

11. MEDIA

Summary

There are over 5,000 media outlets registered in Azerbaijan. Over 50 magazines, more than 36 daily and 100 weekly newspapers are published nationally, and about 80 newspapers are printed in the regions.

Although Azerbaijan's mass media laws and regulations provide basic guarantees for freedom of press, certain legal and practical restrictions continue to pose a challenge to independent and pro-opposition media's exercising of their rights. Censorship of media in Azerbaijan was formally abolished in 1998 and the Law on Mass Media of 2000 expressly forbids any act of censorship, except for temporary restrictions on the media activities in emergency situations. However, defamation is a criminal penalty under the Azerbaijan law. The fact that these provisions remain in force and are applied in practice make journalistic activities susceptible to external influences and lead to a practice of self-censorship among journalists. On the other side, the professional ethics of journalists and self-regulatory mechanisms are not well developed.

Though the country has a broad spectrum of online and print media; independence of the media, especially the broadcasting media, leaves much to be desired. Even though the licenses for TV and radio are nominally issued on a competitive basis, transparency of this process leaves much room for improvement. In general, effective legal institutional mechanisms ensuring independence of media should be developed. Involvement of the media, especially broadcast media, in anti-corruption public awareness programmes is not very broad.

Financial aspects of media management, including transparency of media expenditures need improvement.

The small size of the country's advertisement market and unwillingness of private companies to place advertisement with oppositional media, limits revenues of the latter.

MEDIA

Overall Pillar Score 46/100

DIMENSION	INDICATOR	LAW	PRACTICE
Capacity 50/100	Resources	75	50
	Independence	50	25
Governance 46/100	Transparency	50	25
	Accountability	50	25
	Integrity	75	50
Role 42/100	Investigate and expose cases of corruption practice		25
	Inform public on		50

corruption and its impact	
Inform public on governance issues	50

Structure and organisation

According to Aflatun Amashov, the head of the Press Council, over 5,000 media outlets have been registered with the Ministry of Justice, however only a small portion of them are currently operational. Mr. Amashov noted that over 50 magazines, 36 daily and 100 weekly newspapers are published nationally and about 80 newspapers are printed in the regions.¹ IREX's Media Sustainability Index puts the number of active media outlets at 36 daily, 200 weekly and 85 monthly print outlets, 9 AM and 17 FM radio stations, 23 television stations, including 9 broadcasting nationwide and 14 in the regions.²

Azerbaijan has created a legal framework regulating TV and radio broadcasting. The Law on TV and Radio Broadcasting, which established the National TV and Radio Broadcasting Council, was adopted on 25 June 2002³ and entered into force on 5 October 2002. The Council is mandated to implement the state policy in the field of granting licenses to TV and radio broadcasters and to monitor their activities.⁴ Finally, the Press Council was established in 2003 "to protect freedom of the press and freedom of speech".⁵

Assessment

Resources (law): 75

To what extent does the legal framework provide an environment conducive to a diverse and independent media?

Although Azerbaijan's mass media laws and regulations provide basic guarantees for freedom of press, certain legal restrictions continue to pose a challenge to independent and pro-opposition media's exercising of their rights.

Censorship of media in Azerbaijan was formally abolished in 1998⁶ and the Law on Mass Media of 2000⁷ expressly forbids any act of censorship, except for temporary restrictions on the media activities in emergency situations. In a similar vein, the Law on TV and Radio Broadcasting stresses that broadcasting is free and stipulates; the key role of the state in safeguarding this freedom is to provide for unimpeded acquisition and distribution of information through legal ways.⁸

Pursuant to the Law on Mass Media, a legal or physical person wishing to establish a print publication is not required to obtain public authorities' permission, but is obliged to officially notify the relevant body

1 Media statistics of Azerbaijan, 11 April 2014, <http://www.mediaforum.az/az/2014/04/11/Azərbaycanın-media-statistikası-062644788c08.html>

2 Media Sustainability Index 2012: Azerbaijan, IREX, www.irex.org

3 Law on TV and Radio Broadcasting, 25 June 2002, www.e-qanun.az

4 Website of the National Television and Radio Council of the Republic of Azerbaijan, www.ntrc.gov.az

5 Website of the Press Council, www.presscouncil.az

6 Presidential decree on "Additional measures for providing for freedoms of expression thought and information in the Republic of Azerbaijan" dated 6 August 1998, www.president.az

7 Law of the Republic of Azerbaijan on Mass Media, 21 July 1992, www.e-qanun.az

8 National Television and Radio Council, www.ntrc.gov.az

of executive authority, 7 days before the publication is put out.⁹ It is believed that in contrast to broadcasting media, print media enjoy good start-up conditions. Rules of establishing a print media outlet and tax regulations for print media are said to be fair and favourable compared to other industries. For instance, newspapers are not required to pay 18 per cent taxes on imported newsprint.¹⁰

Two laws, the Law on Public TV and Radio Broadcasting¹¹ and the Law on Radio and TV Broadcasting,¹² regulate the country's public and private broadcasting channels, which happen to be the main sources of information (together with foreign TV channels accessed via cable television) for most Azerbaijanis. The government established the Public Television and Radio in 2005, "to ensure the interests of the population of the Azerbaijan Republic – the society as a whole and its different groups in quality information," and "to prepare and disseminate information based on the concepts of freedom of speech and ideas".¹³ The law stipulates as the guiding principles of public broadcasting, its "independence; fair, unbiased, precise and accurate information; openness to political interests, etc".

Experience shows that registering a newspaper with the Ministry of Justice is not as problematic and is easier as compared to getting a licence for broadcasting.¹⁴ According to the Law on Radio and TV Broadcasting, channels other than state and public TV and Radio, must obtain a licence to broadcast by winning the tender organised by the National Television and Radio Council. There is considerable obscurity surrounding the bidding process. The evaluative criteria are broad and leave much room for personal judgement. The members of the Council are appointed by the executive; a situation that places the formally independent institution in a dubious position. Considering that the regulatory body for broadcasting should be accountable to the public, the optimal institution to provide for it is the legislature.¹⁵

Some recent legislative changes have adversely impacted the ability of media to deliver a full spectrum of views to the public or to address problems faced by journalists. The freedom of the press was hit particularly hard by the amendments of July 2012, limiting disclosure of information of corporate entities. The amendments restrict public access to information about the ownership of commercial entities: the amount of their charter capital, ownership structure, etc.¹⁶

On the other side, the government changed the legislation requiring the setting up of a separate institution of Information Commissioner, by transferring its envisaged responsibilities to another institution – the Human Rights Commissioner (Ombudsman). There are many skeptics of the government's decision to forgo Information Commissioner, not least because the Ombudsman is already tasked with diverse responsibilities, and transfer of new responsibilities increases the workload of this institution and diminishes its efficiency.¹⁷

Resources (practice): 50

A variety of problems, including the problems inherent in the laws, adversely impact the ability of mass media to operate effectively. One of these problems is the use of the publishing services offered by the

9 The Law on Mass Media dated 7 December 1999, www.e-qanun.az

10 Media Sustainability Index 2012: Azerbaijan, IREX, www.irex.org

11 Law of Azerbaijan Republic on Public TV Radio Broadcasting, 28 September 2004, www.e-qanun.az

12 Law of the Azerbaijan Republic on Radio and TV Broadcasting, 25 June 2002, www.e-qanun.az

13 Law of Azerbaijan Republic on Public TV Radio Broadcasting, 28 September 2004, www.e-qanun.az

14 Azerbaijan Country Report 2006: Integrity Scorecard Report, Sub-Category: Media, Global Integrity: Independent Information on Governance & Corruption, <http://back.globalintegrity.org/reports/2006/azerbaijan/scorecard.cfm?subcategoryID=7&countryID=3>

15 "Media Development Indicators: A framework for assessing media development," 2008, Intergovernmental Council of the International Programme for the Development of Communication, UNESCO, www.unesco.org

16 Amendments to the Law on the Right To Obtain Information, 5 March 2013, www.e-qanun.az

17 Interview with Farid Gahramanov, media expert, Turan Information Agency by author, 11 April 2014

state-owned Azerbaijan Publishing Company as a tool of pressure. Many Azerbaijani newspapers, including such major opposition media as Azadliq and Yeni Müsavat are published by this company. What makes this company attractive is the lower prices charged for its services than those offered by the growing number of private publishers.¹⁸ However, the printing house is reported to refuse to print newspapers critical of the government (formally non-political reasons). Thus, the publishing company ceased to print Azadliq, one of Azerbaijan's key opposition newspapers, after the latter failed to pay off its debt in 2013. The newspaper representatives explained the company's inability to make good on its debt by the failure of another company responsible for the newspaper's distribution – Gasid – to pay its 40,000 manats (US\$50,000) debts to Azadliq.¹⁹ In other developments, Kabira Mammadova, a local businesswoman and Tagi Mammadov, the former head of Baku Metro won libel suits against Azadliq, which only served to further exacerbate the financial conundrum the newspaper faced. As a result of these cases, the newspaper's bank account was frozen rendering the organisation unable to cover even its administrative costs.²⁰

Another type of pressure exerted on mass media is retaliatory measures by individual officials against media outlets that publish unfavourable reports about them. A case in point of such measures is the recent ban on sale of Yeni Müsavat in Baku's subway stations, after views critical of the head of the city's subway system were apparently published in the paper.²¹ Later, the sale of newspapers in metro stations was banned altogether.

There are barriers to entry into the broadcasting business. The procedures for obtaining a licence are complicated and the bidding process is not transparent. The chances of independent media organisations winning the tenders for national TV and radio frequencies are limited. For example, several years ago Turan News Agency and Obyektiv TV,²² both took part in the bidding process for a local radio frequency, but the winner of the tender was a company previously not involved in the media business.²³

Although it is generally recommended that the broadcasting regulator should be accountable to the public via the legislature, in Azerbaijan's case, its members are appointed by the executive branch. According to Nushiravan Maharramli the Chairman of the Council, as Azerbaijan is a presidential republic, the executive branch has a key role in governance issues, including appointing the members of the Council.²⁴

Azerbaijan's broadcasters refrain from covering diverse political perspectives in their reporting. The results of the monitoring by the Institute for Reporters' Freedom and Safety (IRFS) of 8 TV channels – AzTV, Lider, ANS, Azad Azerbaijan (ATV), Space, Khazar TV, Public TV (ITV) and Idman-Azerbaijan (Sport Azerbaijan) – within the framework of the Free Airwaves Project, indicated that there is no political pluralism on any of the above TV channels; and news reports are often inaccurate and biased.²⁵ Also, foreign broadcasters have been banned from accessing national frequencies in Azerbaijan since January 2009, a move that took the Azerbaijan services of the BBC, Radio Free Europe/Radio Liberty (RFE/RL),

18 Media Sustainability Index 2012: Azerbaijan, IREX, www.irex.org

19 "Azadliq is Strangled though Gasid, 20 July 2013, <http://www.azadliq.info/cmvyt/330-cmyyt1/33208-azadliq.html>.

20 "Repeal of arrest order on Azadliq's bank account wanted", Media Rights Institute, 14 November 2013, www.mediarights.org

21 Media Sustainability Index 2012: Azerbaijan, IREX, www.irex.org

22 Obyektiv TV is the internet TV project of Turan News and Information Agency and Institute for Reporters' Freedom and Security

23 Interview with Farid Gahramanov, media expert, Turan Information Agency by author, 11 April 2014

24 Interview of Nushiravan Maharramli, the chairman of the Council, with Radio Liberty, 23 April 2014, www.azadliqradiosu.az

25 Press Freedom in Azerbaijan/2009 Annual Report, Institute for Reporters' Freedom and Safety, www.ifex.org

and Voice of America – easily accessible international sources of broadcast news in the country – off the national air.²⁶

The Press Council regularly publishes a “black list” of newspapers engaged in so-called “racketeering” activities or violation of professional journalistic ethics, which is seen by some as damaging to these media outlets’ ability to find funding. Views diverge concerning the legality and ethicality of the Council publishing such a list, on account of the fact that racketeering is a criminal act under Azerbaijan’s law and the Council’s designation of individual outlets as “racketeering” – a prerogative exclusively reserved for courts – is at loggerheads with the national law.²⁷

The state provides aid to local media, through the State Fund for the Support of Mass Media, which was established in 2009. Even though one of the aims of this fund, as indicated by its charter, is to enhance freedoms of thought, speech and information, in reality a significant portion of the fund’s grants are allocated to pro-government media.²⁸ In January 2014, the fund ceased funding of Azadliq, one of the few recipients of its grants from the opposition media.²⁹

On the other side, the government has recently handed out apartments (construction costing the government 5 million manats (US\$6.25 million) to 155 journalists, including 15 representatives of the opposition media.³⁰ According to the government, this initiative aimed to provide low-income journalists with housing, which would enable them to work free from outside influence.³¹

Independence (law): 50

Despite the fact that the Constitution of Azerbaijan and the Law on Mass Media ensure freedom of speech and press, the provisions of the Criminal Code relating to defamation set limits on media freedom and thereby contradict the country’s supreme law.

Article 50 of the Constitution stipulates that mass media is free and state censorship is prohibited. Article 1 of the Law on Mass Media underlines the state’s role in guaranteeing freedom of press in the spirit of the Constitution, too. Article 8 of the same law states the right of mass media to acquire information from public authorities and requires government agencies to respond to information requests of the media. Article 50 stipulates that journalists accredited with government agencies must be able to attend events and access the information. However, in practice, there are problems with all of these issues.

One of these problems is the risk of criminal penalties for defamation under Azerbaijan law. Articles 147, 148 and 323 of the Criminal Code prohibit dissemination of information that in some way damages the honor and dignity of a person, or, in the case of Article 323, the president of the Republic of Azerbaijan³². The fact that these provisions remain in force makes journalistic activities susceptible to external influences and leads to a practice of self-censorship among journalists.³³ In 2010, 36 libel suits were filed against journalists, but none resulted in their arrests. In 2010, two media NGOs submitted

26 Jamming in Azerbaijan: Foreign News Outlets Unable to Broadcast, Rebecca Vincent, 9 July 2013, <http://www.aljazeera.com/indepth/opinion/2013/07/2013779559301632.html>

27 Interview with Farid Gahramanov, media expert, Turan Information Agency by author, 11 April 2014

28 Interview with Farid Gahramanov, media expert, Turan Information Agency by author, 11 April 2014

29 Experts Claim that the State Fund for the Support of Mass Media is Unjust, 6 January 2014, <http://www.azadliq.info/asagi-manset/351-asagi-manshet/39815-ekspertlr-kvdf-ni-daltsizlikd-sucladlar.html>

30 Azerbaijan: Concern at Journalists’ Windfall, Institute for War & Peace Reporting, 5 August 2013, <http://iwpr.net/report-news/azerbaijan-concern-journalists-windfall>

31 Azerbaijan: Concern at Journalists’ Windfall, Institute for War & Peace Reporting, 5 August 2013, <http://iwpr.net/report-news/azerbaijan-concern-journalists-windfall>

32 Criminal Code of Azerbaijan Republic, 30 December 1999, www.e-qanun.az

33 Free Expression Under Attack: Azerbaijan’s Deteriorating Media Environment, Report of the International Freedom of Expression Mission to Azerbaijan, 7 – 9 September 2010, www.article19.org

draft bills on libel and defamation to Parliament, but none had been adopted at the time when this report was published.

Despite the repeated promises of the government to libel, the defamation provisions of the Criminal Code, as one expert put it, “continue to hang like a sword of Damocles over the head of Azerbaijan’s journalists”.³⁴ Until recently, government officials argued that the media was not ready for adoption of the law on defamation.³⁵ In her December interview with 1news agency, Rabiyyat Aslanova, chair of the Parliament’s Committee for Human Rights, said that the Law on Libel would be adopted only when journalists in Azerbaijan prove themselves to be ethical. “Only when Azerbaijan journalists become responsible for what they write and comply with high journalistic principles, we will agree to adopt this bill,” said Aslanova. However, the Parliament’s passing of amendments to articles 147 and 148 of Criminal Code on 14 May 2013 have been passed, extending criminal defamation onto Internet speech and reducing the odds of any significant reforms in this area for the foreseeable future.³⁶

There is no efficacious legal-institutional mechanism ensuring the independence of broadcasting in Azerbaijan. As mentioned earlier in the report, even though the licenses for TV and radio are nominally issued on a competitive basis, transparency of this process leaves much room for improvement-and allows evaluative criteria for selecting the winners to be made more concrete.

Sometimes the Council applies double standards in its evaluation of violations by television broadcasters, of professional ethics and ethical conduct. Thus, the Council oftentimes fails to adequately react to campaigns against opposition journalists.³⁷

Independence (practice): 25

Political, legal and financial problems confronted by Azerbaijan’s media encroach on their freedom and independence. Journalists are charged under defamation, as well as other articles of the Criminal Code. Although lately there has been a reduction in the number of criminal charges against journalists for defamation, it still remains a problem. In the recent past, several criminal charges were brought against journalists, including Eynulla Fatullayev, Faramaz Allahverdiyev, Rovshan Kabirli and Yashar Aghazadeh based on Article 147 (slander) and 148 (insult) of the Criminal Code.³⁸

Recently, the first court decision has been made under the controversial Internet libel law (article 147.1 of Criminal Code).³⁹ Mikayil Talibov, a former bank employee, posted remarks about the bank, the bank’s management appealed to a local court for what it considered to be “libelous content” and the court found Talibov guilty of charges based on the online content.⁴⁰ However, later the Court of Appeal remanded the case to the local court for reconsideration and the latter revoked the original verdict.⁴¹

Criminal prosecution of journalists affects independence of media and makes self-censorship among journalists unavoidable. The Media Rights Institute reported 106 acts of violence against journalists in

34 Interview with Farid Gahramanov – media expert Turan Information Agency by author, 11 April 2014

35 Top official: Azerbaijani media is not ready for adoption of law on defamation, TREND/T.Hajiyev, 28 October 2011, <http://en.trend.az/news/society/1951048.html>

36 “Azerbaijan criminalizes online libel and insult”, 22 May 2013, www.rferl.org

37 Interview with Farid Gahramanov – media expert, Turan Information Agency by author, 11 April 2014

38 Azerbaijan: Journalists sentenced on defamation charges, English PEN, 28 October 2009, www.englishpen.org/azerbaijan-journalists-sentenced-on-defamation-charges/

39 First Court Judgment Made on Internet Defamation (in Azeri), Bizim Yol Online Newspaper/Rəşad Vaqifoglu, 14 August 2013, <http://bizimyolinfo.com/?sehife=1&xeber=13975>

40 On Criminal Prosecution for Expressions on Facebook, Media Rights Institute, August 14 2013, www.mediarights.org

41 Court revoked previous decision on Mikayil Talibov, an author of critical post on Facebook,” 26 November 2013, www.mediaforum.az/az/2013/11/26/M%C9%99hk%C9%99m%C9%99-Facebook-da-t%C9%99nqid-yazan-Mikay%C4%B1-Tal%C4%B1bova-094004291c00.html#.U0U-Kqh_uSd

2010.⁴² According to the Institute for the Freedom and Security of Journalists (IRFS), the number of cases of journalists being attacked or threatened in 2011 was 50.⁴³

Another form of indirect intervention in the media is the policy of selective advertisement. Companies fear to place their ads in pro-opposition newspapers.⁴⁴ However, it should be added that the country's advertisement market is relatively small, which is a problem too. Estimates from 2012 showed that print media related advertisement sales in Azerbaijan were €2 million (US\$2.7 million), while in Hungary, a country of relatively similar size and population, this figure stood at €160 million (US\$217.7 million).⁴⁵

Transparency (law): 50

To what extent are there provisions to ensure transparency in the activities of the media?

Under the Law on Mass Media, print media ownership must be disclosed publicly.⁴⁶ But there is no law regulating transparency of the media's financial resources or reporting policies. There are also no regulations for providing transparency for National Television and Radio Council: its meetings, agendas and decisions.

Transparency (practice): 25

To what extent is there transparency in the media in practice?

It is difficult to obtain comprehensive information on the ownership of some media outlets, specifically, private broadcasters.⁴⁷ Of commercial broadcasters, only ANS TV has posted information on its founding ownership and other relevant issues on its website.⁴⁸ Other broadcasters do not disclose such information to the public.

Major media outlets do not publish financial statements.

Accountability (law): 50

The Professional Code of Ethics of Journalists contain provisions on accountability and the Press Council is supposed to exercise the "self-regulation" of Azerbaijan's media. The mission of the Press Council, which was set up in 2003, is to exercise public control over the media representatives' adherence to the rules of the Professional Code of Ethics of Journalists, strengthen contacts and build trust between the public, the state bodies and the mass media, and create more favorable conditions for freedoms of expression, thought and information.⁴⁹

This institution's chief task is to investigate complaints addressed to it, seek to settle the conflict between the complainer and the subject of complaint. The main lever of the Press Council to punish

42 Media Sustainability Index 2012: Azerbaijan, IREX, www.irex.org

43 Between state control and self-censorship, Reporters without Borders, 24 May 2012, www.reporter-ohne-grenzen.de/fileadmin/rte/docs/2012/120524_ROG-Report-Azerbaijan_ENG.pdf

44 Interview with Mehman Aliyev- Director of Turan Information Agency by author 7 June 2013
45 "Why does the unfree media need self-regulation?" (in Azeri), Voice of America, 24 October 2012, www.amerikaninsesi.org/content/rati_konfrans/1532491.html

46 The Law on Mass Media , dated 7 December 1999, www.e-qanun.az

47 Global Integrity Report: 2011 - AZERBAIJAN, Global Integrity, www.globalintegrity.org

48 "About ANS", <http://www.ansgroup.ws>

49 The Press Council, www.presscouncil.az

infringers of journalistic ethics is to include them in the Council's "blacklist". This type of public denunciation is used against media outlets that "neglect professional standards, damage the honor, dignity and business reputation of individuals".⁵⁰ The July 2013 version of the "blacklist" includes 84 mass media outlets.⁵¹

The updated version of the Journalists' Code of Ethics by OSCE and the Press Council was released in 2010. This document requires journalists to correct their errors as soon as possible, regardless of the person, who identifies the error. The correction should make it clear whether the respective piece of information was inaccurate in whole or in part.⁵² Some experts think that the Code has remained "on paper" and has not led to better accountability.⁵³

The body responsible for ensuring accountability in the country's broadcasting sector, is the National Television and Radio Council. Among the duties of the Council are "regulating the activities of television and radio broadcasting, protecting their independence and the public interests, and exercising control over the observance of the legislation on television and radio broadcasting".^{54,55}

It should be highlighted that currently there are no mechanisms in place to ensure the prudent stewardship of public funds by the national broadcaster. AzTV, the official broadcaster, received a generous budget of 35 million manats (US\$44.5 million) in 2011, in addition to advertisement fees, but did not report on how these funds were used.⁵⁶

Accountability (practice): 25

Views diverge as to the role of the Press Council in maintaining accountability in the mass media. Elchin Shikhli, editor of Ayna-Zerkalo, an independent newspaper and a member of the Council, stated that the Council has succeeded in settling thousands of disputes before they could go to court and thereby spared many journalists jail terms.⁵⁷ In 2011 alone, 651 appeals were filed with the Council, of which 499 involved complaints of the media outlets.⁵⁸ The settlement of the complaints through the Council reportedly helps prevent a significant number of potential court cases thereby helping journalists avoid disproportionate penalties, including arrests.⁵⁹

As stated earlier, there are also arguments that the Press Council, which is registered as a nonprofit in the Ministry of Justice, does not have the authority to compile a list of "racketeering newspapers". Furthermore, it is asserted that because "racketeering media" primarily include media outlets with limited circulation and readership, the "black list" can achieve little except publicising the names of little-known publications.

Reporters from major media outlets and some editors have interactive blogs, which provide a space where they can interact with the public. The main channel of communication is social media, namely interaction on Facebook. Ganimat Zahid, editor of Azadliq and Rauf Arifoglu, editor of Yeni Müsavat, major opposition newspapers, along with Ilgar Hasanov, editor of Trend news agency – a pro-

50 The Press Council, www.presscouncil.az

51 "84 Azerbaijani Mass Media Entities Included in Press Council's "Blacklist"" (in Azeri), TREND/E.Mehdiyev, 11 July 2013, <http://az.trend.az/news/society/2169828.html>

52 Code of Professional Ethics for Journalists of Azerbaijan, OSCE website, <http://www.osce.org/baku/72211>

53 Interview with Farid Gahramanov, media expert by author, Turan Information Agency, 11 April 2014

54 National Television and Radio Council, www.ntrc.gov.az

55 National Television and Radio Council, www.ntrc.gov.az

56 Media Sustainability Index 2012: Azerbaijan, IREX, www.irex.org

57 Disputes Settled by Press Council (Video in Azeri), ANS Press, 16 March 2013, <http://anspress.com/index.php?a=2&lng=az&nid=193453>

58 "Why does the unfree media need self-regulation?" (in Azeri), Voice of America, 24 October 2012, www.amerikaninsesi.org

59 "Why does the unfree media need self-regulation?" (in Azeri), Voice of America, 24 October 2012, www.amerikaninsesi.org

government news organisation – are but three examples of media representatives, who can be accessed via social media. Also, on the websites or Facebook pages of Azerbaijan’s notable media outlets, there is generally a space for readers to exchange their commentary.

Azerbaijan does not have a separate institution of press ombudsman. The Law on Access to Information, which was passed by Parliament in 2005,⁶⁰ contained a provision that required the establishment of information commissioner within the period of 6 months after the legislation’s enactment. However, this requirement did not become operative and the amendments dated 21 December 2010 to the Constitutional Law on the Human Rights Commissioner (Ombudsman) transferred duties reserved by the law for Information Commissioner to the Human Rights Commissioner or Ombudsman. As for individual media organisations, no media outlet had their separate institution of ombudsman at the time this report was written.

When erroneous reporting is the case, outlets usually provide a clarification rather than publish a retraction. When no complaint is lodged against them, reporters/reporting outlets prefer to hush up the incident.

Integrity Mechanisms (law): 75

The Code of Ethics of Journalists, updated by OSCE and the Press Council, delineates the basic principles of ethical journalism.⁶¹ The final version of the Code entails a more detailed coverage of ethical conduct standards in collecting information and disclosing it, reporting crime and presumption of innocence, editorial independence and journalists’ rights.⁶² The Code lists 4 general principles of journalistic ethics, which include: serving the truth, accuracy, and objectivity, treating respectfully sources of information, protecting honor, dignity, and inviolability of personal life, and finally, protecting reputation of journalists, and the organisation for which the journalist works.⁶³

The Code states that journalists should not accept any personal, political or financial favours that could influence their ability to report accurately.

Integrity mechanisms (practice): 50

Although there are provisions in the Code of Ethics calling for integrity in the mass media, journalists oftentimes fail to comply with those principles.

In a sense, this lack of conformity stems from the fact that there is a top-down approach to application of ethic rules, whereas for effectiveness there should be a demand for ethical conduct at the bottom. Also, because of lack of funding, many journalists simply disregard ethical rules and come to depend on individual officials.

Salaries of Azerbaijan journalists are low. A survey by the Journalists’ Trade Union of Azerbaijan (JuHI) among 37 national newspapers, 5 information agencies, 3 news portals, also 18 weekly newspapers (8 regional, 10 national), and 7 TV channels (4 regional, 3 national), found out that the average monthly salary for their employees hovers between 400 manat (US\$510) and 500 manat (US\$637). The investigation indicates that banks, as a rule, refuse giving out loans to journalists. Journalists are usually

60 Law on the Right to Obtain Information, 30 September 2005, www.e-qanun.az

61 Before that the Press Council had an older version of the code.

62 Press Release: Revised code of ethics introduced at OSCE Office conference on media self-regulation in Azerbaijan, OSCE Office in Baku, 6 September 2010, www.osce.org/baku

63 Code of Professional Ethics for Journalists of Azerbaijan, OSCE website, www.osce.org/baku

unable to obtain a mortgage either, as a result of the fact that their salaries often fall below the required minimum of 500 manat (US\$637) by the lenders.⁶⁴

Another factor that casts a shadow on the independence of journalists is that they are often reportedly employed without a job contract, which allows the employers to hire or fire them, as they will.⁶⁵ In these circumstances, it is very difficult for them to demonstrate professional independence from their employers.

Officials frequently explain the delay of the decriminalisation of defamation by arguing that journalists fail to act in accordance with ethical standards, however, the government must take adequate measures to foster professionalism of journalists. In most cases, it is international organisations that provide training opportunities for those employed in the mass media. Yet, even these tools sometimes fall short of achieving their objective, due to the fact that most employers in media are not themselves interested in raising the levels of professionalism.⁶⁶

Investigate and expose cases of corruption practice: 25

Profound journalist investigation is not a very wide spread practice in Azerbaijan, one of the reasons being that reporters, who enquire into corruption facts, are at risk of facing various forms of intimidation.⁶⁷ Since doing investigative reporting on corruption requires substantial investment of time and resources, most journalists cannot commit themselves to this kind of investigative journalism.⁶⁸ Moreover, law enforcement agencies do not always act on corruption suspicions of media.

Inform public on corruption and its impact: 50

Mass media gives information about corruption and its impacts, however, this information is provided mostly on print and online media. Television and radio channels allocate much less space to such programmes.⁶⁹ Some of the programmes inform and educate citizens on legal provisions. The most popular programme is the radio programme on the traffic regulation broadcast on 106.3 FM frequency. Besides, there are also several similar programmes on other radio channels. In general, these programmes do not focus on corruption and its impact per se. They can be rather assessed as the programmes preventing corruption through education. Some television channels arrange debates on corruption related topics, with the participation of the representatives of the government and civil society; however, the quantity and quality of these programmes leave a lot to be desired.

Inform public on governance issues: 50

Although the broadcast media is reported to be generally biased towards government, there is a growing trend of Internet television projects, which provide a relatively balanced view of public policies. However, the answer to the question as to how effective their performance is in terms of their outreach to the citizens is not clear for now.⁷⁰

One of the key problems in the coverage of governance issues is that despite the requirements of the Law on Access to Information, public agencies do not always share the information on the important

64 JuHi, Journalists' Trade Union, <http://www.juhi.az/index.php?newsid=533>

65 Free Expression Under Attack: Azerbaijan's Deteriorating Media Environment, Report of the International Freedom of Expression Mission to Azerbaijan, 7 – 9 September 2010, www.article19.org

66 Media Sustainability Index 2012: Azerbaijan, IREX, www.irex.org

67 Global Integrity Report: 2011 - AZERBAIJAN, Global Integrity, www.globalintegrity.org

68 Interview with Farid Gahramanov, media expert by author, Turan Information Agency, 11 April 2014

69 Transparency Azerbaijan recommendations to public agencies under ALAC and APT projects, www.transparency.az

70 Media Sustainability Index 2012: Azerbaijan, IREX, www.irex.org

aspects of their activities, with the mass media.⁷¹ Moreover, public agencies do not apply the principle of equal treatment when sharing information with the mass media. Individual agencies usually disclose more information to the pro-government media outlets than independent and opposition media.⁷²

Recommendations:

- Enhance transparency of the activities of the National Television and Radio Council (NTRC); specifically, transparency of the bidding process for broadcast licenses; create public oversight mechanisms; make objective and specific rules for selecting members of NTRC; create rules guaranteeing transparency of meetings, agenda and decisions of National Television and Radio Council.
- Enhance public participation in the activities of the State Fund for the Support of Mass Media Development; create rules that ensure inclusion of independent experts sitting on the commissions of the fund evaluating project proposals by mass media.
- Ensure transparency of expenditures of major media outlets, including Azerbaijan State Television and Radio Company and Public Television and Radio Broadcasting Company.
- Arrange training opportunities for journalists to encourage their compliance with professional ethics and develop more effective self-regulatory mechanisms in media, which would enable discarding articles of Criminal Code making defamation a criminal offence.
- Encourage more corruption awareness raising programmes on TV and radio stations.

71 "Mass Media Situation in Azerbaijan: What Has Changed over the Year?", Arif Aliyev, www.osce.org

72 Interview with Farid Gahramanov – media expert by author, Turan Information Agency, 11 April 2014