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5 March 2013

Mr. President,

**We, the undersigned members and partners of the Human Rights House Network and the South Caucasus Network of Human Rights Defenders, condemn the further restrictions to the right to freedom of association in Azerbaijan, especially affecting the work and activities of human rights defenders, and call for the end of harassment of human rights organisations.**

On 15 February 2013 the Parliament of the Republic of Azerbaijan adopted new amendments to the law on Non-Governmental Organizations (public associations and foundations), the law on Grants, and the related changes in the Code of Administrative Offences. These amendments were rushed through Parliament without consultation of independent civil society organisations or relevant bodies of international organisations, such as the European Commission for Democracy through Law of the Council of Europe (Venice Commission).

According to the new amendments, if the copy of the grant agreements is not presented to the Ministry of Justice within the period prescribed by law, legal entities can be fined from 5'000 to 7'000 AZN (approximately 5'000-7'000 EUR). NGOs receiving any kind of grant or donation over 200 AZN without a formal agreement beforehand with the State could face fines and confiscation of their property. Penalties for not providing information about grants or donations can reach from 8'000 to 15'000 AZN.

NGOs already work under strict control by the State authorities in Azerbaijan, as all foreign grants have to date to be registered at the Ministry of Justice. The Ministry of Justice has so far not given any feedback to the NGOs that the grants have been approved or refused. This creates uncertainty regarding implementation of the activities. NGOs, which have lost or been denied registration in Azerbaijan, might face problems especially when the new amendments enter into force.

The strict State-control over civil society has been intensified since July 2009, when legislative amendments aimed at requesting foreign non-governmental organisations or non-governmental organisations fully funded by foreign governmental sources to register on the basis of an agreement concluded with the State. On 16 March 2011, the government adopted a decree on rules governing registration of foreign NGOs and negotiations with them on required agreements, leaving the Ministry of Justice with a broad and discretionary power in interpreting and defining those agreements. Today, the Ministry of Justice can indeed close down an organization without notification, after two warnings has been issued to the respective NGO.

Few days before the adoption of this decree, on 10 March 2011 the Azerbaijan Human Rights House (AHRH) was forced to suspend its activities until a required agreement with the State was approved.<sup>1</sup> After a process of negotiations since April 2011, a final application was submitted on 3 November 2011. Nevertheless, to date, there has been no progress and no further instructions by the Azerbaijani authorities.

AHRH was fully registered and had developed its activities since 2007. The changes of the legislation in 2009 should not have affected AHRH, as it was already registered. The rules adopted by government

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<sup>1</sup> See: <http://humanrightshouse.org/Articles/17735.html>.

cannot have a retroactive effect as they *de facto* do, since they apply to the closure of AHRH, which was ordered on 10 March 2011 before the legal framework for allowing the government to close an institution was adopted on 16 March 2011.

To date, the Election Monitoring and Democracy Studies Centre is still denied registration. Ahead of the Presidential elections to be held in October 2013, this situation is particularly worrisome.

On 19 February 2013, the Baku Administrative-Economic Court Nr. 1 rejected the appeal of the Human Rights Club (HRC) against the Ministry of Justice's decision to deny HRC of registration, on grounds that HRC did not specify the responsibilities of its lawful representative in the decision on the establishment of the organisation.

These cases are only examples of how the authorities of the Republic of Azerbaijan use national legislation to try to silence and repress human rights defenders in a systematic way and contrary to international human rights law and Azerbaijan's European obligations, as underlined by the European Commission for Democracy through Law (Venice Commission) in its opinion 636 / 2011 on NGO legislation in Azerbaijan. International human rights law provides that "the right to freedom of association ranges from the creation to the termination of an association, and includes the rights to form and to join an association, to operate freely and to be protected from undue interference, to access funding and resources and to take part in the conduct of public affairs", as stated by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai.<sup>2</sup>

This new legislative amendments on the core rights of NGOs are part of a broader crackdown by the authorities to limit the space for human rights defenders, journalists and activists and criminalise their legitimate activities aiming at defending the rights to freedom of expression, association and assembly.<sup>3</sup>

Ahead of the October 2013 Presidential elections, this trend is particularly worrying and a sad sign set by the authorities about their unwillingness to fully implement Azerbaijan's commitments and international obligations, as member of the Council of Europe and the United Nations.

#### **We urge the Republic of Azerbaijan to:**

- **Repeal the amendments to the law on Non-Governmental Organizations (public associations and foundations), the law on Grants, and the related changes in the Code of Administrative Offences, and ensure that national legislation is in line with Azerbaijan's international human rights obligations;**
- **Eliminate the practice of ungrounded postponement of or refusal to register national and international non-governmental organisations, in particular those organisations that defend human rights;**
- **Immediately and unconditionally give the authorisation to the Azerbaijan Human Rights House to re-open and register the Election Monitoring and Democracy Studies Centre and the Human Rights Club without further delay or administrative burden;**
- **Take effective measures to protect human rights defenders and allow them to conduct their human rights work without hindrance, including by expressing their opinions freely, as well as creating and joining associations, as provided by Article 5 of the United Nations Declaration on Human Rights Defenders of 9 December 1998.**

Sincerely,

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<sup>2</sup> Report of the Special Rapporteur to the Human Rights Council, 21 May 2012 (UN Doc: A/HRC/20/27).

<sup>3</sup> See Human Rights House Network letter of concern of 5 February 2013 (<http://humanrightshouse.org/Articles/19049.html>).

- Azerbaijan Human Rights House
  - Human Rights Center of Azerbaijan
  - Azerbaijan Lawyers Association
  - Institute for Reporters' Freedom and Safety (IRFS)
  - Legal Education Society
  - Women's Association for Rational Development (WARD)
- Human Rights House Sarajevo, Bosnia-Herzegovina
  - Association of Female Citizens "Renaissance"
  - Helsinki Committee for Human Rights in Bosnia and Herzegovina
  - Regional Co-ordinator for Youth Groups
  - Serb Civic Council
  - Woman and Society Centre
- Human Rights House Serbia
  - Belgrade Centre for Human Rights
  - Helsinki Committee for Human Rights in Serbia
  - Lawyers' Committee for Human Rights YUCOM
- Belarusian Human Rights House in Vilnius
- Human Rights House Tbilisi, Georgia
  - Georgian Center for Psychosocial and Medical Rehabilitation of Torture Victims (GCRT)
  - Human Rights Centre Georgia (HRIDC)
  - Article 42 of the Constitution
  - Union Safari
  - Caucasus Centre for Human Rights and Conflict Studies
  - Media Institute
- Belarusian Human Rights House in Vilnius
- Human Rights House Oslo, Norway
  - Human Rights House Foundation
  - Norwegian Helsinki Committee
- Helsinki Foundation for Human Rights, Poland
- Human Rights House Yerevan, Armenia
  - Armenian Helsinki Association, Yerevan
  - Democracy Today, Yerevan
  - Helsinki Citizens' Assembly, Vanadzor
  - Journalists' Club "Asparez", Gyumri
  - Public Information and Need of Knowledge NGO, Yerevan
  - Socioscope, Yerevan
- Human Rights House Kyiv, Ukraine
  - Ukrainian Helsinki Human Rights Union
- Human Rights Club, Azerbaijan
- Institute for Peace and Democracy, Azerbaijan
- Democracy and HR Resource Centre Public Union (Sumgait), Azerbaijan
- Uganda HURNET-Uganda
- Article 19

*Copies have been sent to:*

- The Office of the Commissioner for Human Rights of the Council of Europe
- The UN Special Rapporteur on the rights of freedom of peaceful assembly and association
- The UN Special Rapporteur on human rights defenders
- The Office for Democratic Institutions and Human Rights of the Organisation for Security and Cooperation in Europe (OSCE ODIHR)
- The Delegation of the European Union in Azerbaijan
- The Subcommittee on Human Rights of the European Parliament
- Diplomatic community in Geneva, Strasbourg and Baku
- Relevant ministries of foreign affairs and parliamentary committees on foreign affairs

***About the Human Rights House Network ([www.humanrightshouse.org](http://www.humanrightshouse.org))***

*The Human Rights House Network (HRHN) unites 87 human rights NGOs joining forces in independent Human Rights Houses in 16 countries in Western Balkans, Eastern Europe and South Caucasus, East and Horn of Africa, and Western Europe. HRHN's aim is to protect, empower and support human rights organisations locally and unite them in an international network of Human Rights Houses.*

*The Azerbaijan Human Rights House (AHRH) is one of the members of HRHN and serves as an independent meeting place, a resource centre, and a coordinator for human rights organisations in Azerbaijan. In 2010, 6'000 human rights defenders, including youth activists, independent journalists, and lawyers, used the facilities of AHRH, which has become a focal point for promotion and protection of human rights in Azerbaijan.*

*The Human Rights House Foundation (HRHF), based in Oslo (Norway) with an office in Geneva (Switzerland), is HRHN's secretariat. HRHF is international partner of the South Caucasus Network of Human Rights Defenders and the emerging Balkan Network of Human Rights Defenders.*

*HRHF has consultative status with the United Nations and HRHN has participatory status with the Council of Europe.*