



AZERBAIJAN'S INACTIVE STATUS IN OGP: SECOND YEAR

This report has been prepared by experts
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Summary

Azerbaijan is an oil and gas-rich country, facing growing problems with providing its citizens with fundamental rights, such as freedom of expression, freedom of assembly, and freedom of association from year to year. It officially joined the Open Government Partnership (OGP) in September 2011. By participating in OGP, a government makes commitments to key parameters within the open government framework, such as increasing transparency and public accountability, enhancement of citizens' participation, and combating corruption.

Within this framework, on September 5, 2012, Azerbaijan approved the "National Action Plan on Promotion of Open Government for 2012-2015", which incorporated 9 different categories and consisted of 37 commitments. Only 20 of those commitments had the capacity for medium or transformative impact. After the expiration of the period for that National Action Plan, a new "National Action Plan on Promotion of Open Government for 2016-2018" was approved on April 27, 2016.

The new plan contained 60 actions for implementation in 11 chosen policy areas, including proposals received from local civil society representatives. For the period between May 2016 and the end of the June 2018, 20 out of 80 commitments stated in the action plan remained unfulfilled. 8 commitments were fully implemented in that fulfillment period of 2016-2017. Some of the commitments are not directly related to the open government principles. They have already been performed before by public agencies routinely and are of a technical nature.

In 2014, significant amendments were made to the legislation on non-governmental organizations, grants, and state registration for legal entities. Parallel to this, a combination of persecution and governmental pressure dramatically worsened the civil society environment in the country. A constrained environment for civil society complicated independent monitoring and evaluation of the national action plan on open government. Following this, Azerbaijan's membership in OGP was designated as "inactive", and this process extended indefinitely till 2018.

Most of the recommendations to change the current unfavorable situation for civil society were not fulfilled by the government.

Since 2014, the situation of local independent civil society organizations in Azerbaijan has significantly deteriorated. This environment has had a negative impact on the country's membership status in several international organizations, including OGP. In general, except for some minor technical and legal amendments, the same pattern continues in 2018, as well.

The elimination of artificial bureaucratic obstacles in the registration process for NGOs, by reducing the time of the official response to applications and setting up a transparent manner of regulations, has not been implemented. Online registration for NGOs and the option to modify registration documents have not been implemented either. The regulation, which stipulates that a rejection of registration is only to be denied based on a clear legal basis, has not been complied with. Although the number of documents required for official permission for foreign donors to open a representative office and issue grants in Azerbaijan has been slightly reduced, at least 8 additional documents are still required. The calls for simplification of the registration for NGOs, along with abolishing the requirement for registration of grants and service contracts, remain unanswered.

Reduced funding of local independent NGOs has made their participation in monitoring of formation and implementation of the national action plan much more challenging.

Five recommendations were prepared as a result of this report, four of which are addressed to the government of Azerbaijan, and one to the Steering Committee of the OGP.

To the government of Azerbaijan:

1. Simplification of the processes such as registration of local and foreign NGOs, registration of grant projects, a collection of registry extracts, as well as the procedures connected with receiving a grant from a foreign donor.
2. Significantly soften fines and other penalties, envisaged by the Code of Administrative Offences, for violation of the legislation regarding grants in connection with NGOs and individuals.
3. Establishing an independent and inclusive Open Government Forum, which will incorporate the relevant government agencies, independent civil society groups, and international organizations operating in the country. Also establishing a board of members, a co-chairs group, and a secretariat for the forum, based on the criteria of the representational structure, with one person from the government and one from the civil society.
4. A 3-6 months time is to be asked from the OGP's Steering Committee for the implementation of the recommendations by the government, in connection with the country's inactive status in the Partnership. Develop a "plan on the execution of the recommendations", with the participation of global open government and local civil society institutions.

To the OGP's Steering Committee:

5. Designation of 3-6 month time period for Azerbaijan to implement the recommendations. Official visit of higher-level OGP representatives to Azerbaijan and discussions of the "plan on the execution of the recommendations."

1. The country's socio-political context

After Azerbaijan gained independence in 1991, local civil society institutions were in dynamic development and contributed to various spheres in society. Currently, there are over 3000 NGOs registered and about 300 unregistered groups operating in the country¹. Local NGOs have been actively engaged in the fields of education, culture, health, social protection, environmental protection, human rights and gender equality, youth, and budget policy.

In particular, NGOs with an economic orientation have always been active in Azerbaijan. Civil society's potential to impact the good governance in economic policy for the oil-gas sector, on which Azerbaijan's economy is dependent, has been limited, due to the restrictions put in place by the government and also the civil society's limited institutional capacity. Nevertheless, civil society actors in Azerbaijan have been seriously working on mobilizing the general population to solve problems of public importance and to provide alternative information regarding the government's policy.

Taking into account the obvious link between financial transparency and corruption in the countries rich in minerals and hydrocarbons, which includes Azerbaijan, the presence of a robust civil society should be considered an anti-corruption measure. Established in 2006, the National Budget Group is an example of one such civic alliance.

On July 27, 2007, the "Concept of State Support of NGOs in Azerbaijan" was approved by an President. Subsequently, on December 13, 2007, the Council on State Support for NGOs under the Auspices of the President was established². The council was viewed cautiously by local NGOs and the steady tendency of the organization to move civil society initiatives under their control was revealed only later.

Independent NGOs have always faced certain difficulties associated with organizing activities in the regions and ensuring the participation of government agencies. But after 2014, the local civil society environment was confronted with risks that could weaken the whole sector's presence in the country. In this sense, 2014 can be considered a turning point for Azerbaijani civil society. After this date, a combined change in legislation and attitude in policy towards NGOs created serious risks for the existence of the entire sector. These negative trends continued in 2017 and 2018, as well. In particular, let us take a look at the country's political situation in 2018.

One of the most important political events of 2018 was the presidential elections, which were held on April 11, 2018, 6 months earlier than originally planned . On February 5, 2018, President İlham Aliyev declared that the snap presidential election would be held on April 11. These elections were to be held against the backdrop of a growing consolidation process or the "concentration of power in one hand", in a time when the president appointed his wife as the first vice-president and in an environment, where the scope of activities of civil society and political parties were narrowed, with independent media being suppressed.

According to the Central Election Commission, İlham Aliyev won with 86.03% of the votes in the presidential election held on 11 April 2018. After the leading opposition groups

¹ International Center for Not-for-Profit Law (ICNL). Civic Freedom Monitor: Azerbaijan. 21.03.2018. <http://www.icnl.org/research/monitor/azerbaijan.html>

² Prezident yanında Qeyri-Hökumət Təşkilatlarına Dövlət Dəstəyi Şurası. 2018. <http://www.cssn.gov.az/news.php?id=1998&lang=az>

refused to participate in the elections, 7 candidates from the so-called "loyal opposition", defending the government, gathered very few votes compared to the president: Zahid Oruj - 3.11%, Gudrat Hasanguliyev - 3.02% and Hafiz Hajiyev - 1.52%, Araz Alizade - 1.38 %, Faraj Guliyev - 1.17%, Razi Nurullayev - 0.74%, Sardar Jalaloglu - 3.03%.

OSCE Office for Democratic Institutions and Human Rights, the Parliamentary Assembly of OSCE, and the Parliamentary Assembly of the Council of Europe joined the presidential elections as a part of their election observation mission. In their preliminary report, it was stated³ that "early presidential election took place within a restrictive political environment and under a legal framework that curtails fundamental rights and freedoms...in the absence of pluralism, including in the media, this election lacked genuine competition." On election day, observers reported to the OSCE mission on cases where mandatory procedures were disregarded, a general lack of transparency, ballot box stuffing, and numerous other serious violations.

More than half of the vote counts were assessed negatively, due to deliberate falsifications and unclear procedures. Civil society members report that, "The obstacles created by the government and election commission restricts the space of activities for civil society organizations. A prominent citizen observer organization Election Monitoring and Democracy Education Center has been disregarded since 2008 and volunteers of the organization had to register individually, where some of them faced difficulties."

Despite the decisions⁴ of the European Court of Human Rights, Ilgar Mammadov, who was under arrest at that time, was barred from running in the presidential election in 2018. Before, during, and after the 2018 presidential elections,, attempts by political parties and various initiative groups to hold various activities in the Baku city center were prevented by police action. Thereby, they violated the freedom of assembly, enshrined in the article 49 of the Constitution, and which also stipulates that state agencies must be informed beforehand. During the elections of April 11, 2018, open and closed places in the country that were designated as assembly spots were far away from city and regional centers.

As is described in detail in the statement's following sections, along with the freedoms of assembly, for the last two years, the right of freedom of expression in the country is also being limited. Within those restricted rights and freedoms, one of the most important and necessary for the formation and development of civil society is the right of association. The violation of people's and civil society organizations' right to come together within various initiatives to solve social problems was evaluated negatively in the country, as well as among international organizations, including OGP.

³ "Azerbaijan election lacked genuine competition in an environment of curtailed rights and freedoms, international observers say". OSCE Office for Democratic Institutions and Human Rights (ODIHR). Baku. 12 April 2018
<https://www.osce.org/odihr/elections/azerbaijan/377623>

⁴ Beynəlxalq Seçki Müşahidə Missiyası, Azərbaycan Respublikası, Növbədənənar Prezident Seçkiləri, İlkin Faktlar və Nəticələr haqqında Bəyanat, 11 aprel 2018 (səhifə: 3).
<https://www.osce.org/az/odihr/elections/azerbaijan/377620?download=true>

⁵ European Court of Human Rights. "Ilgar Mammadov v. Azerbaijan". ECHR 144 (2014). 22.05.2014

2. The country's inactive status and OGP's requirements

In February 2014, amendments that were made to the legislation regarding non-governmental organizations, grants, and state registration for legal entities, and persecution and pressures in parallel with those, effectively worsened the civil environment in the country. As a result of these legislative changes, registering an NGO, receiving a grant from a foreign donor, and registering a grant project have all become extremely difficult. The cumbersome procedure of registering a grant project now includes registering a project in the Ministry of Justice and, depending on the project's focus, obtaining a form of consent and registering in other bodies of central executive power, as well.

In October and December 2015, the Cabinet of Ministers and the Ministry of Justice adopted new decisions that have tightened the rules on registering foreign NGOs local offices and foreign donors' activities in the country. In fact, the process for local civil society organizations to receive grants from foreign donors and the registration process were both suspended indefinitely.

Moreover, inspections of NGOs working in the fields of fiscal transparency, good governance, the protection of property rights, open government principles, and legal assistance (for example, organizations represented in the National Budget Group) began, and they were accompanied by criminal cases. As a result, in 2015, Azerbaijan's status in the Extractive Industries Transparency Initiative (EITI) organization was downgraded⁶ from a compliant member to a candidate country. In 2016, its membership in Open Government Partnership (OGP) was designated⁷ as "inactive".

In September 2017, OGP extended Azerbaijan's "inactive" status for another 1 year under the circumstances. Thus, the organization has allowed the government to improve their communication with civil society, and simplify complicated procedures for local and foreign NGOs to operate, in order to resume⁸ its "active" status. By the end of June 2018, the government has still not implemented the majority of these recommendations, and neither discussion nor dialogue platforms have been conducted.

The OGP's Steering Committee prepared an updated set of requirements that was published in September 2017, with new requirements for the Azerbaijani government to implement by September 2018, in order to regain active status in the Partnership. The first course of the OGP's proposals covers the "simplification of registration processes for civil society organizations (CSOs) and NGOs". The required major changes, and the steps to be taken in connection with them, are outlined below.

1.1. To simplify the procedures for establishing and registering CSOs in Azerbaijan and remove discretionary actions that limit their ability to operate.

To implement this, OGP specified concrete recommendations, including: (i) enabling the online registration of CSOs, including the ability to amend registration documents; (ii) fulfilling the registration of CSOs within set time limits; and (iii) registration of CSOs should

⁶ The Extractive Industries Transparency Initiative (EITI). Azerbaijan downgraded to candidate country. 15.04.2015 <https://eiti.org/news/azerbaijan-downgraded-to-candidate-country>

⁷ OGP Azerbaijan. 2016. <https://www.opengovpartnership.org/countries/azerbaijan>

⁸ September 2017: Updated Recommendations for the Government of Azerbaijan <https://www.opengovpartnership.org/documents/september-2017-updated-recommendations-government-of-azerbaijan>

only be denied on clear grounds that are legitimate under international law - none of which have been fulfilled within the period of 2017-2018. In the final progress report from September 2018, sent by the government of Azerbaijan to OGP, it is described⁹ that, in order to further simplify the procedures that regulate NGOs' operations in the country, a new "one-stop shop" e-service platform had been created. A digital platform will include all NGOs and relevant state bodies. But the reality is that the issue of online registration of NGOs with simplified procedures has not been resolved, neither on the level of the law on "State Registration and Registry of Legal Entities", nor in practice. According to Article 6 of the law on "State Registration and Registry of Legal Entities", 8 additional documents are required¹⁰ to register a representation or an affiliate office of a foreign non-governmental organization. In this framework, changes have to be made¹¹ to the rules that "study the activities of non-governmental organizations and branches or representative offices of foreign non-governmental organizations."

1.2. To eliminate the requirement for NGOs to obtain an extract (registration certificate) every two years.

OGP requires that registration should be a one-time procedure and NGOs should not have to periodically re-register. There is no direct demand for obtaining a registry extract every two years indicated either in the law¹² on "State Registration and Registry of Legal Entities" or in the law¹³ on "Non-Governmental Organizations (Public Union and Funds)."

The legislation stipulates that changes made to the registry documents of local NGOs and representations or affiliates of foreign NGOs should be registered no later than 40 days after. However, re-registering results of every general meeting of NGOs and obtaining a registry extract are still required and remain in practice.

At the same time, information indicated in the progress letter of the Azerbaijani government to OGP on the creation of a digital platform for NGOs, that would enable them to review their registry information, has not been confirmed. Currently, NGOs are able to submit¹⁴ their electronic financial reports to the Ministry of Finance only.

1.3 To revise the Code of Administrative Offences to reduce the number of penalties and prevent excessive harshness on CSOs.

Article 432 in the Code of Administrative Offences, entitled "Violation of the Law on Receiving (Providing) Grants", outlines the penalties for failing to submit a contract for receiving or providing a grant to the Ministry of Justice on time. The fine for individuals will be set at 1000 to 2000 AZN, for officials 1500 to 2500 AZN, and for legal entities 5000 to 7000 AZN.

⁹ OGP. Final progress report from the government of Azerbaijan. 25.09.2018

https://www.opengovpartnership.org/sites/default/files/Azerbaijan_Letter_20180922.pdf

¹⁰ "Hüquqi şəxslərin dövlət qeydiyyatı və dövlət reyestri haqqında" Qanunu. 12.12.2003

<http://e-qanun.az/framework/5403>

¹¹ "Qeyri-hökumət təşkilatlarının, xarici dövlətlərin qeyri-hökumət təşkilatlarının filial və ya nümayəndəliklərinin fəaliyyətinin öyrənilməsi" Qaydaları. 28.12.2015. <http://e-qanun.az/framework/32061>

<http://e-qanun.gov.az/framework/5403>

¹²<http://e-qanun.gov.az/framework/5403>

¹³ "Qeyri-hökumət təşkilatları (ictimai birliklər və fondlar) haqqında" Qanunu. 13.06.2000

<http://e-qanun.az/framework/511>

¹⁴ Maliyyə Nazirliyi. QHT Maliyyə Hesabatları. <http://www.maliyye.gov.az/node/1373>

The maximum fine for individuals (2000 manat) is 15 times higher than the amount of minimum wage (130 AZN) in the country for 2018. Official subjects receiving a grant from a local or foreign NGO (branches and representative offices) without a grant contract will be subject to a confiscation of those funds and entities that are subjects of the grant, after which officials receiving such a grant will be fined in the amount of 2500 to 5000 AZN, and legal persons shall be fined in the amount of 8000 to 15000 AZN accordingly. For conducting banking operations with local and foreign NGOs based on unregistered grant contracts, officials will be fined in the amount of 2500 to 5000 AZN, and legal entities will be fined in the amount of 5000 to 8000 AZN, accordingly.

As we can see, the administrative law sets huge fines for NGOs, and nothing has changed in this regard to the period of 2017-2018. Apart from that, Articles 579-582 of the Code of Administrative Offences set high fines¹⁵ for NGOs receiving donations in cash, for the violation of laws on NGOs, for limiting the means of NGOs to coordinate their activities in accordance with the law, for NGOs which are not rectifying the violations identified by government agencies on time, and for the violation of the rules by foreign NGOs.

The second part of the recommendations is related to the "Simplification of Regulations for NGOs to Access Funding." The latest situation regarding the 4 specific recommendations put forward in the second part is discussed below.

2.1. To introduce changes to limit the possibility to arbitrarily deny grant registration or, ideally, eliminate this procedure.

On June 5, 2015, the Cabinet of Ministers approved a new set of rules on "Grant Contracts Registration Regulation." According to the Article 5, concerning the conditions that would cause the rejection of a registration of a grant contract, the Ministry of Justice can deny the registration of a grant agreement if "a grant issued by a foreign donor is considered financially and economically inexpedient, or an opinion regarding its financial-economical expediency is not provided."

Article 3.1 of these rules is quite open for misuse, as well. Thus, the Ministry of Justice can deny¹⁶ grant registration if terms of the contract are not in compliance with the grant's concept or the organization's scope of activities do not match with the issued grants.

2.2. To introduce changes related to the obligation of foreign donors to obtain the right to provide grants.

These are some concrete proposals by OGP:(i) eliminate the necessity for foreign donors to obtain the right to provide each individual grant and service contract from the Government of Azerbaijan ; (ii) eliminate the necessity for a foreign donor to have an agreement with the Ministry of Justice, and register its representative office in Azerbaijan, in order to be a grantor; and (iii) exclude foreign donors that operate on the basis of bilateral and multilateral agreements from the obligation to obtain the right to provide grants.

In the progress letter sent by the government of Azerbaijan to OGP in September, 2018, it states¹⁷ that, following the application of the amendments to the Decisions of the Cabinet of

¹⁵ İnzibati Xətlər Məcəlləsi. 29.12.2015. <http://e-qanun.az/code/24>

¹⁶ Nazirlər Kabinetinin 2015-ci il 5 iyun tarixli 216 nömrəli qərarı ilə təsdiq edilən "Qrant müqavilələrinin (qərarlarının) qeydə alınması" Qaydaları. <http://e-qanun.az/framework/30212>

¹⁷ OGP. Final progress report from the government of Azerbaijan. 25.09.2018

Ministers on "Regulations on the Registration of Grant Contracts " and the "Regulation on the Right to Give Grants by Foreign Donors in the Republic of Azerbaijan", the deadline period for the registration of foreign and local grants was doubled, the review period of the grant contracts reduced in half, the number of documents required for registration of grant contracts is reduced, the working days for addressing deficiencies identified in the registration of grants are doubled, and the new institution of service contracts is established and made applicable both to foreign and local grants.

While it is true that these amendments to the law have been applied, they do not fully cover the OGP's proposals. Thus, the clause, "the right to give grants by foreign donors in Azerbaijan should be obtained for each grant contract" (Article 2.1) of the "Regulation on the Right to Give Grants by Foreign Donors in the Republic of Azerbaijan" still remains unchanged.

According to Article 1.3, all the specified requirements regarding the right to give grants by foreign donors in Azerbaijan also apply to sub-grants and to additional contracts, in connection with grant contracts and any changes applied to them. If a sphere to which a grant is being issued is subsidized by the state, a grant may not be considered financially and economically expedient, thereby the right to give grants in Azerbaijan may not be granted to foreign donors (Article 3.3).

If you look into the law "On Grants" (17.04.1998) or in the law on "Non-Government Organizations (Public Unions and Funds)" (13.06.2000), neither of these laws nor the above-mentioned rules directly demand that foreign donors register their representations in Azerbaijan in order to get the right to issue grants in the country. This issue is open to various legal interpretations. So far, no appropriate amendments have been made to the legislation in order to exclude foreign donors that operate on the base of bilateral and multilateral agreements from the obligation to obtain the right to provide grants.

2.3. To eliminate the need to obtain the opinion on 'financial-economic expediency' in order to issue or receive a foreign grant.

Article 2.1 of the "Regulation on the Right to Give Grants by Foreign Donors in the Republic of Azerbaijan" approved by the Cabinet of Ministers on October 22, 2015, states that "the right to give grants by foreign donors in Azerbaijan should be obtained for each grant contract". Article 2.2 in turn, says, "in order to obtain the right to give grants, an opinion on the grant's financial-economical expediency by the Ministry of Finances is needed¹⁸." Although several additions and amendments have been made to the given regulations in January and July of 2017, the requirement for obtaining an opinion on a grant's financial-economical expediency is still in practice. Following procedure is also quite burdensome, and no serious simplification has been achieved this direction. Within 30 days after the opinion on "financial-economical expediency" by the Ministry of Finances is obtained and the grant is registered based on the decision by a donor or a recipient, one must still apply to commercial organizations for the "one-stop shop principle", to the Ministry of Economy for public legal entities, to the State Committee on Religious Associations in connection with

https://www.opengovpartnership.org/sites/default/files/Azerbaijan_Letter_20180922.pdf

¹⁸ "Xarici donörələr tərəfindən Azərbaycan Respublikasının ərazisində qrant vermək hüququnun əldə edilməsi Qaydası"nın təsdiq edilməsi barədə Nazirlər Kabinetinin Qərarı. 22.10.2015

<http://e-qanun.az/framework/31488>

religious organizations, and to the Ministry of Justice regarding other non-commercial organizations.

Article 3.1 of the Presidential Decree on "Application of the "One-Stop Shop Principle" to the Procedure of Obtaining the Right to Give Grants for Foreign Donors in the Republic of Azerbaijan" (21.10.2016) envisages the simplification of the procedure of obtaining an opinion on financial-economical expediency, and that it should be provided on the basis of appeal made by a foreign donor, as well as a recipient party.

An important amendment to the legislation was the abolishing¹⁹ of Article 1.4, "A grant agreement cannot be signed with a foreign donor without the right to issue grants", reflected in the regulations.

2.4. To simplify financial operations for NGOs. In particular, bank operations related to grants and donations should remain independent and not be subject to any state interference.

NGOs in Azerbaijan are not allowed to carry out banking operations based on unregistered grant contracts. Banking operations with foreign donors can be run only on the basis of a notification confirming the registration of the grant agreement. Apart from the legal difficulties for NGOs to receive grants from abroad, there is a problem with cashing out funds from their bank accounts. According to the information published by local anti-corruption public union "Şəffaflıq Azərbaycan" ("Transparency Azerbaijan") in 2017, as a result of application of the law on "Non-cash settlements", "commercial banks banned NGOs, regardless of their funding source, from cashing out money from ATMs using their corporate credit cards, and in some cases credit cards even getting blocked²⁰."

In the progress letter sent by the government of Azerbaijan to OGP in September 2018, it also states that financial operations for NGOs have been simplified and cash withdrawal limitation on bank operations in connection with grants and donations has been extended threefold, from 5000 AZN to 15000 AZN. Here is Article 34.7 of the law on "Non-Cash Settlements" that was being referred to. But this article regulates only "the use and expenditure of funds obtained through public procurement contracts", which cannot be applied²¹ to grants from foreign donors.

¹⁹ Azərbaycan Respublikası Nazirlər Kabinetinin 2015-ci il 22 oktyabr tarixli 339 nömrəli qərarı ilə təsdiq edilmiş "Xarici donorlar tərəfindən Azərbaycan Respublikasının ərazisində qrant vermək hüququnun əldə edilməsi Qaydası"nda dəyişikliklər edilməsi barədə Nazirlər Kabinetinin Qərarı. 24.01.2017
<http://e-qanun.az/framework/34706>

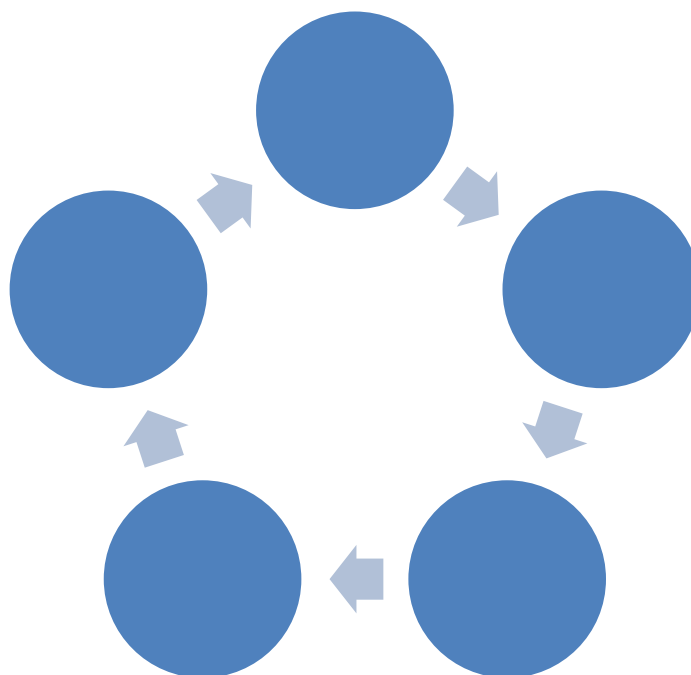
²⁰ "QHT-ləri pulsuz qoyan göstəriş qanunidirmi?". Novator.az. 25.04.2017
<https://novator.az/2017/04/25/qht-l%C9%99ri-pulsuz-qoyan-gost%C9%99ris-qanunidirmi/s>

²¹ "Nağdsız hesablaşmalar haqqında" Azərbaycan Respublikasının Qanunu (16.12.2016)
<http://e-qanun.az/framework/34474>

3. The new National Action Plan and permanent dialogue mechanism

Azerbaijan officially joined OGP in September 2011. By participating in OGP, governments should meet the minimum criteria for key parameters within the open government framework, such as increasing government's accountability, facilitating citizen participation, and combating corruption.

Scheme 1. Procedures for joining the OGP and afterward



As can be seen in scheme 1, after they meet eligibility criteria and send the letter of intention as the next step, OGP member governments have to set an action plan. On September 5, 2012, Azerbaijan approved the "National Action Plan on Promotion of Open Government for 2012-2015", incorporating 9 different categories, consisting of 37 commitments. Only 20 out of those commitments had the capacity for medium or transformative impact²². Some of the commitments were new, while others just repeat various initiatives that have already been reflected in other related state programs. Although many of these commitments were unaddressed, it was a comprehensive action plan that included proposals from civil society groups.

After the period ended for the National Action Plan for 2012-2015, approved on September 5, 2012, , a new "National Action Plan on the Promotion of Open Government for 2016-2018" was approved on April 27, 2016. The new action plan contains²³ 60 activities in 11 areas, incorporating some proposals from local civil society representatives. These activities include improving electronic services, enabling access to information, expansion of civil

²² AHT Müstəqil Hesabatlılıq Mexanizmi (IRM): Azərbaycan Proqres Hesabatı 2012-2013
https://www.opengovpartnership.org/sites/default/files/Azerbaijan_final_2012.pdf

²³ Açıq hökumətin təşviqinə dair 2016-2018-ci illər üçün Milli Fəaliyyət Planı - www.e-qanun.az/framework/32647

society members' activities, increasing citizen participation, ensuring fiscal transparency, promoting activities by local self-governing bodies, promoting transparency in the extractive industry, measures for prevention of corruption and improvement of legislation, promoting transparency and responsibility in private sector, to raise awareness and cooperation, organization of monitoring and control over the implementation of the Action Plan, and so on.

On September 9, 2016, as a part of implementation of Article 4.1.3 on "establishing civil society platform within the open government partnership and supporting its activities" of the "National Action Plan on Promotion of Open Government for 2016-2018", the "Government and Civil Society Dialogue Platform within the Open Government Partnership" was established. The Memorandum was signed²⁴ to indicate 9 state and 31 non-governmental agencies as founders thereof. At the same time, the government had formed this Platform before the OGP's global summit, which was held in Paris in December 2016.

Information on the activities of the "Government and Civil Society Dialogue Platform" on the promotion of a more open government started to be posted on the www.ogp.org.az website. It would be difficult to assert that the state bodies have been giving sufficient support to the Platform's activities or have been actively involved in its projects.

The platform does not cover the entire spectrum of civil society, and many of those groups that participate or want to participate in the OGP process are excluded from the Dialogue Platform. Currently, Azerbaijan's Government - Civil Society Dialogue Platform on the Promotion of Open Government gives the impression of an organization that legitimizes the government's decisions on open government, while in fact, it should function as an independent dialogue platform that is truly open to all of the country's members of civil society.

Commitments included in the Action Plan in connection with citizen participation, such as "Strengthening, organizing functioning, and ensuring continuity of public councils" (4.2.1), "Creation of separate sections in official web resources and regularly updating information on composition and activities of public councils" (4.2.2), and "Increasing participation of civil society institutions in the National Assembly's discussions of the state budget's draft, as well as increasing the number of such discussions" (5.2.) were implemented either partially or not at all.

In general, public councils are consultative bodies that function to organize debates between government and civil society representatives at the level of central and local executive authorities. Some of the central and local executive authorities have not yet created these councils, and when they did create them, these councils have been unable to cope with the function of citizen participation.

The independence, inclusiveness, and true strength of the existing councils are somewhat questionable. Existing public councils have not been formed in the context of full consensus or with equality between government and civil society representatives. In particular, citizen participation, which would provide public oversight of all stages of public finance management, should be coordinated through these councils and other mechanisms.

²⁴ Açıq Hökumətin Təşviqinə Dair Hökumət - Vətəndaş Cəmiyyəti Dialoqu Platformasının yaradılması barədə Memorandum. 2018. <http://ogp.org.az/az/index.php/memorandum/>

4.A new environment for Civil Society

As a reaction to the deactivation of Azerbaijan's membership status in OGP, some technical improvements in the legal framework were made in 2016-2017, regarding the simplification of NGO activities, as well as the simplification of the process of receiving of foreign donor aid . Nevertheless, these attempts have not softened the reality. On October 21, 2016, a presidential decree on the "Application of the "One-Stop Shop Principle" to the Procedure of Obtaining the Right to Give Grants for Foreign Donors in the Republic of Azerbaijan" was signed. On January 11, 2017, the Cabinet of Ministers made amendments to the "Grant Contracts (Decisions) Registration Regulations".

According to the amendments: (i) the list of documents submitted for registration of granting contracts was reduced; (ii) elimination of the requirement for a notarized copy of a number of documents that are required to be submitted; (iii) if the merits of a grant agreement are intended to provide services or to engage in business, this contract is to be enforced as a service contract; and (iv) the period of time during which a grant contract should be submitted to state bodies was increased²⁵.

However, in reality, the number of NGOs that have been able to successfully register grants they receive from foreign donors and obtain the relevant extract in the Ministry of Justice or have completed registration procedure is very low. At the same time, these amendments do not guarantee that the government will provide a substantial basis for rejecting or not registering a grant. These changes also do not eliminate the two-step process of grant registration.

The issue raised in the report, released by the Public Association for Assistance to Free Economy in 2017, still remains relevant, "The recent amendments of 2017 made to the regulation of rights for foreign donors to issue grants in Azerbaijan in 2017 did not eliminate two major problems: foreign organizations still have to²⁶ obtain a donor status, and the second, foreign donors, after they obtain that donor status, still have to obtain an opinion from the Ministry of Finances on the expediency of grants they issue."

Bank accounts of many NGOs working in the field of human rights and democratization have been frozen²⁷. Although there has been some progress in this regard, it is still a big problem for NGOs to access those funds because tax-related cases still remain open. Detention of civil society activists, and special inspection measures during their entries or exits to and from the country, further prevent true public participation in the country's affairs and limit the objective monitoring of realistic implementation of the open government action plans.

During the five-year period covering 2013-2018, civil society activists also faced arrests and became part of the country's **political prisoners problem**. In 2012, the Council of Europe defined criteria for the concept of a political prisoner and, according to these criteria, a person deprived of liberty should be treated as a political prisoner in the following cases:

²⁵ "Qrant müqavilələrinin (qərarlarının) qeydə alınması Qaydası"nda dəyişikliklər edilməsi barədə Qərar. <http://e-ganun.az/framework/34689>

²⁶ Açıq Hökumətin Təşviqinə dair Milli Fəaliyyət Planının İcrası üzrə Alternativ Hesabat. Azad İqtisadiyyata Yardım İctimai Birliyi. May 2017 <http://openazerbaijan.org/>

²⁷ OGP Concern Letter. 2017.

https://www.opengovpartnership.org/sites/default/files/Azerbaijan_ART19-CIVICUS-HRW-PWYP_May2017.pdf

- if the detention has been committed in violation of freedom of thought, freedom of conscience and religion, freedom of expression of opinion and information, or freedom of assembly and association;
- if the detention has been committed for solely political reasons, without any involvement in any offense;
- If the duration of the detention or its terms are not proportional to the offense for which the individual is charged;
- If a citizen has been detained based on personal discrimination, or if the detention is the result of an unfair trial related to political motives of the government.

Human rights defenders, who present conflicting information about the number of political prisoners in the country (some of them claim that there are 150 political prisoners²⁸), divide political prisoners in Azerbaijan into 11 groups: members of opposition parties and movements; young activists; believers; life prisoners; victims of social protests; journalists and bloggers; former officials of Ministry of National Security; victims of crimes; hostages; former state officials; writers and poets; and human rights activists. A pardon, signed by President Ilham Aliyev on May 24, 2018, on the occasion of the 100th anniversary of the People's Republic of Azerbaijan, included²⁹ 12 political prisoners.

Civil society activists and political activists constitute the majority of the country's political prisoners.

On August 13, 2018, Ilgar Mammadov, chairman of the REAL Party, was released on parole, given a two-year probation period, and ban on leaving the country. Ilgar Mammadov was arrested during social unrest in Ismayilli in 2013 and was sentenced to seven years in prison in 2014. The European Court of Human Rights (ECHR) has issued two resolutions on Ilgar Mammadov's release in 2014 and 2017. In 2017, two resolutions adopted by the Parliamentary Assembly of the Council of Europe (PACE) on Azerbaijan included the requirement³⁰ to release Ilgar Mammadov.

In March 2017, problems in NGO activity led³¹ to the loss of Azerbaijan's membership in the Extractive Industries Transparency Initiative (EITI).

On June 4, 2018, a lawyer, Emin Aslanov, who returned to the country after graduating from law school in the United States, was sentenced to 30 days' administrative arrest and received a travel ban³².

On June 7, 2018, the ECHR found violations of Azerbaijani courts in the cases of former political prisoners, members of the "Nida" Movement, Rashad Hasanov, Rashadat

²⁸“Azərbaycanda siyasi məhbus məsələsi üzrə məruzəçi təyin olunacaq”. Novator.az. 07.06.2018

<https://novator.az/2018/06/07/az%C9%99baycanda-siyasi-m%C9%99bus-m%C9%99s%C9%99l%C9%99si-uzr%C9%99-m%C9%99ruz%C9%99ci-t%C9%99yin-olunacaq/>

²⁹ “Əfv və siyasilər”. Novator.az. 25 may 2018

<https://novator.az/2018/05/25/%C9%99fv-v%C9%99-siyasil%C9%99r/>

³⁰ “İlqar Məmmədov azadlığa buraxılıb”. BBC Azərbaycanca. 13 Avqust 2018

<https://www.bbc.com/azeri/azerbajjan-45169012>

³¹ Margarita Antidze. Azerbaijan leaves transparency group after membership suspended. Reuters. Baku. 11.03.2017

<https://www.reuters.com/article/us-azerbajjan-eiti/azerbajjan-leaves-transparency-group-after-membership-suspended-idUSKBN16I007>

³² “Emin Aslana 30 sutka inzibati həbs verildiği bildirilir”. Azadlıq Radiosu. 05.06.2018

<https://www.azadliq.org/a/emina-aslan/29273604.html>

Akhundov, Zaur Gurbanli and Uzeyir Mammadli, and the Azerbaijani government was fined³³ 96000 EUR.

In September 2018, the European Court of Human Rights considered the arrest of well-known lawyer and human rights activist Intigam Aliyev to be politically motivated.

Media and social media activists, who are in a broad sense part of the civil society, have also been seriously harassed in recent years.

A 5-year suspended sentence for investigative journalist Khadija Ismayil, who was in jail from December 2014 to May 2016, is still underway. Her bank account has been frozen at the request of the Ministry of Taxes and, as was the case with a number of NGO activists, it was claimed³⁴ that she has a large amount of tax debt (more than 63000 AZN). Mehman Aliyev, director of the "Turan" Information Agency, who was released on September 11, 2017, and Aziz Orujov, director of "Kanal 13" (Channel 13) online television, who was released by the Supreme Court on April 5, 2018, were the first journalists to be released from custody after the case of investigative journalist Khadija Ismayil.

The criminal case against "Meydan TV", an online broadcasting media channel operating outside the country that has been restricted in Azerbaijan, is still in process. Some journalists are being "invited" to law enforcement agencies from time to time for cooperating with this broadcasting agency.

Independent journalists living outside the country also do not feel completely safe. In March 2017, investigative journalist Afgan Mukhtarli was kidnapped in Tbilisi, where he lived with his family, and was secretly brought to Azerbaijan and arrested. In 2018, he was sentenced³⁵ to six years' imprisonment for illegal crossing of the state border. Afgan Mukhtarli, whose appeal has been repeatedly postponed, is said to be suffering from health problems.

Bloggers who investigate social problems in social media have not been left out of the persecution wave against independent media. Well-known blogger Mehman Huseynov was found guilty of defamation of a police officer and was sentenced to two years in prison on March 3, 2017. The blogger was reportedly³⁶ subjected to torture before his arrest, while being detained in the police station. In 2018, strict laws were proposed in the National Council of Azerbaijan on regulating social media and considering the actions of those who propagate ideas on social platforms against the interests of the government as a criminal offense. This indicates the systematic nature of measures taken to restrict freedom of expression in the country, and it is unrealistic to expect open government principles to be fully established in such an "uncritical" environment.

³³ "Gənc fəalları işi: Azərbaycan cərimələndi". Novator.az. 07.06.2018

<https://novator.az/2018/06/07/g%C9%99nc-f%C9%99alların-isi-az%C9%99rbaycan-c%C9%99rim%C9%99l%C9%99ndi/>

³⁴ "Xədicə İsmayıldan 63 min manat tələb olunur". "Amerikanın Səsi" Radiosu. 20.02.2018

<https://www.amerikaninsesi.org/p/3821.html>

³⁵ "Azərbaycanda medianın susdurulduğu və veb saytların bloklandığı bir dövrdə seçki keçirilir". "Amerikanın Səsi" Radiosu. 07.04.2018 <https://www.amerikaninsesi.org/a/azerbaycan-cpj/4337028.html>

³⁶ "Mehman Hüseynovun şəxsi işini araşdıracağıq". Azadlıq Radiosu. 10.10.2018

<https://www.azadliq.org/a/mehman-huseynov/29535774.html>

5. Evaluation of the implementation of the commitments

The implementation status of the commitments under the National Action Plan for Promotion of the Open Government for 2016-2018 is as follows. Within the period of 20 May of 2016 to the end of the 1st half of 2018, 20 out of the 80 concrete commitments under the 60 activities in 11 areas of the Action Plan were not implemented whatsoever. 8 commitments ending in 2016-2017 were fully implemented. Many other activities and commitments have been implemented partially, or have been implemented during the period of this evaluation. We will have to wait until the end of the national action plan (31.12.2018) to find out whether they have been fully implemented.

The list of activities or commitments include: uncertain and inaccessible activities (e.g., "Improvement of the List of Electronic Services"); routine activities of the technical nature (e.g., improvement of the "161-hotline"); those which do not cause significant changes in reality (e.g., informing the public about the ethical conduct of municipal servants); and technical activities that are not new and have been performed also in previous action plans (e.g., publication of quarterly reports on the state budget performance on internet page or public awareness of economic reforms). In the case of some activities, it is hard to understand their necessity or direct connection to open government - for example, "Legislative and Other Measures to Alleviate and Decriminalize Offences Committed in the Economic Field" (9.5).

The absence of an alternative monitoring and evaluation process, which would be based on serious methodology, is the reason why we cannot assert that there has been no significant development in the implementation of progressive commitments, such as increasing the participation of civil society institutions in the National Assembly's discussions of the state budget's draft, as well as increasing the number of such discussions. Instead, the pre-existing and technically-functioning activity of public awareness of the financial control measures implemented by the Chamber of Accounts at financial control facilities is being rebranded as a "new" commitment.

Table 1. Status³⁷ of implementation of the National Action Plan for the promotion of Open Government for 2016-2018, from the period of May 2016 till the first half of 2018.

Activity (year)	State of implementation	Notes
1. Improvement of E-Services		
1.1. Improvement of the "List of Electronic Services" (2016-2018)	Implemented partially*.	Uncertain, non-concrete action.
1.1. Ensuring the activities of the services that are not fully operational and provided in the list (2016-2018)	Not implemented.	Although not implemented, it is an important activity.
1.1. Integration of new services into the "E-government" portal (2016-2018)	Implemented.	Of a technical nature.
1.2. Integration of a mobile interface to facilitate access to the "e-government" portal (2016).	Fully implemented.	Of a technical nature.

³⁷ Açıq Hökumətin təşviq edilməsinə dair Milli Fəaliyyət Planının 2017-ci il üzrə icrası barədə. 2017. <http://commission-anticorruption.gov.az/view.php?lang=az&menu=49>

³⁸ "Əmanətlərin Sığortalanması Fondu" "Elektron hökumət" portalına inteqrasiya edildi. 10.03.2018 <https://www.e-gov.az/az/news/read/634>

1.2. Mobile application of "e-government" portal (2016)	Implemented.	Of a technical nature
1.2. Improvement of payment terms on the "e-government" portal (2016)	Not implemented.	Of a technical nature
1.3. Public awareness campaigns and presentations on the possibilities and use of "E-government" portal (2016-2018)	Implemented.	An activity that does not make much difference in real conditions.
1.4. Reducing the number of official documents and references required by government agencies in the application of e-services (2016-2017)	Implemented partially.	Though not directly related to the open government, still an important activity
1.5. Setting up information systems in higher education institutions (2017-2018)	Implemented partially.	Of a technical nature.
1.5. Integration of electronic versions of the documents and references provided to students (2017-2018)	Not implemented.	Of a technical nature.
1.5. Ensuring payment of education fees in electronic form (2017-2018)	Not implemented	Of a technical nature.
1.6. Establishment of electronic service for admission to preschool education institutions (2016-2017)	Not implemented.	An important activity, yet to be implemented.
1.7. The coverage of the electronic enrollment system for general schools, lyceums, and gymnasiums to be extended to regions (2017)	Not implemented.	Pre-existing technical activity.
1.8. Ensuring payment of municipal taxes and settlements through the Central Bank's Public Payments' Centralized Information System and via electronic terminals (2016-2017)	Implemented partially.	Of a technical nature.
2. Ensuring access to information.		
2.1. Implementation of measures to strengthen Ombudsman's control over the implementation of tasks arising from the requirements of the law on "Access to Information" (2016-2017)	Implemented partially.	Uncertain, non-concrete action.
2.2. Establishment of legal assistance mechanisms to facilitate access to information (2016-2018)	Implemented partially.	An activity that does not make much difference in real conditions.
2.2. Implementation of specialized training and awareness raising activities (2016-2018)	Implemented partially.	An activity that does not make much difference in real conditions.
2.3. Establishment of a unified information base for legal documentation of residential premises in residential buildings that are being constructed or finished but not yet commissioned (2016-2017)	Not implemented.	An activity that does not make much difference in real conditions.
2.3 Implementation of measures to improve the mechanisms for early registration of real estate (2016-2017)	Not implemented.	An activity that does not make much difference in real conditions.
2.4. Development of mobile versions of government websites (2016-2018)	Implemented partially.	Of a technical nature.
2.4. Opening webpages for state agencies on social networks and ensuring their active functioning (2016-2018)	Implemented partially.	Pre-existing technical activity.

2.5. Improvement of the "161-Hot Line" of the Headquarters of the department for Combating Corruption under the Prosecutor General (2016-2017)	Implemented partially.	The routine activity of a technical nature.
2.5. Publishing of statistical and analytic information (2016-2017)	Implemented partially.	The routine activity of a technical nature.
3. Improvement of the functioning of the uniform electronic internet database for normative legal acts		
3.1. Ensuring activity and regular updates of the uniform electronic internet database (www.e-qanun.az) for normative legal acts (2016-2018)	Being implemented regularly.	Activity or commitment of a technical nature
3.1. Ensuring of activity and regular updates of the State Registry of Legal Acts (www.huquqiaktlar.gov.az) (2016-2018)	Being implemented regularly.	Activity or commitment of a technical nature
3.2. Improvement of mobile version of the uniform electronic internet database for normative legal acts (www.e-qanun.az) (2017)	Partially implemented.	Activity or commitment of a technical nature
4. Expanding the activities of civil society members and increasing public participation		
4.1. Supporting activities of civil society members.		
4.1.1. Promotion of the open government principles and promotion of NGOs' projects and initiatives) in the field of combating corruption as priority areas (2016-2018)	Implemented partially.	Uncertain activity.
4.1.2. Preparation of proposals on development of a favorable environment for the activities of non-governmental organizations (2016)	Implemented partially.	An important activity, yet to be implemented.
4.1.3. Creation and support of the "Open Government Partnership" civil society platform (2016)	Fully implemented*.	Important and relevant, once the inclusiveness condition is ensured.
4.2. Expansion of citizen participation		
4.2.1. The organization, strengthening and supporting the sustainability of public councils (2016-2018)	Implemented partially.	An important activity, yet to be implemented.
4.2.2. Establishment of separate sections on official web resources related to the composition and activities of public councils and regular data update (2016-2018)	Implemented partially.	Activity or commitment of a technical nature.
4.2.3. Preparation of public control mechanisms for the protection of consumers' rights.	Not implemented.	Uncertain commitment.
4.2.3. Improving the operation of the hotline created for this purpose (2016-2018)	Implemented partially.	Uncertain activity.
4.2.3. Organization of awareness-raising measures in this regard (2016-2018)	Implemented partially.	General activity.
5. Ensuring financial transparency		
5.1. Implementation of information technology and electronic control over the state financial control (2016-2018)	Implemented partially.	Uncertain technical activity.
5.2. Increasing participation of civil society institutions in the National Assembly's discussions	Not implemented.	An important activity, yet to be implemented.

³⁹ Açıq Hökumətin Təşviqinə Dair Hökumət -Vətəndaş Cəmiyyəti Dialoqu Platformasının Üzvləri. 2018. <http://ogp.org.az/az/index.php/uzvler/>

of the state budget's draft, as well as increasing the number of such discussions (2016-2018)		
5.3. Annual report on the state budget performance and public disclosure of relevant opinion by the Chamber of Accounts (2016-2018)	Fully implemented.	Pre-existing activity.
5.4. Publication of quarterly reports on state budget execution (2016-2018)	Fully implemented.	Pre-existing activity.
5.5. Improvement of the legislation on the publication of information on the annual financial activity of legal entities and budgetary organizations belonging to the state, including funds allocated from the state budget or the use of the property given to them	Not implemented.	An important activity, yet to be implemented.
5.5 Strengthening control over the publication of these reports (2016-2018)	Not implemented.	An important activity, yet to be implemented.
5.6. Publication of information on public procurement by budget organizations on their web pages (2016-2018).	Implemented ⁴⁰ .	Pre-existing activity.
5.7. Informing the public about the financial control measures undertaken by the Chamber of Accounts at the financial control facilities (2016-2018).	Implemented.	Pre-existing activity.
6. Related to the field of activity of local self-governance bodies		
6.1. Ensuring transparency in the process of admission to the municipal services		
6.1.1. Publication of the municipal occupancy rules, the composition of competition commissions, current vacancies, results of the admission and other information on municipal service on the municipalities' website (2016-2017)	Not implemented.	An important activity, yet to be implemented.
6.1.1. Implementation of measures to create a centralized electronic resource (2016-2017)	Not implemented.	An important activity, yet to be implemented.
6.1.2. Preparation of necessary methodical resources, guiding rules for candidates wishing to take part in municipal recruitment contests, and their publication on internet resources (2016-2018)	Implemented partially ⁴¹ .	Change that will not make much difference.
6.2. Increase in professionalism and awareness of municipal servants on ethical conduct rules		
6.2.1. Conducting training on ethical conduct, legal knowledge, and professional skills for municipal servants (2016-2018)	Implemented.	Activity that does not make real difference.
6.2.1. Preparation of necessary methodical resources, guiding rules in this regard and publication on internet resources (2016-2018)	Implemented partially.	Activity that does not make real difference.
6.2.2. Public awareness on ethical conduct of municipal servants (2016-18)	Not implemented.	Activity that does not make real difference.
6.2.3. Preparation and adoption of ethical conduct rules for municipality members (2016-2017)	Implemented fully.	Activity that does not make real difference.
7. Increasing transparency in the extractive industry		
7.1. Ensure transparency in extractive industry, in accordance with international principles	Implemented partially.	Uncertain commitment.

⁴⁰ Təhsil Nazirliyi. 2018. <http://edu.gov.az/az/page/228/15159>

⁴¹ Ədliyyə Nazirliyi. <http://justice.gov.az/prints.php?view=municipal&id=2>

7.1. Continuation of cooperation with non-governmental organizations, private sector representatives, and independent experts	Implemented partially.	Pre-existing activity.
8. Improvement of measure and legislation in the field of combating corruption		
8.1. Preparation of mechanisms and legislative acts to prevent conflicts of interest in the activities of civil servants and state officials (2016-2018)	Implemented partially ⁴² .	Important activity, yet to be implemented.
8.2. Implementation of measures related to the provision of financial information by officials (2017-2018)	Not implemented.	An important activity, yet to be implemented.
8.3. Proposals on the application of "investigation contract" institute, within the framework of early investigation in connection with criminal-legal measures against legal entities and investigation of corruption crimes. (2016-2018)	Implemented partially.	An activity that does not make a real difference.
8.4. Preparation of proposals for increasing the effectiveness of operational-search activities in the field of combating corruption (2016-2017)	Not implemented.	An important activity, yet to be implemented.
8.5. Preparation and adoption of the ethical conduct rules for National Assembly's deputies (2016-2017)	Implemented fully.	An activity that does not make a real difference.
8.6. Organization of measures and events related to the application of transparency standards implemented by ASAN service centers to the state bodies (2016-2018)	Implemented partially.	An important activity, yet to be implemented.
8.7. Improvement in the process addressing the appeals by entrepreneurs in connection with the problems they face, and taking relevant measures (2016-2018)	No new steps have been undertaken.	"Taking appropriate measures" is a very uncertain expression.
8.8. Preparation of an action plan on the application of international requirements in combating illegal money laundering or other illegal property laundering (2016)	Implemented fully ⁴³ .	An important activity, yet to be implemented.
8.8. Preparation of an action plan to implement international requirements in combating with a financing of the terrorism (2016)	Implemented fully.	An important activity, yet to be implemented.
8.9. Ensuring public awareness about reforms in the field of economics, their purposes and essence (2016-2018)	Implemented.	Pre-existing, routine, and technical activity.
8.10. Preparation of proposals on the implementation of the services rendered to the population in the communal area on the basis of customer satisfaction and transparency principles (2016-2017)	Implemented fully.	Of technical importance.
9. Increasing transparency and accountability in the private sector		
9.1. Preparation of proposals on anticorruption, transparency, ethical behavior, and accountability (compliance mechanism) for the provision of	Implemented partially.	An important activity, yet to be implemented.

⁴² Korrupsiyaya qarşı Müabrizə üzrə Komissiya. <http://www.commission-anticorruption.gov.az/upload/file/Conflict%20of%20Interst%20Law%20S.pdf>

⁴³ Cinayət yolu ilə əldə edilmiş pul vəsaitlərinin və ya digər əmlakın leqallaşdırılmasına və terrorçuluğun maliyyələşdirilməsinə qarşı mübarizəyə dair 2017–2019-cu illər üçün Milli Fəaliyyət Planı. <http://www.e-qanun.az/framework/34109>

transparency and combating corruption in the private sector (2016-2017)		
9.2. Conducting training on anticorruption, ethical behavior and compliance mechanisms to ensure transparency in the private sector (2016-2018)	Implemented partially.	An activity that does not make a real difference.
9.3. Preparation and dissemination of educational materials for corruption prevention in the private sector (2016-2018)	Implemented.	An activity that does not make a real difference.
9.4. Acceleration of the adoption of the Competition Code (2016-2017)	Not implemented.	An important activity, yet to be implemented.
9.5. Taking legislative and other measures to alleviate and decriminalize the crimes committed in the economic area (2016-2017)	Implemented partially.	Important activity, though not directly related to the open government.
10. Educating and cooperation		
10.1. Implementing measures for improvement of cooperation with international organizations and foreign state bodies specializing in the open government and anti-corruption measures and application of recommendations (2016-2018)	Not implemented.	The status of Azerbaijan in the OGP, the most important organization in this area, is inactive ⁴⁴ .
10.2. Development of educational programs anti-corruption and ethical conduct for different target groups and civil servants (2016-2018)	Implemented.	An activity that does not make a real difference.
10.2. Conducting training and supporting such activities (2016-2018)	Implemented partially.	An activity that does not make a real difference.
10.3. Addition of the topic of anti-corruption to the curricula of higher and secondary vocational institutions, conducting public lectures and seminars for students (2016-2018)	Implemented.	An activity that does not make a real difference and not directly related to the open government.
10.4. Publication and distribution of social media videos, booklets, and other educational materials in the field of open government and anti-corruption (2016-2018)	Implemented partially.	An activity that does not make a real difference.
11. Monitoring of implementation and organization of supervision of the Action Plan		
11.1. Implementation of measures to introduce information technologies into the process of monitoring of the implementation of the Action Plan	Implemented partially ⁴⁵ .	Of technical importance.
11.1. Appointment by the state bodies of persons responsible for implementation of the measures envisaged by the Action Plan	Not implemented.	Of technical importance.
11.2. Information exchange and effective coordination between agencies specialized in combating corruption and the state bodies' internal control agencies (2016-2018)	Not implemented.	Of technical importance.
11.3. Addition of the information on the open government and anti-corruption measures into the annual report prepared by the Cabinet of Ministers for the National Assembly (2016-2018)	Not implemented ⁴⁶ .	An important activity, yet to be implemented.

⁴⁴ Açıq Hökumət Tərəfdaşlığı. 2018. <https://www.opengovpartnership.org/countries/azerbaijan>

⁴⁵ Elektron Monitorinq Sistemi. 2018. <https://ems.gov.az>

⁴⁶ Milli Məclisdə Nazirlər Kabinetinin 2017-ci il üzrə illik hesabatı dinlənilib. 16.03.2018

https://azertag.az/xeber/Milli_Meclisde_Nazirler_Kabinetinin_illik_hesabati_dinlenilib_YENILANIB-1145405

11.4. Publication of the evaluation results on the Action Plan's implementation (2016-2018)	Implemented partially.	Of technical importance.
11.5. Establishment of cooperation with civil society institutions and supporting their activities based on the measures envisioned in the Action Plan (2016-2018)	Implemented partially.	Important activity, if implemented fully and with the condition of inclusiveness.
11.6. Declaration of special inquiries and results of research on the performance and evaluation of open government and anti-corruption measures (2016-2018)	Not implemented.	An important activity, yet to be implemented.

Transfer of commitments from one action plan to another is still a problem. Certain unfulfilled or partially executed activities or commitments in the "National Action Plan for Promotion of the Open Government for 2016-2018", were the unfinished activities that were included either from the "National Action Plan for Promotion of the Open Government for 2012-2015", or from the "National Action Plan for Combating Corruption for 2012-2015". For example, the commitment of "improvement of electronic control and applying information technologies into the implementation of state financial control" was "transferred" from the "National Action Plan for Promotion of the Open Government for 2012-2015"; and "obstruction of interest in the activities of civil servants and government officials" and "financial information on officials" were "transferred" from the "National Action Plan on Combating Corruption for 2012-2015."

The implementation of some decisions is extended indefinitely, and for unknown reasons. Article 1.3 of the "Rules for the Presentation of Financial Information by Officials", approved by the decree of the President on August 9, 2005, requires the Cabinet of Ministers to identify, within two months, the form and presentation procedure of the asset/income declaration that is stated in Article 4.1 of the "Rules for the Presentation of Financial Information by Officials", and to inform the President about it.

Only 12 years later, in 2017, within the framework of the "National Action Plan for Promotion of the Open Government for 2016-2018", it was noted that a draft decision on "approval of the rules and form of submission of financial statements by officials" was adopted in connection with the implementation of measures related to the provision of financial information by officials. The unopened or non-declared draft decision reportedly includes⁴⁷ "information contained in the declaration of financial character, the types of declaration, the entities to be submitted to the declaration, the provisions for the preparation and submission of the declaration, and the responsibility for the breach of the rules for submission of financial information by officials in the bill."

There is a need for the open government-related national action plans to include transformative commitments that are new, not reflected in other government programs, measurable with precise indicators, and that are able to make changes in the real-world, open government-related environment. Open government-related commitments should be more relevant to the base principles, such as transparency, accountability, and participation, rather than just providing and improving e-services. NGOs, both in Baku and in the regions,

⁴⁷ Açıq Hökumətin təşviq edilməsinə dair Milli Fəaliyyət Planının 2017-ci il üzrə icrası barədə. 2018. <http://commission-anticorruption.gov.az/view.php?lang=az&menu=49>

should be provided the opportunity to submit their proposals online or "offline" in formulating open government national action plans.

Despite the limited number of civil society representatives in the preparation of both the first and the second action plans on open government, there are no sustained or dialogue-based independent institutional mechanisms that can effectively include civil society in the process of monitoring the implementation process.

6. Recommendations

Five recommendations have been prepared as a result of this report, four of which are addressed to the government of Azerbaijan, and one to the Steering Committee of the OGP.

To the government of Azerbaijan:

1. Simplification of processes, such as the registration of local and foreign NGOs, the registration of grant projects, a collection of registry extracts, as well as the procedures connected with receiving a grant from a foreign donor.
2. Significantly soften fines and other penalties set forth in the Code of Administrative Offences for the violation of legislation regarding grants, in connection with both NGOs and individuals.
3. Establishing an independent and inclusive Open Government Forum, which will incorporate relevant government agencies, independent civil society groups, and international organizations operating in the country. Also establishing a board of members, a co-chairs group, and a secretariat for the forum, based on the criteria of representational structure, with one person from the government and one from civil society.
4. A 3-6 months time is to be requested from the OGP's Steering Committee for the implementation of the recommendations concerning the country's inactive status in the partnership. Develop a "plan for the execution of recommendations", with the participation of global open government and local civil society institutions.

To the OGP's Steering Committee:

5. Designation of a 3-6 months time period for Azerbaijan to implement the recommendations. Official visit of higher-level OGP representatives to Azerbaijan and discussions of the "plan for the execution of recommendations."