



A COMPREHENSIVE ANALYSIS OF AZERBAIJAN'S MEDIA LANDSCAPE



Institute for Reporters' Freedom and Safety
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Contents

Acronyms	3
Acknowledgments	4
Framework and Methodology	5
Chapter I. The system of regulation and control	6
Chapter II. Plurality and transparency of ownership.....	15
Chapter III. Media as a platform for democratic discourse	20
Chapter IV. Professional capacity building and supporting institutions	26
Conclusion and Recommendations	28

Acronyms

ATV	Azad Azerbaijan TV
AzTV	Azerbaijan Television, state-controlled national TV channel
CoE	Council of Europe
EBU	European Broadcasting Union
ECHR	European Convention on Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICT	Information and Communication Technology
IMEI	International Mobile Equipment Identity
IRFS	Institute for Reporters' Freedom and Safety
ISP	Internet Service Provider
ITR	Ichtimai Teleradio
ITV	Ichtimai Television (Azerbaijan Public Service Broadcaster)
LGBTQIA	Lesbian, Gay, Bisexual, Transgender, Queer, Intersex and Asexual
LLC	Limited Liability Company
MEMO 98	A specialist media monitoring organization, with extensive experience of delivery media analyses on behalf of international institutions as well as technical assistance to civil society groups
MDI	Media Development Indicator
MP	Member of Parliament
NAP	New Azerbaijan Party
NGO	Non-Governmental Organisation
NTRC	National Television and Radio Council
OGP	Open Governance Partnership
OSCE	Organization for Security and Co-operation in Europe
SVT	Sveriges Television, Swedish national public TV broadcaster
UN	United Nations

Acknowledgments

This report is a publication of IRFS, an independent, non-profit organisation dedicated to promoting freedom of expression in Azerbaijan.

The 27-page report is the culmination of eleven years of work of IRFS in support of human rights and democratisation in Azerbaijan. The study was coordinated by a team of local researchers and builds on analysis and suggestions made by international organisations, international and local civil society groups, academia and other members of civil society.

The report also draws on previous IRFS research in the fields of freedom of expression, assembly and association.

In preparing the report, IRFS also consulted and analysed other documents, including the reports of local and international NGOs, CoE, OSCE and UN documents including resolutions, recommendations, opinions, country reports and factsheets; opinions by the Venice Commission; Commissioner for Human Rights reports; other documents of the CoE and UN - treaties, their explanatory reports, the status of signatures and ratifications, and the declarations and reservations made by Azerbaijan; as well as press releases and media reports.

We are particularly indebted to several international freedom of expression experts, local and international NGOs, independent unions, lawyers, academics and others who assisted our research.

Above all, we thank all experts, civil society members, and citizens who agreed to be interviewed for this report.

The views expressed in this report are those of IRFS, and IRFS takes full responsibility for any errors or omissions.

Framework and Methodology

This study applies the diagnostic instrument of UNESCO's MDIs, which UNESCO's Intergovernmental Council for the International Programme for the Development of Communication approved in 2008.

Through detailed analysis of all aspects of the media landscape, they guide the efforts of different actors working for media development, as well as the formulation of policies in this field.

IRFS researchers have used MDIs as a tool to analyse the legal, regulatory and economic frameworks, in which Azerbaijan's media operate, their democratic potential, training and skills development, and the information and communication infrastructure.

The main part of the study was undertaken in 2013-2016, but the report also contains data collected in 2017. It provides a detailed picture of the country's media situation and informs discussions on constitutional and legal reforms and media self-regulation mechanisms.

This report has been prepared on the basis of media monitoring reports, desk-based research, field investigations, interviews, monitoring of court proceedings, media-monitoring, analysis of enquiries and complaints submitted to IRFS, IRFS safety hotline statistics, and other legally obtained information. IRFS staff compiled this report in close consultation with local and international freedom of expression experts.

About MDIs

The MDIs define a framework within which the media can best contribute to, and benefit from, good governance and democratic development. The MDIs look at all aspects of the media environment and are structured around the five following categories:

- A system of regulation conducive to freedom of expression, pluralism and diversity of the media
- Plurality and diversity of media, a level economic playing field and transparency of ownership
- Media as a platform for democratic discourse
- Professional capacity building and supporting institutions that underpins freedom of expression, pluralism and diversity
- Infrastructural capacity is sufficient to support independent and pluralistic media

Taken as a whole, they provide an aspirational picture of the media ecology to be constructed in order to ensure freedom of expression, pluralism and diversity of the media.

By indicator, one should understand a quantitative or qualitative factor or variable, measured over time, that provides a simple and reliable basis for assessing achievements, change or performance in a country's media landscape. For each indicator, the MDI framework suggests various means of verification as well as potential data sources.

Chapter I. The system of regulation and control

Azerbaijan's freedom of expression record remains extremely poor, with the regime employing both crude and sophisticated tactics to silence critical voices in an attempt to distract the public from widespread government corruption, anti-government protests, and other social issues in the country.

The rights to freedom of expression and information are fundamental and necessary conditions for the realisation of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of all human rights in a democratic society. Through its membership in the UN, the CoE, and OSCE, and through its accession to major international and regional human rights treaties, Azerbaijan is committed to respect and protect the rights to freedom of expression and information.

Despite Azerbaijan's commitment to respect and protect the right to freedom of expression through its accession to major international human rights treaties and as provided for in the national legal framework, in practice the authorities do not respect this right. Instead, they use the law to silence criticism and repress dissent. The mere existence of some laws – such as criminal defamation provisions – has a chilling effect on the media community, contributing to widespread practices of self-censorship in the country.

Azerbaijan's legal system is modeled on Continental European law, with some holdover elements from the previous Soviet communist system. After the collapse of the Soviet Union, Azerbaijan took some steps towards establishing a free economy and a pluralistic political system, and towards protecting human rights.

The Constitution of the Azerbaijani Republic was adopted in 1995.¹ Amendments were made through referendums in 2002, 2009 and 2016. The Constitution protects human rights and fundamental freedoms, including *inter alia* the right to freedom of thought and expression (Article 47), the right to freedom of assembly (Article 49), the right to access information (Article 50), and the right to freedom of association (Article 58).

Article 12 of the Constitution states that "The highest priority objective of the state is to provide for the rights and freedoms of a person and citizen." Furthermore, Article 12 states that "The rights and freedoms of a person and citizen listed in the present Constitution are implemented in accordance with international treaties wherein the Azerbaijani Republic is one of the parties."

Azerbaijan is party to all major regional and international human rights treaties guaranteeing freedom of expression, including the ICCPR and the ECHR. By virtue of Article 151 of the Constitution, international agreements binding upon Azerbaijan prevail over domestic legislation, with the exception of the Constitution itself and acts accepted by way of referendum. Thus, in the case of a conflict between the provisions of the ICCPR or the ECHR

¹<http://www.e-qanun.az/print.php?internal=view&target=1&docid=897&doctype=0>

and the provisions of any domestic laws pertaining to Internet governance, the former shall prevail.

When Azerbaijan joined the CoE on 25 January 2001, it agreed not only to honor the obligations incumbent on all member states under Article 3 of the organisation's Statute,² but also to a number of specific commitments, set out in Opinion No. 222 (2000) on Azerbaijan's application for membership of the CoE.

Despite hopes that accession to the CoE in 2001 would have had a significant influence on the development of fundamental rights within the country, Azerbaijani citizens continue to suffer diverse forms of repression and violations that affect nearly the entire spectrum of their human rights.

The Azerbaijani authorities continue to act in blatant disregard to their commitments, which were the basis of Opinion No. 222 (2000) on Azerbaijan's request for membership.

Access to Information in Azerbaijan

In 2005, Azerbaijan ratified the UN Convention Against Corruption,³ thereby undertaking the obligation to "take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organisation, functioning and decision-making processes, where appropriate. Such measures may include, inter alia: Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organisation, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public."⁴

Open Governance Partnership

Indeed, the Azerbaijani government adopted National Action Plan on the OGP,⁵ a "multilateral initiative that aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance."⁶ But, as has been widely demonstrated, a government's commitment to anti-corruption is almost directly related to the independence and freedom the news **media enjoys in that country. So while Azerbaijan may have signed onto an important accord, a vital domestic resource that would normally hold the government accountable – a watchdog press – has been silenced.**

Furthermore, in February 2016, the OGP Criteria and Standards subcommittee met to consider the ongoing review of the Azerbaijan. The meeting concluded with a resolution to be

² Statute of the Council of Europe, London, 5.V.1949

<http://conventions.coe.int/Treaty/en/Treaties/Html/001.htm>

³ UNCAC Signature and Ratification Status as of May 29,2013.

<http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>

⁴ United Nations Convention Against Corruption. Doc. A/58/422. December 14, 2005.

http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

⁵ National Action Plan on the Open Governance Partnership <http://bit.ly/SG9I97>

⁶ For more information about the Open Governance Partnership see <http://bit.ly/qW85Np>

put before the full OGP Steering Committee on 4 May 2016 that the case regarding Azerbaijan be moved to stage 2 actions under the policy. On 4 May 2016, the OGP Steering Committee voted to list Azerbaijan as 'inactive'. The decision represented the first time that the OGP Steering Committee, the highest decision making body of OGP, took action to address unresolved issues around civic space in one of its member countries. The decision was made under the framework of the OGP Response Policy – Policy on Upholding the Values and Principles of OGP, adopted in 2014. In the [press release](#) announcing their decision, the OGP stated resolved that Azerbaijan will be regretfully designated as inactive in OGP, due to unresolved constraints on the operating environment for NGOs. Azerbaijan has been participating in OGP since 2011. The decision is the first time that OGP has taken action under its [Policy on Upholding the Values and Principles of OGP](#), known as the Response Policy, adopted in 2014.

As an 'inactive' member of the OGP, Azerbaijan continued to receive assistance from the OGP steering committee, but was excluded from high-level events. Azerbaijan had one year in which to implement reforms in order to create an enabling environment for civil society, as a result of which it will be able to participate as a full member again.

However, Azerbaijan has not ratified the updated CoE Convention on money laundering and financing of terrorism Convention (CETS No. 198),⁷ although the country did sign it after initial denunciation and derogation of it.

Furthermore, Azerbaijan neither ratified nor signed or the CoE Convention on Access to Official documents (CETS No.205). The Convention has been open for signature since 2009⁸ and is the first binding international legal instrument to recognize a general right of access to official documents held by public authorities.⁹ To date, 14 countries including Azerbaijan's neighbor Georgia have signed the document, and six countries have ratified it.¹⁰ The document will go into effect when 10 countries have ratified it.

The right to access to information is defined in the country's law on "The Right to Obtain Information," which was adopted in 2005. Certain provisions of this law guarantee the public "right to know." However in 2012, the government adopted a series of regressive amendments to the law on the right to obtain information, the law on the state registration of legal entities, and the law on commercial secrets.

On 6 July 2012, President Aliyev signed into law amendments limiting the disclosure of information by corporate entities, which had been adopted by Parliament on 12 June 2012. Strongly criticized by pro-transparency groups, the changes curtail public access to information about the ownership of commercial entities, the amount of their charter capital, ownership structure, and other similar data. These amendments, known as the "corporate secrecy

⁷ Council of Europe Convention on money laundering and financing of terrorism Convention (CETS No. 198) Status as of: 13/9/2013 <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=198&CM=&DF=&CL=ENG>

⁸ <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=205&CM=1&DF=&CL=ENG>

⁹ Council of Europe Convention on Access to Official Documents. Summary of the Treaty. <http://conventions.coe.int/Treaty/EN/Summaries/Html/205.htm>

¹⁰ Council of Europe Convention on Access to Official Documents CETS No: 205 Status as of: 13/9/2013 <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=205&CM=1&DF=&CL=ENG>

amendments," became effective in October 2012.

The amendments to the 2005 law on commercial information prohibit government officials from distributing information about companies if doing so "contradicts the national interests of Azerbaijan in political, economic, and monetary policy, the defense of public order, the health and moral values of the people, or harms the commercial or other interests of individuals." The reforms also make the release of information contingent upon receiving permission from all individuals named in the records.

The laws on the right to obtain information and the state registration of legal entities were also amended. The amendments extend the scope of "legitimate public interests" protected in Article 3 of the Constitutional Law of the Republic of Azerbaijan on Regulation of the Exercise of Human Rights and Freedoms, and use language that lacks precision and clarity.

The amendments to the law on state registration of legal entities makes secret the registration information of commercial legal entities, including information about their founders and shareholders. Such information can now only be disclosed on the basis of an inquiry to the courts and investigative bodies, to the subjects of operational search activities in cases specified by law, and to financial monitoring bodies in the cases and manner specified by the law "on the struggle against legalization of funds or other property obtained through criminal means and financing of terrorism." According to the bill, this information can only be disclosed to relevant bodies, lawyers, and third parties following the consent of the information-owner.

The amendments contradict Article 10.2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which stipulates: "The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."The amendments also contradict provisions of the UN Convention against Corruption and the UN's Global Counter-Terrorism Strategy.¹¹

The amendments can be viewed as an action by the Azerbaijani government to reject the obligations it had previously undertaken before the Azerbaijani people and the international community to fight corruption. They increase restrictions on freedom of information and breach the principles of transparency and public control over the activity of legal entities. It is very difficult, if not completely impossible, for journalists to investigate instances of corruption, as they may face punishment under these new amendments.

Human Rights Ombudsman

¹¹ UN's Global Counter-Terrorism Strategy, <http://bit.ly/1euCYLo>

The Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) was signed into law on 28 December 2001. The Ombudsman is mandated to defend and promote human rights and freedoms, envisaged in the Constitution of the Republic of Azerbaijan and in the international treaties to which the Republic of Azerbaijan is party.

However the decisions made by the Azerbaijani Ombudsman are only of a recommendatory nature, which reduces the effectiveness and efficiency of the Ombudsman's activity. The annual human rights reports produced by the Ombudsman's office only criticize low-ranking officials. The reports highlight minor issues such as bureaucratic governance and practices. The complaints of citizens about mass violations of their rights are not included in these annual reports.

In accordance with the amendments and additions made to the Constitutional Law on Human Rights Commissioner (Ombudsman),¹² the latter was given the competence to fulfill the supervision over implementation of requirements envisaged in the Law on Access to Information. The corresponding Presidential Decree was issued on 8 August 2011.

Upon Article 1.3 of the Constitutional Law, the Commissioner supervises the execution of duties by the information-owning state bodies, municipalities and state officials in accordance with the requirements of the Law of the Republic of Azerbaijan "On access to information."

However, the Information Commissioner is in fact non-functional. When any complaint is made to the Information Commissioner over government agencies' failure to respond to appeals or information requests, the Information Commissioner does not take any steps to investigate or eliminate the problem. In other words, neither the Human Rights Commissioner nor the Information Commissioner performs their functions properly. These are just formal structures.

Restrictions on freedom of expression online

Control over the print and Internet media is carried out through the Press Council, established in 2003. Since its establishment, the pro-government Press Council has been headed by, now Parliamentarian, Aflatun Amashov. It was exactly the Press Council who pushed forward a legislative proposal, to adopt a law on regulating online media and make amendments to existing legislation, was supported in the parliament by such backers of media regulation as parliamentarians Malahat Ibrahimgizi, Hadi Rajabli, and Astan Shahverdiyev.

Draft amendments to laws "On Information, distribution of information, and Protection of information" and "On telecommunication" were discussed and adopted by the parliament on 10 March.

According to the law, if information prohibited for dissemination is found on the website, the relevant executive body will issue a warning to it and its host provider. The site owner has to take information down upon receiving the notice immediately. If the information is not taken

¹² Mutatis mutandis see: The Constitutional Law on Human Rights Commissioner (Ombudsman) <http://bit.ly/155AidF>

down within 8 hours of the issuance of the notification, the relevant body refers the matter to court, demanding the restriction of access to the website. If this information poses a threat to the state and public, the relevant body will shut the site down without a court order and only then will apply to the courts. Access to said website, restricted by the relevant body, will remain restricted until the end of the hearing. The court will hear the case within five days.

Also, a registry of blocked resources will be established. For this purpose, the relevant authority will prepare " A list of websites, containing information prohibited for distribution." Internet providers have to restrict access to resources included in this list.

Also, providers are required to register all users. The internet provider must submit the information regarding users within three days of receiving requests from any law enforcement agency, the judiciary, or the executive body.

According to a draft amendment, new rules will be set for the registration of public domains. All legal entities must provide the information regarding themselves on their websites.

The owner of the content, website, and its domain name shall not allow dissemination of the following information on his/her provider:

- Information on the promotion and financing of terrorism, methods and means of carrying out acts of terror, organising or conducting trainings for the purpose of terrorism, as well as, open calls for terrorism;
- Information on the promotion of violence and religious extremism, clear calls to instigate ethnic, racial or religious hatred or hostility, violent change of constitutional system of the state, sedition, violent seizure and retention of power, or the organisation of mass rebellion;
- Information containing state secrets;
- Information on methods and means of producing firearms, its components, ordnance, explosive substances or devices;
- Information on preparation, approaches, or procedures of the use of narcotic drugs, psychotropic substances and their antecedents, places of illegal acquisition, or information on places and methods of growing of plants containing narcotic substances;
- Information on pornography, including child pornography;
- Information on the organisation of gambling, other illegal betting games, or promoting participation in them;
- Information promoting suicide as a way of solving problems, justifying, rationalising or inciting suicide, explaining the methods of suicide or information being distributed to organise group suicide;
- Information of insulting and defamatory nature, or information violating privacy;
- Information that violates intellectual property rights;
- Other information, prohibited for dissemination in the Azerbaijani legislation.

The new law provides the legal basis for more severe penalties. After 17 days of the adoption of the law, on 27 March, access to the websites independent media outlets such as "azadliq.info", "Azadliq.org" and "Meydan TV" was blocked in Azerbaijan. The government appreciates the principle of control, restriction of activities, and total shut down.

Other problematic laws

In the last two years, the Law on Mass Media has been amended four times. Through these amendments, the law has been tightened. The relevant agencies' right to appeal to a court for the annulment of the registration of a mass media outlet for being financed in a manner contrary to the law has been added to Article 19 of the Law. The amendments have also opened the way for the Ministry of Justice to appeal to the courts for the annulment of the registration of a media outlet if it has been convicted of biased reporting twice in a year.

On 14 May 2013, the Criminal Code was amended. The definition of slander specified in Article 147 of the Code was broadened by adding the following words: "in a mass media outlet or on the internet information resource when displayed publicly". Thus, the internet and social networks were also included in the scope of this Article. Also, the part of the article concerning sanctions was also changed, and punishments were toughened. The previously existing penalty of community service for 240 hours was increased to 480 hours. The sanction of restriction of freedom was removed from the article altogether, and the sentence of 6-month imprisonment was maintained.

According to paragraph 6 added to Article 32 of the Constitution, except in cases prescribed by law, access to electronic or paper-based information resources for obtaining information about third parties is prohibited. According to a newly added paragraph 7, information technologies cannot be used for the disclosure of information regarding people's private life. The paragraph includes belief, religion or ethnicity, except where there has been an expressed consent of the individual to whom the information is related. In cases of processing anonymous statistical data upon the condition of non-discrimination, and in other circumstances permitted by law. Also, the last paragraph states that the legislation determines the scope of personal data and the conditions of their processing, gathering, transfer, usage and protection.

On 29 November 2016, a new article was added to the Criminal Code, which determines responsibility for online slander or insult by using fake user names, profiles or accounts. According to that article, penalties have been toughened to include even imprisonment for up to one year for publicly displayed slander or insult put online by using fake user names, profiles or accounts.

Another amendment made to the Criminal Code on 29 November 2016 introduced penalties for smearing or humiliating the honour and dignity of the head of the state of Azerbaijan on the internet information resource. A new paragraph has also been added to that article, which also toughened the punishments. Under the newly added paragraph, these actions, when committed and publicly displayed on the internet information resource by using fake user names, profiles or accounts, are punishable by a fine of a 1,000 to 1,500 manats, and even imprisonment for up to three years. A penalty of imprisonment for three to five years is stipulated for these actions against the head of the state if they involve accusations of a serious or especially serious crime.

The government has heightened its control of the internet media and websites. Specifically, the Law on Information, Informatisation and Protection of Information and the Law on Telecommunication have been amended to take control over the online media. According to the amendment, the relevant executive authority will immediately warn the website and its host provider in the event of detecting information prohibited from dissemination. Upon receipt of the warning, the website owner must immediately remove that information from the website. Unless the prohibited information is deleted within eight hours of warning, the relevant executive authority shall appeal to the court to restrict the website, but this aspect of the law is not practised. In particular, access to Azadliq.org, Azadliq.info and Meydan.tv, websites critical of the authorities has repeatedly been restricted without any warning or request to the court, and in the end completely blocked in Azerbaijan.

Freedom of the media is based on the state ensuring the right of its citizens, including journalists, to seek legally, acquire, prepare, transmit, produce and disseminate information. However, journalists' opportunities to obtain information from state agencies and to disseminate information have been restricted. In this regard, a new article has been added to the Law on Television and Radio Broadcasting about informing the public about special operations against religious extremism. According to this article, the activity of mass media workers in the area where a special operation is conducted against religious extremism shall be determined by the agency in charge of the operation. Besides, information on a special operation against religious extremism shall be provided to the public in the form and amount defined by the agency leading the operation. The law has restricted the scope of information disseminated by a journalist about religious extremism. In short, journalists will not be able to operate freely in areas, where special operations against religious extremism are carried out, as their scope of activity will be determined by the agency in charge of the operation.

Online surveillance and content-filtering

The last several years have been marked by surveillance and arrests of a score of traditional and online journalists. There have also been numerous reports of disruption of Internet access in connection with sensitive social and political events.

Azerbaijani law does not provide for surveillance of the Internet and mobile phones. Nevertheless, surveillance does occur, mainly using specially equipped "black boxes" or "black rooms" installed in server farms of mobile telecommunications companies and major ISPs.

According to the international hacking group Anonymous, Virginia-based consulting company Booz Allen Hamilton has developed software that is used against dissidents in several countries, including Azerbaijan. The group, which claims it holds documents and e-mails which prove its allegations, states that the software, which has led to the arrest of pro-democracy dissidents in Azerbaijan, creates "armies of fake people" through social networks like Facebook, identifying dissidents with anonymous profiles.¹³

¹³ Ibid

An investigative documentary shown on Swedish public service broadcaster SVT revealed in fascinating depth the extent to which the Stockholm-based telecommunications firm Teliasonera is linked to spy agencies in Azerbaijan, Kazakhstan, Uzbekistan, Tajikistan, and Georgia, facilitating crackdowns on dissident politicians and independent journalists. Several Azerbaijanis reported that they had been summoned by police and subjected to interrogation after phone records showed they had voted for the Armenian competitor during the Eurovision Song Contest in 2009. One man said he was told by security officials that he was a “traitor” because he had voted for the Armenian entry.¹⁴

Other cases were far more serious and sinister. Documents obtained by SVT showed an Azerbaijani who had his phone tapped after he published a piece about being beaten by government security agents while investigating a story. He was subsequently stabbed in a violent attack and later left the country. He has since taken up a case against the security agency and Azercell at the European Court of Human Rights.¹⁵

Regulation of mobile phone usage

On 28 December 2012, the Cabinet of Ministers approved a set of rules on the registration of mobile devices. All mobile phones and other mobile devices must be registered in Azerbaijan in accordance with the “Complex Action Plan on the prevention of cases on wrongful information about terrorism.”¹⁶ All available mobile devices must be registered in the registration system of mobile devices. This system, to which telecommunication networks of mobile operators connect, has been installed by the ICT Ministry.

According to the Cabinet of Ministers’ decision, several indicators will be included in the registration system. These indicators include IMEI codes, mobile network numbers, SIM cards, and affirmation codes of mobile device type. According to the rules, the registered phones will be categorized. A “white page” will include registered devices, and a “black page” will list unregistered devices. Under these rules, operators must limit the services for unregistered devices. The rules stipulate that mobile devices with IMEI codes listed on the “white page” are used only via their designated phone numbers. Importers of mobile phones to Azerbaijan for private usage will have to apply to the registration center, customer service departments of mobile operators, or post offices. These rules also pertain to devices sent via the postal service.

If it is determined that an IMEI number is on the “white page” or was copied, that number is immediately included on the “black page.” The applicant is sent official information. While it is in use, the user will receive short messages from the operator. Operators limit the function of mobile devices which are listed on the “black page.” According to the new rules, a person whose mobile phone was lost or stolen can apply to the registration center to limit its usage. According to the decision, this registration will start after the installation of the necessary equipment.

¹⁴http://www.slate.com/blogs/future_tense/2012/04/30/black_box_surveillance_of_phones_email_in_former_soviet_republics.html

¹⁵Ibid

¹⁶ See <http://news.az/articles/tech/51997> and <http://www.cabmin.gov.az/?/az/pressreliz/view/608/>

Chapter II. Plurality and transparency of ownership

Plurality

Despite some television stations with national coverage in Azerbaijan, citizens have very limited access to diverse political views in the broadcast media. This is most importantly due to a government monopoly on television, with all national TV channels presenting mainly the activities of the authorities and ignoring opposition leaders and their views. In general, the media environment continues to deteriorate in the last few years, with detentions, defamation lawsuits and other forms of pressure on journalists constraining freedom of the media and creating an atmosphere that is not conducive to the freedom of ideas inherent in a democratic system.

Article 3 of the law on "Radio and TV Broadcasting" stipulates the fundamental principles of television and radio activities – ideological and political pluralism, and balance and objectivity. In addition to Article 3 of the law on "Radio and TV Broadcasting," Public TV is specifically obligated to adhere to the Law on Public TV and Radio Broadcasting. According to article 4 of this law, the principles of Public TV broadcasting include independence; objectivity, impartiality, and accuracy of information; pluralism and tolerance estrangement from clear political interests; and diversity.

Article 32 of the Law on Radio and TV Broadcasting stipulates the requirements for programs. Programs being prepared about politics during the entire period of IRFS' and MEMO 98's monitoring, however, did not contain some of these requirements – conditions for everyone to express their own opinions and views, objectivity, comprehensiveness, completeness and accuracy.

Similarly, as during previous media monitoring projects conducted by IRFS, the data shows that majority of the monitored media invariably neglects to offer Azerbaijani citizens opposing views on particular stories. It is also of concern that several disturbing trends in the way the Azerbaijani mainstream media cover political entities appear not to be the result of short-term anomalies, but genuine trends in the Azerbaijani media. These trends include the fact that the monitored media neglected to offer opposition any significant airtime and opportunities to challenge the political opinions of the current establishment. The monitoring results also confirm that Azerbaijani media generally lack investigative and critical reporting that would offer the public an in-depth analysis and assessment of political entities, in particular, the work of state officials managing public funds.

The Azerbaijani public service broadcaster, Ictimai, fails significantly to comply with its public service remit as stipulated by various international standards and good practices. ITV does not

serve the public interest or ensure pluralism, failing to provide balanced and varied programming for all sectors of the population as required through its membership in the EBU. Since its formation in 2005, ITV has primarily served the needs of the state, largely being used as a propaganda tool of the government with little or no independent reporting. Ictimai gives only brief – and often one-sided – information about significant events in the country, such as the activities of political parties or public associations. It often disseminates incorrect information about individuals and organisations and refuses to grant them airtime to exercise their right to reply.

Articles 7 and 8 of the Law on the Azerbaijan Republic on the Public TV and Radio Broadcasting stipulate the rights and responsibilities of the Public Broadcaster. The previous monitoring by IRFS and MEMO 98 conducted from September till November 2012 among other things focused on news and current affairs programmes of both ITV and ITR. The monitoring revealed that events and demonstrations organized by political parties and public associations were not covered in the news programs except for those organized by the ruling party – which is not in line with Article 8 of the Law on Public TV and Radio which stipulates that public broadcaster should provide unbiased and neutral news concerning activities of the governmental organs, political parties, social movements, religious confessions, financial and commercial structures.

The long-term media monitoring also found that some news items on the national broadcast media are presented in a conspicuously similar manner raising questions over editorial freedoms of these channels. It is alleged that the president's office determines television channels' editorial decisions. Many believe that this form of control is done through coercion, given the fact that television owners and managers are very closely linked with the country's political elite and are thus cooperating with the ruling regime. These channels serve the government's political goals, shaping public opinion by boosting, playing down, or ignoring certain issues, figures, or groups and instilling sentiments that benefit the ruling regime's political interests.

It is only some online media which offers an independent platform so that people in Azerbaijan are exposed to different views to those of the ruling establishment. In general, the media environment continues to significantly deteriorate, with detentions, defamation lawsuits and other forms of pressure on journalists constraining freedom of the media and creating an atmosphere that is very far from being conducive to the freedom of expression inherent in a democratic system.

News reports are mainly driven by activities of the president, his family members and the government - journalists themselves do not try to dwell on problems, single them out. There is an apparent lack of any analytical approach, and conversely, reports are sometimes limited to partial coverage. By contrast, some monitored online media try to provide alternative coverage.

In general, due to media bias, citizens remain uninformed. During the referendum in 2016, the monitoring conducted by IRFS and MEMO 98 revealed that "the media as a whole did not provide ample information about political alternatives ahead of the 26 September constitutional referendum. As such, based on the monitoring findings, even if voters followed

several media, it was difficult for them to form an objective view of the campaign and to make an informed choice at the ballot box.”

People were left to vote in the referendum without much knowledge of what was being proposed. The IRFS & MEMO 98 monitoring data further confirmed the alarming trend of the exceptionally limited range of political diversity that was revealed in the previous media monitoring projects (2009-2010). Instead of providing ample information that would help the electorate to learn about different platforms and views ahead of the referendum day, the monitored channels mostly acted as a mouthpiece for the government.

There is a clear problem in the way the state-funded media portray the election campaigns. As recipients of public resources, state-funded media have an enhanced duty to ensure balanced and fair treatment of politicians as well as comprehensive reporting on politically relevant events. They show only the activities of state authorities and overwhelmingly from a positive perspective; whereas mostly ignored any views independent of or critical of the authorities prior and during the campaign period.

Such conduct violates internationally accepted standards for the use of public resources. Analysis of the results highlighted the blatant misuse of state-funded broadcasters that were utilised as instruments of propaganda for particular state interests in their pre-referendum reporting and failed to provide the citizens with an objective, fair and impartial view of local events and topics.

Diversity continues to be one of the biggest problems for many media outlets. This is particularly the case when it comes to social issues, with media ignoring the LGBTQIA issues, religious freedom, children’s rights, gender equality and other social topics.

Despite the fact that people still primarily get their news from television and radio, the importance of Internet is growing. People often feel that Internet news sources are more trustworthy, with more objective coverage and interactivity that allows consumers to levy criticism and commentary.

Generally, the Azerbaijani media do not facilitate the exchange of opinions, public debate, confrontation, investigation and commentary that would offer the public fully informed, analysed and assessed views of persons seeking elected office. Investigative and in-depth analytical reporting is virtually non-existent, with self-censorship being high, and journalists and editors avoiding sensitive topics, especially any mention of the Aliyev family.

Transparency of media ownership

The transparency of identities of political and social structures, individuals owning the media is an essential condition of free and independent development of the media. However, this condition is not fully followed in Azerbaijan. This is due to the fact that the enduring monopolisation of the media market by powerful groups close to the president and his family has deprived the Azerbaijani audiences of an effective variety of sources of information, and has thereby weakened the guarantees of pluralism. Such undue concentration of media ownership should be prevented through appropriate measures.

The transparency of ownership requires responsibility and accountability. The general landscape is as follows: the media is officially or unofficially controlled by the authorities, political structures, the government officials, parliamentarians, donors, and sponsors.

The largest support for free media in democratic societies is an establishment of open advertisement market, unrestricted financial resources, the correct organisation of subscription and sales. Currently, in Azerbaijan, only official governmental print products have mandatory subscription (by deducting the price from the salary or allocation from the budget of organisation). The state provides open aid to the traditional media and secret aid to online media. It is absurd to expect financial transparency where there is no transparency of ownership.

From time to time, the government implements various projects to assist the media. During the rule of the former president, Heydar Aliyev, there was a practice of forgiving publishing and tax debts incurred by newspapers in a dire financial situation. While back then it was cheered by the media as it saved the printing media from drowning, it was still controversial. Sub-expectations of the "forgiveness" were not an establishment of media, owing to the authorities and dependent on them.*

57.081.310 manats is allocated from the state budget to state-funded radio, tv and publishing houses in 2017's state budget. 4 mln manats to be allocated this year to the Mass Media Support Fund, established on April 4th, 2009. Twice a year, the Mass Media Support Fund provides financial assistance for implementation of various projects to the official, opposition and self-proclaimed independent newspapers (<http://qafqazinfo.az/news/detail/qezetlere-pul-ayrildi-siyahi-81117>) and holds competitions with the prize fund. However, the principle of fairness is not observed. All of the government-controlled media outlets are funded directly or indirectly, some get more, some get less. For last several years, the allocation of funds for the main opposition outlet "Azadlig" had been stopped. Court decisions, involving fines, stoppage of financial assistance, serious stress due to refusal of state-controlled "Gasid" distribution company to pay 90 thousand manat debt to the "Azadlig", and lastly, arrest of the "Azadlig"'s financial director Faig Amirli on false charges, led to closure of the newspaper in September, 2016.

The information about the real owners of TV and radio stations is not publicly available in Azerbaijan. Some time ago it was possible to get the names of owners by submitting information inquiries to the Tax Ministry.²¹ However, independent investigations conducted by journalists often revealed that the people that the ministry stated as owners were just "nominal owners". Similar studies alleged that owners of Lider TV and Space TV are very close relatives of the incumbent president.

The amendments to the Law on the Right to Obtain Information and the Law on Commercial Secrets adopted by the parliament and endorsed by the president made it impossible to get information on the founders of commercial entities.²² It looks that the government took this step to hinder independent investigations carried out by journalists. It should be noted that the government should be doing exactly the opposite – it is a good international practice to

ensure public access to detailed information regarding the involvement of individuals and legal entities in the ownership structures of the media and on the nature and extent of their respective involvement. Transparency of media ownership is not only important for the authorities in charge of implementing regulations concerning media pluralism so they can take informed decisions, but also for the public to make its own analysis of the information, ideas and opinions expressed by the media.²³

The state and private broadcasters do not publicise their financial statements, although the broadcasters that are funded from budget should keep this information available to the public.

According to Articles 12.3.1 and 14.1 of the "Law on Accountancy", commercial and government-funded entities must prepare their financial statements and publish them either in the paper (press) or in a digital form (website).²⁴ AzTV violates the principles of this law and fails to publish its financial statements.

The AzTV is a media outlet that receives the most of the state funding. For 60 years, the AzTV has been funded from the state budget. The global economic crisis hit Azerbaijan too and led to a reduction in state funds, which affected the media as well. State TV channel AzTV received 31.7 mln manat from the state budget in 2017, while it was 35.5 mln manat in 2016. However, for the last ten years, the state-funded TV is cooperating with creative people – journalists and directors – based on short-term contracts and honorarium terms. The AzTV has a strong technical capacity. But this capacity, state-of-art equipment is used for coverage of presidential appearances only. Financial costs of AzTV are not transparent. While there are reports on media about audit and inspections by the Chamber of Accounts, no results or facts are disclosed. No reports are provided on where and how the state allocated funds were spent. According to media, about 660 million manats were allocated for financing of operations of the AzTV for last ten years. Maybe that's why, according to the media investigation (<https://www.24saat.org/aztv-nin-ofsor-sirk%C9%99tl%C9%99ri-nec%C9%99-yoxa-çixir-arasdirma-119315.html>) (disclaimer: investigation was conducted by the "Bizim yol" newspaper, I was not able to find its link), 158 million of 704 mln manats that the AzTV received from the state budget for the last 11 years were spent via unknown foreign companies. There are reports on the AzTV's cooperation with companies, illegally operating in offshore areas, Virginal Islands, New Zealand, and the United Arab Emirates without proper official registration.

"Culture" and "Sport Azerbaijan" TV channels that are in the sphere of influence of the AzTV and which actually employ the same people, are also funded from the state budget. There are no reports, disclosures, or information on how and where they spend the state funding. Advertisement and Sponsorship revenues are not disclosed.

Public TV's annual budget of about 16 million manats was reduced to 11,5 million manats in 2017. While Public TV was reporting to the Public TV and Radio Broadcasting Council during the first years after its establishment, there is no information on any reports for the last several years. While Jahangir Mammadli, the chairman of Public TV and Radio Broadcasting Council claims that annual reports are provided, neither are these reports disclosed to the public nor to relevant media outlets. That means that operations of the TV channel are not transparent and closed to the public.

Private Space TV channel is self-financed and is not required to provide reports or disclosures as such. There are reports on the media on financial hardships of the Space, on their inability to pay salaries and honoraries to employees in a timely manner.

There is no information on ownership, revenues and expenses of private Lider TV, Free Azerbaijan TV and Radio Broadcasting Company, Khazar TV, and ARB-TV Company.

Chapter III. Media as a platform for democratic discourse

Democracy gives people the right to participate in public affairs. Pluralism arises in a democratic society and social environment.

In an atmosphere of political pluralism, citizens are free to have views and a world view of their choice. However, they must also respect the same rights of other people and be tolerant of any difference of opinion.

In Azerbaijan, the mass media are clearly not a platform for open discussions and exchange of views. The traditional broadcast does not provide a real platform for democratic discussions at a time when the majority of middle-aged and elderly people in rural areas receive their information and knowledge from television stations. TV channels AzTV, ITV and ATV, broadcast debates on political, economic and scientific topics. Guests invited to these discussions, in particular, political debates, are unequivocally representatives of the ruling New Azerbaijan Party, commentators and political analysts close to the government. Discussions do not reflect reality, and the spotlight is manipulated. For example, television stations do not discuss political grievances within the country or problems of ordinary citizens, but accentuate the importance of the President's visits to some countries, e.g. Iran, Pakistan or Qatar, keep this topic in the spotlight and turn it into a subject of discussion involving pro-government experts and MPs. This is actually not a discussion, but propaganda.

AzTV's Pulse of the Day and Ichtimai TV's Topical Issues, Business Discussion, Consensus, and Media and Time programs are in the format of round-table discussion. But none of them offer democratic debates. In the last 4-5 years, none of the TV channels has invited any representative of opposition parties, political organisations or associations or civil society to such discussion programs. Therefore, the media do not reflect the diversity of society.

Although Ichtimai TV focuses to a certain extent on the way of life, occupation and traditions of various ethnic groups (through documentaries), their problems do not turn into a subject of discussion. People with different social backgrounds are seen on news programs but are not invited to open discussions. The topic of religion is brought to the discussion platform, but a democratic approach is not observed. The state propagates the state's tolerant attitude towards religious sects and multiculturalism, but religious people are not invited to debates on secular topics. The mass media are not open to the topic of religion. In November 2015, law enforcement agencies of Azerbaijan conducted a large-scale operation in the village of

Nardaran, a religious centre in Baku populated by religious people. During the operation, six people were killed, including four religious men and two police officers, and hundreds of believers were arrested. Trials for those arrested have been ongoing in groups for about a year. The participants in the first trial received prison sentences of up to 20 years. Trials and individual arrests are underway in the other two groups. However, national TV channels, government newspapers and websites, and radio stations have never covered these court proceedings, nor there have been any discussions involving representatives of the government, religious sector or general public.

Government mouthpiece AzTV gets NAP-affiliated MPs and leaders of ministries to make some statements, and Ichtimai TV gets them expressed through the mouths of the heads of political parties represented in the Parliament (which are allegedly pro-opposition and unaffiliated, but indeed pro-government) and non-partisan MPs (who actually side with the government).

Democratic discussions and sometimes verbal duels occur only on social networks, between Facebook or Twitter users, and it means that it happens out of sight of the general public, in a narrow space. Even pro-opposition websites do not offer opportunities for open discussions.

Freedom of the media and freedom of expression, which are fundamental values of democracy, are not observed in the Azerbaijani media.

The duty of the media is not limited to providing information about facts. Its duty is to inform the public and interpret facts and events to create conditions for the discussion of issues of public importance. Sound debates and discussions are an integral part of democracy. Although the legislation speaks about television and radio activity aimed at ensuring everyone's right to hold open and independent discussions, there are no free discussions on Azerbaijani television stations. There is no independent TV station in the country. The state-run and private TV channels broadcast programs by instructions from the Presidential Administration. The media situation in the country has become even worse than in previous years.

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State control over media: a carrot and stick policy

On September 26, 2016, anti-democratic changes were made to the Constitution in Azerbaijan. These changes consisted of prolongation of the presidential term from 5 years to 7, elimination of 35 age limit for being eligible to be elected a president, establishment of vice-presidency. The changes serve to the concentration of power in one family and are contrary to democratic values. State of affairs when TV and many print and online media are under the government control, operations of media organisations are made impossible in the result of changes made to the NGO legislation, tens of bloggers and journalists remain detained is evident of the dire situation with freedom of expression.

When citizens, representatives of opposition political parties, unions and organisations held sanctioned meetings, media outlets and TV channels under the government control instead of

finding out what the demands and wishes of citizens were about, went on distributing materials, containing texts, demeaning the participants of the meetings. The only positive support material was broadcasted by the TV channels about preparations made before the referendum. No outreach regarding the referendum was conducted. The substance of changes to the Constitution was not explained.

According to results of monitoring of TV, radio and online media conducted by the IRFS and Memo 98 regarding the referendum, alternative views were not displayed; people's right to acquire information on the referendum was not fulfilled. While some online media provided information on the referendum, the number followers of these sites does not make even one percent of voters. Results of monitoring determined that TV and radio channels were conducting covert propaganda of President and the government agencies at that time.

The National Television and Radio Council

Because the government exercises full control over the broadcast licenses via NTRC, the licensing of broadcast media outlets remains highly political, biased, and non-transparent. There are no legal guarantees of its independence. Established on 2 October 2002, the NTRC is a regulatory body for licensing, frequencies and broadcasting of TV companies operating in Azerbaijan. The NTRC consists of seven acting members appointed directly by the president and is fully funded from the state budget. Analysis of activities of the organisation, launched in 2000, reveals that it is entirely dependent on the authorities and adopts decisions based on instructions from the presidential administration. NTRC allocates financial resources for the development of TV series directly to the TV stations as the government mandates. The council pays attention to this issue and monitors it. The first clashes with ANS TV, the first private TV Company, which has operated independently in Azerbaijan since 1991, were about the improper spending of the funds which were allocated to them. After several court decisions, the ANS TV was shut down.

The reason for closing down ANS TV and Radio was an interview they conducted with Fatullah Gulen, who was charged with an attempted coup d'état in Turkey.

On 18 July 2016, the authorities revoked a special permit they had previously granted to ANS in a meeting of the NTRC. At the same time they decided to stop the airing of "ANS Independent Broadcasting and Media" Company for one month and apply to the courts to revoke their license. The court granted the motion, and would not uphold ANS' appeals of this ruling.

Control of the broadcast media

Presently, the most controlled segment of the Azerbaijani media is television and radio broadcasting. Currently, there are nine national TV channels in Azerbaijan and Nakhchivan State Television broadcasting from the Nakhchivan Autonomous Republic. Four of them are state, five of them are private, and 1 is Public Television. There are two state-financed radio stations being Radio Azerbaijan (broadcasting since 1926) and Ictimai Radio (Since 2004).

The first television broadcasting in Azerbaijan dates back to February 14, 1956. In different times, this television has been called the Azerbaijan State Television and Radio Broadcasting Committee, and the State Television and Radio Broadcasting Company. On March 23, 2005, based on the Decree #213 of the President of Azerbaijani Republic, the "Azerbaijan Television and Radio Broadcasting" has become 100 percent state-owned Closed Joint-Stock Company. The television is being financed by the state.

Both "Mədəniyyət" (developed within the mandate of AzTV2) channel launched under AzTV's control on February 14, 2011, and the "Sport Azerbaijan" channel founded on February 1, 2009, have state status. Nakhchivan State Television has been broadcasting since 1963. News and news related social and political programs serve the propaganda of Vasif Talibov, the Chairman of Supreme Assembly of Nakhchivan. Nakhchivan TV reminds the mini model of AzTV.

While becoming a full member of CoE in 2001, one of the commitments Azerbaijan undertook was the creation of Public Television. On 5 November 2004, the President Ilham Aliyev signed a decree on the application of the law on "Public Television and Radio Broadcasting" which took effect on 29 August 2005. Azerbaijan's public service broadcaster, Ictimai TV (ITV) is not funded through subscriptions or licenses as in most of the countries of the EBU, but from public funds. Perhaps this is why ITV is not serving the public interest, but the interests of the government, demonstrating AzTV like broadcasting. Although the Law on Public Television and Radio Broadcasting clearly states that Broadcasting Council should elect the Director of the PSB channel, to date the position is filled in agreement with the government.

Since the "Directorial election" in 2003, the ITV has been practically functioning under the influence of AzTV. ITV takes all important data on state affairs from AzTV and broadcasts it. By merely changing the logo, it broadcasts the active material as its own. In fact, the management of all four channels financed through the state budget (AzTV, ITV, Culture, Sports Azerbaijan) is carried out by one person. They exchange all the materials among themselves. Practically, three state and one public channel are being carried out from the center which indicates clear gaps in the legislation. It is also a violation of the rights of the audience.

"Space" Independent TV and Radio Company has been operating since October 12, 1997. The website of the channel (Space.az) indicates that the founder of the TV is the famous composer and public figure, Sevil Aliyeva. Sevil Aliyeva, the daughter of former President Heydar Aliyev, and the sister of current President Ilham Aliyev has been living in London for a long time.

Private broadcaster Lider TV has been operating since September 1, 2000, under the license of "Lider TV and Radio Azerbaijan" LLC. The owner of the TV channel is President Ilham Aliyev's cousin Adalat Aliyev.

Four state funded channels (AzTV, Culture, Sports Azerbaijan, ITV) and two more (Space and Lider) belong to Aliyev's family who has been in power for 23 years now. It means a total of six channels is under de facto control of the government. Backscreen events of these channels neither open to public nor transparent.

The ATV and Radio Broadcasting Company (managed by Vugar Garadaghli) has been on the air since December 25, 2000. Operating since October 2, 2007, and owned by Samanyolu Broadcasting Group, the "Khazar" TV (managed by Shamkhal Hasanli), and the Azerbaijan Republic Broadcasting (ARB) channel which has been broadcasting since May 10, 2004. All three channels are private broadcasting companies.

Independent media is like a mirror for a democratic society. Independent media means being independent by nature and activities, i.e. not being dependent on the authorities, the owner, or financial resources. It is impossible to establish a free media outlet without an independent editorial staff, mutual understanding, and compromise. Freedom of media cannot be achieved without a commitment to principle, ethical research, investigation, and authority. Independent media brings viewers and readers closer to an event by providing actual and objective information. It does not serve a strengthening of preconceived opinions and beliefs. Information is delivered not in a one-sided, but in a multi-sided manner and provides the citizen with the opportunity to choose to accept information. This distinction is not one of the aspects of the Azerbaijani media. The viewer is not given a choice, and the information is provided on a need to know basis. Supply does not match demand. Accessibility is not provided. The government agencies do not respond to journalist's requests, and official media does not cover the issues of the citizens.

President Aliyev does not engage with the local media at all. The TV channels get their news about the regime from the government bodies, law enforcement agencies, and state websites. The state media lacks the ability to do research or investigative articles.

Another serious problems for the media include unfair remuneration of journalist work, no official labour contracts and lack of protection of journalists' rights. Trade unions protecting the rights of journalists are respected and listened to. It is not like that in Azerbaijan. While there is some civil society that protects the rights of detained journalists, whose rights are violated under the pressure of the government, there is no journalist trade union. And this leads to non-transparency. Unfair remuneration of journalist work results in the establishment of racketeering journalism. While the number of negative cases in this area is declined for last years, racketeering journalism is still plaguing the profession. The main reason for mentioned facts is a dependent status of the media, which is not provided with the opportunity to become independent.

"Government journalist" is a term coined in Azerbaijan. Such reporters work on all TV channels and press.

The government's desire to co-opt journalists, to get them under control, manifested itself by supplying the journalists with apartments at the tax payers expense.

On 22 July 2013, an apartment building was opened, which was specifically built for journalists in the Bibiheybat area of Sabail District of Baku. 150 journalists were provided with apartments at the opening ceremony which was attended by the head of the state, Ilham Aliyev. After the opening ceremony, the foundation for the new office building for journalists was laid. At the time, independent journalists took action of providing media employees with free apartments by the state as an outright "buyout" of journalists. They called for their colleagues, yearning to get free flats, to refrain from this action. However, these calls were not supported since journalists and media workers, in general, are in a hard social situation, which breeds dependency.

In fact, the dialogue between the government and opposition media has been nonexistent for many years, and they express very differing opinions on the current situation and specific events as if they live in two different dimensions. Different perspectives deter those in the media community from searching for the shared values needed to define their work. Overt political pressure on the press eliminated professional solidarity, which is considered an asset for the successful development of the media. These disagreements undermine the capacity of journalist unions to recruit staff and organise efficient work, to speak with one voice. Journalist unions and other professional groups should support their colleagues and collectively defend the environment, enabling journalism. By doing so, they would create a critical framework for solidarity with the social philosophy of ethical conduct in the media community. The lack of mutual understanding between the journalists and groups prevents the development of a genuinely professional media community.

Chapter IV. Professional capacity building and supporting institutions

Media education and literacy

One of the most painful issues of the Azerbaijani media today is a lack of professionals. The fact that a fast growing journalist army is very far from professionalism is one of the biggest problems of media. The hiring of inexperienced or unethical journalists due to competition, unprofessional approach to staffing (hiring of acquaintances, friends, nepotism) eventually leads to media's weakness, disapproval in society.

Two universities – Baku State University and Baku Slavic University – prepare credentialed journalists in Azerbaijan. Since 1 March 2010, the Television Academy operates under the auspices of the Azerbaijani State TV. Unfortunately, there is no record of any success of this Academy, and no knowledge of any personal achievements from its graduates.

ANS TV was one of the more successful organisations in raising journalist professionalism, in nurturing journalist able to work according to international norms and standards. But the government crackdown permanently prevented its development.

Civil society – NGOs in Azerbaijan provide support to the development of media by preparing brave, combative, and able journalists, especially by contributing to their professional development through training. But “undeclared war” against independent NGOs created serious problems in this area too. Their activities were curbed. In training and events for current and prospective journalists, organised by the government and local NGOs under their influence, they mostly are being taught how to become the government propagandist.

Media freedom watchdogs

Repression of freedom of expression in Azerbaijan is not limited to traditional forms of media, or even to online media. The authorities continue to limit individuals' rights to express any form of dissent – whether through publishing or broadcasting through traditional forms of media; posting via online media outlets or social networking sites; taking to the streets in protest; or simply being affiliated with a NGO or political party perceived as critical of the authorities.

The rights to freedom of expression, freedom of assembly, and freedom of association are fundamental to democratic society, as mutually reinforcing rights. In Azerbaijan, despite the country's obligations to respect and protect these rights through its accession to major international human rights treaties and per the national legal framework, these have become mutually restricted rights, presenting an obstacle to the country's overall democratic developments.

Local and international NGOs working on democracy and human rights in Azerbaijan have been the targets of government interference. This can take the form of harassment, or more seriously, of legal pressure.

In 2014, followed by reactionary changes made to the law on NGOs, the government has launched a criminal case to independent NGOs on tax evasion which forced many organisations to stop their activities. Several prominent civil society leaders who had been arrested as part of that criminal investigation were sentenced to prison on spurious charges in 2015. Among many cases, in April, Human Rights Club chairman, Rasul Jafarov received a six-and-a-half-year term—later reduced on appeal by three months – for illegal entrepreneurship, tax evasion, and abuse of office. In August 2015, Leyla Yunus, director of the Institute for Peace and Democracy, was sentenced to eight and a half years in prison on similar charges, and her husband, historian and academic Arif Yunus, received seven years in the same case. The two were conditionally released in December and November 2015, respectively, due to deteriorating health. They were allowed to travel to the Netherlands in April 2016 to receive medical care and have lived there since.

However, new hearings were ordered in April this year after the court started examining an appeal from the pair, who are seeking full exoneration.

On 8 August 2014, the Prosecutor General's Office conducted an illegal search at offices of Legal Education Society and IRFS, confiscated documents and equipment and sealed both offices. Due to pressure and persecution imposed on Emin Huseynov, the Chairman of IRFS, he found refuge at the Swiss embassy in Azerbaijan. He was able to leave the country only in June 2015 on a Swiss federal jet, accompanied by Swiss top official, Didier Burkhalter, who was attending the opening of the European Games. In the wake of Emin Huseynov's escape to Switzerland from that country's embassy in Baku, Azerbaijan's government has [announced](#) that it has deprived him of citizenship.

Reprisals against against non-profit organisations defending the rights of journalists and reporters, in reality, is an indication of assaults against free media. Intolerance against free speech, reactions towards the supporters of speakers, impede the way for the democratic media.

Conclusion and Recommendations

As this report shows, freedom of expression is under serious threat in Azerbaijan, as are the other fundamental freedoms of assembly and association. The authorities must stop curtailing these rights and take immediate action to address this situation in accordance with the country's international human rights obligations.

To that end, the authors of this report have developed a set of recommendations outlining steps needed to protect the rights to freedom of expression, assembly and association.

IRFS calls on the Azerbaijani authorities to undertake the following specific steps:

Put a stop to violence and other forms of pressure against journalists:

- End all forms of impunity for those who attack or kill journalists and ensure that all cases of violence against journalists are resolved and all guilty parties are punished in accordance with the law.
- Detain and prosecute the masterminds who ordered the killings of Elmar Huseynov in March 2005, Rafiq Tagi in November 2011, Rasim Aliyev in 2015 as well as those who carried out the attacks.
- Make public all information related Huseynov, Tagi and Aliyev's murders.
- Detain and prosecute those responsible for the blackmail attempt and violation of privacy of outspoken female journalist Khadija Ismayilova in March 2012.
- Detain and prosecute those responsible for the cross-border abduction of investigative journalist Afgan Mukhtarli in May 2017.
- Fully investigate all threats against journalists and establish adequate protection mechanisms.

Cease the use of detention to silence critical voices:

- Immediately release the currently detained or imprisoned journalists, bloggers and activists behind bars in connection with exercising their right to free expression.
- Drop the charges against journalists and activists who face jail time in connection with exercising their right to free expression.

Improve media legislation and policies:

- Remove defamation provisions from the Criminal Code.
- Reverse the ban prohibiting foreign broadcasters from accessing national frequencies.
- Reverse the ban against websites of independent media outlets.
- Withdraw the restrictive amendments to freedom of information legislation aimed at limiting the activities of journalists and media outlets.
- Review and amend other media legislation to ensure it complies with international standards for press freedom.

- Establish an Independent Press Ombudsman in line with international standards and empower that position with the authority of Press Ombudsman that currently belongs to the Human Rights Ombudswoman.
- Set up an independent broadcasting regulatory body to ensure the fair and transparent distribution of television and radio frequencies through a simplified licensing procedure.
- Ensure that the public service broadcaster, Ictimai, complies with international standards for public service broadcasting and provides balanced and varied programming for all sectors of the population.
- Allow for the creation of an independent, non-statutory press council which remains the sole responsibility of media professionals, or other self-regulatory systems of media accountability.
- Ensure transparency in media ownership structures.
- Establish an independent oversight body to ensure government-funded advertising is distributed to media outlets in a fair and transparent manner.

Protect the rights to freedom of assembly and freedom of association:

- Allow all citizens to gather to exercise their right to freedom of assembly.
- Cease the use of excessive force to disperse protests and investigate and prosecute any violations.
- End harassment against independent NGOs and civil society representatives.
- Revise laws that restrict the ability of NGOs to operate in accordance with international standards.

The authors of this report support overwhelmingly the following recommendations with regard to tackling false news and misinformation, produced during the 2017 OSCE Caucasus Media Freedom conference:

1. *States may only impose restrictions on the right to freedom of the media in accordance with international law, namely that they be provided for by law, serve legitimate public interest as recognised under international law, be necessary and proportionate to protect such interests. Such restrictions may also be imposed, as long as they are consistent with these requirements, in order to prohibit advocacy of hatred that constitutes incitement to discrimination, hostility or violence.*
2. *General prohibitions on the dissemination of information that are based on vague and ambiguous ideas, including "false news" or "non-objective information", are incompatible with OSCE commitments and other international standards for restrictions on freedom of the media and should not be utilized.*
3. *State mandated blocking of entire websites, IP addresses or network protocols is an extreme measure which can only be justified where it is provided by law and is necessary to protect internationally recognized human rights or legitimate public interests. Such measures should be proportionate, and utilized only after less intrusive alternative measures fail to protect public interest and then, must respect due process guarantees.*
4. *State actors should not make, sponsor, encourage or further disseminate statements*

which they know or reasonably should know to be disinformation or propaganda. They should, in accordance with their domestic and international legal obligations and their public duties, take care to ensure that the information they disseminate is reliable and trustworthy.

- 5. States should ensure the functioning of strong, independent and adequately resourced public service media, which operate under a clear mandate to serve the overall public interest and to set and maintain high standards of journalism in the South Caucasus.*
- 6. States should put in place other measures to promote media diversity.*
- 7. States should take measures to promote media and digital literacy, including by covering these topics as part of regular school curriculum and by engaging with civil society and other stakeholders to raise awareness on this topic.*
- 8. States should consider other measures to promote equality, non-discrimination, intercultural understanding and other democratic values, including with a view to limit the negative effects of disinformation and propaganda.*
- 9. The media and journalists should, as appropriate, support effective systems of self-regulation whether at the level of specific media sectors (such as press complaints bodies) or at the level of individual media outlets (ombudsmen) which include standards on ensuring accuracy in the news and provide the possibility for corrections and/or replies to address inaccurate statements in the media.*
- 10. Media outlets should consider including critical coverage of disinformation and propaganda as part of their services, in line with their watchdog role in society, particularly during times of conflict, elections and debates on other matters of public interest.*
- 11. The Office of the OSCE Representative on Freedom of the Media should support the development of participatory and transparent initiatives for creating a better understanding of the impact of disinformation and propaganda on democracy, freedom of the media, journalism and civic space, as well as appropriate responses to these phenomena in the South Caucasus¹⁷*

We also call for **media organisations** to take full responsibility to care for their workers who are subjected to attack by initiating preventive measures and providing insurance cover and medical treatment.

Finally, the authors of this report call on the **international community** not to turn a blind eye on the situation of fundamental rights and freedoms in Azerbaijan. Specifically, we call on the international community to:

- Demand actions, not just words, from the Azerbaijani government, using all possible bilateral and multilateral opportunities to hold Azerbaijan to account for its freedom of expression and human rights obligations.
- Call upon the Azerbaijani government and law enforcement agencies to end all forms of impunity for violence against journalists and ensure that all cases are adequately investigated and those responsible are brought to justice.
- Call upon the Azerbaijani government to immediately release all journalists, bloggers

¹⁷ 14th South Caucasus Media Conference "Fake news", disinformation and freedom of the media". 10-11 May 2017, Tbilisi, Georgia

and activists in prison or detention for exercising their right to freedom of expression.