

Mandate of the Special Rapporteur on the independence of judges and lawyers

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(Please use this reference in your reply)

15 December 2025

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the independence of judges and lawyers, pursuant to Human Rights Council resolution 53/12.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the amendments to the *Law On Advocates and Advocacy Activity*, No. 783-IQ,¹ which appear to not be in line with international human rights standards related to the free and independent exercise of the legal profession and the role of an independent national bar association to defend the interests of their members and independence of the legal profession in general.

An assessment of 2018 amendments to the Act on Bar of 27 January 2000 and other laws was shared with your Excellency's Government by my predecessor in a 2018 letter ([OL AZE 1/2018](#)). I thank you for your Excellency's Government's response to that letter.

Through this letter, I do not wish to provide an exhaustive analysis of the amendments. Rather, I will focus on those innovations that limit the capacity of lawyers to exercise their profession independently and that undermine the due process guarantees of the right to a fair trial. The analysis is based on your Excellency's Government's international legal obligations.

Overview of Applicable International Human Rights Law Standards

At the outset, I wish to remind your Excellency's Government that the right to have access to a lawyer of one's choice constitutes an integral part of the right to a fair trial. Articles 14(3)(b) and (d) of the International Covenant on Civil and Political Rights ("ICCPR"), acceded by Azerbaijan on 13 August 1992, provide that everyone has the right to a "fair and public hearing by an independent and impartial tribunal established by law" and provides a set of procedural guarantees that must be made available to persons charged with a criminal offence, including the right to communicate with a lawyer of their choice, the right to have adequate time and facilities for the preparation of their defence and the right to defend themselves in person or through legal assistance of their own choosing.

In its general comment No. 32 (2007), the Human Rights Committee considered that the right to communicate with a counsel of one's own choosing is an important element of the guarantee of a fair trial and an application of the principle of equality of

¹ Law of the Republic of Azerbaijan On Advocates and Advocate's Activity of 28 December 1999, No. 783-IQ. The law is also referred to as the "Law On Lawyers and Legal Practice" or the "Law On Lawyers and Lawyers' Activity." See https://barassociation.az/uploads/attachments/law_of_the_republic_of_azerbaijan_on_lawyers_and_legal_practice.pdf; <https://meclis.gov.az/news-layih.php?id=2522&lang=az&par=0>;

arms. The Human Rights Committee further explained that the right to communicate with counsel enshrined in article 14(3)(b) of the ICCPR requires that the accused is granted prompt access to counsel. Counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications. Furthermore, lawyers should be able to advise and to represent persons charged with a criminal offence in accordance with generally recognized professional ethics without restrictions, influence, pressure or undue interference from any quarter.²

International and regional human rights treaties to which Azerbaijan is a party, including the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), ratified by Azerbaijan on 15 April 2002,³ include the right to be assisted by a lawyer of one's own choosing among the minimum guarantees due to every person charged with a criminal offence. This right has also been referred to in the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Havana, Cuba), 27 August-7 September 1990. The Basic Principles on the Role of Lawyers represents the most comprehensive international normative framework aimed at safeguarding the right of access to legal assistance and the independent functioning of the legal profession.

These standards provide that the legal profession and its free exercise are an essential element of the rule of law, the protection of human rights, and the functioning of an independent judicial system. The free exercise of the legal profession contributes to ensuring access to justice, oversight of state power, protection of due process and judicial guarantees. States must guarantee that those who practice law can do so free from intimidation, obstacles, harassment or interference. States must put in place all appropriate measures to ensure that lawyers are not subject to, or threatened with, prosecution or any administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Furthermore, bar associations have a crucial role to play in a democratic society to enable the free and independent exercise of the legal profession and to ensure access to justice and the protection of human rights, in particular due process and fair trial guarantees. They protect individual members of the legal profession, particularly in situations where they are not able to adequately defend themselves; elaborate and implement requirements and procedures to gain access to the legal profession; develop codes of professional conduct; and handle disciplinary proceedings against lawyers.⁴ Professional associations of lawyers also cooperate with State institutions in providing legal aid services and legal education and training to lawyers throughout their careers.⁵

Without the protection provided by an independent bar association, lawyers are extremely vulnerable to attack and to restrictions on their independence, especially from State authorities.

² [CCPR/C/GC/32](#), paras 32 & 34.

³ <https://www.coe.int/en/web/conventions/by-member-states-of-the-council-of-europe?module=treaties-full-list-signature&CodePays=AZE&CodeSignatureEnum=&DateStatus=&CodeMatiere=>

⁴ [A/73/365](#), paras. 12-14, 19-22 and 42-73.

⁵ *Id.*; see also [A/71/348](#), paras. 30-33 & 80-88 and [A/64/181](#), paras. 19-27.

Context

The exercise of professional activities by lawyers is regulated by the *Law On Advocates and Advocacy Activity*, which was adopted in 1999.⁶ This law prescribes, *inter alia*, admission requirements to the Azerbaijan Bar Association (“ABA”), which is a requirement to serve as a lawyer in Azerbaijan. ABA is the only bar association in the country. Article 1 of the *Law On Advocates and Advocacy Activity* designates ABA to be “an independent legal institution which professionally carries out legal defence activity.”

On 10 October 2025, the Azerbaijani Parliament, *Milli Məclis*, published the draft “Law on amendments to the Civil Procedure Code of the Republic of Azerbaijan, the Criminal Procedure Code of the Republic of Azerbaijan, the Code of Execution of Punishments of the Republic of Azerbaijan, and the Law of the Republic of Azerbaijan On Lawyers and Lawyer Activity.”⁷ Twenty-one days later, the President signed the amendments into law.⁸

The amendments to the legal framework for the legal profession in Azerbaijan appear to be at odds with your Excellency’s Government international human rights obligations as set under the ICCPR and pertinent international standards. In particular, I would like to bring the following concerns to your attention:

Who may become a lawyer

Some of the proposed changes run the risk of lowering standards governing who may enter the legal profession. Amendments to article 7 provide that persons “awarded an honorary title in the field of law by the relevant executive authority” are to be admitted to the bar upon their applications without taking a written test, participating in an interview, and undergoing mandatory training.

I take the opportunity to recall that international standards provide that Governments, professional associations of lawyers and educational institutions should “ensure that lawyers have appropriate education and training and be made aware of the ideals and ethical duties of the lawyer and of human rights and fundamental freedoms recognized by national and international law.”⁹

Lawyers' Duties Toward the State

The amendments to the *Law On Advocates and Advocacy Activity* likely reorient lawyers’ duties away from their clients toward protecting state bodies, thereby undermining the independence of the legal profession. The amendments do so by either removing normative language that anchored a lawyer’s obligation to act in the client’s interest or inserting a parallel duty to assist state organizations alongside their duty to assist their clients. For instance, in the preamble, the phrase “natural and legal persons”

⁶ *Law of the Republic of Azerbaijan On Advocates and Advocate’s Activity of 28 December 1999, No. 783-IQ* [hereinafter “*Law on Advocates*”].

⁷ <https://meclis.gov.az/news-layihе.php?id=2522&lang=az&par=0>; see *supra* fn. 1.

⁸ <https://e-qanun.az/framework/60846>.

¹⁰ See ICCPR, Article 14; Basic Principles, principles 12-16 (stipulating that Governments must ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference.).

was removed. The amended preamble now states, “[*Law On Advocates and Advocacy Activity*] defines the main principles of advocacy activity for providing high-quality legal assistance in the Republic of Azerbaijan, as well as the legal status of lawyers and the foundations of their self-governance.” This removal of client-centered language risks weakening the primacy of lawyer’s duty to their clients.

Other amendments have created a parallel duty for lawyers to assist state organizations in addition to their duty to assist their clients. Article 3 previously stated that the “main duties of the attorney are to protect the rights, freedoms and legally-protected interest of natural and legal persons and to provide them with high-quality legal assistance.” However, the amendments inserted “state bodies (organizations)” after “natural and legal persons.” This insertion was also made several times in article 4, which delineates the scope of acceptable legal practice for a lawyer. The amended article 4(1) now states, “[a]dvocacy is an independent legal activity carried out professionally by a lawyer in accordance with this Law and other normative legal acts of the Republic of Azerbaijan for the purpose of ensuring and protecting the rights of individuals and legal entities, *as well as state bodies (institutions).*” Article 4(III) similarly states that “[l]awyers shall ... render required legal assistance to natural and legal persons *as well as state bodies (institutions).*” Assigning lawyers the responsibility to protect the interests of state bodies in the performance of their professional duties could potentially conflict with the lawyer’s responsibility to act in the best interest of their client and the administration of justice, thereby raising concerns regarding the accountability and independence of the legal profession.

When considered together, the removal of client-centered language in the preamble and the insertions of parallel duty to assist state organizations in article 3 and 4 are troubling. The State appears to be altering the professional duties and responsibilities of lawyers by inserting itself as a beneficiary of legal practice. In effect, lawyers would no longer owe an undivided duty to their clients but would be obligated to balance client advocacy against the State’s interest when providing legal assistance. These reforms raise serious concerns about the ability of the legal profession to retain its independence as guaranteed by legal standards discussed above. No human rights instrument assigns lawyers any duty to protect or advance state interests. International law requires States to adopt all appropriate measures to ensure that lawyers can effectively exercise their professional duties and responsibilities independently. Placing lawyers’ duties to assist state bodies at the same level with their duties to their clients contravenes this requirement.

“Normative Legal Acts”

Various amendments insert the phrase, “normative legal acts,” into provisions that govern the practice of law. This phrase is defined under article 148 of the Azerbaijan Constitution to include decrees and acts of central executive bodies. The term “normative legal acts” was inserted in articles 1(III), 4(I), 5(V), 7(I), 9(IV), and 22(VI) of the *Law On Advocates and Advocacy Activity*, which respectively govern the fundamental principles of legal advocacy, the scope of legal practice, the general rules and provision of legal practice, the establishment of the ABA, and the grounds for disciplinary liability of lawyers.

The phrase, “normative legal acts,” does more than expand the boundaries of legal duties for lawyers. It requires lawyers to abide not only by laws passed democratically by the Parliament, but also by rules and policies created unilaterally by the Executive Branch. And lawyers who do not abide by the rules and policies of the Executive Branch will be disciplined. Thus, these amendments position the Executive Branch to regulate the legal profession through executive acts with no need for parliamentary action. This ability for direct Executive Branch’s control over the legal profession risks politicization of the legal profession and is in contravention of international human rights standards related to that of free exercise.¹⁰

Amendments to article 7, for instance, weaken the institutional guarantees that protect lawyers from intimidation or improper interference in the exercise of their professional functions. In particular the amended article 7(I) alters an obligation imposed on all public and private institutions, including the ABA, to cooperate with lawyers in the performance of their professional duties by conditioning such assistance on cases involving “normative legal acts.” As explained above, “normative legal acts” include unilateral policies made by the Executive Branch. This amendment therefore empowers the Executive Branch to define, limit, or deny the assistance that organizations, including the ABA, may provide to lawyers based on its own preferences. Such discretion risks unequal or politicized application of legal protections for lawyers in the exercise of their duties, contrary to international standards.

Rollback of Lawyers’ Institutional Guarantees

Other amendments further impair the independent exercise of the legal profession by narrowing the scope of lawyer–client confidentiality. Previously, article 7(III) prohibited the interrogation of lawyers about information that became known to them in connection with the performance of their “professional duties.” But the amendments replaced “professional duties” with “legal practice.” This created both a semantic change and a meaningful definitional difference in this provision by narrowing the scope of legal services that is protected. “Legal practice” may be interpreted to cover only formal or procedural acts performed in the course of advocacy. Other customary aspects of a lawyer’s exercise of duties like internal case assessment, legal advice, and confidential consultations may be excluded under the amended article 7(III). As discussed above, the Human Rights Committee has explained clearly that counsel must be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications.¹¹ Thus, the amendment in Article 7(III) runs counter to these standards by narrowing the category of information shielded from interrogation by the State, thereby undermining the confidentiality that is indispensable to effective legal representation and the right to a fair trial.

¹⁰ See ICCPR, Article 14; Basic Principles, principles 12-16 (stipulating that Governments must ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference.).

¹¹ CCPR/C/GC/32, paras. 32 & 34; Basic Principles on the Role of Lawyers, principle 22 (“22. Governments shall recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential.”).

Independence of the ABA

Article 9 states that the ABA is a non-state, independent, and self-governing institution; however, the amendments significantly curtail its ability to operate as such. For example, one core function of bar associations is the admission to the legal profession.¹² But the amended article 8 provides that the compulsory training courses required for admission to the ABA will be designated by the “relevant executive authority,” thereby handing to the Executive Branch the power to determine, organize, and certify the mandatory training required for entry into the legal profession. This risks political interference in the training of lawyers. Where the Executive Branch plays a significant role in the training and admission to the legal profession, the notion of a non-state, independent, and self-governing bar association is eroded.

The considerations above must be taken together with the marked increase of professionalization for working lawyers now included in the law. The amendments to articles 10, 16 and 22 provide for an undetermined “minimum number of hours” of mandatory educational events that lawyers must attend and holds lawyers liable for disciplinary action if they fail to accumulate the minimum mandatory training hours during the year. While it is desirable for lawyers to remain abreast of legal developments and continuously update their skills, these objectives should not be an undue burden on them nor open the door to disciplinary sanctions. These amendments are problematic for their lack of clarity on how these new training requirements will be implemented, measured, and what the disciplinary sanctions may be as well as if they will entail suspension of licenses when lawyers do not reach these targets.

The amendments to the *Law On Advocates and Advocacy Activities* include other provisions that would loosen the independence guardrails within the ABA. For instance, the amendments removed the two-term limit for the position of the Chairperson of the Presidium of the Bar Association in article 11(2). The Presidium holds significant power within the ABA, such as appointing members of the Lawyer’s Qualification Commission, determining the procedure for the qualification exam, establishing regional institutions, legal aid centers and training centers of the ABA and their annual budgets, and initiating disciplinary proceedings against lawyers. The Presidium is also provided with the very broad powers to “take[] measures” if it detects a violation of the requirements of the Law On Combating the Legalization of Property Obtained by Crime and the Financing of Terrorism in the activities of lawyers; and to issue certificates of service for lawyers that confirm their membership in the Bar. The Chairperson of the Presidium is also empowered by the amendments to “appoint and dismiss” the heads of regional centres, legal aid centres and training centres of the ABA.

Providing broad unchecked powers, while weakening democratic processes that allow for lawyers’ direct participation within the ABA governance risks undermining its structural independence as well as its key role.

Disciplinary Proceedings

The amendments to the *Law On Advocates and Advocacy Activity* also contain detailed changes to the provisions related to disciplinary proceedings against lawyers

¹² A/73/365, paras. 42-73.

for alleged breaches of their professional obligations and duties. Disciplinary proceedings are carried out by the Disciplinary Commission, which is a subsidiary body of the ABA. The Disciplinary Commission receives complaints about alleged disciplinary misconduct and requests to remove disciplinary measures that have already been imposed.

The amendments in articles 11 and 22 would considerably expand the ability of the Presidium to control and sanction ABA lawyers and organizations. Given the Presidium may be susceptible to political pressure, this expansion is particularly problematic. Specifically, the amended article 11(III) now authorizes the Presidium to conduct continuous monitoring for three months or more of all bar branches, legal-aid centers, training centers, law offices, and individual lawyers to ensure compliance with Bar Association decisions. It also empowers the Presidium to issue binding corrective measures to address any perceived “deficiencies.” Additionally, the changes in article 22 doubled the time limits for disciplining lawyers, allowing action up to one year after a violation is discovered and two years after it occurs. The reforms also extended the Disciplinary Commission’s investigation period from one to three months, which could be extended by another three months. In addition, they modified or added disciplinary measures such as a fine of ten times the membership fee. As explained further below, the expansion of disciplinary measures increases the risk of arbitrary or politically motivated disciplinary action.

The Basic Principles on the Role of Lawyers provides that disciplinary proceedings be conducted before an impartial and independent body and be subject to judicial review.¹³ Lawyers must be afforded a fair and prompt hearing consistent with professional ethics and recognized standards.¹⁴ The expansions of disciplinary measures raise the possibility of arbitrary or politically motivated disciplinary action. The enhanced monitoring powers and extended disciplinary timelines included in the amendments risk weakening procedural safeguards designed to ensure fairness and impartiality in disciplinary proceedings. The centralization of authority in the Presidium and the Executive Branch would likely contravene international standards that require independence in disciplinary proceedings.

Among the amendments to the disciplinary framework, article 22’s introduction of expulsion from the ABA for acts “tarnish[ing]” the legal profession’s reputation or grossly violating “normative legal acts” is particularly worrying. Under international standards, any restriction on the right to freedom of expression must be provided by law, pursue a legitimate aim, and be necessary and proportionate. States have a duty to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression. However, this new measure directly contravenes these standards due to its risk of being used by Presidium to punish lawyers who disagree with the ABA’s positions or policies. An attack on a lawyer because of

¹³ Basic Principles on the Role of Lawyers, principles 27-29; *see also Recommendation No. R (2000) 21 of the Committee of Ministers to Member States on the freedom of exercise of the profession of lawyer*, Council of Europe, Preamble & Principles I & V-VI.

¹⁴ Basic Principles on the Role of Lawyers, principles 27-29; *see also Recommendation No. R (2000) 21 of the Committee of Ministers to Member States on the freedom of exercise of the profession of lawyer*, Council of Europe, Preamble & Principles I & V-VI (“[A] fair system of administration of justice which guarantees the independence of lawyers in the discharge of their professional duties without any improper restriction, influence, inducement, pressure, threats or interference, direct or indirect, from any quarter or for any reason.”).

the exercise of his or her freedom of opinion or expression is not compatible with international standards; this amendment risks increasing such attacks.

These observations highlight the need for any reforms to the statutory framework concerning the legal profession to be carefully considered and implemented in a manner that respects and upholds international human rights standards concerning the right to a fair trial and the principles on the independence of the legal profession.

I recommend review and reconsideration of the amendments to the *Law On Advocates and Advocacy Activities*, No. 783-IQ, to ensure that the law complies with Azerbaijan's international human rights obligations. Azerbaijan must ensure that any changes to the legal framework governing the legal profession do not infringe upon these fundamental human rights and freedoms. I stand ready to engage in dialogue with Your Excellency's government on this very important matter.

In a spirit of co-operation and dialogue, and as it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned assessment of the amendments to *Law On Advocates and Advocacy Activities*, No. 783-IQ.
2. Please explain how the reforms are compatible with Your Excellency's Government's obligations under article 14 of the ICCPR and principles 26 to 29 of the Basic Principles on the Role of Lawyers, and how Your Excellency's Government may remediate the inconsistencies with international human rights standards enshrined in the *Law On Advocates and Advocacy Activities*, No. 783-IQ.
3. Please provide information on the measures taken to ensure the independence of the legal profession and bar association, lawyers' ability to effectively represent their clients, and protect lawyers from harassment and intimidation in Azerbaijan, in line with obligations under the International Covenant on Civil and Political Rights.
4. Please provide information regarding the measures to ensure access to guarantees of fair trial, including the right to freely choose one's lawyer, and to ensure that disciplinary proceedings comply with international human rights standards

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of my highest consideration.

Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers