



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

GENEVA

Ref: 0253/12/23/34

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 has the honour to transmit herewith the information received from the relevant authorities of the Republic of Azerbaijan in response to a call for inputs for the next thematic report on legal empowerment by UN Special Rapporteur on the independence of judges and lawyers to be presented at the 78th session of the General Assembly.

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: 5 pages

**Office of the United Nations
High Commissioner for Human Rights
GENEVA**

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Definitions, understandings, and varieties of legal empowerment approaches and practices

Legal empowerment is one of the key legal pathways to having civil and sustainable development. It reflects reinforcement of the eligibility of all individuals in society to implement the rights that belong to them. However, the implementation of the rights effectively also requires an understanding of the law, as well. Therefore, legal empowerment is about understanding the law and having full access to exercising the rights when it is required.

According to the latest evaluations, only less than half of the people in the world have relevant access to justice. That means more than half of the population is in a position to be unable effectively protect themselves when their rights are breached or violated. This figure illustrates the significance of the issue that has to be addressed by governments and civil society institutions.

The Constitution of the Republic of Azerbaijan was adopted in a national vote (referendum) on 12 November 1995 and entered into force on 27 November 1995. There are amendments adopted in a national vote (referendum) on 24 August 2002, 18 March 2009 and 26 September 2016. Article 12 of the Constitution defines that the highest objective of the State is to ensure the rights and liberties of a person and a citizen and a proper standard of living for the citizens of the Republic of Azerbaijan. The rights and liberties of a person and a citizen listed in the present Constitution are applied in accordance with international treaties to which the Republic of Azerbaijan is a party. According to Article 26 of the Constitution, everyone has the right to protect his/her rights and freedoms using ways and means not prohibited by law. The state shall guarantee the protection of the rights and freedoms of everyone. Based on Article 60, everyone is guaranteed protection of his/her rights and liberties through administrative remedies and in court. Everyone has the right to an unbiased approach to their case and to consideration of the case within a reasonable time period in the administrative proceedings and court, as well as to be heard in administrative proceedings and courts. Everyone may appeal against the actions and inaction of state bodies, political parties, legal entities, municipalities and their officials in an administrative manner or in courts. At the same time, the Constitution envisages certain rights on protection from arbitrariness and conscientious treatment.

There are different institutions to help people understand their rights and protect them. First, according to Article 61 of the Constitution of the Republic of Azerbaijan, everyone has the right to receive qualified legal assistance. In specific cases envisaged by legislation, legal assistance shall be provided free of charge at the expense of the state. Every citizen has the right to receive the assistance of a lawyer (barrister) from the moment of detention, arrest or accusation of a crime by competent state bodies.

The Law of the Republic of Azerbaijan "On Lawyers and Legal Practice" maintain the legal norms on rendering legal assistance at the expense of the state. Based on Article

20, as provided for in the legislation of the Republic of Azerbaijan, legal assistance rendered by the lawyer for suspected or accused persons and persons who do not have sufficient means for payment of lawyer services in the course of administrative and criminal proceedings in court shall be carried out at the expense of the state without any restrictions. The amount and procedure of payment and the amount of legal assistance rendered at the expense of the state shall be defined by the relevant body of executive power. The detained person shall invite a lawyer from relevant structures located in the territory at the place of temporary detention and from the number of lawyers performing their activity on an individual basis in that territory in accordance with the duty list drawn up by the Presidium of the Bar Association, as provided, and agreement shall be concluded on the basis of mutual consent. The lawyer on duty, rendering legal assistance at the expense of the state shall not be entitled to refuse the performance of his/her duties.

The Order of the President of the Republic of Azerbaijan "On additional measures related to the development of advocacy in the Republic of Azerbaijan" dated on 22 February 2018 states that, strong and authoritative bar associations is of great importance for the realization of citizens' right to receive high-quality legal assistance, reliable protection of human rights and freedoms, and efficient operation of justice. Taking into account the role of these institutions in the legal state, in order to support the development of advocacy within the framework of the work done in the field of improvement and modernization of the judicial and legal system in our country the Decree was signed. Besides other things, the Decree provides some requirements about organizing free legal services by the Bar Association of the Republic of Azerbaijan for low- income persons who need legal advice. This provision covers additional legal assistance which is not provided under the above-mentioned laws.

Pursuant to that Order and the Decree of the President of the Republic of Azerbaijan "On Deepening Reforms in the Judicial Legal System" dated 03.04.2019, the Bar Association of the Republic of Azerbaijan established the Legal Aid and Training Center and started operating on 26.12.2019. One of the main activities of the center is the provision of free legal assistance to low-income persons and the organization of free legal assistance in different addresses in accordance with the decision of the Bar Association. In 2021, the Center provided free legal assistance for 500 applicants, and on the initiative of the members of the Parliament, also provided legal assistance to low-income persons in Baku city and regions. By January 2022, Bar Association organized free legal assistance to about 25000 individuals through its members. This number increased to 30000 persons by April 2023.

In accordance with the Decree of the Head of State "On deepening reforms in the judicial-legal system" in order to ensure accessibility during consideration of commercial disputes, as well as more flexible and professional consideration of cases, 6 commercial courts were established in all the regions.

At the same time, the "Electronic court" information system has been put into use since 2014 with the aim of ensuring transparency in the administration of justice, effective protection of the rights and freedoms of people and citizens, further improving the access

of the population to court, as well as accelerating the process of applying modern information technologies.

The system enables people to file electronic appeals without going to court, immediately obtain information on the process in an electronic carrier, as well as to record the court proceedings with audio-video and other technical means, to have "personal cabinet", that reflects information on trials, decision, status of execution and etc.

At the same time, in order to further expand transparency and access to the court, "Mobile court" software, which is rarely used in the world, has been launched which enables to obtain information immediately without connecting to a computer, to participate in the process in a mobile manner, etc.

Another practice of legal empowerment in Azerbaijan is based on "the Law on Citizen's Appeals". According to Article 1 of the Law, citizens of the Republic of Azerbaijan, in written or oral form personally or through a representative have the right to apply individually or collectively to the state and municipal bodies, legal entities and budget organizations or their officials who are state or municipal property or whose shares (shares) are controlled by the state or municipality.

In addition, the Law maintains the principles of consideration of citizens' appeals as follows:

- legalism;
- creating conditions for citizens to freely and voluntarily exercise their right to appeal;
- uniformity of application requirements;
- protection of the rights and legal interests of individuals and legal entities;
- non-discrimination and procrastination in considering applications;
- ensuring transparency in the activities of the subjects and their officials who consider the application;
- reconciliation of state interests with citizens' right to apply.

The provisions of this Law do not apply to appeals made by citizens within the framework of judicial proceedings or administrative proceedings. Subjects considering the application must ensure the reception of citizens in accordance with the schedule of reception of citizens not less than once a month.

Based on Article 12 of the Law, officials of the subjects that consider the application, when considering the applications of citizens:

- they should ensure that the application is considered objectively, comprehensively and in a timely manner;
- they should find out the nature of the issue and request the necessary documents

for its resolution;

- they should inform the citizens in writing about the result of considering the application; if the application is not granted, they should indicate the reasons for this and explain the procedure for filing a complaint;
- they should ensure the adoption of reasoned decisions on appeals and the timely and correct implementation of these decisions.

"The Law on Administrative Proceedings" defines the legal bases, principles and procedural rules of the activity carried out by administrative bodies related to the adoption, execution or cancellation of administrative acts.

According to Article 20, every person has the right to apply to the administrative body, submit a petition or obtain information from the administrative body regarding matters directly related to his rights and legal interests. If the law does not provide otherwise, the administrative body is obliged to consider appeals on issues related to its powers, to make appropriate decisions on those appeals or to provide information. As a rule, the administrative body must inform the interested person or his representative about the administrative proceedings and ensure his participation in the case. If the law does not provide for other cases, before adopting the administrative act, the administrative body is obliged to inform interested persons or their representatives about its content, especially the established factual circumstances of the case and the planned measures related to that case, and to listen to their opinions about it.

The administrative body is obliged to assist the interested person in filing applications, complaints or petitions, to detect and eliminate errors made in applications, complaints or petitions, and to explain to him the rights and duties of a person participating in administrative proceedings. Based on the application, the relevant administrative body is obliged to give applicants samples of applications and other forms (forms) related to administrative proceedings or to send them through postal communication or other electronic communication channels.

A number of new legal institutions have also been established in Azerbaijan in order to ensure an objective consideration of problems and complaints by individuals, which serves to strengthen legal empowerment. The Tax Ombudsman that was established in May 2019 performs the following duties:

- to prevent violation of the rights of taxpayers and violated ensure restoration of rights;
- in order to protect the rights of taxpayers, state tax authorities analyze the activity and prepare proposals for more efficient organization of the activity;
- If it is known that the rights of taxpayers are clearly violated oversee the processing of applications;
- implementation of the rights of taxpayers within their powers to ensure and prevent their violation;

Bank Ombudsman was formed by the Azerbaijan Banks Association in February 2017. Complaints of financial services users are considered without any fees and their interests are protected. Therefore, in a number of cases, simple and low-income people cannot understand the essence of financial services. The Bank Ombudsman examines these issues on their behalf and makes a recommendation decision.