

CSO METER

A compass to conducive
environment and
CSO empowerment

AZERBAIJAN 2023
COUNTRY REPORT

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CSO Meter 2023: Azerbaijan Country Report

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The authors would like to express their sincere gratitude to all contributors.

The *CSO Meter: A Compass to Conducive Environment and CSO Empowerment* project is implemented by ECNL and its partners: Transparency International Anticorruption Center in Armenia; MG Consulting LLC in Azerbaijan; Civil Society Institute in Georgia; Promo-LEX Association in Moldova; and the Ukrainian Center for Independent Political Research (UCIPR).

This publication was produced with the financial support of the European Union. Its contents are the sole responsibility of the authors and do not necessarily reflect the views of the European Union.

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ABBREVIATIONS & ACRONYMS

AI	Artificial intelligence
ALDP	Azerbaijan Liberal Democrat Party (<i>Azərbaycan Liberal Demokrat Partiyası</i>)
AML/CTF	Anti-money laundering and counter-terrorism financing
ASAN	State Agency for Public Service and Social Innovations
AzMDEP	Azerbaijan National Democrat Party (<i>Azərbaycan Milli Demokrat Partiyası</i>)
AZN	Azerbaijani Manat
AXCP	Azerbaijani Popular Front (<i>Azərbaycan Xalq Cəbhəsi Partiyası</i>)
CSO	Civil society organisation
EaP	Eastern Partnership
EUR	Euro
FATF	Financial Action Task Force
MoF	Ministry of Finance of the Republic of Azerbaijan
MoJ	Ministry of Justice of the Republic of Azerbaijan
NGO	Non-governmental organisation
NGO Support Agency	Agency on State Support to NGOs
ODIHR	OSCE Office for Democratic Institutions and Human Rights
OGP	Open Government Partnership
OSCE	Organization for Security and Co-operation in Europe
ReAL	Republican Alternative Party (<i>Respublikaçı Alternativ Partiyası</i>)
USD	United States Dollar
VAT	Value Added Tax
VP	Unity Party (<i>Vəhdət Partiyası</i>)

I. EXECUTIVE SUMMARY

Country context and important trends relevant to the civil society environment

Over the course of the period spanning from December 2022 to November 2023, Azerbaijan experienced a series of events exerting both favourable and adverse impacts on the nation's civil society organisation (CSO) ecosystem. On one hand, the NGO Support Agency organised grant competitions, implemented an annual 'Development and Exchange Program for NGOs' and discussed the strategic plans to develop the CSO environment. However, on the other hand, no substantial positive developments were achieved concerning the pre-existing problems in both law and practice relating to the CSO environment. Instead, several laws were adopted which mostly do not provide better opportunities for CSOs and can negatively affect them. Examples of such laws include the new Law 'on the fight against the legalisation of property obtained through crime and the financing of terrorism' which entered into force¹ on 31 January 2023 and which raises concerns in relation to the risk-based approach and places unnecessary obligations on CSOs. Additionally, on 25 April 2023, the new version of Article 381 of the Code of Administrative Offences came into effect.² The revised Article 381 expands the penalties for violation of the Code and imposes stricter and higher penalties on media outlets which, in turn, directly affects CSOs and civil society members conducting media activities. On 11 January 2023, the new Law on Political Parties entered into force and during the year some political parties dissolved themselves according to the requirements of the Law. There were concerns that the Government would refuse to register the major opposition political parties. However, in September 2023, three of the main opposition parties: Müsavat, Republican Alternative (ReAL) and the Azerbaijani Popular Front (AXCP) were officially registered as political parties with the Ministry of Justice (MoJ).³

¹ Law of the Republic of Azerbaijan on the fight against the legalisation of property obtained through crime and the financing of terrorism, 10 February 2009, <https://president.az/az/articles/view/58762>.

² Law of the Republic of Azerbaijan on amending the Code of Administrative Offences of the Republic of Azerbaijan, <https://president.az/az/articles/view/59485>.

³ QafqazInfo.az, 'Müsavat, ReAL and PFPC were also registered - Updated' (in Azerbaijani), <https://qafqazinfo.az/news/detail/musavat-ve-axcp-de-qeyde-alindi-yenilenib-411679>.

On the positive note, on 1 April 2023, amendments⁴ to the Tax Code entered into force. These include incentives for media outlets and exempts their media products and related services from VAT for a short period of time. In addition, on 28 August 2023, Azerbaijan adopted the State Programme for the Development of Social Services for the period 2023-2026 which stipulates cooperation with CSOs.

On 17 August 2023, the Steering Committee of the Open Government Partnership (OGP) unanimously agreed to permanently suspend and rescind Azerbaijan's OGP membership⁵ which was regarded among CSOs as a negative development in terms of Azerbaijan's international cooperation towards open government.

Alongside the above-mentioned regulatory changes, some recent events raised further concerns among civil society regarding the need to fix the existing problems relating to the exercise of freedom of peaceful assembly and freedom of expression. These events include the arrests of the popular critic of government officials Bakhtiyar Hajiyev, the economic scholar Gubad Ibadoglu, the protesters in Söyüdlü village in Gadabay district, and of public activists who have criticised the Government.⁶

Key developments in the civil society environment

In 2023, the overall score of the civil society environment in Azerbaijan decreased from 4.1 in 2022 to 4.0. This was a result of the decrease in the average scores for both Law and Practice. CSOs continue to operate with limited access to funding, especially foreign funding. Legal restrictions regarding the registration of grants, service contracts and donations still exist alongside problems related to the registration of CSOs. In general, CSOs do not have significant influence in decision-making processes initiated by government agencies. Events in the social and political life of the country also show that there are still problems with the exercise of freedom of assembly and freedom of expression. The Government is sceptical of foreign funding, believing that

⁴ Law of the Republic of Azerbaijan on amending the Tax Code of the Republic of Azerbaijan, <https://president.az/az/articles/view/59280>.

⁵ Open Government Partnership, 'Azerbaijan Permanently Suspended from the Open Government Partnership', <https://www.opengovpartnership.org/news/azerbaijan-permanently-suspended-from-the-open-government-partnership/>.

⁶ QafqazInfo.az, 'Social activist was detained', <https://qafqazinfo.az/news/detail/ictimai-feal-saxlanildi-408202>; JAMnews, 'Former deputy, mentioned as "organizer" of protests in Soyudlu, arrested', <https://jam-news.net/arrests-in-soyudlu/>; QafqazInfo.az, 'Giyas Ibrahimov was arrested', <https://qafqazinfo.az/news/detail/qiyas-ibrahimov-hebs-olundu-404463>.

CSOs should serve the interests of the state and seeing foreign funding as a threat to national security and the national interest. The Government seeks to keep CSOs under its control to a large extent.

As a result, the scores for the areas Freedom of Expression, Freedom of Peaceful Assembly, and State Duty to Protect have decreased versus 2022, while the scores in other areas remain unchanged.

Key priorities:

1. The MoJ, the Cabinet of Ministers and the National Assembly should simplify the registration procedure for CSOs by reducing timelines and eliminating subjective treatment by the MoJ;
2. The MoJ and the National Assembly should ensure equal treatment of CSOs compared to businesses during their registration process and operation;
3. The National Assembly should simplify reporting obligations on CSOs according to their size and turnover;
4. The Presidential Administration should abolish the requirement existing in practice for CSOs to obtain permission to hold events in the regions;
5. The MoJ and the Cabinet of Ministers should simplify the registration of grants and donations (for example, eliminate subjectivity on decisions for registration and digitalise the process so it can be easily accessible and swift);
6. The National Assembly and the Cabinet of Ministers should abolish the requirement for CSOs to register service contracts; and
7. The National Assembly and the Cabinet of Ministers should eliminate the need for CSOs to report on small donations (for example, the 200 AZN/110 EUR per donor, per year threshold requirement).

II. AZERBAIJAN – IN NUMBERS

Population (as of 1 January 2023): 10127,100⁷ | GDP per capita (as of January - August 2023): 78,950 AZN (around 4,4081 EUR)⁸ | Number of CSOs (as of August 2021): 4,766⁹ | CSOs per 10,000 inhabitants: 4.7 | Registration fee for a CSO (as of September 2020): 15 AZN¹⁰ (around 6 EUR) | Freedom in the World (2023): 9/100 (Not Free)¹¹ | World Press Freedom Index (2023): 39.93 (151 out of 180 countries).¹²



Country score: 4.0
 Legislation: 4.4
 Practice: 3.6

The scores range from 1 to 7, where 1 signifies the lowest possible score (extremely unfavourable – authoritarian - environment) and 7 signifies the highest possible score (extremely favourable environment).

Areas	Overall	Legislation	Practice
Freedom of Association	4.0	4.5	3.4
Equal Treatment	3.6	3.8	3.4
Access to Funding	3.0	3.2	2.8
Freedom of Peaceful Assembly	3.7 ↓	4.4	3.0 ↓
Right to Participation in Decision-Making	4.6	5.0	4.1
Freedom of Expression	3.9 ↓	4.6 ↓	3.1 ↓
Right to Privacy	4.4	4.9	3.8
State Duty to Protect	4.4 ↓	4.7 ↓	4.1 ↓
State Support	4.1 ↓	4.4	3.9

⁷ The State Statistical Committee of the Republic of Azerbaijan, <https://www.stat.gov.az/source/demography/ap/>.

⁸ The World Bank, <https://data.worldbank.org/country/AZ>.

⁹ Report.az, 'The number of political parties, NGOs and mass media in Azerbaijan has been announced' (in Azerbaijani), <https://report.az/daxili-siyaset/azerbaycandaki-siyasi-partiya-qht-ve-kiv-lerin-sayi-aciqlanib/>.

¹⁰ Law of the Republic of Azerbaijan on State Duty, <http://www.e-qanun.az/framework/2860>.

¹¹ Freedom House, *Freedom in the World 2023*, <https://freedomhouse.org/country/azerbaijan/freedom-world/2023>.

¹² Reporters Without Borders, *World Press Freedom Index 2023*, <https://rsf.org/en/country/azerbaijan>.

State-CSO Cooperation	4.0 ↓	4.3	3.9
Digital Rights	4.6	4.8	4.3

The arrows indicate improvement or deterioration compared to last year's scores.

III. FINDINGS

3.1 Freedom of Association

Overall score per area: **4.0/7**

Legislation: **4.5/7**

Practice: **3.4/7**

In general, the MoJ is not interested in registering CSOs and often issues baseless rejection letters to CSOs submitting documents for official registration. No substantial developments have occurred in this area in the reporting period and the Government did not take into consideration any recommendations stated in the previous report. Instead, the MoJ has not extended the duration of the agreement needed for official registrations and the operation in Azerbaijan of one U.S.-based NGO – Cultivating New Frontiers in Agriculture (CNFA).¹³ Due to no substantial improvements having occurred in the area, the scores remain unchanged from 2022.

1) CSOs willing to take part in the political life of the country face strict requirements under the new Law on Political Parties.

On 11 January 2023, a new Law on Political Parties entered into force. As a result of its provisions, during 2023 more than 30 political parties, such as the Independent People's Party, the Azerbaijan National Democrat Party (AzMDEP), the Azerbaijan Liberal Democrat Party (ALDP), and the National Unity Party (VP),¹⁴ dissolved themselves according to the requirements of the Law. On 13 March 2023, the Venice Commission of the Council of Europe and the OSCE Office for Democratic Institutions and Human Rights (ODIHR) released a joint opinion following their review of the Law on Political Parties and stated that 'the new law has introduced a number of new highly problematic provisions which risk having further chilling effects on pluralism in the country.'¹⁵ Nevertheless, as of September 2023, three of the main existing opposition

¹³ Official letter from the MoJ obtained through interview with CNFA.

¹⁴ Amerikaninsesi.org, 'The Ministry of Justice registered 4,435 people out of 10,001 members of the AK party' (in Azerbaijani), <https://www.amerikaninsesi.org/a/7200165.html>.

¹⁵ Council of Europe, Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties - Approved by the Council for Democratic Elections at its 76th meeting (Venice, 9 March 2023) and adopted by the Venice Commission at its 134th Plenary Session (Venice, 10-11 March 2023), [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2023\)007-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2023)007-e).

parties, Müsavat, ReAL and AXCP, were officially re-registered as political parties by the MoJ.¹⁶ The requirement to have at least 5,000 members in order to be officially registered creates obstacles, also for CSOs or civil society members who wish to switch to the political arena and engage more actively in the political life of the country.

2) Foreign citizens without permanent residency cannot officially establish a CSO, and citizens willing to be founders face lengthy procedures.

The Law on Non-Governmental Organisations (Public Associations and Foundations) (NGO Law) requires foreign citizens to obtain permanent residency in order to be founders and legal representatives of CSOs¹⁷ This requirement does not exist for commercial entities and is a discriminatory approach for foreign citizens which does not meet international standards, while Azerbaijani citizens who that want to establish a CSO complain of lengthy registration proceedings (sometimes lasting several years). Applicants have also faced numerous rejections on various grounds, including, for instance, the unwritten, informal requirement to submit support letters from various state bodies or local executive authorities.¹⁸ The lengthy registration process often prevents CSOs from fulfilling their objectives and activities because they must first register their financial sources with the government agencies and this is impossible to do without CSO registration. Between 1 November 2022 and 30 August 2023, the MoJ recorded the state registration of 52 CSOs, along with the registration of one branch of a foreign CSO. During the same period, the MoJ also conducted the termination of the representative offices of three CSOs and one foreign CSO. Additionally, one CSO, listed in the register, had its activities temporarily suspended. Across the same period, no warnings were issued to any organisation, and no fines were imposed.¹⁹

3) There is an informal ‘permission’ system for CSOs in practice.

One of the major problems that CSOs continue to face is an unwritten, informal procedure to seek permission from the President’s Office²⁰ to hold events in the regions. This practice hinders CSOs’ ability to effectively organise any type of event in the regions within their project implementations, such as focus groups and roundtables.

¹⁶ QafqazInfo.az, ‘Müsavat, ReAL and PFCP were also registered - Updated’ (in Azerbaijani), <https://qafqazinfo.az/news/detail/musavat-ve-axcp-de-qeyde-alindi-yenilenib-411679>.

¹⁷ Article 9.1-1 of the NGO Law.

¹⁸ Focus Group.

¹⁹ Official letter from the MoJ.

²⁰ Focus Group.

4) Disproportionate penalties exist only in relation to CSOs.

There are specific situations incurring penalties (monetary fines) which apply only to CSOs and some of these are rather harsh. These include for failure to register grants both from foreign and domestic sources, donations, or service contracts; failure to submit annual financial reports; failure to sign a contract with volunteers; and exceeding the threshold for receipt of cash donations. The penalties for these failures are not in line with international standards since they are disproportionate to the financial capabilities of CSOs and to the nature of the infringements and create considerable operational and financial risks for CSOs. These penalties do not exist for commercial entities.

5) CSOs are subject to heavy reporting obligations.

Another serious impediment to the operation of CSOs is their heavy reporting burden. CSOs must register grants, donations, and service contracts from foreign sources. This requirement is not in line with international standards for freedom of association because it is overly-burdensome, excessive and not appropriate to the size and operational capabilities of CSOs. For instance, additional to the above-mentioned reporting obligations, CSOs also need to submit an annual financial report along with regular tax and social security reports.

Specific recommendations under Area 1:

- The National Assembly should ensure the rights of foreigners and stateless persons to found CSOs and manage them;
- The MoJ, the Cabinet of Ministers and the National Assembly should simplify the registration procedure for CSOs by reducing timelines and eliminating subjective treatment by the MoJ;
- The National Assembly should simplify the reporting obligations on CSOs and make them relative to their size and turnover; and
- The Presidential Administration should abolish the requirement for CSOs to obtain permission to hold events in the regions.

3.2 Equal Treatment

Overall score per area: **3.6/7**

Legislation: 3.8/7	Practice: 3.4/7
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CSOs are not subject to equal treatment both in legislation and practice compared to business entities. The registration process, reporting obligations and access to funding are more complicated for CSOs than for commercial entities. These problems still persist, and the Government neither implemented nor took into account any of the recommendations stated in the previous report. Due to no improvements having occurred in the area, the scores remain unchanged from 2022.

1) The MoJ applies a discriminatory approach towards CSOs compared to business entities.

To establish a business entity, registration takes one to three days with the Tax Service. By contrast, the CSO registration procedure takes up to thirty days with the MoJ. In practice, though, the process can last for years. Refusals to register a business happen only in rare cases (when, for example, there is already an entity with the proposed legal name). For CSOs, however, the reasons for denial of registration are seemingly endless (for instance, issues with the formation of the board, the CSO's mission, its sources of income, etc.). This makes the registration and operation of CSOs very difficult.

2) The Government treats certain types of CSOs unequally.

Social service providers and youth organisations receive better treatment by the Government than human rights CSOs, enjoying, for instance, easier access to government funds, better media coverage, and use of government facilities. Such favourable treatment is not so visible in the case of foreign CSOs compared to local CSOs. This may be explained by the fact that there are very few foreign CSOs operating in Azerbaijan. Certain CSOs are more favoured by the Government than others. As a result, this group of CSOs is more often invited to consultations with the Government and encounters fewer problems in holding events in the regions.²¹ Some CSOs are represented in multiple public councils established under state bodies, whereas other

²¹ Focus Group.

CSOs are not represented in any public council. This calls into question the equal representation of public councils. This unfavourable and overall selective treatment of CSOs continues to persist.

Specific recommendations under Area 2:

- The MoJ and the National Assembly should ensure equal treatment of CSOs compared to businesses during their registration process and operation; and
- The Government and the National Assembly should ensure the equal participation of a wide variety of CSOs in consultation processes.

3.3 Access to Funding

Overall score per area: **3.0/7**

Legislation: **3.2/7**

Practice: **2.8/7**

Access to foreign funding for CSOs in Azerbaijan continues to face significant limitations. The current legal and practical requirements for registering financial resources are overly stringent. All income from foreign sources must be registered with the MoJ. The legislation offers several public financing mechanisms, such as direct subsidies, social contracts and grants from various state entities, although grant allocations from the Government are not enough for CSOs and usually do not meet their needs.²² CSOs are, however, allowed to generate income through economic activities and receive donations and membership fees.

There have been no substantial improvements in this area when compared to the previous reporting period, resulting in unchanged scores for 2023. The Government has not acted upon any of the recommendations from the previous CSO Meter report concerning access to funding. Consequently, the recommendations from 2022 are still relevant for 2023.

1) CSOs face legal obstacles to the receipt of grants, service contracts and donations from foreign sources.

Several laws, such as the NGO Law and the Law on Grants, require that CSOs which are the recipients of foreign funds through grants, service contracts, or any kind of

²² Focus Group.

donation, be registered with the MoJ.²³ Often, the MoJ refuses to register the grants, service contracts and donations on subjective grounds and this is a major obstacle for CSOs in their access to funding and in the implementation of their project. In addition, according to the relevant regulations, CSOs are required to collect a burdensome list of documents which sometimes becomes time-consuming and a bureaucratic challenge for CSOs resulting in delays in project implementation, or even project failures. This is because, even though the CSO has received foreign funds, it cannot make any bank transactions as these are prohibited without registration of the funds. This practice impedes the ability of CSOs to effectively operate.

According to Decision No. 97 of the Cabinet of Ministers, dated 4 April 2023,²⁴ the documents needed to acquire the right to give grants in the territory of Azerbaijan by foreign donors and for the registration of contracts on the provision of services or the performance of works by CSOs (as well as by branches or representative offices of foreign CSOs at the expense of foreign financial sources) will not be required from the applicant if the information requested can be obtained from the relevant government body (institution) through the Electronic Government Information System. In this way, these processes will possibly take less time and possibly become less burdensome for the applicants.

2) Anonymous donations are prohibited.

The law imposes several disproportionate restrictions related to access to funding from donations. The lack of access to funds from donations seriously impedes the operation of some CSOs. The restrictions are the following: (i) anonymous donations are prohibited; (ii) donations from foreigners and stateless persons are prohibited; (iii) cash

²³ Law of the Republic of Azerbaijan on giving, receiving and using grants, <https://e-qanun.az/framework/3527>; Decision of the Cabinet of the Republic of Azerbaijan on the approval of the 'Regulation on the registration of contracts for the provision of services or the performance of works by non-governmental organisations, as well as branches or representative offices of non-governmental organisations of foreign countries at the expense of foreign financial sources', <https://e-qanun.az/framework/31456>; Decision of the Cabinet of the Republic of Azerbaijan on 'On the approval of the Rule for submitting information on the amount of donations received by non-governmental organisations, as well as branches or representative offices of non-governmental organisations of foreign countries and the persons who made the donation', <https://e-qanun.az/framework/31255>.

²⁴ On the approval of the Cabinet of Ministers of the Republic of Azerbaijan 'Regulation on the registration of contracts for the provision of services or works by non-governmental organisations, as well as branches or representative offices of non-governmental organisations of foreign countries at the expense of foreign financial sources' dated October 21, 2015 No. 337 and No. 339 of October 22, 2015 on the approval of the 'Regulation on obtaining the right to grant grants by foreign donors in the territory of the Republic of Azerbaijan', <https://nk.gov.az/az/senedler/qerarlar/azarbaycan-respublikasi-nazirlar-kabinetinin-%E2%80%9Cqeyri-hokumat-taskilatlar--habela-xarici-dovlatlarin--6905>.

donations exceeding 200 AZN (around 110 EUR) are prohibited; (iv) the passport details of each donor, even for a donation of, say, 20 cents, have to be recorded and submitted to the Ministry of Finance (MoF); and (v) only charities²⁵ can receive cash donations,²⁶ despite there being no clear procedure in law for obtaining the status of a charity. Nevertheless, during the reporting period, the MoJ registered a total of 738 donations²⁷ which shows that MoJ registers donations much easier than grants (probably due to their smaller size or national origin).

3) The state has not considered developing laws to support other sources of income for CSOs.

Despite interest from CSOs,²⁸ the state has not created the legislative or practical framework for CSOs to diversify their finance sources and this has hindered CSOs' ability to create financial sustainability for themselves. This could be achieved by utilising different funding mechanisms, for instance crowdfunding and cashboxes.

Specific recommendations under Area 3:

- The MoJ and the Cabinet of Ministers should simplify the registration of grants and donations (for example, by eliminating subjectivity on decisions for registration and digitalising the process so it can be easily accessible and faster);
- The National Assembly and the Cabinet of Ministers should abolish the requirement to register service contracts;
- The National Assembly should provide foreigners and stateless persons with the right to make donations to CSOs;
- The National Assembly and the Government should provide a legal framework for the regulation of cashboxes and allow the use of other mechanisms through which identification of the donor might be hard or impossible;
- The National Assembly and the Cabinet of Ministers should eliminate the need to report on small donations (under 200 AZN (around 110 EUR) or more per donor per year); and

²⁵ There is no procedure for obtaining the status of a charity in Azerbaijan. In practice, CSOs whose statutory purposes include 'charity' are referred to as 'charitable organisations'.

²⁶ Article 24-1 of the NGO Law; Article 465 of the Administrative Code.

²⁷ Official letter from the MoJ.

²⁸ QHT.az, 'A round table was held on "State, Business institutions and CSO partnership: development prospects"' (in Azerbaijani), <https://www.qht.az/details/az/18072>.

- The National Assembly should abolish the prohibition on anonymous donations for small donations (under 200 AZN (around 110 EUR) per donor per year).

3.4 Freedom of Peaceful Assembly

Overall score per area: **3.7/7**

Legislation: **4.4/7** | Practice: **3.0/7**

Freedom of peaceful assembly remains a sensitive topic in Azerbaijan. Although CSOs' freedom of assembly is not restricted by law, they face obstacles to doing so in practice. CSOs enjoy the right to peaceful assembly in the capital Baku more freely than in the regions. This is connected with the informal requirement to seek permission to hold events in the regions. The overall score has decreased in this area due negative examples of citizens having been prevented from exercising their freedom of peaceful assembly. These include the protest in the village of Söyüdlü (Gadabay District) which has the potential to negatively affect the relationship between CSOs and the public as CSOs may now refrain from working with citizens in Söyüdlü and cautiously approach the situation in order not to receive a negative reaction from the Government. Therefore, the 2023 score for practice in this area has decreased from 3.2 in 2022 to 3.0. The Government has not taken into account the recommendations identified in the previous report and the unfavourable situation in Azerbaijan regarding freedom of assembly continues. Consequently, the recommendations in this area remain the same as for the previous reporting period.

1) The notification procedure creates challenges for individuals to practice freedom of assembly.

Organisers of peaceful assemblies are required to notify the authorities five working days in advance. In practice, this requirement is interpreted by state authorities as a request to obtain permission and is often denied. In relation to spontaneous assemblies, submission of a written notification is not required (Article 5 of the Law on Freedom of Assembly). Yet such assemblies can still be restricted or suspended in accordance with the requirements specified in Articles 7 and 8 of the Law. According to these Articles, freedom of assembly may be restricted only in cases provided by law and necessary in a democratic society, in the interests of national security or public safety, to prevent riots or crime, to protect health and morals, or the rights and freedoms of others.

Assemblies that promote national, racial or religious enmity, accompanied by calls for discrimination, enmity or violence, are prohibited which is in line with international law. In addition, individuals who attend unauthorised assemblies can be brought to the police station for questioning. Such questioning in practice occurs mostly in relation to human rights activists.

2) The lack of communication between citizens and the Government resulted in protest which indicates the need for the Government to cooperate with CSOs.

The events that took place on 20-21 June 2023, in the village of Söyüdlü in Gadabay District, were a negative example of restrictions on freedom of peaceful assembly. In this case, the villagers in Söyüdlü organised an ecological protest against the construction of a second water reservoir for waste by a gold mining company, stating that the activities of the company are polluting the area in which the community lives.²⁹ The police forcefully dispersed the protest and used pepper spray, leading to concerns being raised on social media about the proportionality of their actions. Some of the protesting villagers were arrested and one was fined.³⁰ The events in Söyüdlü showed the importance of CSOs being able to build robust relations between the Government and its citizens in the regions. This is because this situation could have been resolved peacefully if there were CSOs in the regions who could help citizens to properly submit their concerns to the authorities, to involve third party environmental monitoring, and, if needed, to raise issues at the international level. Often, citizens lack the skills to properly submit their concerns to the Government and this illustrates a typical situation in which CSOs are needed.

Specific recommendation under Area 4:

- The National Assembly should make amendments to the law and introduce the practice of prior notification, rather than authorisation, of peaceful assemblies.

²⁹ BBC. 'Soyudlu village: Police closed the road, BBC journalists were not allowed' (in Azerbaijani), <https://www.bbc.com/azeri/azerbaijan-66116256>.

³⁰ JAMnews, 'The fight against the population of a village with tear gas. What happened in Soyudlu?', <https://jam-news.net/the-fight-against-the-population-of-a-village-with-tear-gas-what-happened-in-soyudlu/>

3.5 Right to Participation in Decision-Making

Overall score per area: **4.6/7**

Legislation: **5.0/7** | Practice: **3.1/7**

In Azerbaijan, CSOs can participate in decision-making through different avenues such as working groups, public councils, and discussions. However, they are sometimes not consulted on decisions that directly affect them. Accessing draft laws is usually challenging unless these are made public by government bodies. Issues persist with public council elections. Overall, the scores in this area remain unchanged from 2022 and the same recommendations apply.

1) The law requires government agencies to establish public councils.

The Law on Public Participation primarily gives government agencies a right to establish a public council rather than mandates it; thus, some twenty agencies have established public councils³¹ to date. In addition, there are around twelve public councils in the regions under local executive authorities.³² However, most public councils under government agencies remain only theoretical in practice as they have no real function and almost no influence on the decision-making process in those agencies. The Law on Public Participation does not forbid the simultaneous membership of a single CSO member in different public councils. Therefore, it is imperative to amend this law to incorporate a provision that prohibits an individual from participating in multiple public councils concurrently.³³

2) There is a discriminatory approach to CSOs' participation in the decision-making process.

Decision-making processes involving CSOs exhibit a discernible bias. The state's approach to including CSOs in discussions has been decried for its favouritism towards those with close ties to government officials. Regrettably, the government continues to show minimal commitment to actively engaging CSOs in the formulation, execution,

³¹ For example, the Ministries of Justice, Labour and Social Protection of Population, Youth and Sports, Interior Affairs, Health, Ecology and Natural Resources and State Committees on the Affairs of Women, Children and Family, the State Migration Service, the State Examination Centre, ASAN, etc.

³² Public Council, www.ictimaishura.az.

³³ Focus Group.

and oversight of public policies. This stasis remains unaltered from the previous reporting year.³⁴

3) There is a lack of legal mechanisms for participation in the decision-making process.

The Law on Public Participation grants CSOs a role in policy execution, monitoring, and assessment through consultative bodies. However, this legislation incorporates certain provisions³⁵ that diminish the effectiveness of public engagement. Moreover, the absence of numerous complementary legal frameworks³⁶ hampers the practical implementation of public involvement, yielding a plethora of challenges.³⁷

Specific recommendations under Area 5:

- The Government should mandate national level agencies and local executive authorities to set up public councils, as well as to conduct public reporting on the activities of the councils;
- The Government should create a single online resource and mandate all national level agencies and local executive authorities to publish draft supporting legal acts for review by the public and CSOs, in addition to mandatory public discussion of draft laws organised by the National Assembly;
- The National Assembly should amend the Law on Access to Information to mandate the executive authorities to justify grounds for refusal to provide information, as well as to introduce a penalty for unjustified refusal to the Code of Administrative Offences; and
- The Government should ensure that consultations with CSOs are conducted at the Cabinet of Ministers, particularly on decisions affecting CSOs.

³⁴ Advisory Board members' meeting.

³⁵ The stipulations outlined in sections 2.2, 2.3, and 2.4 of the Cabinet of Ministers Decision regarding the 'Regulations for the appointment of a Public Council by civil society entities' result in a significant reliance of public councils on entities responsible for overseeing public scrutiny as they organise the elections to public councils and are involved in the composition of members of public councils according to those provisions.

³⁶ Article 20 of the Law 'On Public Participation' stipulates that 'Violations of the provisions within this Law will be subject to accountability as per the Republic of Azerbaijan's Code of Administrative Offences'. However, at the time of writing, despite the clear mandate of the Law, specific administrative penalties have not been outlined.

³⁷ Sahib Mammadov, Public Participation, Monitoring Report, Baku, 2017, <http://ogp.org.az/wp-content/uploads/2017/02/PUBLIC-PARTICIPATION.pdf>.

3.6 Freedom of Expression

Overall score per area: **3.9/7**

Legislation: **4.6/7** | Practice: **3.1/7**

In 2023, limits on the exercise of freedom of expression in Azerbaijan remain a concern. CSOs primarily express themselves through online social networks, often treading cautiously when it comes to government criticism. Common platforms for CSO activities include Facebook, Instagram, and YouTube. Defamation remains a criminal offence. The introduction of a new Media Law has contributed to a more restrictive legal environment for freedom of expression in Azerbaijan,³⁸ which also has implications for freedom of expression in practice. Additionally, several activists were arrested for their social media posts which has led to a decrease in the scores in this area versus 2022 (from 4.8 to 4.7 in law and from 3.5 to 3.0 for practice). Some media outlets remain blocked in Azerbaijan.³⁹ Consequently, the recommendations from the previous reporting period remain pertinent to 2023.

1) Concerns raised regarding the state of freedom of expression in the country.

There were several events during the reporting period that raised concerns from civil society and the international community on violations of freedom of expression. First, on 9 December 2022, Bakhtiyar Hajiyev, a civil society activist, was arrested and charged under Articles 221 (hooliganism) and 289 (contempt of court) of the Criminal Code. Some members of civil society consider the charges against Hajiyev to be false and believe that his arrest was due to his criticism of government officials.⁴⁰ In June, new charges were brought against Hajiyev under Articles 192 (illegal entrepreneurship), 193-1 (legalisation of money or other property obtained through crime) and 206 (smuggling) of the Criminal Code.⁴¹ Representatives of the US State

³⁸ Council of Europe, 'Azerbaijan media law: overregulation in an already restrictive environment', <https://www.coe.int/en/web/portal/-/azerbaijan-media-law-overregulation-in-an-already-restrictive-environment#:~:text=The%20Venice%20Commission%20concludes%20that,to%20do%20fulfil%20their%20'public>.

³⁹ U.S. Department of State, '2022 Country Reports on Human Rights Practices: Azerbaijan', <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/azerbaijan/>.

⁴⁰ Amerikaninsesi.org, 'Human Rights Defender: "Bakhtiyar Hajiyev's arrest is illegal, everyone knows it"' (in Azerbaijani), <https://www.amerikaninsesi.org/a/6943362.html>.

⁴¹ Report.az, 'A 50-day arrest warrant was issued for Bakhtiyar Hajiyev - UPDATE-2' (in Azerbaijani), <https://report.az/hadise/ictimai-feal-bextiyar-haciyev-saxlanilib/>; Amerikaninsesi.org, 'New charges have

Department, the US Senate, the European Union, the Council of Europe and a number of international NGOs have repeatedly demanded the release of Hajiyev from prison.⁴²

Secondly, on 24 June 2023, several activists who had condemned on social media the police's actions against protesters in the village of Söyüdlü were also administratively arrested while several journalists covering the events were detained.⁴³

Thirdly, the Chairman of the Azerbaijan Democracy and Welfare Movement, well-known economist Gubad Ibadoglu, was arrested on 23 July 2023. He was charged with making, acquiring or selling counterfeit money or securities, as well as making, keeping or disseminating religious extremist materials.⁴⁴ Some international organisations believe the charges against him are false and have been brought for politically-motivated reasons.⁴⁵

Between 20 November and 1 December 2023, the heads of the AbzasMedia website, Ulvi Hasanli and Sevinj Vagifqizi, the website's deputy director, Mahammad Kekalov, and an employee of the website, journalist Nargiz Absalamova, were arrested.⁴⁶ They were charged for smuggling under Article 206.3.2 of the Criminal Code. Some international human rights organisations condemned the arrest of journalists and demanded their immediate release.⁴⁷ The journalists deny the alleged crimes and believe that their arrests are due to their journalistic activities.

been brought against Bakhtiyar Hajiyev under five articles of the Criminal Code' (in Azerbaijani), <https://www.amerikaninsesi.org/a/7140005.html>.

⁴² IRFS, 'The court extended the pretrial detention of Bakhtiyar Hajiyev for another month', <https://www.irfs.org/news-feed/the-court-extended-the-pretrial-detention-of-bakhtiyar-hajiyev-for-another-month/>; U.S. Department of State, 'Calling for the Release of Bakhtiyar Hajiyev', <https://www.state.gov/calling-for-the-release-of-bakhtiyar-hajiyev/#:~:text=Mr.,for%20exercising%20their%20fundamental%20freedoms>.

⁴³ Amerikaninsesi.org, 'Kiyas Ibrahimov was sentenced to 32 days of administrative detention' (in Azerbaijani), <https://www.amerikaninsesi.org/a/qiyas-ibrahimov-32-days-administrative-prison-term/7151200.html>; Abzas, 'Journalists were removed from Soyudlu by police violence' (in Azerbaijani), <https://abzas.org/2023/6/jurnalistr-soyudludn-poliscbb801df-f/> <https://fom.coe.int/en/alerte/detail/107639549>.

⁴⁴ BBC, 'European Union: "We are concerned about the extension of Gubad Ibadoglu's prison term"' (in Azerbaijani), <https://www.bbc.com/azeri/articles/cmyy8l4z8v5o>.

⁴⁵ Human Rights Watch, 'Azerbaijan: Arrest of Democracy Advocate', <https://www.hrw.org/news/2023/08/09/azerbaijan-arrest-democracy-advocate>.

⁴⁶ BBC, 'The EU ambassador condemned the "humiliating treatment" of journalists in Azerbaijan, and the MFA is dissatisfied' (in Azerbaijani), <https://www.bbc.com/azeri/articles/c1w2jw5gp12o>.

⁴⁷ Human Rights Watch, 'Azerbaijan: Crackdown on Independent Media', <https://www.hrw.org/news/2023/11/22/azerbaijan-crackdown-independent-media>; Amnesty International, 'Azerbaijan: Significant concerns about detained journalist Ulvi Hasanli', <https://www.amnesty.org/en/latest/news/2023/11/azerbaijan-significant-concerns-about-detained-journalist-ulvi-hasanli/>.

2) Higher penalties have been adopted for media outlets, potentially having a negative effect on CSOs engaged in media activities.

On 25 April 2023, the new version of Article 381 of the Code of Administrative Offences (CAO) came into effect.⁴⁸ The revised Article 381 expands the responsibilities for violations and imposes stricter and higher penalties on media outlets which, in turn, directly affects CSOs and civil society members conducting media activities. In general, the penalties range from approximately 200 AZN (around 115 USD) to 10,000 AZN (5,900 USD). Such high penalties could be burdensome for CSOs engaged in media-related activities taking into account their limited human and financial resources.

Specific recommendations under Area 6:

- The Government and the courts should ensure that blocking of online media resources is performed strictly in accordance with the law;
- The National Assembly should amend the law to decriminalise defamation and make it an administrative rather than a criminal offence; and
- The Government should eliminate censorship in practice and stop pressure on journalists and CSO activists with critical voices.

3.7 Right to Privacy

Overall score per area: **4.4/7**

Legislation: **4.9/7**

Practice: **3.8/7**

The legislation of the Republic of Azerbaijan guarantees the right to privacy for everyone, including CSOs and CSO members, and there is no discrimination against CSOs in this regard. There were no cases of illegal interference with the right to privacy of members of the CSO sector in 2023. Similarly, no interference by the state that violated the protection of the private data of CSOs and CSO representatives, as well as access to CSOs' offices (both in law and practice), was reported.

⁴⁸ Law of the Republic of Azerbaijan 'on amending the Code of Administrative Offences of the Republic of Azerbaijan', <https://e-qanun.az/framework/53997>.

The environment for CSOs regarding the right to privacy has not changed in 2023 compared to the previous year and the scores have therefore remained the same. The Government did not take any action towards implementing the recommendations stipulated in the CSO Meter report for 2022 in this area and, for this reason, all of its recommendations are still relevant to 2023.

1) The legislative framework exists to protect the right to privacy, yet it is not fully grounded in the commitments to international standards.

The Law of the Republic of Azerbaijan on Personal Data of 11 May 2010⁴⁹ defines the legislative basis and general principles of collection, processing, and protection of personal data. Additionally, the Republic of Azerbaijan signed and ratified the Council of Europe Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data regarding supervisory authorities and trans-border data flows via a law dated 30 September 2009 (No. 879-IIIQ).⁵⁰

The right to privacy is guaranteed in the Constitution of Azerbaijan (Article 32) as the right to the inviolability of private life. The state guarantees everyone's right to confidentiality with respect to correspondence, telephone communications, post, telegraph messages and information sent by other means of communication. This right might be restricted, as prescribed by law, in order to prevent crime or to determine the facts in the course of investigation of a criminal case.⁵¹

However, according to Article 148-1, which was introduced to the Criminal Code in November 2016, the act of slandering or insulting individuals through the use of fictitious usernames, profiles, or accounts on internet information resources is subject to legal sanctions. Offenders may face penalties such as a fine ranging from 1,000 to 2,000 AZN (545 to 1,090 EUR), community service for a duration of 360 to 480 hours, correctional labour for a maximum period of 2 years, or imprisonment for a maximum term of one year.⁵² Nevertheless, the process of decriminalisation concerning acts of insult and slander in Azerbaijan is grounded in its commitments to the Council of Europe. The inclusion of these provisions within the Criminal Code contradicts Azerbaijan's obligations, however.

⁴⁹ Law of the Republic of Azerbaijan 'On Personal Data' of 11 May 2010, <http://www.e-qanun.az/framework/19675>.

⁵⁰ Law of the Republic of Azerbaijan 'on ratification of the Convention on the Protection of Persons Related to the Automated Processing of Personal Data', <http://www.e-qanun.az/framework/18625>.

⁵¹ Article 32 of the Constitution of the Republic of Azerbaijan.

⁵² Article 148-1 of the Criminal Code.

2) Legislative compliance clashes with donor privacy challenges in Azerbaijan.

CSOs are obliged to provide the MoF with the passport information of any individuals who donated money to them during the year, even if the amount of the donation was very small. This may pose a dilemma for donors and prove to be an obstacle for CSOs when it comes to garnering financial backing, as they will need to obtain personal passport information from these contributors.

Specific recommendations under Area 7:

- The National Assembly should decriminalise the defamation and ensure that any sanctions are proportionate; and
- The Cabinet of Ministers should abolish the requirement for CSOs to submit passport information of donors to the MoF.

3.8 State Duty to Protect

Overall score per area: **4.4/7**

Legislation: **4.7/7** | Practice: **4.1/7**

Per Article 60 of the Constitution of the Republic of Azerbaijan, everyone, including CSOs and their members, has the right to represent themselves in the courts and to defend their rights. There have not been any negative media campaigns against CSOs or public statements by government officials in the current reporting period. Legislative requirements relating to fighting extremism, terrorism, money laundering and corruption are burdensome for CSOs, and most organisations have no resources to comply with them. The new law on anti-money laundering and counter-terrorism financing (AML/CTF) places more obligations on CSOs and impedes their effective operational abilities. As a result, the overall score for this area has been decreased from 5.0 in 2022 to 4.7 for law and from 4.2 in 2022 to 4.1 for practice. The Government did not take any action towards implementing the recommendations stipulated in the CSO Meter report for 2022 in this area and, for this reason, all of its recommendations are still relevant to 2023.

1) Informal associations encounter challenges in operating effectively, unlike registered CSOs.

As they lack legal entity status, informal associations are not entitled to certain rights, despite Azerbaijani legislation permitting their formation and existence. For instance, informal associations are ineligible to serve as plaintiffs in court, own property, establish bank accounts, or obtain tax identification numbers. The state cannot protect the name of an unregistered CSO unless it is officially registered with the MoJ.

Since 2014, the presence of government critics within CSOs in Azerbaijan has significantly diminished. The CSO sector is now predominantly comprised of either pro-government or neutral members, reflecting the state's increased control and monopoly over the sector in recent years. As a result, there appears to be no necessity for the government to intervene in the activities of CSOs or target them, as was the case prior to 2014. The situation in this regard remains largely unchanged as of 2023.

2) There are disproportionate penalties for CSOs in Azerbaijan.

The legislative framework in Azerbaijan subjects CSOs to comparatively more severe penalties than business entities. This disproportionality is particularly noteworthy given the typically limited financial resources of CSOs, whose primary focus is often on social, cultural, or advocacy initiatives. The question of fairness in legal consequences is a significant point of consideration, as it can affect the ability of CSOs to effectively operate and advocate for their respective causes.

3) The new AML/CTF law places unnecessary obligations on CSOs.

On 31 January 2023, the new AML/CTF Law 'on the fight against the legalisation of property obtained through crime and the financing of terrorism' and the Law on Amendments to the Code of Administrative Offences of the Republic of Azerbaijan entered into force.⁵³ In compliance with the new AML/CTF law, both financial and non-financial institutions are mandated to provide the financial monitoring authority with information and documentation regarding all bank transactions conducted by CSOs. According to Article 12.3 of the Law, CSOs are required to establish risk-mitigating rules and procedures for the receipt and disbursement of grants and donations, along with an annual submission of comprehensive financial reports detailing these

⁵³ Law of the Republic of Azerbaijan on the fight against the legalisation of property obtained through crime and the financing of terrorism, 10 February 2009, <https://president.az/az/articles/view/58762>; Law of the Republic of Azerbaijan 'on amending the Criminal Code of the Republic of Azerbaijan and the Code of Administrative Offences of the Republic of Azerbaijan', <https://e-qanun.az/framework/53373>.

contributions and their utilization by 1 April. Nevertheless, there is ambiguity regarding the specific content of these rules and procedures, the extent of information encompassed within a 'detailed' report, and whether this report aligns with the conventional annual financial report submitted to the MoF. Furthermore, an amendment to Article 598 of the Code of Administrative Offences has raised the amounts of the fines associated with breaches of AML/CTF obligations compared to the previous version of the same article. The new AML/CTF law does not include the risk-based approach for CSOs stated in the recommendations of the Financial Action Task Force (FATF) to governments and worsens their already impeded ability to operate effectively. During the reporting period, two CSOs were monitored for compliance with the requirements of the AML/CTF law.⁵⁴

Specific recommendations under Area 8:

- The National Assembly and the Government should ensure that penalties against CSOs shall be revised, reduced and applied proportionately to the offence; and
- The National Assembly and the Government should ensure that the obligations of CSOs related to the fight against extremism, terrorism, money-laundering or corruption shall be revised and applied to CSOs following the risk-based approach and should only apply to certain CSOs, for example, only those with an annual turnover exceeding 50,000 AZN (around 27,900 EUR).

3.9 State Support

Overall score per area: **4.1/7**

Legislation: **4.4/7** | Practice: **3.9/7**

Existing state support is insufficient to cover the financial needs of CSOs and the material deficiencies they face due to the unfavourable environment in Azerbaijan. CSOs' concerns relate to the overall number and amount of grants, rather than their procedural aspects. Due to issues related to the registration of foreign funding with the MoJ, the tax

⁵⁴ Official response from the MoJ.

environment for CSOs is not favourable, despite tax exemptions on grants, donations, and membership fees.

Volunteering in Azerbaijan is popular, although there are some difficulties in obtaining residency permits for foreign volunteers and a written contract must be signed with each volunteer, even for minor assistance. The Government supports mostly pro-government CSOs and tries to control CSOs under its umbrella. Overall, the circumstances did not change in 2023 in this area. Therefore, the scores remain the same as for 2022. Due to the unchanged environment in state support, the recommendations contained in the CSO Meter report 2022 in this area remain the same in 2023.

1) Financial aid from government agencies does not fully meet the needs of CSOs.

There are 13 government bodies,⁵⁵ such as the NGO Agency, the Ministry of Youth and Sports, the State Tourism Agency, the Ministry of Health, and the Ministry of Culture that can provide grants to CSOs. Despite this, the funding provided by various government mechanisms has never replaced the amount that was provided by foreign donors without restrictions up until 2015. Throughout the reporting period, the MoJ registered 918 grant contracts, 97 service contracts, and entered information on 738 donations into the register. The total amount of registered funds was approximately 307 million AZN (166.1 million EUR).⁵⁶ However, the available amounts through state grants are often small and do not fully meet the demands of the CSO sector in Azerbaijan.

2) The existence of legislative bureaucratic obstacles hinders volunteerism.

According to the law, the volunteer and the host organisation are required to have a written contract.⁵⁷ Unfortunately, there is no exception to this for a minor or short-term volunteer assignment. This, in return, is preventing the organisation from engaging volunteers due to bureaucratic impediments and potential penalties⁵⁸ for violating volunteer-related regulations.

⁵⁵ Decree of the President of the Republic of Azerbaijan 'on the approval of the list of institutions financed from the state budget of the Republic of Azerbaijan, which can grant grants to legal and natural persons of the Republic of Azerbaijan according to their fields of activity', <https://e-qanun.az/framework/31056>.

⁵⁶ Official letter from the MoJ.

⁵⁷ Article 9.1 of the Law on Voluntary Activity, 9 June 2009.

⁵⁸ Article 579 of the Code of Administrative Offences stipulates a fine ranging from 1,000-3,000 AZN (approximately 510 to 1,530 EUR) for failure to sign a contract with a volunteer.

3) Government initiatives to provide state support are increasing.

In 2023, the trend of growth in the state providing opportunities for state support has continued. This has been evident when it comes to the provision of grants, social services, and in the tax environment. First, in 2023, the NGO Support Agency organised grant competitions and held the three-day annual training sessions titled 'Development and Exchange Programme for NGOs' and discussed the strategic plans to develop the CSO environment. The event was held with 90 representatives from various CSOs and the topics discussed included 'Data Collection and Analysis', 'Project Preparation and Implementation Stages', and a specific focus on 'Logical Framework', enhancing their knowledge and skills. Additionally, participants gained insights into areas including 'Project Strategy Development', 'Project Monitoring and Evaluation', and were introduced to the roadmap for expanding their international outreach.⁵⁹

Second, through social service provision, on 28 August 2023, Azerbaijan adopted the State Programme for the Development of Social Services for the period 2023-2026. According to the Programme, the state will continue cooperation with civil society institutions in organising social service provision.⁶⁰

On 12-13 April 2023, a public discussion regarding the preparation of the NGO Agency's Strategic Plan for 2024-2026 took place with the participation of approximately 100 representatives from CSOs. During the same period, a seminar on NGO legislation was organised at the same place. These events featured discussions and the exchange of ideas aimed at promoting the activities of CSOs and improving their access to financial resources.⁶¹

By the Decision of the Cabinet of Ministers dated 14 September 2023, the 'Regulations on the Conduct of Competitions for Grant Financing of Non-Governmental Organisations'⁶² were approved by the NGO Support Agency. These announced changes aim to provide NGOs with more time, financial support, and flexibility to

⁵⁹ Report.az, 'The "II Development and Exchange Programme of NGOs" has been concluded', <https://report.az/daxili-siyaset/qht-lerin-ii-inkisaf-ve-mubadile-proqrami-na-yekun-vurulub/>.

⁶⁰ Trend News Agency, 'Governmental social services dev plan for 2023-2026 approved in Azerbaijan - decree', <https://en.trend.az/azerbaijan/politics/3789683.html>.

⁶¹ Official letter from NGO Agency.

⁶² Decree of the Cabinet of Ministers of Azerbaijan 'on the procedure for holding contests related to grant funding of non-governmental organisations by the State Support Agency for Non-Governmental Organisations of the Republic of Azerbaijan, the criteria for determining the grant amount and the grant amount for each topic about confirming the limit', <https://nk.gov.az/az/senedler/qerarlar/azerbaycan-respublikasinin-qeyri-hokumet-teskilat/7402>.

undertake initiatives of national and international significance while emphasizing the importance of measurable results and social utility in their projects.⁶³

Third, benefits in the tax environment were provided for media-focused organisations. On 1 April 2023, the amendments⁶⁴ to the Tax Code entered into force, which include incentives for media outlets and exempts their media products and related services from VAT for a short period of time. The new article 164.1.8-1 of the Tax Code makes media products and related services VAT-free for three years from 1 January 2023. Material aid given to media subjects by the relevant state body is also exempted from taxes for the same period.

By providing tax incentives and easing expenditures for a short period of time, this change will affect CSOs conducting media-related activities according to the Media Law and benefit them in case they publish print materials, receive aid, and provide services related to their media activities.

On 25 April 2023, a revised version of Article 381 of the Code of Administrative Offences was put into effect. The Article defines the penalties for violation of media legislation in Azerbaijan. The modified Article 381 expands the responsibilities for violation and imposes stricter and higher penalties. In general, the penalties range from approximately 200 AZN (around 115 USD) to 10,000 AZN (around 5,900 USD). Such amounts could be burdensome for CSOs engaged in media-related activities considering their limited human and financial resources. However, even though state support from government agencies is increasing, it is still not sufficient to meet the needs of CSOs.

Specific recommendations under Area 9:

- The Government and the National Assembly should introduce meaningful tax benefits for individual and corporate donors to CSOs;
- The National Assembly should abolish the requirement to have a written contract with a volunteer for ad hoc works that do not exceed one day;

⁶³ QafqazInfo.az, 'Reforms have also reached NGOs - "There will be changes"' (in Azerbaijani), <https://qafqazinfo.az/news/detail/islaxatlar-qht-ler-de-catdi-deyisiklikler-olacaq-414038>.

⁶⁴ Law of the Republic of Azerbaijan on amending the Tax Code of the Republic of Azerbaijan, <https://president.az/az/articles/view/59280>.

- The Government should increase the amount of individual grants issued to CSOs so that they build their institutional capacity (for example, 10,000 AZN, about 5,300 EUR); and
- The Government should take measures to increase practices on renting out government-owned venues to CSOs for free or at a symbolic fee for events organised by CSOs.

3.10 State-CSO Cooperation

Overall score per area: **4.1/7**

Legislation: 4.3/7	Practice: 3.9/7
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State-CSO cooperation mainly occurs via the NGO Support Agency, but this is limited and, in most cases, does not involve CSOs in decision-making processes. CSOs' involvement in public discussions and in the government decision-making process continues to be formal and restricted. The legal framework for CSOs to engage in the decision-making process is poorly implemented in practice. There was no significant change in this area during the reporting period and, as a result, the scores did not change from 2022. There is no evidence that the Government has considered the recommendations set out in the CSO Meter report 2022 and, therefore, the recommendations remain unchanged in 2023.

1) International cooperation towards open government and local CSOs' involvement in this regard took a negative turn in 2023.

In 2017, the OGP recommended that Azerbaijan simplify CSO registration and funding access, but progress has been lacking. Despite its own 2020–2022 National Action Plan advocating similar changes, the Government failed to act to the extent acceptable for OGP. Consequently, on 17 August 2023, OGP's Steering Committee unanimously agreed to permanently suspend and rescind Azerbaijan's OGP membership.⁶⁵ This suspension is concerning for CSOs and government-CSO partnerships in the country, as it reflects the Government's reluctance to collaborate with civil society. As a result, Azerbaijani CSOs may face challenges in participating in international initiatives and contend with a restrictive government environment that does not meet international

⁶⁵ Open Government Partnership, 'Azerbaijan Permanently Suspended from the Open Government Partnership', <https://www.opengovpartnership.org/news/azerbaijan-permanently-suspended-from-the-open-government-partnership/>.

standards. This withdrawal from the OGP can also be a sign of unwillingness on the part of the Government to implement recommendations towards open government.

2) Government hints at reforms in NGO legislation, but the potential changes remain uncertain regarding CSO-State cooperation.

On 7 November 2023, the NGO Agency held a forum⁶⁶ discussing 'Non-governmental organisations in Azerbaijan's new stage of development.' In the event, the head of the department 'Affairs with NGOs and communication' of the Presidential Administration revealed the commencement of fundamental reforms in the NGO sector and the ongoing revision of related legislative frameworks. However, despite these announcements, the specific nature of these changes, or when they will be implemented, remains unknown.

Specific recommendations under Area 10:

- The Government should take measures to facilitate cooperation between state bodies and CSOs at the central as well as local levels as per the mechanisms envisaged in the Law on Public Participation;
- The Government should increase efficiency in enforcing the public participation mechanisms envisaged in the Law on Public Participation; and
- The Government should organise training for public officials on CSO-state cooperation.

3.11 Digital Rights

Overall score per area: **4.6/7**

Legislation: 4.8/7	Practice: 4.3/7
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Legislation relating to digital rights in Azerbaijan, including legislation on artificial intelligence (AI) does not have specific provisions on digital rights relating to CSOs. However,

⁶⁶ Azertag.az, 'A forum on "Non-governmental organisations in the new stage of development of Azerbaijan" was held in Baku' (in Azerbaijani), https://azertag.az/xeber/bakida_azerbaycanin_yeni_inkisaf_merhelesinde_qeyri_hokumet_teskilatlari_mov_zusunda_forum_kechirilib_video-2817823.

the digital rights of CSOs are mainly protected as part of the general legislation. Cybercrime laws, or other criminal laws relating to the digital sphere, are mostly limited to illegal acts that are clearly prescribed.

By introducing the 'individual e-window' (FEP) system (albeit with limited online functionalities, such as not allowing online registration of CSOs), the Government has slightly improved the environment for CSOs to enjoy their digital rights in recent years. However, the remaining digital restrictions on media outlets, in parallel with the requirements of the new Media Law for online media, outweigh any improvements in this area. As a result, the score in this area did not change in both legislation and practice in 2023. The Government has not taken any real action for enforcing the recommendations of the previous report for this area and the recommendations for the current reporting period remain the same as in the 2022 report.

1) Social networks remain the main digital tool for CSOs.

The state does not restrict participation in social networks. Citizens are free to post content without seeking prior authorisation from the authorities. Most CSOs are mainly active online using social network platforms. However, this shift from offline to online has also raised concerns about online privacy and security. Given the sensitive nature of their work, many CSOs are cautious about sharing certain information on social media, as they navigate an environment with potential risks related to surveillance and data privacy. This balancing act reflects the delicate interplay between civil society's digital presence and the need to protect their members and sensitive information, all while striving to maintain an active and impactful online engagement. Most CSOs do self-censorship on social media in order to avoid possible conflicts with the authorities.

2) Stringent requirements for online media continue to exist.

In the context of civil society, online media plays a pivotal role as it provides a dynamic and accessible platform for CSOs to share their messages, advocate for causes, and engage with a global audience. Civil society is able to have its own online media presence, allowing CSOs to amplify their voices and influence public discourse on important issues. Online media facilitates open, inclusive, and informed discussions, contributing to a more participatory and accountable democratic society. It empowers civil society to have a far-reaching impact and ensures that a multitude of perspectives are heard in the public sphere, ultimately strengthening the foundations of a well-informed and vibrant democracy.

The new Media Law,⁶⁷ which entered into force on 22 February 2022, introduces stringent requirements for online media outlets. Under the Law, online media are expected to publish a minimum of 20 media items per day to be considered 'sustainable.' This stipulation continued to raise concerns in 2023, as it may place an onerous burden on online media outlets and may not be founded on a clear rationale.

Specific recommendations under Area 11:

- The Government and the National Assembly should adopt a policy or regulations to encourage and enable digital tools and e-democracy; and
- The National Assembly and the Government should adopt laws or regulations on conducting human rights due diligence, including impact assessments and providing transparency into the design, development and deployment of digital technologies and engaging in meaningful consultation with CSOs and potentially-affected groups before and after deploying digital technologies.

⁶⁷ Law of the Republic of Azerbaijan on Media, <https://president.az/az/articles/view/55399>.

IV. KEY PRIORITIES

Despite the Government's increasing support, conducting annual programmes and grant competitions, CSOs are still not able to thoroughly develop their abilities, enhance their potential and take an active part in the public and social life of the country. Problems regarding access to funding, registration and participation in the decision-making process still remain and the Government has not taken into consideration, nor did it implement, any of the recommendations stated in the previous CSO Meter report. This report identifies a total of 33 recommendations across 11 areas. The priority recommendations are listed below. They all target the Government or National Assembly (in cases in which legislative amendments are needed):

1. The MoJ, the Cabinet of Ministers and the National Assembly should simplify the registration procedure for CSOs by reducing timelines and eliminating subjective treatment by the MoJ;
2. The MoJ and the National Assembly should ensure equal treatment of CSOs compared to businesses during their registration process and operation;
3. The National Assembly should simplify reporting obligations on CSOs according to their size and turnover;
4. The Presidential Administration should abolish the requirement for CSOs to obtain permission to hold events in the regions;
5. The MoJ and the Cabinet of Ministers should simplify the registration of grants and donations (for example, eliminate subjectivity on decisions for registration and digitalise the process so it can be easily accessible and swift);
6. The National Assembly and the Cabinet of Ministers should abolish the requirement for CSOs to register service contracts; and
7. The National Assembly and the Cabinet of Ministers should eliminate the need for CSOs to report on small donations (for example, the 200 AZN/110 EUR per donor, per year requirement).

V. METHODOLOGY

The CSO Meter supports regular and consistent monitoring of the environment in which CSOs operate in the Eastern Partnership (EaP) countries. It consists of a set of standards and indicators in 11 different areas to measure both law and practice. It is based on international standards and best practices. The CSO Meter was developed by a core group of experts from ECNL and local partners from the six EaP countries.

ECNL has worked with the methodology experts RESIS since 2020 on adapting the CSO Meter methodology package to enable both qualitative and quantitative comparison of the different areas of the enabling environment across the EaP countries and years. The proposal for the model was consulted on and tested with the extended regional CSO Meter Hub via email and online events. With the updated comparison model, we aim to: (i) assess the environment for civil society in each of the 11 areas; (ii) enable tracking of developments/progress throughout the years per country; and (iii) compare the environments regionally.

The country partners, together with other CSOs part of the CSO Meter Hub, conducted the monitoring process and drafted the narrative country report. They also established Advisory Boards in each country, composed of expert representatives of key local stakeholders. The members of the Boards have two main tasks: to review the narrative reports and assign scores for every standard based on the narrative reports.

The current report covers the period from 1 November 2022 to 1 November 2023.

Monitoring process

The monitoring process was implemented by conducting focus groups, interviews and by following the media, social networks, and analysing laws and draft laws.

The report has been prepared by the country partner of the project in Azerbaijan, MG Consulting, following a joint methodology for all six EaP countries. The authors conducted seven interviews and two focus groups (one for Baku-based CSOs and one for regional CSOs). Footnotes referring to the focus groups are coded as 'Focus Group'.

Important developments for civil society that occurred between the period of data collection and finalisation of the report were included in the executive summary of the report. However, these developments were not considered when assigning scores.

The draft country narrative report was reviewed by the Advisory Board members in Azerbaijan on 30 November 2023.

Scoring process

The decrease in the overall country score in Azerbaijan in this reporting period was a result in large part to the process of review of all country scores at the wider regional level. After an assessment of the situation of all scores provided in all countries in 2021, researchers were asked to re-evaluate the scores in some of the areas because the situation in Azerbaijan was not considered to be better than the situation in other EaP countries. The areas which are most affected by such re-evaluation are Area 6 (Freedom of Expression), Area 9 (State Support) and Area 10 (CSO-State Cooperation).

The country researcher and the nine Advisory Board members in Azerbaijan assessed each standard where changes occurred both in Legislation and Practice during the reporting period. The final score for each standard was then calculated according to a formula in which the researchers' score participates with 50 per cent, and the Advisory Board members' average score with 50 per cent. The score of each area is then calculated as the average value of the final scores of each standard and calculated and rounded with one decimal for presentation purposes.

For the scoring procedure, a 7-point scale is used. The extreme values of the scale are conceived as the extreme/ideal situations or environment. For example, (1) is an extremely unfavourable (authoritarian) environment, while (7) is an extremely favourable (ideal democratic) environment for CSOs. For more information on the CSO Meter tool, the scoring process and calculation please visit: <https://csometer.info/>.

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