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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

LAWS (*)

**ON
AMENDMENTS
TO THE LAW
ON NON-GOVERNMENTAL ORGANISATIONS
(PUBLIC UNIONS AND FOUNDATIONS)**

**Adopted on 15 February 2013,
17 December 2013 and 17 October 2014**

AND

**ON
AMENDMENTS TO THE LAW ON GRANTS**

**Introduced on 17 October 2014
(Highlighted)**

OF THE REPUBLIC OF AZERBAIJAN

(*) Unofficial translation

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15 February 2013

LAW OF THE REPUBLIC OF AZERBAIJAN
On amendments to the Law of the Republic of Azerbaijan
“On Non-governmental organizations (public unions and foundations)”

On the basis of Paragraphs 15 and 27 of Part I of Article 94 of the Constitution of the Republic of Azerbaijan, the Milli Majlis of the Republic of Azerbaijan decides:

Article 24-1 of the following content shall be added to the Law of the Republic of Azerbaijan “On Non-governmental organizations (public unions and foundations)” (Code of Laws of the Republic of Azerbaijan, 2000, № 10, Article 710; 2001, № 9, Article 576, № 11, Article 675; 2003, №1, Article 16; 2005, № 4, Article 278, № 8, Article 684, № 10, Article 908; 2007, № 11, Articles 1049, 1053; 2008, № 8, Article 699; 2009, № 7, Article 517, № 8, Article 611; 2010, № 4, Article 265):

“Article 24-1. Donations and grants

24-1.1. Donation - assistance given in the form of finance and (or) other material form in the manner provided by this Law to a non-governmental organization without obliging it to achieve any aim.

24-1.2. A non-governmental organization in return for an accepted or a promised donation cannot give to a person who made a donation or to any other person directly or indirectly material and other gift, any privilege or concession, cannot make such an offer or promise this.

24-1.3. The person who gives donation to a non-governmental organization cannot demand or accept for himself or herself or third persons directly or indirectly material and other gift, any privilege or concession in return for a donation given or to be given, cannot agree to such an offer or promise.

24-1.4. Donated money is accepted by a transfer to the bank account of a non-governmental organization. A non-governmental organization, whose primary aim is charity, can accept donation of up to 200 manats in cash.

24-1.5. Information defined by the relevant body of executive power about the sum of the donations accepted by a non-governmental organization and about the persons who gave a donation is included in the financial report presented to the relevant body of executive power.

24-1.6. Economic and legal relations in connection with the issuance, acceptance and use of grants are regulated by the Law of the Republic of Azerbaijan “On Grants”.

Ilham Aliyev,
President of the Republic of Azerbaijan

17 December 2013

**LAW OF THE REPUBLIC OF AZERBAIJAN
On amendments to the Law of the Republic of Azerbaijan
“On Non-governmental organizations (public unions and foundations)”**

Law of the Republic of Azerbaijan on Amendments to the Law of the Republic of Azerbaijan “On Non-governmental organizations (public unions and foundations)”

On the basis of Paragraph 10 of Part I of Article 94 of the Constitution of the Republic of Azerbaijan, the Milli Majlis of the Republic of Azerbaijan decides:

The following amendments shall be made to the Law of the Republic of Azerbaijan “On Non-governmental organizations (public unions and foundations)” (Code of Laws of the Republic of Azerbaijan, 2000, № 10, Article 710; 2001, № 9, Article 576, № 11, Article 675; 2003, №1, Article 16; 2005, № 4, Article 278, № 8, Article 684, № 10, Article 908; 2007, № 11, Articles 1049, 1053; 2008, № 8, Article 699; 2009, № 7, Article 517, № 8, Article 611; 2010, № 4, Article 265; 2013, №3, Article 216)

1. The words “, as well as of branches and representations of non-governmental organizations of foreign states” shall be added after the words “of public unions and foundations” in Article 1.1.

2. The word “non-governmental” shall be replaced by the word “non-commercial” in Article 1.4.

3. Article 2.2-1 of the following content shall be added:

“2.2-1. Branches and representations of non-governmental organizations of foreign states - bodies of a non-commercial legal entity established out of the borders of the Republic of Azerbaijan, so defined by the Civil Code of the Republic of Azerbaijan.”.

4. The second sentence of the following content shall be added to Article 2.3:

“Establishment and activity of non-governmental organizations, as well as of branches or representations of non-governmental organizations of foreign states in the Republic of Azerbaijan, whose aim or activity is aimed at the change violently of the constitutional structure and secular character of the Republic of Azerbaijan, violation of its territorial integrity, propaganda of war, violence and cruelty, instigation of racial, national and religious hatred, is not allowed.”.

5. The word “any” in Article 4 shall be replaced by the words “defined by this Law”.

6. Article 7.1-1 of the following content shall be added:

“7.1-1. In the territory of the Republic of Azerbaijan one representation or branch can be established by non-governmental organizations of foreign states.”.

7. The words “according to the Statute” in the first sentence of Article 7.4 shall be replaced by the words “in accordance with the subject of activity and duties defined in the statute”.

8. Article 7.4-1 of the following content shall be added:

“7.4-1. In the statute of a branch or representation of a non-governmental organization the name of the organization that established it, information about the state registration (date and number of the registration, legal address, institution that carried out its registration), legal address, order

of management, competence of the head, manner of the liquidation of the branch or representation shall be indicated.”.

9. The second sentence of Article 7.5 shall be given in the following edition, the third sentence of the following content shall be added:

“Deputies of heads of non-governmental organizations established by foreigners or stateless persons, as well as by foreign legal entities, as well as of branches and representations of non-governmental organizations of foreign states must be citizens of the Republic of Azerbaijan. The term of office of the head of a branch and representation of a non-governmental organization of a foreign state must be indicated in the document on his or her appointment.”.

10. The words “and legal representative” shall be added after the word “founder” in Article 9.1-1.

11. Article 10.5 of the following content shall be added:

“10.5. Violation of rights of members of an organization by the executive bodies of non-governmental organizations shall not be allowed. Disputes arising between members of non-governmental organizations and an organization are decided by court. When a case is being decided by court, if the violation of rights of members of an organization is established, the activity of a non-governmental organization can be suspended by a court for a period prescribed in Article 31.3 of this Law.”.

12. The words “without formalizing from organizational point of view their relationship with a non-governmental organization” shall be removed from the first sentence of Article 11, the words “and The Law of the Republic of Azerbaijan “On volunteer activity” shall be added after the words “founding documents” in the second sentence.

13. The second sentence of the following content shall be added to Article 12.3:

“Its term of validity must be indicated in the agreement.”

14. The words “aims and” shall be replaced by the words “aims, establishment with a permanent or concrete aim” in Article 13.1.

15. Articles 16.3 and 16.4 of the following content shall be added:

“16.3. If discrepancy to the legislation is found in the founding documents of non-governmental organizations and of branches or representations of non-governmental organizations of foreign states, the relevant body of executive power demands from these bodies that the founding documents are brought in accordance with the legislation within the period of 30 days.

16.4. Non-governmental organizations and branches or representations of non-governmental organizations of foreign states can address the relevant body of executive power with regard to the temporary suspension of their activity.”.

16. Article 19.7 of the following content shall be added:

“19.7. If a non-governmental organization of a foreign state unites, joins with another organization or divides itself, if its organizational-legal form changes, its branch or representation on the territory of the Republic of Azerbaijan is liquidated.”.

17. The words “in the Civil Code of the Republic of Azerbaijan and” shall be added after the word “organization” in Article 20, the second sentence of the following content shall be added to the Article: “When a non-governmental organization is liquidated, information about the resolution of labour issues by this body in the manner prescribed by the Civil Code of the Republic of Azerbaijan and documents proving this information are presented to the relevant body of executive power in order to be included in the state register of legal entities.”.

18. Article 22.4 of the following content shall be added:

“22.4. Non-governmental organization cannot be engaged in professional religious activity.”.

19. The words “, as well as of branches or representations of non-governmental organizations of foreign states” after the words “of a non-governmental organization” in Article 24-1.1, the words “, as well as branches or representations of non-governmental organizations of foreign states” after the words “Non-governmental organization” in Article 24-1.2, the words “, as well as to branches or representations of non-governmental organizations of foreign states” after the words “to a non-governmental organization” in Article 24-1.3, the words “, as well as of branches or representations of non-governmental organizations of foreign states” after the words “of a non-governmental organization” in the first sentence, and the words “, as well as branches or representations of non-governmental organizations of foreign states” after the words “a non-governmental organization” in the second sentence of Article 24-1.4, the words “, as well as of branches or representations of non-governmental organizations of foreign states” after the words “of a non-governmental organization” in Article 24-1.5 shall be added

20. Article 26.4 of the following content shall be added:

“26.4. It is not allowed to the executive bodies of a public union whose term of office ended to adopt any decisions or to sign documents in connection with the activity of the organization.”.

21. Article 29.5 shall be given in the following edition:

“29.5. Non-governmental organizations, as well as branches and representations of non-governmental organizations of foreign states must ensure transparency of their activity. In order to prevent corruption violations, as well as legalization of money or other property acquired through crime, and financing of terrorism, non-governmental organizations, as well as branches and representations of non-governmental organizations of foreign states must carry out actions defined by the relevant legislation for it.”.

22. Article 30-1 of the following content shall be added:

“Article 30-1. Examination of the conformity of the activity of non-governmental organizations, as well as of branches or representations of non-governmental organizations of foreign states with their statutes (regulations) and the legislation of the Republic of Azerbaijan

30-1.1. Rules on examination of the conformity of the activity of non-governmental organizations, as well as of branches or representations of non-governmental organizations of foreign states with their statutes (regulations) and the legislation of the Republic of Azerbaijan are defined by the relevant body of executive power.

30-1.2. The relevant body of executive power has the authority to involve representatives of relevant state bodies and of other non-governmental organizations to the work of examination of the conformity of the activity of non-governmental organizations, as well as of branches or representations of non-governmental organizations of foreign states with their statutes (regulations) and the legislation of the Republic of Azerbaijan.

30-1.3. Private individuals and legal entities creating obstacles for examination of the conformity of the activity of non-governmental organizations, as well as of branches or representations of non-governmental organizations of foreign states with their statutes (regulations) and the legislation of the Republic of Azerbaijan are held responsible in accordance with the Code of the Republic of Azerbaijan on Administrative Offences.”.

23. The text of Article 31 shall be given in the following edition:

“31.1. If a non-governmental organization, as well as a branch or representation of a non-governmental organization of a foreign state, violates requirements arising from the provisions of this Law, it is held responsible in the manner defined by law.

31.2. In cases when responsibility for violation of requirements arising from the provisions of the legislation of the Republic of Azerbaijan, as well as of the statute, is not prescribed by law, a non-governmental organization or a branch or representation of a non-governmental organization of a foreign state is given by the relevant body of executive power a notice in written form and a direction to eliminate the violations within a period of up to 30 days.

31.3. In cases defined in this article activity of a non-governmental organization, as well as of a branch or representation of a foreign non-governmental organization, can be suspended by a court decision for a period of up to one year. The grounds for the suspension of the activity of a non-governmental organization, as well as of a branch or representation of a non-governmental organization of a foreign state are as follows:

31.3.1. if a non-governmental organization, as well as a branch or representation of a non-governmental organization of a foreign state prevents the elimination of the situation which caused the application of an emergency situation;

31.3.2. if after a non-governmental organization, a branch or representation of a non-governmental organization of a foreign state was held administratively liable for not having eliminated within the defined period the violations informed of in a notice or a direction of the relevant body of executive power, these violations are not eliminated by the institution;

31.3.3. if violation of rights of members of an organization by the executive body of the non-governmental organization is established.

31.4. If within one year more than two notices or directions on the elimination of violations were given in written form to a non-governmental organization, as well as to a branch or representation of a foreign non-governmental organization, a non-governmental organization, as well as a branch or representation of a foreign non-governmental organization can be liquidated by a court decision on the basis of an appeal of the relevant body of executive power.

31.5. A non-governmental organization, as well as a branch or representation of a non-governmental organization of a foreign state has the right to complain administratively or to court with regard to the application of measures of responsibility defined by law.

31.6. In cases defined in Articles 31.3.1 and 31.3.2 of this Law, an appeal to court on the suspension of activity of a non-governmental organization, as well as of a branch or representation of a non-governmental organization of a foreign state is made by the relevant body of executive power, in the case defined in Article 31.3.3 of this Law – by members of a non-governmental organization.

31.7. If violations that caused the suspension of activity of a non-governmental organization, as well as of a branch or representation of a non-governmental organization of a foreign state were eliminated, the activity of the institution can be restored ahead of time by a court decision on the basis of an appeal of the relevant body of executive power in cases defined in Articles 31.3.1 and 31.3.2 of this Law, and on the basis of an appeal by members of the organization in the case defined in Article 31.3.3.

31.8. If a non-governmental organization does not present an annual financial report within the time frame prescribed in Article 29.4 of this Law, the relevant body of executive power notifies in written form this organization and makes a direction to present the relevant report within the period of 30 days. A non-governmental organization that does not present a report within this period is held responsible in accordance with the Code of the Republic of Azerbaijan on Administrative Offences.”.

Ilham Aliyev
President of the Republic of Azerbaijan
Baku city, 17 December 2013.

17 October 2014

LAW OF THE REPUBLIC OF AZERBAIJAN
On amendments to the Law of the Republic of Azerbaijan
“On Non-governmental organizations (public unions and foundations)”

1. The following shall be added to Article 24(1).1 after the word “given” :

“by a citizen of the Republic of Azerbaijan or legal person, as well as branches or representations of foreign legal persons (branches and representations of foreign NGOs registered in the Republic of Azerbaijan on the basis of the agreement which is envisaged in the Article 12.3 of this Law) registered in Azerbaijan and not being aimed at profit”

2. Article 24(1)-5 of the following content shall be added:

“A non-governmental organization, as well as branches or representations of foreign NGOs shall submit information on the amount of the received donations and on the persons who donated to the relevant executive authority body in accordance with the rule defined by the relevant executive authority body. No bank operations or any other operations on donations cannot be realized without submitting information about it.”

3. Article 24(2) of the following content shall be added:

Provision of services and fulfillment of works by non-governmental organization

24-2.1. Provision of services and fulfillment of works by non-governmental organization envisaged in Article 24.0.3 of this Law shall be realized on the basis of the agreement. Non-governmental organization shall submit an agreement on the provision of services or fulfillment of works by foreign funding to the relevant executive authority body for registration.

24-2.2. Non-governmental organization providing services or fulfilling works without agreement or non-registered agreement shall be held responsible under the Code of Administrative Offences of the Republic of Azerbaijan.

17 October 2014

LAW OF THE REPUBLIC OF AZERBAIJAN
“On Grants”
and
Amendments introduced on 17 October 2014
(Highlighted)

The Law of Azerbaijan Republic
On grant

The present law shall regulate economical and legal relations related to issue, receipt and use of grants (including sub-grant, addition to grant, as well as supports registered officially in the other form for the purposes enshrined in the first part of Article 1 with the exclusion donations).

Article 1. Grant

1. Grant - assistance rendered pursuant to this law in order to develop and implement humanitarian, social and eco-logical projects, works on rehabilitation of destroyed objects of industrial and social purpose, of infrastructure in the territories damaged as a result of the war and disaster, programs in the field of education, health, culture, legal advice, information, publishing, sport, scientific research and design programs as well as other programs being important for the state and public. Grant shall only be provided for specific purpose(purposes).

2. A grant shall be provided in the form of financial means and/or in any other material form. The grant shall be rendered gratis and its repayment in any form may not be requested.

3. Material assistance used directly for generation of profit shall not be considered a grant. Financial and/or other material means remaining unused at the grant beneficiary's disposal should be allocated for implementation of projects and programs that, in the beneficiary views, might be the subject of the grant unless otherwise provided for by an agreement (award) on the grant.

4. Material assistance shall not be considered grant should it is used directly for the purposes of political struggle and lobby activity on adoption of law and other legislative acts, for political promotion, for financing election campaign of any political organisation (organisations), political figure (figures).

Article 2. Donor

1. Those providing grants shall be donors in respect of a beneficiary.

2. The relevant body of the executive power may provide a grant on behalf of the Azerbaijan government to legal and physical persons, to citizens of Azerbaijan Republic and foreign countries and to foreign legal and natural entities.

3. A grant on behalf of Azerbaijan Republic shall be provided at the expense of the state budget of Azerbaijan Republic. Special means may be allocated as a separate item in revenue of the state budget for provision of such grants. Any additional taxes may not be introduced or rates of taxes in force may not increase in order to form such funds.

4. Any natural entity and legal entity of Azerbaijan Republic whose basic objective according to a Charter is charity or collection of means for projects and programs that may be a subject of a grant and whose activity does not be aimed at generation of profit, could provide the grant to legal and natural entities of Azerbaijan Republic and foreign countries.

5. International organisations and their representations, foreign governments and their representations, international organisations of charitable, humanitarian and other social directions, financial - credit institutions, foreign public organisations including funds, associations, federations and committees carrying out activities in the field of development of education, science, health, culture and sport, and ~~not being aimed at profit~~ branches and representations of foreign legal persons, registered in Azerbaijan and not being aimed at profit (branches and representations of foreign NGOs registered in the Republic of Azerbaijan on the basis of the agreement which is envisaged in the Article 12.3 of the Law of Non-Governmental organizations (Public Associations and Foundations) of the Republic of Azerbaijan) of foreign legal entities may act as a donor after obtaining the right to give a grant in the Republic of Azerbaijan. It is required an opinion on financial-economic reasonability of the grant by the relevant executive authority body for obtaining the right to give a grant.

5-1. Procedure on obtaining the right to give a grant by the donors envisaged in paragraph 5 of this Article shall be defined by the relevant executive authority body.

6. Donor shall be fully independent in provision of a grant, selection of a grant beneficiary, projects and programmes for whose implementation the grant is provided. On behalf of the Azerbaijan government the grant shall be provided to legal and natural entities of Azerbaijan Republic based on a tender.

Article 3. Recipient

1. A Grant beneficiary is a recipient in respect of a donor.

2. The following may be a recipient:

- the Azerbaijan government in the person of the relevant body of the executive power;
- municipal bodies;
- legal entities being residents and non-residents, their branch offices, representations and departments carrying out activity in Azerbaijan Republic, whose basic objective is charity or implementation of projects and programs that may be a subject of a grant, and which are not aimed at direct generation of profit resulting from grant (those recipients can receive grant only from donors envisaged in paragraphs 2 and 4 of Article 2 of this Law as well as branches and representations of foreign legal persons not being aimed at profit registered in the Republic of Azerbaijan (branches and representations of foreign NGOs registered in the Republic of Azerbaijan on the basis of the agreement which is envisaged in the in the Law of Non-Governmental organizations (Public Associations and Foundations) of the Republic of Azerbaijan);
- natural entities of Azerbaijan Republic.

3. Recipients of Azerbaijan Republic are independent in receipt of a grant, selection of a donor, projects and programs for which they receive the grant.

4. At provision of a grant by donors from Azerbaijan Republic to legal or natural entities of foreign countries the range of recipients shall be identified by legislation of the relevant country.

5. Recipients shall carry out their activities pursuant to provisions of agreements (awards) on grant.

Article 4. Grounds for Award of Grant

1. A written agreement between a donor and a recipient or written award of the donor on provision of a grant shall be grounds for the grant issue, receipt and use. The objective, amount, subject of the grant and specific conditions, should those be laid down by the donor before the recipient, shall be specified in the agreement (award).

2. Grant may only be used for implementation of objectives specified in an agreement or award. The use of a grant for other purposes, if it is not stipulated by the agreement (award) on the grant, shall only be possible with the written permit of a donor.

3. Over the period of implementation of a project being the subject of a grant, the sale or change into money of values provided as a grant or bought at the expense of the grant, shall only be admissible in cases if these operations were provided for by an agreement on grant or with the written permit of a donor. In these cases financial means transferred to a recipients disposal should be aimed at implementation of projects and programs that might be the subject of the grant.

4. Agreements (decisions) on giving grants to foreign recipients by donors, being legal or natural entity of the Republic of Azerbaijan, as well as branch office or representation of legal entity of the Republic of Azerbaijan shall be submitted for registration by donors. Agreements (decisions) on receiving grants of recipients of the Republic of Azerbaijan shall be submitted to registration by the same recipients. Relevant information on the grant given on the base of state budget shall be submitted to the body, registering grant agreement (decision) by the donor.

5. Non-registered agreements (decisions) on giving and receiving of grants cannot be subject to bank or any other operations.

6. Published, audio, audio-visual, cinema and other materials, conferences and other events at the expense of grant should be provided with information on sources of their financing.

Article 4-1.

4-1. Requirements on grant agreement (decisions) in this article apply to annexes agreements on grant agreement (decision), as well as the term of agreements (decisions), changes of aims, amounts.

4-2. Rules of registration of the grant agreements (decisions) shall be defined by the relevant executive authority body.

Article 5. Grant taxation

1. Money and (or) other pecuniary aid received as a grant based on an agreement or an award on the grant, shall be exempted from all taxes, duties and compulsory payments into the state budget.

2. Legal entities shall pay tax for implementation of grant projects and programs pursuant to legislation in force.

3. Income tax shall be collected pursuant to legislation in force for payments received from a recipient by natural entities participating in implementation of projects and programs during the

utilization of a grant. The recipient shall be exempted from compulsory payments from the amount paid to natural entities.

4. Financial means retaining at a recipients disposal after the completion of a project being the subject of a grant, as well as financial means provided as a grant or transferred to the recipients disposal from the sale and change into money of values purchased at the expense of the grant, and allocated for implementation of projects or programs that may be the subject of the grant, shall not be the objects of taxation.

Article 6. Responsibility

1. For infringement of the present Law a donor and a recipient shall be liable in accordance with the procedure established by legislation.

In the event if one of donors and recipients is an organisation or a citizen of foreign country, disputes between them shall be settled pursuant to laws of a country selected previously and identified in an agreement (award) on a grant. Otherwise the disputes shall be settled pursuant to legislation of Azerbaijan Republic.

*President of Azerbaijan Republic
Heydar ALIEV
Baku, April 17, 1998
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