

## 7. OMBUDSMAN

### Summary

The Constitutional Law (hereinafter Law on Ombudsman) on the Human Rights Commissioner of the Republic of Azerbaijan (hereinafter the Commissioner or the Ombudsman) declares that the activities of the Ombudsman are based on the principles of publicity, transparency, legality, justice and impartiality. However, the government does not always actually act on the findings of the Ombudsman. The Ombudsman generally acts on citizen's complaints within a reasonable period of time. Last year, the Ombudsman received: 2,287 complaints about the violation of the rights of owners; 690 complaints on prosecutor supervision; 694 complaints about traffic police; and 266 complaints about other structures of the Ministry of Internal Affairs. The Ombudsman usually makes visits to prisons and detention centres.

The current budget of the Ombudsman used to be sufficient for performance of its core duties, but now it falls short of adequately covering the new responsibilities transferred to this institution since 2011.

Under the law, this institution cannot investigate any activities of the President, Parliamentarians or judges. Along with this, the Ombudsman's Office has the mandate to attend to complaints involving activities of other bodies of the executive power.

Further efforts are required to enhance the competencies of this institution. Overall, the society places too high expectations on the Ombudsman's Office and expects that all their complaints will be attended to, including those outside of its mandate or institutional capacity.

### OMBUDSMAN

Overall Pillar Score 60/100

DIMENSION	INDICATOR	LAW	PRACTICE
Capacity 50/100	Resources	-	50
	Independence	75	25
Governance 67/100	Transparency	75	50
	Accountability	75	75
	Integrity	75	50
Role 62/100	Investigation	50	
	Promoting good practice	75	

### Structure and organisation

The institution of Ombudsman was established in accordance with the Constitutional Law<sup>1</sup> and through the election of the first Ombudsman by the Parliament, from among three candidates nominated for this position by the President. This took place on 2 July 2002. The Ombudsman has a broad mandate to safeguard against violation of human rights and freedoms enshrined in the Constitution<sup>2</sup> and in the international treaties, to which the Republic of Azerbaijan is a party. The Commissioner's local centres can and actually are, established in the regions of the country.<sup>3</sup> The structure, staff schedule and expenditure estimates of the Ombudsman's Office and the regional centres of the Commissioner, are determined by the Commissioner.

It should be emphasised that unlike many other countries that have several Ombudsmen institutions, such as the Ombudsman for human rights, children's rights, and for information, Azerbaijan has one institution to oversee implementation of the freedoms and liberties guaranteed by the Constitution, including the right of the citizens to access information – which was originally envisaged to be a responsibility of a separate institution. There are plans to establish the Office of the Financial Ombudsman, to protect rights of consumers in the financial sector and solve their problems in a swift manner.<sup>4</sup>

## Assessment

### Resources (practice): 50

*To what extent does an Ombudsman or its equivalent have adequate resources to achieve its goals in practice?*

The Commissioner receives regular funding from the state budget and the annual amount of the allocations is never smaller than in the previous years. However the resources of the Ombudsman's Office are deemed inadequate by some experts.<sup>5</sup> The current budget of the Ombudsman was sufficient for performance of its core duties, but now it falls short of adequately covering expenses, due to the new responsibilities transferred to this institution since 2011. In accordance with the amendments and additions made to the Constitutional Law on Ombudsman in 2011,<sup>6</sup> the Ombudsman was delegated additional authority to supervise the implementation of requirements envisaged in Law on Access to Information.<sup>7</sup> An increase in the budget is desirable for implementation of those additional duties.<sup>8</sup> Also, the institution was delegated independent monitoring of the implementation of the UN Convention on the Rights of People with Disabilities<sup>9</sup> that Azerbaijan ratified in 2009,<sup>10</sup> without respective increase in budget or human resources.<sup>11</sup> According to experts, the number of staff is not sufficient for implementation of its functions in full.<sup>12</sup> In short, the agency is neither sufficiently staffed nor budgeted.<sup>13</sup>

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1 The Constitutional Law on Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, 28 December, 2001, [www.e-qanun.az](http://www.e-qanun.az)

2 Constitution of the Republic of Azerbaijan, 12 November 1995, [www.president.az](http://www.president.az)

3 Apart from the central office in the capital of Baku, regional offices operate in Ganja, Sheki, Lankaran and Quba

4 "Financial Ombudsman to be created in Azerbaijan", "Ses" Information Agency, 28 November 2012, <http://sia.az/ru/news/economy/322909>

5 Interview with Nazir Guliyev, Legal World Public Union for Legal Advocacy, 31 October, 2013

6 The Constitutional Law on Amendments to the Constitutional Law on Ombudsman, 24 June 2011, [www.e-qanun.az](http://www.e-qanun.az)

7 The Law on Access to Information, 30 September 2005, [www.e-qanun.az](http://www.e-qanun.az)

8 Letter from the Ombudsman Office to Transparency Azerbaijan No 1/13293-13 dated 21 October 2013

9 <http://www.un.org/disabilities/convention/conventionfull.shtml>

10 Azerbaijan signed the Convention on 8 January 2008 and ratified on 28 January 2009, [www.treaties.un.org](http://www.treaties.un.org)

11 Letter from the Ombudsman Office to Transparency Azerbaijan No 1/13293-13 dated 21 October 2013

12 Statement by MP Zahid Oruj, Media Forum, 3 May 2013

<http://www.mediaforum.az/az/2013/03/05/Zahid-Oruc-parlamenti-hokumata-guzastli-movqe-020120974c00.html>

13 Freedom of Information in Azerbaijan: Annual Report by Media Rights Institute, January 2014, <http://www.mediarights.az/index.php?lngs=aze&id=526>

The staff is sufficiently professional and is exposed to multiple training programmes as well as international experience.<sup>14</sup><sup>15</sup> The Ombudsman's Office has a more open environment, for independent individuals from civil society to build a professional career, as compared to many other public agencies.<sup>16</sup> This might be connected to the personality of the Ombudsman, Prof. Suleymanova, with her strong academic and NGO background.<sup>17</sup>

## Independence (law): 75

### *To what extent is the Ombudsman independent by law?*

According to the constitutional law, the Commissioner is independent and guided only by the Constitution and laws of the Republic of Azerbaijan. The 2001 Law on Ombudsman<sup>18</sup> includes the principle of independence of this institution. The following provisions ensure the formal independence of the Commissioner:

- The Ombudsman cannot be replaced, while in office.
- The Ombudsman enjoys immunity.
- Governmental and municipal bodies and officials are prohibited from interfering with the Ombudsman's activities.
- The Ombudsman is provided with financial and social guarantees.
- Declaration of a state of emergency or martial law does not cease or restrict the activities of the Ombudsman.<sup>19</sup>

At the same time, the Law on Ombudsman declares professional criteria for the position of the Ombudsman. According to the Law, the Commissioner should be of high moral character, over 30 years of age, with higher education and experience in the field of human rights protection. The Commissioner is elected by a majority of votes of the Milli Majlis (the Parliament) from among three candidates nominated by the President of Azerbaijan. The law bans the Ombudsman from engaging in any political activity and from political party affiliation. The Commissioner may not be represented in the leadership of any non-governmental organisation either.<sup>20</sup>

It should also be stressed that no competitive centralised exams for recruitment of the Ombudsman's staff are set forth by the law. Under the law, the authority to appoint and dismiss the staff members of the Ombudsman's Office and its regional centres lies with the Ombudsman.<sup>21</sup> Along with this, according to the regulation on civil service, the staff of the Ombudsman's Office is qualified as the 1st grade category public servants and consequently recruitment is performed through interview, which poses certain risks of a subjective approach.

The Ombudsman is elected for a period of seven years and holds the position for the maximum of two terms.<sup>22</sup>

The Ombudsman's salary as per the law originally stood at 1,800 manat<sup>23</sup> (US\$ \$2,293 and was recently raised to 2,025 manat<sup>24</sup> (US\$2,580). It is sufficiently high when compared to salaries for senior positions in public

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14 Situation with Ensuring and Protection of Human Rights and Freedoms in Azerbaijan, 2012 Annual Report of Azerbaijan Human Rights Defender (Ombudsman), [www.ombudsman.gov.az](http://www.ombudsman.gov.az)

15 OSCE assists in strengthening role of Azerbaijan's Commissioner for Human Rights (Ombudsman) to prevent torture, press release 24 May 2010, <http://www.osce.org/baku/69315>

16 Interview with Nazir Guliyev, Legal World Public Union for Legal Advocacy, 31 October, 2013

17 Biography of Elmira Suleymanova, [www.ombudsman.gov.az](http://www.ombudsman.gov.az)

18 The Constitutional Law on Commissioner for Human Rights (Ombudsman), 28 December, 2001, [www.e-qanun.az](http://www.e-qanun.az)

19 The Constitutional Law on Commissioner for Human Rights (Ombudsman), 28 December, 2001, [www.e-qanun.az](http://www.e-qanun.az)

20 The Constitutional Law on Commissioner for Human Rights (Ombudsman), 28 December, 2001, [www.e-qanun.az](http://www.e-qanun.az)

21 The Constitutional Law on Commissioner for Human Rights (Ombudsman), 28 December 2001, [www.e-qanun.az](http://www.e-qanun.az)

22 The Constitutional Law on Commissioner for Human Rights (Ombudsman), 28 December 2001, [www.e-qanun.az](http://www.e-qanun.az)

23 The Constitutional Law on Commissioner for Human Rights (Ombudsman), 28 December 2001, [www.e-qanun.az](http://www.e-qanun.az)

sector. For instance, ministerial salary is fixed at 1,500 manat (US\$1,853) under Presidential Order, dated 9 July 2008.<sup>25</sup>

The expenditures of the Ombudsman's Office are financed from the state budget. The annual budget may not be reduced as compared to the previous financial year.<sup>26</sup> According to the law, the staff of the Office and regional centres are appointed and dismissed by the Ombudsman. The rights, duties and responsibilities of the staff of the Office and regional centres are regulated by the Labour Code, the Law on Civil Service<sup>27</sup> and other legislative acts.<sup>28</sup>

The powers of the Ombudsman can be terminated before expiry of his or her term of office by a decision of Milli Majlis taken by majority on its own initiative. Alternatively, this can also be done following the recommendation of the President, in cases where the requirements relating to the Ombudsman have been violated, or if the Ombudsman has completely lost his or her capacity to perform the prescribed duties.<sup>29</sup>

The person holding the position of the Ombudsman has immunity from criminal or administrative proceedings, searches, examinations, arrests or detentions save in cases where he or she was caught red-handed. If the Ombudsman is caught red-handed and consequently arrested, the body that has arrested the Ombudsman must inform Milli Majlis and the Prosecutor General within 24 hours. The inviolability of the Ombudsman may be terminated only through the majority vote in Milli Majlis, following a respective motion of the Prosecutor General. The immunity of the Ombudsman extends also onto his or her home, service premises, means of transport and communication, correspondence, private property and documents.<sup>30</sup> In short, the law provides ample provisions for independence of the Ombudsman.

## Independence (practice): 25

*To what extent is the Ombudsman independent in practice?*

Despite the formal guarantees and the fact that in practice the Commissioner is not effectively safeguarded against political interference, according to both local and international experts, in the past couple of years the Ombudsman has become more vocal in voicing her position on violations of human rights.<sup>31 32</sup>

According to the Ombudsman, Elmira Suleymanova, this institution takes serious steps towards ensuring the rights of media within the scope of its newly acquired responsibilities.<sup>33</sup> However, as of today, the impact of the Ombudsman's Office in terms of improved access to information is rather limited, primarily due to lack of funding for the newly delegated powers. That being said, the Commissioner has indeed demonstrated on more than one occasion its readiness to issue critical statements and appeals about human rights violations, and at least, in most outstanding cases and severe violations of human rights,<sup>34</sup> hold regular meetings with political prisoners, imprisoned journalists and bloggers.<sup>35</sup>

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24 The Constitutional Law on Amendments to the Constitutional Law on Ombudsman, 27 December 2013, [www.e-qanun.az](http://www.e-qanun.az)

25 Presidential Order on Raising Salaries of Civil Servants, 9 July 2008, [www.president.az](http://www.president.az)

26 The Constitutional Law on Commissioner for Human Rights (Ombudsman), 28 December, 2001, [www.e-qanun.az](http://www.e-qanun.az)

27 The Law on Civil Service, 21 July 2000, [www.csc.gov.az](http://www.csc.gov.az)

28 The Constitutional Law on Commissioner for Human Rights (Ombudsman), 28 December, 2001, [www.e-qanun.az](http://www.e-qanun.az)

29 The Constitutional Law on Commissioner for Human Rights (Ombudsman), 28 December, 2001, [www.e-qanun.az](http://www.e-qanun.az)

30 The Constitutional Law on Commissioner for Human Rights (Ombudsman), 28 December, 2001, [www.e-qanun.az](http://www.e-qanun.az)

31 National Human Rights Commissions; Azerbaijan, by Internal Displacement Monitoring Center,

[http://www.internal-displacement.org/idmc/website/countries.nsf/\(httpEnvelopes\)/0E7EEA22271355E2C12577F10057598C?OpenDocument](http://www.internal-displacement.org/idmc/website/countries.nsf/(httpEnvelopes)/0E7EEA22271355E2C12577F10057598C?OpenDocument)

32 Interview with Nazir Guliyev, Legal World Public Union for Legal Advocacy, 31 October, 2013

33 Azerbaijan Makes Serious Steps to Ensure Rights of Media, Statement of Ombudsman Elmira Suleymanova, 26 April 2012, SIA news agency, <http://sia.az/ru/news/economy/322909>

34 Ombudsman Elmira Suleymanova Demands Investigation of Elvin Askerov's Death, Azeri Report, 17 January 2011,

[http://azerireport.com/index.php?option=com\\_content&task=view&id=2570](http://azerireport.com/index.php?option=com_content&task=view&id=2570)

35 Ombudsman Meets with Political Prisoners, Radio Azadlig,

4 June 2013, <http://www.azadliqradiosu.az/content/news/25007062.html>

However, it should be added that the public places high expectations on the Ombudsman's Office and expects that all their problems will be attended to by this institution.<sup>36</sup> For example, people may seek assistance of the Ombudsman with the litigation process,<sup>37</sup> whereas under the law the agency does not have the authority to supervise or interfere with the judiciary.

The incumbent Ombudsman Elmira Suleymanova is the first person to be elected to this position in Azerbaijan. Hence, the country does not have a practice of removal from this position.

Overall, the Ombudsman's Office is efficient in law making.

## Transparency (law): 75

*To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the Ombudsman?*

The law ensures transparency of the Ombudsman and provides the public with the right of access to relevant information. According to the law, no later than two months after the end of each year, the Commissioner submits the annual report on the protection of human rights to Milli Majlis. The report is published in the newspaper Azerbaijan and the Compilation of Legislative Acts of the Republic of Azerbaijan. At the same time, the law declares that the Ombudsman protects information constituting a state secret in accordance with respective legislation.<sup>38</sup> Moreover, under the law, no data concerning personal and family life of applicants, which became known to the Ombudsman while investigating the circumstances, indicated in a complaint, shall be made public without consent of those persons.<sup>39</sup> So, privacy of those seeking protection is adequately covered by the law as well.

## Transparency (practice): 50

*To what extent is there transparency in the activities and decision-making processes of the Ombudsman in practice?*

The Ombudsman's Office makes the reports publicly available. Within two months of the next year, the Ombudsman submits the annual report to Milli Majlis and publishes it in the official newspaper Azerbaijan and the Legislation Database of the Republic of Azerbaijan. Annual reports are also available to the public on the website of the Ombudsman's Office and can be downloaded free of charge.<sup>40</sup> The reports are also available on the website of the International Ombudsman Institute.<sup>41</sup> The Ombudsman is easily reachable by the public through the telephone number (050-370-98-96) and a website based general hotline and a special hotline for children rights (916), as well as through designated officials receiving citizens in person.<sup>42</sup> Since its establishment by the end of 2013, the institution has published approximately 9,500 press releases, including around 250 in the year 2013 alone.<sup>43</sup>

## Accountability (law): 75

*To what extent are there provisions in place to ensure that the Ombudsman has to report and be answerable for its actions?*

The law stipulates the accountability of the Ombudsman to the President and to Milli Majlis. Under the law, the Ombudsman submits to the President an annual report on the protection of human rights in the country and

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36 Interview with Nazir Guliyev, Legal World Public Union for Legal Advocacy by the author, 31 October, 2013

37 Interview with Nazir Guliyev, Legal World Public Union for Legal Advocacy, by the editor, 23 April 2014

38 Presidential decree on Application of the Law on State Secret, 05 November 2004; Presidential decree on Approval of the List of Information Constituting State Secret, 03 June 2005, [www.president.az](http://www.president.az)

39 The Constitutional Law on Commissioner for Human Rights (Ombudsman), 28 December 2001, [www.e-qanun.az](http://www.e-qanun.az)

40 Official website of the Ombudsman's Office, [www.ombudsman.gov.az](http://www.ombudsman.gov.az)

41 <http://www.theioi.org/europe/azerbaijan/commissioner-for-human-rights-ombudsman>

42 Interview with Nazir Guliyev, Legal World Public Union for Legal Advocacy, 31 October 2013

43 Letter from the Ombudsman Office to Transparency Azerbaijan No 1/13293-13 dated 21 October 2013

presents its findings before Milli Majlis. The annual report identifies the governmental and municipal bodies or officials that violated human rights and failed to comply with the demands of the Ombudsman, as well as indicates measures that were taken in this connection. The report also offers a general picture of the situation of human rights and freedoms and makes recommendations. The report is submitted to the Cabinet of Ministers, the Constitutional Court, the Supreme Court and the Prosecutor General as well. Besides this, the Ombudsman presents the financial information to the Commission on Combating Corruption of the Republic of Azerbaijan.<sup>44</sup>

It should be stressed that there are no legal provisions guaranteeing protection of persons reporting misconduct of public officials to the Ombudsman's Office; nor are there special provisions attending to the misconduct of the Office staff. The Ombudsman's staff is accountable for misconduct, non-performance or unduly performance of the duties under the general law for civil servants,<sup>45</sup> whereas this law shall not be applicable onto Ombudsman staff, as they do not qualify as civil servants, being accountable to the Parliament and the President at the same time.

Reports of the Ombudsman are not subject to court review; and on the other side, activities of the Ombudsman do not extend onto cases under litigation, whereas citizens, due to low level of legal education, appeal to the Ombudsman instead of high instance courts.<sup>46</sup> This is an unjustified issue of discontentment with the Ombudsman for many complainants, who express their grievances of the courts.<sup>47</sup>

## Accountability (practice): 50

*To what extent does the Ombudsman report and is answerable for its actions in practice?*

The Ombudsman's Office submits an annual report on the state of human rights and freedoms in Azerbaijan. The report contains: suggestions and recommendations concerning the restoration of human rights and freedoms violated by officials, protection of human rights and prevention of violations, legal education and the results of scientific and analytical work, collaboration with the government agencies, the public and the media, as well as other suggestions to enhance protection of the human rights and freedoms in the country. After the discussions in Milli Majlis, the report is distributed to the media. However, very few media campaigns are organised to highlight the main aspects of this report and to keep it in the public eye. In practice, the findings of the reports are debated amongst the experts and members of civil society during the meetings and public hearings.<sup>48</sup>

Though the Ombudsman institution organises public presentations and hearings around its annual report, this is more to present activities performed and results, rather than discuss their policy implications, objectives and limitations; a tendency common for all public institutions in Azerbaijan.

The finances of the Ombudsman's Office are annually audited by the Chamber of Auditors and so far, according to the institution, no violations have been found.<sup>49</sup>

## Integrity Mechanisms (law): 75

*To what extent are there provisions in place to ensure the integrity of the Ombudsman?*

The Ombudsman's staff is required to follow the general regulation applicable to civil servants.<sup>50 51</sup> This law states impermissibility of acquiring material and non-material gifts, privileges and concessions, prevention of corruption and restrictions on acceptance of gifts, use of property, use of information and

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44 The Law on Procedures on Submission of Financial Information by Public Officials, 24 June 2005, [www.e-ganun.az](http://www.e-ganun.az)

45 Law of the Republic of Azerbaijan on Civil Service, 21 July 2000, [www.csc.gov.az](http://www.csc.gov.az)

46 Interview with Nazir Guliyev, Legal World Public Union for Legal Advocacy, 31 October 2013

47 Personal experience of Transparency Azerbaijan staff

48 Interview with Nazir Guliyev, Legal World Public Union for Legal Advocacy, 31 October 2013

49 Letter from the Ombudsman Office to Transparency Azerbaijan No 1/13293-13 dated 21 October 2013

50 Law On Rules of Ethical Conduct of Civil Servants, 31 May 2007, [www.csc.gov.az](http://www.csc.gov.az)

51 Law on Civil Service, 21 July 2000, [www.csc.gov.az](http://www.csc.gov.az)

public or political activity issues.<sup>52</sup> The law also ensures prevention of conflict of interests. At the same time, under the law, the Ombudsman's staff shall submit annual financial reports on personal income and property condition to the head of the body with indication of source, type and amount of additional income.<sup>53</sup>

## Integrity Mechanisms (practice): 50

*To what extent is the integrity of the Ombudsman ensured in practice?*

The Ombudsman builds its work under rights granted by the Constitutional Law and pursuant to the Paris Principles. The work of the Ombudsman's Office was highly assessed by experts of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights and awarded the highest "A" status.<sup>54</sup> There are no reported complaints about violation of codes of conduct by Ombudsman's staff. According to information from the Ombudsman,<sup>55</sup> in the 12 years since its establishment, the agency received over 100 thousand complaints and appeals, all of which were responded to. The agency submitted 460 proposals and recommendations to various public agencies, related to enhancement of the situation with human rights, 65 per cent of which have been implemented.

Also, financial declarations are not submitted by the staff or by any other public officials, because lack of supporting legislation for the legal requirement of financial reporting by senior officials prevents the law's implementation,<sup>56</sup> despite numerous urges from civil society.<sup>57</sup>

## Investigation: 50

*To what extent is the Ombudsman active and effective in dealing with complaints from the public?*

The Ombudsman primarily collaborates with the Ministry of Internal Affairs and the General Prosecutor's Office for providing oversight of investigation procedures and the Ministry of Justice for the monitoring of the detention facilities conditions.<sup>58</sup> Violations revealed are duly reported and remedy measures recommended.<sup>59</sup> Moreover, under the law, the Ombudsman may carry out investigations on his or her own initiative in cases of special public importance, or to protect interests of persons who are not capable to vindicate their rights themselves.<sup>60</sup>

At the same time, there are also examples of successful cases involving the Ombudsman's Office. For instance, citizen's appeal to the State Traffic Police Office of the Ministry of Internal Affairs was responded to after the Ombudsman addressed a request to the chief of that Office (Application. No. 2086-12; 14.03.12); or the request for information made to the Committee on Work with Diaspora was

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52 Law On Rules of Ethical Conduct of Civil Servants, 31 May 2007, [www.csc.gov.az](http://www.csc.gov.az)

53 Law on Civil Service, 21 July, 2000, [www.csc.gov.az](http://www.csc.gov.az)

54 Interview with Aydin Safikhanli Head of the Office of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan by the editor, 22 April 2014

55 Interview with Aydin Safikhanli Head of the Office of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan by the editor, 22 April 2014

56 Law on Approval of Rules for Submission of Financial Information by Officials, 24 June 2005, [www.e-qanun.az](http://www.e-qanun.az)

57 Monitoring report on Implementation of Azerbaijan National Anti-corruption Action Plan 2012 – 2015, 19 September 2012 – 2013) by Constitution Research Foundation under Azerbaijan Partnership for Transparency project by Transparency Azerbaijan, November 2013 [www.transparency.az](http://www.transparency.az)

58 Situation with Ensuring and Protection of Human Rights and Freedoms in Azerbaijan, 2012 Annual Report of Azerbaijan Human Rights Defender (Ombudsman), [www.ombudsman.gov.az](http://www.ombudsman.gov.az)

59 Violations Revealed at Temporary Detention Facilities, Azadlig Radio 7 June 2012, <http://www.azadliqradiosu.az/content/news/24606810.html>

60 The Constitutional Law on Commissioner for Human Rights (Ombudsman), 28 December, 2001, [www.e-qanun.az](http://www.e-qanun.az)

responded to when the Ombudsman appealed to the chief of the Committee (Application No. 282-12; 23.01.12).<sup>61</sup>

Last year, the Ombudsman received 12,470 complaints or 210 fewer than in the previous year. It is difficult to pass a judgment as to whether the decrease speaks of improvement of the human rights situation in the country or decrease of public trust in the ability of the institution to solve the problems. About 20 per cent of complaints alleged violation of property rights and more than 10 per cent of complaints concerned law enforcement agencies. Most public complaints have been sent to law enforcement agencies and the executive power. Out of 960 complaints involving employees of the Ministry for Interior Affairs, 268 policemen were punished, 231 of whom were taken against administrative sanctions and 15 were dismissed.<sup>62</sup>

The Ombudsman conducted joint awareness raising training for governmental bodies, NGOs, civil society and journalists, as well as prepared and published useful educational programmes and modules. Furthermore, the "Learn and Enjoy your Rights" booklet, summarising the provisions of the Law on Access to Information, was made and disseminated among media representatives in the regions.<sup>63</sup>

However, success of the institution in ensuring access to information is much less visible. Thus, no legal remedies are offered to information seekers, as well as no recommendations to the owners of information on how to improve access to information.<sup>64</sup>

The Ombudsman's institution is one of the few agencies in Azerbaijan that effectively cooperates with civil society organisations through its Experts' Council established in 2003 and Business and Human Rights work group.<sup>65</sup>

## Promoting good practice: 75

*To what extent is the Ombudsman active and effective in raising awareness within government and the public about standards of ethical behaviour?*

Though the institution does its best to raise awareness among public institutions and the general public about standards of good behaviour, the powers of the Ombudsman are rather limited. Usually, the Ombudsman applies to the Amnesty Commission under the President of the Republic of Azerbaijan to solicit pardon with certain success.<sup>66</sup> The staff meets with most of the people that are believed to be detained and arrested for political reasons.<sup>67,68,69</sup>

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61 Situation with Ensuring and Protection of Human Rights and Freedoms in Azerbaijan, 2012 Annual Report of Azerbaijan Human Rights Defender (Ombudsman), [www.ombudsman.gov.az](http://www.ombudsman.gov.az)

62 Parliament Approves the Report of the Ombudsman, Turan news agency, 5 March 2013  
<http://www.contact.az/docs/2013/Politics/030500030764en.htm#UstktJdU7C>

63 Situation with Ensuring and Protection of Human Rights and Freedoms in Azerbaijan, 2012 Annual Report of Azerbaijan Human Rights Defender (Ombudsman), [www.ombudsman.gov.az](http://www.ombudsman.gov.az)

64 Freedom of Information in Azerbaijan, Annual report, by Media Rights Institute, January 2014,  
[www.mediariights.az/index.php?lngs=aze&id=526](http://www.mediariights.az/index.php?lngs=aze&id=526)

65 Letter from the Ombudsman Office to Transparency Azerbaijan No 1/13293-13 dated 21 October 2013

66 Ombudsman Appealed to the President for Pardon, Azadlig Radio, 2 June 2012,  
[www.azadligradiosu.az/content/news/24601321.html](http://www.azadligradiosu.az/content/news/24601321.html)

67 Representative of Ombudsman meets with Tural Abbasov, Azadlig Radio, 13 August 2013,  
[www.azadligradiosu.az/content/news/25074086.html](http://www.azadligradiosu.az/content/news/25074086.html)

68 Ombudsman Spoke about the Youth Detained, 22 April 2013, [www.azadligradiosu.az/content/news/24965073.html](http://www.azadligradiosu.az/content/news/24965073.html)

69 Ombudsman Appealed to the Prosecutor General With the case of Khadija Ismaylova, 3 March 2012,  
[www.azadligradiosu.az/search/search.aspx?k=ombudsman+&p=2#article](http://www.azadligradiosu.az/search/search.aspx?k=ombudsman+&p=2#article)

Also, success of the institution in ensuring access to information is much less visible. Thus, no legal mechanisms have been developed for information seekers yet.<sup>70</sup>

Also, according to the OSCE, no reliable government statistics or analysis on the implementation of the law on access to information is available.<sup>71</sup>

At the same time, the Ombudsman regularly makes proposals to the Milli Majlis on improvement of the national legislation. The Ombudsman also makes a proposal to Milli Majlis concerning international conventions. For example, after the proposals of the Ombudsman, the UNESCO Convention of Elimination of Discrimination in Education, Protocol 14 to the European Convention on Human Rights, Convention on Rights of Persons with Disabilities and additional Protocol thereto, the OPCAT that implies the establishment of the national mechanism were all ratified.<sup>72</sup> The latest legislative initiative of the agency is the draft law on the administrative arrest and it has been discussed by the Parliament.<sup>73</sup>

### Recommendations:

- To increase the budget and human capacity of the Ombudsman's institute in the view of its additional responsibilities on ensuring access to information.
- To create legal aid mechanisms for information seekers to access public information.
- To expand the scope of coverage of the population and accessibility of the Ombudsman (i.e. mobile sessions to receive complaints from people on site should be organised and social ads should be aired on TV and radio programmes).
- In order to settle disputes within business sector, as well as decrease the workload of courts, to expedite establishment of the institute of financial Ombudsman.

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70 Freedom of Information in Azerbaijan, Annual report, by Media Rights Institute, January 2014, [www.mediarights.az/index.php?lngs=aze&id=526](http://www.mediarights.az/index.php?lngs=aze&id=526)

71 Third Round of Monitoring: Azerbaijan, Monitoring Report, by OECD, Anti-corruption Network for Eastern Europe and Central Asia, Istanbul Anti-corruption Action Plan, Paris, 25 September 2013, [www.oecd.org](http://www.oecd.org)

72 Activity of the Ombudsman of the Azerbaijan Republic in Ensuring Human Rights, Presentation by AydinSafikhanli, Head of the Office of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, at the 2011 Human Rights Dimension Implementation Meeting, Working session 3, Warsaw, 26 September to 7 October 2011, <http://www.osce.org/odihr/83008>

73 Law on Administrative Arrest Comes onto Agenda, Media Forum, 21 January 2014 [www.mediaforum.az/az/2014/01/21/inzibati-habs-haqqinda-qanun-gundame-galir-055028337c00.html](http://www.mediaforum.az/az/2014/01/21/inzibati-habs-haqqinda-qanun-gundame-galir-055028337c00.html)

