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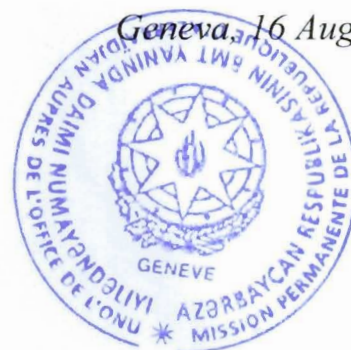
The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other international organizations at Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to transmit herewith the response received from the Ministry of Justice of the Republic of Azerbaijan regarding the communication Ref. Nr. AZE 3/2013 dated 28 March 2013.

The Permanent Mission requests the Office to share the enclosed information with the relevant mandate holders of the Human Rights Council.

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other international organizations at Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights, the assurances of its highest consideration.

Enclosure: 3 pages.

THE OFFICE OF THE UN HIGH
COMMISSIONER
FOR HUMAN RIGHTS
GENEVA



INFORMATION

On the situation of human rights defenders' on the freedom of assembly and association, freedom of religion

1. It should be noted that, the main aim of these modifications was ensuring the implementation of the requirements of current legislation, as well as financial discipline and transparency in non-governmental organizations' activity, organizing reports of the real means that are financed by local and foreign donors' for social programs, focusing on non-cash payments which is the crucial element of financial transparency, providing public openness of the organizations' spending, prevention of legislation of proceeds of criminal activity and financing of terrorism.

On the framework of the modifications there has been supplemented a provision to the 24-1st article of "Non-governmental organizations (social unions and foundations)" that regulates relations about giving (getting) donation, signing agreements have been defined as obligatory in the "Law on Grant", the mentioned issues have been regulated by the "Code of Administrative Offences"

Although in the Article 24.0.2 of the law on "Non governmental organizations (social unions and foundations)" volunteer property rights and donation was mentioned as one of the sources of formulating non governmental organizations' property in the form of money or by other ways, but the motion of donation, getting it and making its arrangement was not mentioned. Though financing the projects of non governmental organizations is also by financial support, however because of not exactly mentioning the legal aspects of support in the legislation there has occurred difficulties in differentiating financial operations and regulating those relations. Those means were not reflected in the organizations' annual report that they give to the Ministry of Finance. This was not only obstacle in providing transparency in the financial activity of organization, but also one of the reasons that stimulates legislation of proceeds of criminal activity and financing of terrorism.

As a result of modifications in the framework of 15.02.2013 modifications by Law, the motion of donation was exactly defined.

According to that motion, donation can be given to all non-governmental organization regardless to its aim, without exception, not putting any responsibility for achieving any goals. According to the 24-1.4th article of the Law the financial support can be given by transferring it to the bank account of that non-governmental organization. If the main aim of non-governmental organization according its charter is charity, then that organization can get financial support till 200 AZN as cash.

In this way, the implementation of non-cash payments which is one of the main elements of financial transparency and the openness of non-governmental organizations' spending to the public is provided.

The modification to the "Law on Grants" is aimed to organize the report of real means that are earmarked by donors for social programs, realize measures for prevention of legislation of proceeds of criminal activity and financing of terrorism.

According to the 4th article of "Law on Grant", agreements on giving grants to foreign recipients by the legal or physical persons of the Republic of Azerbaijan and getting grants by the recipients of the Republic of Azerbaijan should be registered by an appropriate executive body.

The registration process of grant earmarks is defined according to "The rules of agreements on grants". As it seems from the rules the aim of registration process is to inform and

it is too simple. In order to register, it is enough to introduce only application and copy of the notaries approved agreement to the Ministry of Justice.

According to the Article 4.5 of the "Law on Grant" there can not be conducted any operations with the grant agreements that have not been registered. However the experience of the observation of non-governmental organizations' activity in order to check whether their activity is appropriate according to the legislation and their charter or not, shows that sometimes organizations do not follow the legislation.

According to the Article 6 of the law, if donor or recipient violates the conditions of the Law or the agreement of grant, they assume liability for that.

There were modifications to the Article 223-1 of "Code of Administrative Offences" of the Republic of Azerbaijan in 15.02.2013 and there was defined administrative responsibility on religious communities, non-governmental organizations, as well as on the branches or representatives of the non-governmental organizations of foreign countries for getting financial and/or other support without grant agreement. Because of the violation, the direct means or objects of the violation should be confiscated and official persons should be fined around 2500-5000 AZN, legal persons should be fined around 8000-15000 AZN.

Additionally, in the Article 223-1.1 because of not introducing the copies of the agreements for the registration on defined time the fines were increased (1000-1500 AZN fine was increased to 5000-7000 AZN) and in relation to official persons its implementation was defined.

At the same time, there has been defined responsibility for not including donation to financial report, as well as giving and accepting the donation as cash.

Increasing the amount of the fine that was defined in the legislation was aimed first of all to ensure the fulfillment the requirements of legislation and prevent violations in terms of financial discipline.

It should be noted on the amount of fines being high that, according to the Article 25.5 of the "Code of Administrative Offences" the amount of the administrative fine for physical persons can not be more than 2500 AZN, for official persons more than 10000 AZN, for legal persons more than 30000 AZN.

As it seems, the amount of fines that determined in the Article 223- 1 of the Code is half of the amount that is defined in the legislation. At the same time, the amount of these fines is lower than alike fines (tax violations etc.).

It should be especially stressed that, although there has been declined responsibility for not registering the grant agreements on time, in the experience of the Ministry of Justice this fine is implemented very rarely (in 2012, only two organizations were fined).

As a result of establishing great range of opportunity for the activity of civil society institutions, implementation of financial support mechanisms, approximately 40 billions AZN (approximately 50 billions US dollar) grant means earmarks were made official, during 2012.

The preventive character of responsibility measures, the existence of favorable situation for non-governmental organizations, their being financed by state budget, the rise of means to this sphere by donors year by year, shows that there are not negative factors that affect development of non-governmental organizations.

2. Work has been done in the sphere of the development of civil society:

In terms of ensuring the freedom of association, it should be noted that, as a result of recent democratic reforms in the Republic of Azerbaijan, give broad opportunity to provide human rights, as well as freedom of thought and speech, freedom of association and participation in the political life of society and country.

In order to create convenient situation for the independent activity of non-governmental organizations, legislation acts that regulates their registration, activity, their relations with governmental bodies and other organizations were prepared with the cooperation of international

experts and were legally appraised by European Council. The improvement of legislation by taking into account international experience is always in the focus of attention.

Currently some recommendations are prepared by taking into account the advices of the European Council's For Democracy Commission by means of Law (Venice Commission) and The Expert Council of Non-Governmental Organizations' Conference on legislation about NGOs, as well as state registration process and the improvement directions of legislation.

Furthermore, in order to develop civil society, there have been prepared Law projects on "Public participation", "Labor unions" and "Social order" and currently they are under discussions. Among them "Public participation" Law project has already passed form second hearing in the Parliament.

President's 27.07.2007 Disposal on "State support Conception of the Republic of Azerbaijan to non-governmental organizations" that created basic principles for the new stage of the development of civil societies should especially be stressed. According to this Conception, non-governmental organizations' programs and projects on human rights and freedoms are among preferred ones. The conception gives new opportunities to NGOs like enhancing the network and their spread in the regions. At the same time, the conception gives opportunities to the people from different background to realize their qualifications and their participation in the different spheres of state establishment.

Additionally, there was established State Support Committee to Non-Governmental Organizations under the President of The Republic of Azerbaijan by President of the Republic of Azerbaijan's December 13, 2007 Decree. During it short activity, the sponsored projects by the committee stimulated civil society establishment and played an important role in the foundation of national donor institution.

In order to improve the committee's activity, finance the particular projects of non-governmental organizations, there have been divided 5 billion AZN from the Reserve Fund of the Presidents of the Republic of Azerbaijan to of the State Support Committee under the President of the Republic of Azerbaijan.

In order to improve relations among civil societies and governmental bodies, according to the President's assignment, there was organized a meeting with governmental officials and heads of non-governmental organizations in July, 2012.

It should be noted that in majority of state programs cooperation with non-governmental organizations was reflected ("National Action Program of the Republic of Azerbaijan in the sphere of increase the effectiveness of the protection of human rights and freedoms", "National Strategy on rise of transparency and fight against corruption", "State Program on Development of the Justice system of the Republic of Azerbaijan" etc.).

The Ministry of Justice gives great importance to the cooperation with non-governmental organizations, especially with local and international non-governmental organizations that deal with providing human rights and freedoms. As well as, cooperation relations were established with non-governmental organizations like International Red Cross Committee, GTZ, USAID and others and successfully implemented joint projects. Since 2006, a Public Committee which consists of non-governmental representatives works under the minister of justice, since 2011 there was established a department of Work with Non-governmental organizations.

Analysis of the non-governmental organizations in Azerbaijan shows that positive dynamic is observed currently in the sphere of development of civil society institutions. Such as the comparison with 2008, in 2013 the registered non-governmental organizations were increased 19 percent and currently they are more that 2887.