contained links to various media outlets and covered meetings held by GoA with representatives of the civil society during this process. Due to the general nature of this press information, it was not possible to identify the specific proposals or the outcomes of these meetings. The only documented proposals of MSF that were shared with the IRM researcher were related to the CSO legislation. These proposals (documents) were shared by the civil society coordinator of the OGP national platform and are discussed in more detail below. There is no publicly available list of the civil society representatives that participated in the drafting process of the Azerbaijan 2020–2022 Action Plan.

According to the CSO coordinator of the OGP national platform, in the meetings held during the drafting of the Azerbaijan 2020–2022 Action Plan, several CSO proposals were discussed covering commitments under all nine general directions of the OGP action plan and most of them “were welcomed by GoA”. “We see that the final document covers most of our proposals. Yes, in some points proposals of the platform were given in different formats (paraphrased). Mainly proposals on improving the environment for civil society. Despite the fact that the text was changed, the meaning remained the same.”¹³⁹

A key priority for the civil society during the development of the action plan was the improvement of the operating environment for the civil society and thus, addressing the recommendations outlined in the OGP Steering Committee Resolution 2018. The ability of the civil society to function was considered a pre-condition for other commitments to work. MSF created a working group consisting of members and non-members to expand recommendations for commitments on improving the civil society operating environment.¹⁴⁰ This working group elaborated the recommendations on the amendments related to CSO legislation and proposed it to GoA representatives.¹⁴¹ CSOs emphasized inclusion of the commitment to simplify the registration of CSOs and to enable access to foreign grants. These commitments were viewed by the wider civil society (including members and non-members of MSF) as the most important

part of the Azerbaijan 2020–2022 Action Plan.¹⁴² Many non-members of MSF provided input on these two topics via this working group.¹⁴³ There was at least one meeting between representatives of GoA and CSOs on the commitments related to the CSO environment.¹⁴⁴ Although there is no publicly available agenda, list of participants, or minutes from that meeting, some representatives of international organizations working in Azerbaijan stated that several meetings took place to discuss these two topics and civil society had the opportunity to contribute and “a lot of preparation has been done.”¹⁴⁵

The working group proposed specific targets for the commitments to address the OGP recommendations. For example, the draft of the roadmap defined the purpose of the commitment as follows:

“To establish a favorable environment for the civil society institutions (considering the Proposals by the OGP Criteria and Standards Subcommittee, dated 25 September 2017) and identify clear outcomes to be achieved.

1.1. To ensure the compliance of the state registration of NGO branches and delegations, as well as foreign NGOs, with the state registration of commercial institutions; to eliminate limitations specified for the legal representative and founder of a foreign legal entity.

1.2. To replace the permission system for the awarded grants and donations of NGOs with notification.

1.3. To dismiss administrative and criminal persecutions and civil proceedings against civil society organizations and their representatives, and stop sanctions, inspections, and further restrictions.

1.4. To call off the requirement of being a resident (for registration of their delegation) for foreign donors.

1.5. To minimize the state control and sanctions over the activities of NGOs.

1.6. To advance institutional support for Azerbaijan Open Government Platform.”

There is no publicly available evidence on the participation of MSF in the drafting process of other commitments, and due to the lack of documentation, the IRM researcher was not able to assess the level of collaboration on the entire action plan beyond the consultations related to the commitments on the CSO legislation. While the drafting of the commitments related to registration and funding of civil society saw wider civil society participation through the MSF working group, most civil society actors interviewed for this report noted they did not participate in the elaboration of other commitments of the action plan.¹⁴⁶

Response from GoA to the proposals of civil society

Representatives of the civil society from MSF submitted their proposals on the amendments of the CSO legislation to the representatives of GoA.¹⁴⁷ GoA took note of the recommendations from the civil society but there was no formal response to the proposals.¹⁴⁸ According to the members of the working group interviewed for this report, provisions that were significant, and that made up the core of civil society proposals, were not considered by the government. For example, under Direction 5 of the OGP action plan, civil society representatives made clear recommendations that NGO legislation regarding the registration process must be changed, while GoA reflected it in the OGP action plan as an improvement of the existing system and defined improvement as digitization of the process. The same happened to the proposal

regarding the grant registration process. CSOs had suggested to the government the abolition of strict limitations regarding foreign grant contract registration and the government once again counted this as an improvement of the existing system. Civil society suggested changing the system, but GoA included a widely defined commitment that could be interpreted as commitment to only improve it through electronic services and digitalization.

Overall, the civil society representatives interviewed for this report believe the action plan does not address key limitations and obstacles in the legislation related to the registration and funding of CSOs. During the consultation process civil society clearly stated the articles and paragraphs to be changed, but these recommendations were not taken up.¹⁴⁹ According to one of the civil society representatives interviewed for this report, at one online meeting representatives from MoJ had very general positions; they declared general intent to hear the concerns of CSOs without any statements to incorporate specific commitments.¹⁵⁰

In the interviews with the IRM researcher, representatives of GoA stated they are working on their draft of amendments to CSO legislation. The draft has not been shared with IRM, despite multiple requests. CSO representatives noted that the government have said they have their own draft, but this has not been shared with the CSOs.¹⁵¹

Decision-making process and approval of the action plan

Representatives of GoA did not provide evidence of representatives of the civil society being involved in the decision-making process on the action plan. The representatives of GoA provided a press release about a meeting held on 8 February 2020, where the final draft of the Azerbaijan 2020–2022 Action Plan was discussed. A deadline was set out in the OGP Steering Committee resolution for 31 December 2019. According to the press release the discussion was held at the State Migration Service Office and was attended by the representatives of civil society and members of GoA.¹⁵² Despite several requests, the IRM researcher was not provided with an agenda, list of participants, minutes, or any other documents discussed at the meeting.¹⁵³

The main interest of members and non-members of MSF was inclusion of the commitments regarding the change in the CSO legislation that regulates the registration process of CSOs and access to foreign funds. As explained above, it could not be fully achieved.¹⁵⁴ Overall, representatives of civil society that are regarded by the local and international organizations as independent stated the action plan was not an ambitious document.¹⁵⁵ Representatives of the civil society pointed out that the government has used “language tactics” when at first sight the action plan covers a range of topics, but it does not contain concrete targets, deadlines, or intended results and measures.¹⁵⁶

Repository of OGP process-related documentation/publicly available documents, including minutes of meetings, drafts, et cetera

As explained above, a limited number of documents related to the development process of the Azerbaijan 2020–2022 Action Plan are publicly available. Information shared by GoA includes press releases about the meetings, a draft of the roadmap prepared by the CSOs, the action plan text, and public discussions and Q&A sessions organized during the elaboration of the plan.¹⁵⁷ The recommendations developed by MSF and related to the amendment of CSO legislation are available on the OGP website.¹⁵⁸ Documents such as agendas of meetings, lists of

participants, presentations, proposals, and initiatives discussed during the elaboration process of the action plan have not been made publicly available or shared with the IRM researcher.¹⁵⁹

¹²⁴ International Association for Public Participation, *IAP2 Spectrum of Public Participation*, International Association for Public Participation, 2018, https://cdn.ymaws.com/www.iap2.org/resource/resmgr/pillars/Spectrum_8.5x11_Print.pdf.

¹²⁵ Ministry of Foreign Affairs of The Kingdom of the Netherlands, *Strategic Plan 2017–2020, The Government and Civil Society Dialogue Platform on Promotion of Open Government*, Ministry of Foreign Affairs; Open Government Initiative Government–Civil Society Dialogue Platform, Azerbaijan; and Avrasiya Əməkdaşlıq Fondu [Eurasia Partnership Foundation] (EPF), *Strategic Plan: The Government and Civil Society Dialogue Platform on Promotion of Open Government*, EPF, 3, http://ogp.org.az/wp-content/uploads/2018/05/SP_Palatforma_ENG.pdf; “Members,” OGP, <http://ogp.org.az/index.php/members/>.

¹²⁶ “Memorandum: On establishing Open Government Initiative (OGI) Government–Civil Society Dialogue Platform,” OGP, <http://ogp.org.az/index.php/memorandum/>.

¹²⁷ “Members”; email communication with Mr. Ramin Valizada on 1 April 2022.

¹²⁸ See below note on the information provided by the representative of the GoA to the IRM mission team.

¹²⁹ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹³⁰ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹³¹ Quote from the interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹³² Shachla Ismayl, Chairwoman of Women's Association for Rational Development, interview.

¹³³ “Yeni Açıq Hökumət Milli Fəaliyyət Planının hazırlanması üzrə ‘Yol xəritəsi’nin müzakirəsi keçirilir [The ‘Roadmap’ for the preparation of the New Open Government National Action Plan is being discussed],” OGP, 25 February 2019, <http://ogp.org.az/az/index.php/2019/02/25/yeni-aciq-hokumet-milli-fealiyyet-planinin-hazirlanmasi-uzre-yol-xeritesinin-muzakiresi-kecirilir/>; “Azərbaycan Açıq Hökumət Platforması Açıq Hökumətin Təşviqinə dair Milli Fəaliyyət Planının hazırlanmasına başlayacaq [The Azerbaijan Open Government Platform will start the preparation of the National Action Plan for the Promotion of Open Government],” 21 May 2019, <http://antikorrupsiya.gov.az/view.php?lang=az&menu=3&id=481>; Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹³⁴ See above.

¹³⁵ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022; see the example below in Annex 1.

¹³⁶ “Açıq Hökumətin Təşviqi üzrə yeni Milli Fəaliyyət Planının hazırlanması müzakirə edilib [Preparation of a new National Action Plan on Promotion of Open Government was discussed],” OGP, 9 July 2019, <http://ogp.org.az/az/index.php/2019/07/09/6895262/>; “Vətəndaş cəmiyyəti üçün əlverişli mühitin yaradılması müzakirə edilib,” [Creating a favorable environment for civil society was discussed], AzVision, 24 July 2019, <https://azvision.az/news/184677/vetendas-cemiyeti-ucun-elverisli-muhitin-yaradilmasi-muzakire-edilib.html?fbclid=IwAR1t4uy5dkcbYyGqQTBS1xyAexAgUT9YvwX-HLVcuImZ0L8OdZtuUvPKDcE>; “Açıq Hökumət Milli Fəaliyyət Planı ilə bağlı QHT-lərin təklifləri müzakirə olunub [The proposals of NGOs regarding the Open Government National Action Plan were discussed],” OGP, 3 October 2019, <http://ogp.org.az/az/index.php/2019/10/03/aciq-hokumet-milli-fealiyyet-planii-ile-bagli-qht-lerin-teklifleri-muzakire-olunub/>; “Açıq Hökumət Planı layihəsində maliyyə şəffaflığı müzakirə olunub [Financial transparency was discussed in the Open Government Plan project],” modern.az, 16 October 2019, <https://modern.az/az/news/214636?fbclid=IwAR2CKjX16YGqj2y2qR2YUqUOqD9YjLzAdrX1cs4uxQz3zt9qHrItJolRbsA>.

¹³⁷ “Açıq Hökumətin Təşviqi [Preparation of a new National Action Plan]”; “Vətəndaş cəmiyyəti üçün [Creating a favorable environment]”; “Açıq Hökumət Milli Fəaliyyət Planı [The proposals of NGOs]”; “Açıq Hökumət Planı layihəsində [Financial transparency].”

¹³⁸ “Açıq Hökumətin Təşviqi [Preparation of a new National Action Plan]”; “Vətəndaş cəmiyyəti üçün [Creating a favorable environment]”; “Açıq Hökumət Milli Fəaliyyət Planı [The proposals of NGOs]”; “Açıq Hökumət Planı layihəsində [Financial transparency].”

¹³⁹ Information provided via email communication by Alimammad Nuriev, 7 June 2022.

¹⁴⁰ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹⁴¹ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹⁴² Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹⁴³ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹⁴⁴ “Əlverişli Mühitin [Favorable Environment].”

¹⁴⁵ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹⁴⁶ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹⁴⁷ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹⁴⁸ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹⁴⁹ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹⁵⁰ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹⁵¹ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹⁵² “Açıq hökumətin təşviqinə dair yeni Milli Fəaliyyət Planının yekun layihəsinin müzakirəsi keçiriləcək [Final discussion of the new [OGP action plan] on the open government perspective],” Commission on Combating Corruption, Azerbaijan Republic, 7 February 2020, <http://www.commission-anticorruption.gov.az/view.php?lang=az&menu=3&id=484>.

¹⁵³ See above note on the information provided by the representative of GoA to IRM mission.

¹⁵⁴ See above.

¹⁵⁵ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹⁵⁶ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.

¹⁵⁷ For details see the above section about the achievement of the milestones by GoA.

¹⁵⁸ “QHT-lər üçün əlverişli hüquqi mühit yaradılması ilə bağlı TƏKLİFLƏR PAKETİ [PACKAGE OF PROPOSALS on creating a favorable legal environment for NGOs],” OGP, 20 December 2021, http://ogp.org.az/az/index.php/2021/12/20/qht_12-02-21/.

¹⁵⁹ See above note on the documents and information shared by the representative of GoA with IRM mission.

V. Progress on Azerbaijan 2020–2022 Action Plan

5.1. Overview of Design

The OGP action plan for 2020–2022 consists of 9 main directions (themes) and contains 64 commitments. Out of the 64 commitments, 10 were to be implemented in 2020 and 9 were to be implemented in 2021; the remaining 45 commitments were planned for 2022.

Overall, the language of the action plan is broad and general. For example, the OGP action plan contains Commitments 1.5, “organizing e-learning course (webinar) for civil servants on anti-corruption and ethics,” and 1.6, “providing assistance and support to the specialized non-governmental organizations to conduct training on anti-corruption and ethics.” The purpose of the training/course is not defined; there are no outcomes to be achieved; there are no specific groups of civil servants to prioritize; and there is no minimum number of civil servants to be trained on the local or central level. Another example is Commitment 2.2, “expanding the participation of civil society institutions in discussions on the state budget.” No specific targets are defined and there is no minimum number of consultations given. Further examples include Commitments 5.2, “adopting of proposals on simplification/electronization and improvement of state registration of nongovernmental organizations,” and 5.3, “adopting of proposals on simplification/electronization and improvement of procedures for registration of grant contracts.” Both are relevant for the implementation of OGP recommendations but are defined broadly. In the interviews conducted for this report, representatives of CSOs stated GoA deliberately used broad and elusive language in Section 5 to avoid clear commitments for substantive changes in the operating environment for the civil society. CSOs were hopeful GoA would take measures to enable a favorable environment for the operation of civil society as part of the OGP action plan. They considered the inclusion and implementation of these commitments as the basis for their meaningful participation in the OGP process. Despite these expectations of member and non-member CSOs of MSF, the language of the commitments leaves room for wide interpretation and does not build a clear basis for effective implementation and evaluation. The action plan contains several commitments that have the potential to increase transparency and public participation, and could potentially lead to the increased accountability of GoA. They include commitments to ensure declaration of assets by public officials (Commitment 1.4) and to expand civil participation in discussions on the state budget (Commitment 2.2), as well as in decision-making and public councils (Commitments 5.4 and 5.5).

A more favorable civil society environment is a precondition for broad and effective civil society participation in the process of governmental decision-making. When coupled with the measures targeting the increase of public participation (increasing the number and importance of public councils and measures to include the CSOs in decision-making procedures in government), this commitment could increase transparency of government decision-making. While these commitments deal with the relevant policy areas for opening government, they do not contain measurable outcomes and lack verifiability or a clear basis for the evaluation of the progress of their implementation.

Overall, representatives of civil society consider the OGP action plan less ambitious, compared to previous OGP action plans.¹⁶⁰ Notable progress was achieved in the electronic service delivery, especially in the delivery of electronic notary services.¹⁶¹ MoJ launched a personal electronic portal for the CSOs, that allows the electronic submission of registration documents (including grant and service contracts) and electronic submission of amendments into the submitted documents. Further progress was noted in establishing public councils at the central and local levels, but effectiveness of public participation via public councils—especially participation of the broad civil society in the decision-making process of these institutions—remains low.¹⁶² Overall, according to civil society and experts, more work needs to be done to involve civil society in governmental decision-making processes.¹⁶³

5.2. Noteworthy Commitments

This section focuses on the design of selected commitments and the outcomes of their implementation so far. These commitments have been selected for their high relevance to the open government context in Azerbaijan. However, as written, they lack clarity, ambition, or sufficient verifiability to measure progress. Out of the 64 commitments, 6 are considered noteworthy.

Commitment 1.4: Implementing measures on submission of financial declarations by public officials.	
Aim of the Commitment	This commitment aims to achieve the disclosure of assets by public officials. In 2005, the Cabinet of Ministers laid the groundwork for the submission of declarations of assets by public officials as it adopted the rules for the provision of financial information by officials. In the same year the Cabinet of Ministers was tasked with elaboration of the declaration form. It is a precondition for the functioning system of disclosure of public officials' assets. If adopted, this form would make the information on officials' assets public and has the potential to increase chances for the detection and prevention of corruption.
Implementation	The relevant legislation is in place but due to the fact that the declaration form was not adopted by the Cabinet of Ministers, the information on public officials' assets is not publicly available. ¹⁶⁴ According to the government self-assessment report, the drafts revising the rules for submission of financial information were prepared, but were not discussed with the representatives of civil society. ¹⁶⁵ It remains unclear if, and when, the declaration submission form will be adopted.

Commitment 2.2: Expanding the participation of civil society institutions in discussions on the state budget.
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<p>Aim of the Commitment</p>	<p>Fiscal transparency and public access to information on how GoA allocates and spends public funds has been identified by the civil society as one of the challenges. According to the International Budget Partnership survey for 2019, Azerbaijan has a transparency score of 35 (out of 100) and is ranked 81st out of 117 countries participating in the survey.¹⁶⁶ In addition, Azerbaijan has a public participation score of 9 (out of 100) and offers few opportunities for civil society participation during formulation, approval, and implementation of the state budget. GoA was recommended to increase the level of public participation in the budget process.¹⁶⁷ Thus, the commitment to expand civil participation in the discussion of the state budget, if implemented, has the potential to increase the transparency and public participation of civil society.</p>
<p>Implementation</p>	<p>According to the government self-assessment report, the commitment was fully implemented in 2020. According to the self-assessment, MoF prepared and published the Citizen's Budget Guide and civil society institutions' participation in discussions on the draft state budget was expanded. However, according to the alternative monitoring report on the implementation of the OGP action plan, CSOs did not participate in the budget process.¹⁶⁸</p>

<p>Commitments 5.2 and 5.3: Simplify state registration of CSO grant agreements.</p>	
<p>Aim of the Commitments</p>	<p>Commitments 5.2 and 5.3 are of high importance in the OGP context because the enabling legal environment for the civil society's operation is a precondition for effective oversight of the government's activities. Even though the language of these commitments envisaged under Section 5 of the action plan is general, members and non-members of MSF interpreted it as a commitment of GoA to amend the CSO legislation. Thus, MSF drafted detailed amendments to the legislation and proposed to abolish the restrictive regulations for the registration and operation of local and international CSOs, and for access to foreign funds in accordance with OGP recommendations.¹⁶⁹ These draft legislative amendments were formally submitted to GoA by MSF, but no formal response from GoA was received.¹⁷⁰ Representatives of GoA stated in interviews that the working group under the Commission on Combating Corruption was in place to address these issues in the new draft of amendments to the CSO legislation, but the draft of the amendments elaborated by this working group was not shared with IRM.¹⁷¹</p>

Implementation	<p>In the self-assessment, GoA stated that under Commitment 5.2 it will continue its work “on simplification, digitalization and improvement of procedures for registration of NGOs.” Thus, Commitment 5.2 is not yet fully implemented. At the same time, GoA noted the progress regarding the new version of the “personal electronic portal” launched by MoJ, which is currently operating in test mode.¹⁷² It allows CSOs to register changes in registration data and in the constituent documents they have submitted for state registration. CSOs can submit the documents for registration of grants and service contracts.</p> <p>According to the self-assessment report, “the necessary work on simplification, digitalization and improvement of procedures for registration of grant agreements (decisions) should be carried out in the coming reporting years.” Thus, Commitment 5.3 is not yet fully implemented.</p> <p>The simplification of CSO and grant contract registration is discussed in detail below, under Section V.</p>
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Commitment 5.4: Proposals on enhancing representation and participation of civil society institutions, including NGOs, in collegial decision-making procedures in government agencies, including state commissions and working groups.	
Aim of the Commitment	Commitment 5.4 creates the legal basis for inclusion of CSOs in the decision-making processes of diverse governmental bodies by setting up working groups.
Implementation	<p>According to MoJ, relevant amendments have been drafted to enable CSOs to submit written opinions on the draft laws.¹⁷³ According to the MoJ representative, the draft law is not finalized yet, nor has it been discussed with civil society representatives.¹⁷⁴</p> <p>Formally, some CSOs are members of working groups, for example the working group of the Commission on Combatting Corruption; but in the interviews conducted by the IRM researcher for this report, the representatives of the CSOs stated GoA invited the NGOs that were receiving funds from the state council for the support of NGOs. Many representatives of the CSOs stated that civil society is not included in the decision-making process in general. “Our partners initiated by the end of December 2021 the appeal to include the CSOs in the decision-making process. Because that is not happening.”¹⁷⁵ In the self-assessment GoA stated that under this commitment it will continue its work and cited the COVID-19 pandemic as an obstacle for ensuring the full participation of the civil society in the decision-making process of governmental bodies.</p>

<p>Commitment 5.5: Increasing the importance of public councils; increasing the number of public councils created in state bodies; expanding the scope of issues discussed by the councils; raising public awareness and promoting public councils' activities; and reflecting on government agencies' official internet resources. Information on the activities of public councils.</p>	
<p>Aim of the Commitment</p>	<p>This commitment aimed to increase the importance and number of public councils at the local and central levels. Effectively functioning public councils carry the potential to significantly improve civil participation in the public policy-making process and to increase the public influence at both the central and local levels.</p>
<p>Implementation</p>	<p>In the self-assessment, GoA stated that under Commitment 5.5 “commissions have been set up to conduct elections for public councils, and sections on public councils have been established on the official websites of government agencies”. It also cited the COVID-19 pandemic as an obstacle for full implementation and stated it will continue its work.</p> <p>According to an alternative monitoring report on the implementation of the Azerbaijan 2020–2022 Action Plan, public councils have been established under 13 ministries; 4 state committees; 1 state agency; 2 public legal entities; 2 state-owned, open, joint-stock companies; and 79 local executive authorities.¹⁷⁶ However, only a few elections were held.¹⁷⁷</p> <p>A single online platform for public councils, www.publiccouncil.az, was developed. The platform provides information about public council members, their contacts and activities, and public council elections; organizes awareness campaigns during the election period; and offers space for debates on diverse topics. However, despite the positive development, representatives of international CSOs interviewed for this report by the IRM researcher are concerned that there is no “quality work” in public councils and “many are just formality, or inefficient, members of the public councils try to contact ministries for some personal consultations, so very few of these public councils are efficient.” In addition, the critical CSOs claimed they are not represented at public councils because the councils are not effective, “the election is not transparent and fair.” “The Ministry of Economy has recently established the public council. It has been almost five months after the establishment of the public council and there was not a single meeting held yet. This is a nominal organization, not a real organization. Membership and chairmanship of the public councils are determined based on loyalty to GoA. Sometimes one person is the [chairperson] or a member of several public councils. For example, Alimammad Nuriyev is a member of at</p>

	least seven public councils. He is a [chairperson] of three public councils and a member of four other public councils." ¹⁷⁸
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Collaboration and engagement of civil society in the implementation of the action plan

The Azerbaijan 2020–2022 Action Plan is ongoing and will conclude in December 2022. According to the civil society members of MSF interviewed for this report, a majority of them lost interest in participating in the implementation process as they were disappointed with how GoA considered their proposals for enabling a favorable operating environment for the civil society.¹⁷⁹ So far, overall engagement of the civil society in implementation of the action plan appears to be sporadic. For example, according to the action plan, Commitment 2.2, on the state budget discussions, entails involvement of CSOs in the implementation of the measures related to financial transparency. According to the CSO representative working on budget transparency, the civil society representatives were not included in the implementation.¹⁸⁰ Some organizations from the OGP national platform were involved in the trainings delivered for the civil servants on the ethics code¹⁸¹ and anti-corruption issues, and they are members of the public councils operating under the ministries.¹⁸²

In 2021, the government produced the self-assessment report for 2020, which was shared with the OGP Secretariat and was published on the website of the Commission on Combating Corruption.¹⁸³ However, in the interviews conducted, representatives of civil society reported that the document was not discussed with MSF. When asked about the report, one civil society member of MSF stated that GoA had not shared the self-assessment report with forum members.¹⁸⁴ While the report is published on the Commission's website, it has not been published on the OGP platform's website or proactively shared amongst the stakeholders.

In January 2022, the mid-term monitoring report was produced by a group of experts under the project funded by the United States Agency for International Development on Empowering Civil Society Organizations for Transparency (ECSOFT). ECSOFT is implemented by U.S. FHI 360, ICNL, and MG Consulting in cooperation with the Open Government Platform of Azerbaijan. The group of experts consisted of Alimammad Nuriyev, as head of the project expert team and Coordinator of the Open Government Platform, and two other experts, Zaur Ibrahimov and Shahin Nasrullayev. The report assessed "the average performance of the actions envisaged in the [OGP action plan] was 73%."¹⁸⁵

The results of this alternative monitoring were discussed at one meeting in January 2022.¹⁸⁶ The meeting was attended by the representatives of GoA (including the Commission on Combating Corruption, the Prosecutor General's Office, MoJ, the Financial Monitoring Service, MoF, MoE, and other representatives of GoA). The coordinator of MSF was part of the meeting held in January. There is no publicly available list of civil society representatives that were present.

¹⁶⁰ Interview with the representative of civil society organizations in Azerbaijan by the IRM researcher in April 2022.

¹⁶¹ Interview with the representative of MoJ conducted by the IRM researcher in April 2022.

¹⁶² Interviews with the representatives of international CSOs and international organizations conducted by the IRM researcher in March–April 2022.

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- ¹⁶³ Interviews with the representatives of international CSOs and international organizations conducted by the IRM researcher in March–April 2022.
- ¹⁶⁴ Interviews with the representatives of international CSOs and international organizations conducted by the IRM researcher in March–April 2022.
- ¹⁶⁵ “Alternative Monitoring report,” Empowering Civil Society Organizations for Transparency (ECSOFT), 7 January 2021, 10.
- ¹⁶⁶ International Budget Partnership, *Open Budget Survey 2019: Azerbaijan*, International Budget Partnership, 2019, 2, <https://www.internationalbudget.org/sites/default/files/country-surveys-pdfs/2019/open-budget-survey-azerbaijan-2019-en.pdf>.
- ¹⁶⁷ International Budget Partnership, *Open Budget Survey 2019*, 7.
- ¹⁶⁸ Sabit Baghirov, interview; “Alternative monitoring report,” 16.
- ¹⁶⁹ This legislative amendment package included draft amendments to the Law of the Republic of Azerbaijan on Non-Governmental Organizations (Public Associations and Foundations), to the Law of the Republic of Azerbaijan on State Registration and State Register of Legal Entities, to the Law of the Republic of Azerbaijan on Grants, to the Law on Combating Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism, and to the Code of Administrative Offenses.
- ¹⁷⁰ See above.
- ¹⁷¹ See above note on the documents shared by the representatives of GoA with the IRM mission.
- ¹⁷² Interviews with the representatives of international CSOs and international organizations conducted by the IRM researcher in March–April 2022.
- ¹⁷³ Interview with representative of MoJ conducted by IRM researcher in April 2022.
- ¹⁷⁴ Azerbaijan 2020–2022 Action Plan; “Alternative Monitoring report,” 45.
- ¹⁷⁵ Interviews with the representatives of international CSOs and international organizations conducted by the IRM researcher in March–April 2022.
- ¹⁷⁶ See Azerbaijan 2020–2022 Action Plan; “Alternative Monitoring Report,” 46.
- ¹⁷⁷ “Alternative Monitoring Report,” 46.
- ¹⁷⁸ Gubad Ibadoghlu, member of board Public Initiatives Center, IRM interview held in March 2022.
- ¹⁷⁹ Interviews with the representatives of civil society organizations in Azerbaijan by the IRM researcher in March–April 2022.
- ¹⁸⁰ Interview with Sabit Bagirov, Fund of Assistance to Development of Entrepreneurship and Market Economy, 30 March 2022.
- ¹⁸¹ Interview with A. Nuriyev, Coordinator of OGP national platform of Azerbaijan.
- ¹⁸² Interviews by the IRM researcher with the representatives of civil society organizations in Azerbaijan in March–April 2022.
- ¹⁸³ Commission on Combating Corruption, Azerbaijan Republic, <http://www.commission-anticorruption.gov.az/view.php?lang=en&menu=49>
- ¹⁸⁴ Interviews by the IRM researcher with the representatives of civil society organizations in Azerbaijan in March–April 2022.
- ¹⁸⁵ Monitoring report on the Implementation of the National Action Plan for the Promotion of Open Government 2020–2022, 4. https://ogp.org.az/az/wp-content/uploads/2022/01/Hesabat-MFP-OGP-NAP-Ecsoft-07-Jan-2021_edited-Az-fv.pdf
- ¹⁸⁶ “Açıq hökumət Milli Fəaliyyət Planının monitorinqinin nəticələri açıqlanıb [The results of the monitoring of the open government National Action Plan have been announced],” OGP, 28 January 2022, <http://ogp.org.az/az/index.php/2022/01/29/amfp-monitorinqinin-neticeleri-aciqlanib/>.

Annex I. Table on the Achievement of Milestones Outlined in OGP Resolution

Milestones outlined in OGP Resolution on Azerbaijan	
<p>By 1 March 2019, prepare a roadmap for the development of the 2019–2021 OGP action plan in line with at least the minimum requirements outlined in the OGP Participation and Co-Creation Standards. This roadmap shall also include a timeline of key meetings for the OGP Forum, and the process for involving other stakeholders outside of the OGP Forum to participate in the co-creation of the action plan. This roadmap shall be published by the government and submitted to the C&S co-chairs by the established deadline.</p>	<p>The working group of the OGP Forum prepared the action plan roadmap in March 2019.¹⁸⁷ There was public information on the OGP Azerbaijan website inviting all interested parties to the discussion on 27 February 2019.¹⁸⁸ Publicly available information included the link to the draft of the roadmap.¹⁸⁹ GoA did not provide IRM with the list of participants, agenda, or minutes of the meeting held on 27 February, nor did it provide the written, reasoned response on how the initial draft of the roadmap proposed by the working group had been revised.¹⁹⁰ The roadmap included the timeline of the meetings and has been submitted to the C&S co-chairs.¹⁹¹</p>
<p>By 1 June 2019, appoint a high-level government representative (ministerial level or above) to lead the OGP process in Azerbaijan.</p>	<p>On 22 April 2019, Mr. Vusal Huseynov was appointed as a high-level representative to lead the OGP process.¹⁹²</p>

<p>By 1 June 2019, begin the development of an OGP action plan through an inclusive process that engages a wide array of actors beyond the OGP Forum, and includes reforms to address the civic space constraints highlighted in the updated recommendations and other domestic priorities.</p>	<p>In May 2019, a public announcement was made on the website of the Commission on Combating Corruption, inviting all interested parties to participate in the OGP action-plan development process.¹⁹³ In June 2019 development of an OGP action plan began and the action plan was adopted in February 2020.¹⁹⁴ The first discussion was held on 5 July 2019, with a second meeting held on 19 July 2019.¹⁹⁵ Information provided by the representative of GoA shows further meetings were held on 13 September, 20 September, and 4 October.¹⁹⁶</p> <p>In the development process of the OGP action plan, the OGP national platform invited representatives of the civil society beyond its members, but only a few representatives of independent civil society have formally joined the process.¹⁹⁷ There is no publicly accessible document containing the full list of civil society representatives who participated in the drafting process.¹⁹⁸ MSF's work related to the recommendations of OGP has been inclusive, and many non-members participated in the elaboration of draft commitments addressing OGP Steering Committee recommendations for GoA to be included in the OGP action plan.¹⁹⁹ However, many of the non-members that were part of the working group on OGP recommendations to simplify registration process and access to funds stated they did not participate in the elaboration of other commitments under the OGP action plan.²⁰⁰ Specific proposals submitted by the civil society working group were not reflected in the final version of the action plan.</p>
<p>By 31 December 2019, complete, adopt, and submit to the Support Unit a finalized OGP action plan.</p>	<p>The action plan was not adopted and submitted to the support unit of OGP in time. The final draft of the Azerbaijan 2020–2022 Action Plan was discussed on 8 February 2020. The discussion was held at the State Migration Service, and was attended by representatives of civil society and members of GoA.²⁰¹ There is no publicly available agenda, list of participants, or information on topics discussed in the meeting.²⁰² The action plan was adopted on 27 February 2020, instead of the set deadline of 31 December, 2019.²⁰³</p>
<p>By 31 August 2021, complete implementation of the OGP action plan. This action plan will be assessed by IRM.</p>	<p>The OGP action plan was not fully implemented by 31 August 2021.²⁰⁴ Out of 64 commitments, only 19 were to be completed in 2020–2021. Ten commitments were to be implemented in 2020, 9 in 2021, and the rest in 2022.²⁰⁵</p>

- ¹⁸⁷ "Azerbaijan—Roadmap for the Development of the 2019–21 OGP Action Plan (March 1, 2019)," OGP, 11 March 2019, <https://www.opengovpartnership.org/documents/azerbaijan-roadmap-for-the-development-of-the-2019-21-ogp-action-plan-march-1-2019/>; "Açıq hökumətin Yol xəritəsi təqdim edilib [The Open Government Roadmap has been presented]," OGP, 27 February 2019, <https://www.amerikaninsesi.org/a/a%C3%A7%C4%B1q-h%C3%B6kum%C9%99tin-yol-x%C9%99rit%C9%99si-t%C9%99qdim-edilib-/4805776.html>; Representatives of GoA Mr. Ramin Valizade, "On the development of the draft of the New National Action Plan for Promotion of Open Government for the years 2020–2022," document sent via email to IRM mission, 22 April 2022, 1.
- ¹⁸⁸ "Açıq Hökumətin Təşviqinə dair Hökumət-Vətəndaş Cəmiyyəti Dialoqu Platforması [Platform for Government-Civil Society Dialogue on Promoting Open Government]," OGP, 25 February 2019, <http://ogp.org.az/az/index.php/2019/02/25/yeni-aciq-hokumet-mill-fealiyyet-planinin-hazirlanmasi-uzre-yol-xeritesinin-muzakiresi-kecirilir/>.
- ¹⁸⁹ <http://ogp.org.az/az/wp-content/uploads/2019/02/RoadMapOGPfinal.pdf>
- ¹⁹⁰ Interview with representatives of the local CSOs conducted by the IRM researcher in March–April 2022.
- ¹⁹¹ "Azerbaijan—Roadmap"; "Response Policy Case: Azerbaijan," OGP, 2 March 2015, <https://www.opengovpartnership.org/ogp-response-policy/response-policy-case-azerbaijan/>.
- ¹⁹² Kamal Jafarov, "Quick question re: Ministerial appointment," email to Shreya Basu, https://www.opengovpartnership.org/wp-content/uploads/2019/04/Azerbaijan_Ministerial-Appointment_20190422.pdf.
- ¹⁹³ "Azərbaycan Açıq Hökumət [Azerbaijan Open Government]."
- ¹⁹⁴ "Açıq Hökumət Platforması Açıq Hökumətin Təşviqinə dair Milli Fəaliyyət Planının hazırlanmasına başlayır [The Open Government Platform is launching an OGP Action Plan for Promoting Open Government]," OGP, 14 May 2019, <http://ogp.org.az/az/index.php/2019/05/14/aciq-hokumet-platformasi-aciq-hokumetin-tesviqine-dair-mill-fealiyyet-planinin-hazirlanmasina-baslayir/>; "Azərbaycan Açıq Hökumət [Azerbaijan Open Government]."
- ¹⁹⁵ "Açıq Hökumətin Təşviqi üzrə yeni Milli Fəaliyyət Planının hazırlanması müzakirə edilib," [Preparation of a new OGP action plan on Promotion of Open Government was discussed], OGP, 9 July 2019, <http://ogp.org.az/az/index.php/2019/07/09/6895262/>; "Açıq Hökumətin Təşviqi üzrə yeni Milli Fəaliyyət Planının hazırlanması müzakirə edilib," [Preparation of a new OGP action plan on Promotion of Open Government was discussed], 9 July, Avropa.info, [https://avropa.info/post/321701?fbclid=IwAR3hDzFKdeXXyarmtUp0DjT9KXEw7ICQNTKNwF0SXA8DkOrqs3n79FfubIs](https://avropa.info/post/321701?fbclid=IwAR3hDzFKdeXXyarmtUp0DjT9KXEw7ICQNTKNwF0SXA8DkOrqs3n79FfubIs;); Open Government Platform: Azerbaijan, Facebook post, 9 July 2019, [https://www.facebook.com/opengovplatformaz/posts/635115520322473?_tn=K-R](https://www.facebook.com/opengovplatformaz/posts/635115520322473?_tn=K-R;); "Əlverişli Mühitin [Favorable Environment]."
- ¹⁹⁶ "On the development of the draft of the New National Action Plan for Promotion of Open Government for the years 2020–2022," document provided to IRM by the representative of the GoA Mr. Ramin Valizade, via email from 22 April 2022, 2,3. In addition, on 3, 10, 18, and 19 October 2019 and on 11 November 2019 a total of five online and media discussions and Q&A sessions were organized related to the OGP NAP process; see "On the development of the draft," 3.
- ¹⁹⁷ Interviews with the representatives of international CSOs and international organizations conducted by the IRM researcher in March–April 2022.
- ¹⁹⁸ IRM team has asked the representative of GoA to provide the list of participants, agenda of meetings, and proposals discussed at the meetings via email on 21 April 2022, but only the press statements and links containing general information have been provided to the IRM.
- ¹⁹⁹ Interviews with the representatives of international CSOs and international organizations conducted by the IRM researcher in March–April 2022.
- ²⁰⁰ Interviews with the representatives of local CSOs conducted by the IRM researcher in March–April 2022.
- ²⁰¹ "Açıq Hökumət Fəaliyyət Planı layihəsi müzakirə edilib," [The draft Open Government action plan was discussed], OGP, 9 February 2020, <http://www.commission-anticorruption.gov.az/view.php?lang=az&menu=3&id=484> <http://ogp.org.az/az/index.php/2020/02/09/234/>
- ²⁰² See above note on the information provided by the representative of GoA.
- ²⁰³ See above note on the information provided by the representative of GoA to IRM mission team; Secretariat of the Commission on Combating Corruption, letter to OGP Steering Committee, 31 August 2021, https://www.opengovpartnership.org/wp-content/uploads/2021/08/Azerbaijan_Status-Update_20210831.pdf; "Açıq hökumətin təşviqinə dair 2020–2022-ci illər üçün Milli Fəaliyyət Planı'nın təsdiq edilməsi haqqında [On the approval of the '2020–2022 National Action Plan on Promotion of Open Government]," E-qanun, 2 June 2022, <https://e-qanun.az/framework/44619>.
- ²⁰⁴ "Açıq Hökumətin Təşviqinə [Promoting Open Government]," OGP, <http://ogp.org.az/az/index.php/2019/05/14/aciq-hokumet-platformasi-aciq-hokumetin-tesviqine-dair-mill-fealiyyet-planinin-hazirlanmasina-baslayir/>
- ²⁰⁵ Azerbaijan 2020–2022 Action Plan; "Alternative Monitoring Report."

Annex II. Overview of Azerbaijan's performance throughout action plan development

Key:

Green = Meets standard

Yellow = In progress (steps have been taken to meet this standard, but the standard is not met)

Red = No evidence of action

Multi-Stakeholder Forum	During Development
1a. Forum established: There is a forum to oversee the OGP process.	Green
1b. Regularity: The forum meets at least every quarter, in person or remotely.	Yellow
1c. Collaborative mandate development: Members of the forum jointly develop its remit, membership, and governance structure.	Green
1d. Mandate public: Information on the forum's remit, a general memorandum containing the information on membership, and the governance structure are available on the OGP website/page. However, the list of the members is not updated.	Yellow
2a. Multi-Stakeholder: The forum includes both governmental and non-government representatives.	Green
2b. Parity: The forum officially includes more representatives of the civil society and only around 30% are representing GoA.	Yellow
2c. Transparent selection: Non-governmental members were invited to be part of the forum but there is no documentation available on the selection	Yellow
2d. High-level government representation: The forum includes some high-level representatives with decision-making authority from the government.	Yellow
3a. Openness: The forum accepts inputs and representation on the action plan process from any civil society or other stakeholders outside the forum.	Green
3b. Remote participation: There are opportunities for remote participation in at least some meetings and events.	Green

3c. Minutes: There are no minutes, reports, or agendas of meetings available publicly.

Red

Action Plan Development²⁰⁶	
4a. Process transparency: There is a national OGP website (or OGP webpage on a government website). However, only limited information is published regarding the proposed drafts, the draft of the Azerbaijan 2020–2022 Action Plan proposed by MSF is not published on the website.	Yellow
4b. Documentation in advance: The forum partially shares information about OGP with stakeholders in advance. Occasionally this includes the drafts of recommendations elaborated by the OGP platform (roadmap, recommendations on CSO legislation), but more often the information shared is just an invitation to a meeting.	Yellow
4c. Awareness-raising: The forum conducts outreach and awareness-raising activities with relevant stakeholders to inform them of the OGP process.	Green
4d. Communication channels: The government facilitates direct communication with stakeholders to respond to action-plan process questions, particularly during times of intense OGP activity. However, the communication is fragmented and has rather formal character.	Yellow
4e. Reasoned response: The Multi-Stakeholder Forum does not publish its reasoning behind decisions and does not formally respond to major categories of public comment.	Red
4f. Repository: Government does not systematically collect and publish a document repository on the national OGP website/webpage, which provides a historical record and access to all documents related to the national OGP process, including consultation documents, OGP action plans, government self-assessments, IRM reports, and supporting documentation of commitment implementation (e.g., links to databases, evidence of meetings, publications). The draft documents of OGP action plans, the adopted OGP action plans, the self-assessment of GoA, and alternative monitoring report on the implementation of the Azerbaijan 2020–2022 Action Plan are not published on the website of the OGP national platform. The proposed draft	Yellow

roadmap and recommendations on CSO legislation elaborated by MSF are only documents regarding the Azerbaijan 2020–2022 Action Plan published on the website of the OGP national platform.

²⁰⁶ **Editorial Note:** Compared to Action-Plan Development tables in previous Design Reports, this table has been renumbered for consistency within this report. Items are numbered for internal purposes.

Annex III. Methodology

The assessment process was implemented in three key phases: inception, field research, and synthesis. These phases are summarized in **Table 1**:

Table 1: Project phases

Phase	Activities	Deliverables & Meetings
Inception	Background Analysis. Document collection and Analysis. Elaboration of the focused Assessment Questions. Identification of information gaps and hypotheses to be tested during Field Research. Methodological Design of the Field Research. Elaboration of specific stakeholders map. Elaboration of schedule of planned interviews.	Meeting with OGP IRM and OGP Support Unit Research Plan
Field Research	Meetings (online) at country level with stakeholders. Gathering of primary evidence using techniques defined in Inception. Data collection and analysis.	Debriefing and other meetings with OGP IRM
Synthesis	Final analysis of findings, focusing on Assessment Questions as identified below. Formulation of the overall assessment. Reporting: Final report and conclusions on the progress achieved by GoA regarding the OGP recommendations.	Draft Final Report (max. 15 pages) Executive summary (max. 2 pages) Final Report Meetings with OGP IRM and OGP SU

Table 2. List of Interviews

	Date	Organization	Name, Position
1	April	Head of Migration Services of the Azerbaijan Republic	Mr. Vusal Huseynov
2	March	OGP National Point of Contact	Ramin Valizade, Executive Secretary
3	April	Ministry of Finance	Sevinj Mammadova, Head of Financial Aid Reporting sector
4	April	Ministry of Justice	Aslan Shekinski, Head of Division for Work with NGOs
5	March	Milli Mejlis	MP Erkin Gadirli, Member of political party REAL
6	April	The Agency for State Support to Non-Governmental Organizations of the Republic of Azerbaijan	Vusal Quliyev, Deputy Chairperson of the Agency
7	April	The Agency on State Support to Non-Governmental Organization of the Republic of Azerbaijan	Aygun Aliyeva, Executive Director
8	March	Azerbaijan CSO OGP Platform	Alimammad Nuriyev, Coordinator
9	March	Center For Support for Economic Initiatives	Samir Aliyev, Board Member
10	April	Women's Association for Rational	Shahla Ismayil,

		Development	Chairwoman
11	March	Fund of Assistance to Development of Entrepreneurship and Market Economy	Sabit Bagirov
12	April	Baku Human Rights Club	Rasul Jafarov
13	March	Public Association for Assistance to Free Economy	Zohrab Ismayil
14	March	Public Initiatives Center/EITI	Gubad Ibadoghlu
15	March	International Center for Non-Profit Law/European Center for Non-Profit Law	Luben Panov, Advisor/Program Consultant
16	March	MG Consulting LLC	Mahammad Guluzade
17	March	German Marshall Fund of the United States	Mehriban Rahimli
18	March	Human Rights House Foundation	Kety Abashidze
19	March	Human Rights Watch	Vugar Gojayev
20	March	Journalist	Khadija Ismaylova
21	April	Publish What You Pay	Emil Omarov
22	March	EU delegation to Azerbaijan	Victor Giner Annalisa Giansanti
23	March	Council of Europe Azerbaijan/Strasbourg	Firuz Jafarova Danna Issa
24	March	Council of Europe Azerbaijan	Kyrylo BOICHENIUK, Deputy Head of the Office
25	April	United States Agency for International Development Azerbaijan Office of Governance and Economic Resilience	Ms. Dhulce-Janice "DJ" McGuire, Deputy Director Parviz Musayev/Emin Mammadli
26	April	Institute for Democratic Initiatives	Akif Gurbanov, Chairperson
27	April	Election Monitoring and Democracy Studies	Anar Mammadli,

		Center	Chairperson
28	April	Legal Education Society	Emin Abasov
29	April	Socio-Economic Research Center "Priority"	Zaur Ibrahimli Chairperson
30	March	Joint Meeting with OGP platform members	CSO representatives