



**Permanent Mission
of the Republic of Azerbaijan
to the UN Office and other
International Organizations
GENEVA**

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The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and with reference to the request of Mr. Diego García-Sayán, the Special Rapporteur on the independence of judges and lawyers, has the honour to transmit herewith the information to the questionnaire on protection of lawyers in the free and independent exercise of the legal profession.

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

Enclosure: 4 pages



Geneva, 14 December 2021

Office of the United Nations
High Commissioner for Human Rights
GENEVA

1. Lawyers in Azerbaijan are engaged in legal activities independently, and it is neither legally nor practically possible for governmental bodies, NGO's or any other legal entity nor a physical person to interfere in their activities.

According to Article 1 of the Law of the Republic of Azerbaijan "On lawyers and legal practice" exclusion of interference with and influence on the professional activity of lawyers and their associations by prosecutor's office, court, and other state institutions, public associations, any other enterprise, institution, organization, and state official and independent decision-making in regards to issues relating to self-governance, lawyers and legal practice are fundamentals of legal practice. Furthermore, the Civil Procedure and Criminal Procedure Codes of the Republic of Azerbaijan state the rights of the lawyers in articles 66 and 92 accordingly.

2. The Azerbaijani Bar Association (hereinafter – ABA) provides institutional support to its members experiencing difficulties caused by various governmental bodies. The ABA's methods include cooperation and negotiations with governmental bodies concerned.

In September 2020, the Conference with the participation of the administration of ABA and members of Parliament of the Republic of Azerbaijan took place. The main purpose of the conference was the determination of difficulties and contradictions lawyers were facing at the time in their daily professional life and discussion of possible solutions. The outcome of the Conference was forwarded to relevant governmental bodies.

Besides notification of representatives of the legislative body of the power, the ABA was taking preventive measures by means of cooperation with the Cabinet of Ministers, the Prosecutor General's Office, and other competent governmental bodies. During these meetings through active discussions, the abovementioned bodies were informed about difficulties and suggested possible solutions for their elimination. Furthermore, we actively share our opinion and view on issues relating to amendments to legislation when lawyers' rights are concerned through our official website and social media and network.

3. During the last 3 years, 85 lawyers filed complaints to the ABA on concerns and challenges relating to artificial obstacles fabricated by the governmental bodies. The ABA's interference was helpful in resolving these issues.

Furthermore, the ABA took several legislative initiatives aimed at increasing the independence of lawyers, the realization of the rights of citizens to receive high-quality legal assistance, protection of human rights and freedoms, and the efficient functioning of the administration of justice. The ABA's efforts include appeals to various authorities regarding amendments to the Criminal and Civil Procedure Codes, Law "On lawyers and legal practice", other legislative acts. Upon recommendations of the ICJ and the CCBE, for aligning the Charter on the Lawyers' Rules of Conduct in compliance with European standards the Bar organized a General Meeting (Conference) of the members of the Bar where all the suggestions of international experts were unanimously adopted by the Conference.

As to the second part of the question, according to Article 9 of the Law of the Republic of Azerbaijan "On Lawyers and legal practice" the Bar Association is a non-state, independent, self-governing institution uniting all lawyers and acting in the Republic of Azerbaijan.

Today, the ABA is independent not only legally but also economically and financially. A self-financing institution operates without the financial support of any public, private, or international organization. Financial independence is one of the main factors for maintaining the independence of the institution in general.

Adopted in February 2018, the Presidential Order "On additional measures related to the development of advocacy in the Republic of Azerbaijan" is one of the legal-normative acts aiming at strengthening advocacy as an independent institution in Azerbaijan. According to the Order, a strong and influential advocacy institution is of great importance for the realization of the right of citizens' access to high-quality legal assistance, reliable protection of human rights and freedoms, and the effective functioning of justice. Taking into account the role of this institution in the rule of law, in order to support the development of advocacy in the framework of work done to improve and modernize the judicial system in our country the Order was adopted.

4. Unlike in previous years, there is a humanist approach to disciplinary proceedings since the election of the new Presidium in 2017. Although the number of lawyers has increased, the number of disciplinary cases has decreased. In fact, in many cases, the Board did not institute disciplinary proceedings against lawyers based on appeals from government bodies and did not send these appeals to the Lawyers' Disciplinary Commission.

As a result, 40% of appeals and complaints from law enforcement agencies against the lawyers were not instituted by the Board at all. In general, no disciplinary sanctions have been imposed in 81% of all the complaints and appeals.

During the last 3 years, a total of 1,772 complaints have been received. The Board of the ABA has initiated disciplinary proceedings in regards to 618 of them and forwarded them to the Lawyers' Disciplinary Commission for investigation (96 out of 618 complaints were received from governmental bodies, 25 from non-governmental bodies, and 497 from citizens).

In total, after examination of 618 complaints, the violations were found in 208 cases. Based on the Commission's feedback-opinion, 618 cases were reviewed by the Board, and according to the Board's decision, no disciplinary action was taken in 89 of these cases, and lawyers were given preliminary notifications without disciplinary sanctions. 28 cases ended with remarks, 34 cases with reprimands, and in 24 cases, lawyers' advocacy practice (activity) was suspended from 3 months to 1 year. In 16 cases, the Board suspended the lawyer's practice and the Board lodged a claim before the court to disbar them.

In total, based on 1,772 complaints over three years, only 16 lawyers were disbarred according to the decision of the court. Of these 16 cases, governmental bodies filed only three. Citizens filed seven of the remaining 13 complaints. According to the Law "On lawyers and legal practice", if a member fails to pay a membership fee for more than 6 months without a valid-good reason, he/she shall be disbarred. The remaining six lawyers were disbarred based on this regard according to the decision of the court.

As to the criminal proceedings in the last five years, 4 members of the Bar were convicted of the swindle in particular (article 178 of the Criminal Code of the Republic of Azerbaijan). According to the Article 23, Section I, Clause 2 of the Law "On lawyers and legal practice" of the Republic of Azerbaijan, the activity of the lawyer shall be terminated in case of the existence of conviction of the court, which has entered into force. The legal practice of those lawyers has been terminated based on this regard.

5. There were no cases of searches conducted in the offices of lawyers and in this regard, no members of the Bar have ever been arrested in Azerbaijan. The ABA has always supported its members in the case of any interference. Lawyers enjoy full freedom of movement even during the strictest lockdowns relating to the pandemic and curfew. However, due to the character of their work, lawyers are often threatened for discharging their functions. The ABA is showing extra sensitivity in such cases to protect its members and take all the necessary steps to ensure their security.

In June 2019, the member of the Bar Mr Orkhan Kangarli was threatened and beaten in the police station. The ABA contacted relevant governmental bodies and informed them of the issue. After the investigation, the Ministry of Internal Affairs notified the public of the investigation outcomes. According to the information provided by MIA, the violations of disciplinary norms by police officers were found and officers responsible for that were either fired or given disciplinary sanctions.

In October 2021, lawyer Mr Azer Ismayilov's car was burnt due to his professional activity. The ABA contacted relevant governmental bodies and informed them of the issue. The investigation is in progress.

6. Lawyers were released from membership fees during the quarantine period (July and December 2020, and January 2021). In addition, lawyers aged 60 and over were exempted from membership fees from March 24 to June 1, 2020.

Since the ABA is an association responsible for the organization of professional protection of human rights and freedoms in our country, it has addressed an appeal to the Cabinet of Ministers and according to the decision of the CoM, the free movement of lawyers in the country has been allowed based on membership cards.

In addition, the Legal Aid and Training Centre of the ABA provided free online legal aid to citizens in order to prevent the spread of coronavirus infection.

Furthermore, eight lawyers suffering from coronavirus and other diseases received financial support from the Lawyers Development Fund

According to the Vaccination Strategy adopted by CoM, the vaccination was going to be performed in stages in accordance with the age groups. To ensure continuous professional activity of members, ABA negotiated with relevant governmental bodies including TABIB (The Administration of the Regional Medical Divisions) and ensured voluntary vaccination of lawyers.

7. Adoption of a regional or international Convention regulating advocacy would be of great importance for the development of the legal profession globally. Council of Europe has already initiated drafting a European convention on the profession of lawyer and requested information in this regard. The ABA provided CoE with information upon request and we are ready to support any initiative relating to the adoption of an international treaty and to assist in drafting.