

## **STATEMENT**

### **on draft amendments to the legislation regulating the activities of NGOs and civil society organizations in Azerbaijan**

For your information, a package of draft amendments to the Code of Administrative Offences, the law "On Non-Governmental Organizations" (Public Unions and Foundations), i.e. "NGO Law", and the law "On Grants" were reviewed and the draft document was recommended for reading to the Parliament's plenary session, at the meeting of the National Assembly's Legal Policy and State Building Committee held on 06 February 2013.

According to the amendments proposed to the Code of Administrative Offences (CAO), if the copy of the Grant agreements and decisions to the Ministry of Justice are not presented within the period prescribed by law, public officials must be fined from 1500 to 2500 AZN, legal entities from 5 thousand to 7 thousand AZN.

In addition, the amendments to the Code state that religious organizations, NGOs which don't have any grant agreement and in case of the acceptance of assistance from the representations of foreign NGOs, public officials will be fined from 2500 to 5000 AZN, while legal entities from 8 thousand to 15 thousand AZN, including confiscation of items and funds. At the same time, it is proposed that NGOs - whose primary purpose is charity can receive donation in the amount of 200 AZN in cash.

Inadequate increase of the amount of penalty specified in the project that was presented to the Parliament is explained by increasing the transparency and accountability of NGOs activities.

However, according to existing legislation, NGOs present in whole 15 reporting forms to the Minister of Taxes, the State Statistics Committee and to the State Social Protection Fund for 5 times (4 quarterly and 1 annual report). Besides, NGOs present the annual report to the Ministry of Finance in 4 reporting forms.

Thus, the main purpose of draft amendment presented with increasing transparency and accountability in the activities of NGOs, which present 19 reporting forms to various state agencies annually, is not the same as it was shown in the official explanation.

We, the representatives of civil society who signed this statement, don't think that the adoption of amendments to the CAO will increase the transparency of NGO work. On the contrary, if these amendments come into force, many NGOs will become the debtors for the occurring inability to pay fines that will deteriorate their financial situation.

On the other hand, after the enactment of the proposed amendments, the inability of NGOs to receive donation for more than 200 AZN in cash will lead to the restriction of the business-based and community-based activities of NGOs. NGOs that fail to comply with the regulations will be penalized with big sums.

The proposed amendments to the legislation will mostly impact the non-registered NGOs, because, non-registered NGOs and their alliances don't have bank accounts due to lack of legal status and they are functioning only with one-side-approved contracts. In case the amendments are ratified, such NGOs won't be able to accept donations in accordance with the requirements of the law. Thus, any NGO the activity of which is regarded unwanted by the government will get closed.

This situation is fully contradicting the principles declared by the government on 27 July 2007 in "the Concept of State Support to Non-Governmental Organizations" and on the meeting "NGO dialogue in strengthening civil society" taken place on 03 July 2012. Past experience shows that if the proposed amendments to legislation are ratified, the role of the NGOs in increasing transparency and accountability of state agencies will be reduced and their impact on decision-making processes will be weakened.

All these factors will affect and limit the important role of civil society in ensuring democracy development, respecting freedoms and promoting integration to Europe.

People who signed this document also believe that the consideration of amendments to legislation that will lead to certain changes in the activities of NGOs is inadmissible without participation of civil society institutions. It is a violation of Azerbaijani legislation (Statue of the National Parliament) as well as the article No 77 of the recommendation 14 of the Committee of Ministers of the Council of Europe to member states on "The legal status of non-governmental organizations in Europe" CM / Rec (2007).

Therefore, NGOs who signed this statement call on the author of these amendments to withdraw this draft law first of all, and then to organize the discussion of amendments with the participation of civil society organizations; we invite the relevant state agencies to this dialogue.

The NGOs who signed the statement also call on National Parliament not to vote for changes that will hamper the development of civil society in Azerbaijan.

Signatures:

1. Public Initiatives Center, Gubad Ibadoglu
2. Human Rights House Azerbaijan, Shahla Ismail
3. Transparency Azerbaijan, Rena Safaraliyeva
4. Democratic Institutions and Human Rights Social Union, Elchin Abdullayev
5. Election Monitoring and Democracy Studies Center, Anar Mammadli
6. Legal Enlightenment Society, Intigam Aliyev
7. Association of Civil Society Development Center, Ahmad Abbasbeyli
8. Entrepreneurship Development Foundation, Sabit Bagirov
9. Society for Protection Women's Rights named after D. Aliyeva, Novella Jafarova
10. Center for the Protection of Freedom of Conscience and Religion, Ilgar Ibrahimoglu
11. Care of Azerbaijani Elder Peoples, Nasrulla Nurullayev
12. "Education for Human Rights" Public Association, Irada Javadova
13. Center for National and International Studies, Leyla Aliyeva
14. The Regional Human Rights and Media Center, Khalid Kazimov
15. Toward Civil Society Center, Abil Bayramov
16. Public Association for Assistance to Economic Initiatives, Azer Mehdiyev
17. Learning Democracy Public Union, Vugar Huseynov
18. Public Finance Monitoring Center, Kenan Aslanli
19. Human Rights Association in Mining Industry, Mubariz Tagiyev
20. Association of Civil Society Institute, Taleh Aliyev
21. Azerbaijan Mine Victim Association, Ray Kerimoglu
22. The Centre for Legal Civic Initiatives, Nagiyev Elshan
23. European Movement of Azerbaijan (EMA), Ramin Hajili
24. "Center of Studying of Economic Resources" Public Union, Ruslan Atakishiyev
25. Union of Free Teachers, Malahat Murshudlu

26. Women's Research Center, Sevil Allahverdiyeva
27. Public Union for Gender Equality, Shekerkhanim Aliyeva
28. Organization for Civil and political rights, Parvin Hashimli
29. NGO Alliance of Climate Change and Development, Aytakin Asgarova
30. Eco-World Social Union, Sevil Yuzbasheva
31. Economic Innovation Center, Mohammed Talibli
32. Azerbaijan NGO Alliance For Children's Rights, Nazir Guliyev
33. Economic Research Center, Galib Bayramov
34. Democratic Initiatives and Social Development Public Union, Vugar Hasanli
35. Association of Regional Women's Initiative, Mehriban Aliyeva
36. Democracy Monitor, Fuad Hasanov
37. Social Strategically Research and Analytical Investigations Public Union, Ilgar Huseynli
38. "Center for Equal Opportunities", Rafiq Tamrazov
39. The Center for Islam, Democracy and Human Rights, Aytakin Imranova
40. Ecolex-Environmental Law Association, Sevil Isayeva
41. Legal Think Tank, Samir Isayev
42. Centre of Legal Initiatives, Ziya Guliyev
43. Public Association for Assistance to Free Economy, Zohrab Ismail
44. Committee for the Protection of Human Rights and Freedoms, Yashar Aghazadeh
45. Human Rights- 2003' Public Union, Shaban Nasirov
46. Regional Centre for Human Rights and Social Studies, Shukur Izzatoglu
47. Public Union for solving social-economic problems of Mortar Victims, Mammadhassan Hasanov
48. Ganja Children's Fund, Rovshan Novruzov
49. " Ganja Regional Organization of "Bilik" Educational Society", Jamal Mammadov
50. Committee for Protection the rights of persons deprived of their liberty, Araz Nurmammadov
51. Ganja Euro-Atlantic Information Center, Mehman Khalilov
52. Educational Center "Kamil Vetendash", Hasan Huseynli
53. Public Union "Support to the Book Distribution", Vagif Alishov
54. Public Union "Partnership for Economic and Social Initiatives", Farid Malikli
55. Uluchay Social-Economic Innovation Center, Ilyas Safarli
56. "Support to the citizen initiatives" Public Union, Azer Babayev

57. The Committee for the Protection of the Oil Workers' Rights, Mirvari Gahramanli
58. Caucasus Media Research Center, Anar Orujov
59. "ARAN" Human Rights Resource Centre
60. Education Research Center public union, Aloysat Sadigly
61. National Committee of Helsinki Citizen Assembly, West Branch, Aslan Veliyev
62. Kur Civic Society, Ogtay Gulaliyev

**12 February 2013**