

AZERBAIJAN

Mid-term Report - Review of the implementation of recommendations with respect to the rule of law and the role of lawyers accepted by Azerbaijan during the UPR in 2018

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I. Introduction

1. Lawyers for Lawyers (L4L) and The Law Society of England and Wales (the “Law Society”) seek to address the human rights performance of states with respect to the rule of law and the role of lawyers through the Universal Periodic Review (UPR). During the UPR of Azerbaijan in 2018, the Azerbaijani government received and accepted recommendations concerning lawyers. In this mid-term report, L4L and the Law Society assess the extent to which these recommendations have been implemented.

II. Executive Summary

2. During the 2018 UPR, Azerbaijan received and accepted four (4) recommendations with respect to the effective protection of lawyers, including disciplinary measures taken against lawyers, and access to justice.¹
3. This submission outlines L4L and the Law Society’s finding as to the extent to which Azerbaijan has implemented these recommendations. It illustrates that Azerbaijan has not adequately implemented the four recommendations with respect to lawyers. The Azerbaijani authorities have failed to respect the rights of lawyers by not adequately enabling them to perform their professional functions without intimidation, hindrance, harassment or improper interference. Furthermore, the Azerbaijani authorities have failed to take substantive steps to uphold the right to a fair trial and to guarantee that every citizen has effective access to justice and legal assistance of their choice.

Recommendations

4. L4L and the Law Society urge the Azerbaijani authorities to respect the right of lawyers to perform their professional functions without intimidation, hindrance, harassment or improper interference, and to guarantee that lawyers are not being subjected to disbarment or other disciplinary measures on improper grounds, in line with Principles 16(a) and (c), 23 and 27 of the Basic Principles and Article 14 and 19 ICCPR. Azerbaijan should implement recommendations 140.70 and 141.13 fully and without any delay.
5. L4L and the Law Society urge the Azerbaijani authorities to uphold the right to fair trial and to guarantee that every citizen has effective access to justice and legal assistance of their choice, in line with Preamble and Principle 1 of the Basic Principles, Azerbaijan should implement recommendations 141.68 and 140.73 fully and without any delay.

III. UPR recommendations accepted by Azerbaijan in 2018

6. During the 2018 UPR cycle, Azerbaijan received and accepted one recommendation on respecting the rights of lawyers:
 - a. *Respect the rights of lawyers* (140.70 - France);
7. Azerbaijan also received and accepted one recommendation to establish independent and transparent mechanisms for disciplinary proceedings against lawyers:

¹ Report of the Working Group on the Universal Periodic Review of Azerbaijan, A/HRC/39/14, 11 July 2018, p. 14, and Addendum 1: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review.

- a. *Establish independent and transparent mechanisms for disciplinary proceedings against lawyers in conformity with the Basic Principles on the Role of Lawyers and Recommendation No. R(2000)21 of the Council of Europe on the freedom of exercise of the profession of lawyer (141.13 - Austria);*
8. Furthermore, Azerbaijan received and accepted two recommendations on access to lawyers:
 - a. *Ensure that all defendants have access to appropriate legal representation, including by increasing the number of qualified lawyers (141.68 - Estonia);*
 - b. *Ensure the independence, impartiality and transparency of the judicial system, and improve access to justice (140.73 - France);*
 9. L4L and the Law Society welcome Azerbaijan's acceptance of recommendation 140.70 and agreement to respect the rights of lawyers. In connection with this, we welcome Azerbaijan's acceptance of recommendation 141.13, on establishing an independent and transparent mechanism for disciplinary proceedings against lawyers. We furthermore welcome Azerbaijan's acceptance of recommendations 141.68 and 140.73, on ensuring that all defendants have access to appropriate legal representation and the access to justice.
 10. However, L4L and the Law Society find that these four recommendations have not been fully implemented at the time of submission of this report (November 2020).

IV. Effective mechanisms for the protection of human rights

11. The adequate protection of human rights and fundamental freedoms requires that every citizen has effective access to justice, legal assistance, and legal representation. Such assistance and representation can only be provided effectively in a judicial system where lawyers, along with judges and prosecutors, are able to carry out their professional activities independently and without external pressures and interference.² This follows from – amongst other international instruments - the International Covenant on Civil and Political Rights (ICCPR) and the United Nations Basic Principles on the Role of Lawyers (Basic Principles).³
12. In its task of promoting and ensuring the proper role of lawyers, the Azerbaijani government should respect the Basic Principles and take them into account within the framework of its national legislation and practice. Adherence to the Basic Principles is considered a fundamental pre-condition for fulfilling the requirement that all persons have effective access to legal assistance and representation.⁴
13. In response to recommendation 141.13, the Azerbaijani government noted that: "The Law of Azerbaijan on "Advocates and legal profession" corresponds to the requirements of the both two international instruments [Basic Principles on the Role of Lawyers and Recommendation No. R(2000)21 of the Council of Europe] that are indicated in recommendation. As such,

² Report of the Special Rapporteur on the independence of judges and lawyers, Leandro Despouy, submitted in accordance with Human Rights Council resolution 8/6, 28 July 2009, A/64/181 , par. 12: 'lawyers are not expected to be impartial in the manner of judges yet they must be as free as judges from external pressures and interference. This is crucial if litigants are to have trust and confidence in them'.

³ Basic Principles, Principle 16 in particular: Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

⁴ UN Basic Principles on the Role of Lawyers, Preamble and paragraph 8 in particular.

advocates are involved in disciplinary responsibility in cases of finding of violations of requirements of legislative acts, the Statute on the rules regarding advocates' behaviour, including the cases with regard to violation of norms of advocate ethics based on requirements of the both of two international instruments and in accordance with national legislation".⁵

14. On recommendation 141.68 the Azerbaijan noted that: "Rules on admission to advocacy and on holding of exams, program of preparation to examination, sample questions for test examination stage have been displayed in the official website of the Bar Association. The Bar Association is also interested to applying more advanced standards in admission process in future and will take necessary measures to this end. After compulsory trainings held on May 2, 23 and on 6 June of current year oath ceremony has been held for successful candidates. They have been admitted to the membership of the Bar Association according to the decision of the governing body, as a result, the number of the members of the Bar Association have exceeded 1200 in the first time of the history of Advocacy of Azerbaijan. Furthermore, oath ceremony for admission of 300 new advocates to the membership of the Association has been held during July of the current year. Consequently, the number of the advocates has increased from 944 to 1535 persons, and has been more than 62.6% comparing to previous years in Azerbaijan".⁶
15. The responses from Azerbaijan indicate some positive changes. However, reports gathered by L4L and the Law Society, and information received from lawyers in Azerbaijan demonstrate that these accepted recommendations have not been adequately implemented and that in practice, the Azerbaijan authorities do not always uphold the necessary guarantees for the proper functioning of the legal profession. As a consequence, lawyers encounter difficulties in carrying out their profession independently and without external interference.

V. Respecting the rights of lawyers

a. Harassment and criminal prosecution of lawyers

16. Lawyers for Lawyers and the Law Society have long been concerned about attempts to harass and disrupt the work of lawyers in Azerbaijan who work on cases that engage human rights or represent persons perceived to be critics of the Azerbaijani authorities. The right of lawyers to perform their professional activities without hindrance and the corresponding rights of their clients to a fair trial (for example, the right to prepare an adequate defence, the right to a counsel of one's own choosing, and the right to lawyer-client confidentiality) are often not respected.
17. In accordance with Principle 16(a) of the Basic Principles, governments must ensure that lawyers "are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference".
18. Since the adoption of the UPR recommendations on the rights of lawyers in September 2018, new cases of harassment have come to the attention of Lawyers for Lawyers and the Law Society:

Intigam Aliyev. On 29 December 2019, the Sumgayit City Court imposed a travel ban on Intigam Aliyev as a result of an application from the tax authorities, which alleged that Mr. Aliyev's NGO, the Legal Education Society (LES), had failed to pay a tax debt from 2011-2014. Mr. Aliyev, who has faced judicial harassment and criminal prosecution from the authorities before – including a prison sentence, is a prominent human rights lawyer who has submitted a

⁵ Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, 10 September 2018, A/HRC/39/14/Add.1, paragraph 10.

⁶ Idem, paragraph 14 and 15.

great number of applications to the European Court of Human Rights (ECtHR) in cases on the right to fair trial, free speech and election rigging.⁷

19. Lawyers in Azerbaijan have also been subjected to criminal prosecution:

Elchin Mammad. Elchin Mammad was arrested by the Sumgayit city police on 30 March 2020, a few days after he published a critical report on the human rights situation in Azerbaijan. It was reported that: “on 31 March 2020, the Sumgayit City Court remanded Mr. Elchin Mammad in custody for three months as a criminal suspect under Article 177.2.4 of the Criminal Code of Azerbaijan”.⁸ As a former human rights lawyer, Mr. Mammad is the President of the NGO Social Union of Legal Education of Sumgayit Youth (SULESY), as well as the Editor in Chief of the *Yukselish Namine* newspaper.⁹ On 15 October 2020, Mr. Mammad was sentenced to four years in prison under the charges of “theft causing significant damage” and “illegal purchase and possession of firearm accessories”¹⁰.

b. Disbarment and other disciplinary measures on improper grounds

20. According to Principle 16 (c) of the Basic Principles, governments shall ensure that “lawyers shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics”. Furthermore, lawyers, like any other individuals, have the right to freedom of expression. In particular, they have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights. This right is guaranteed under Article 19 of the ICCPR and Principle 23 of the Basic Principles. Moreover, Principle 27 of the Basic Principles lays down that charges or complaints made against lawyers in their professional capacity shall be processed expeditiously and fairly under appropriate procedures.

21. During Azerbaijan’s last UPR, concerns were expressed about the fact that, over the last few years, a number of lawyers were suspended or disbarred from practising law after – in their role as legal representatives - raising concerns about human rights violations committed by public authorities against their clients or after exercising their freedom of expression by publicly speaking out in cases that can be seen as politically sensitive. Already in 2017, the UN Special Rapporteur on the Situation on Human Rights Defenders stated: ‘*For those lawyers who are members of the [Azerbaijani] Bar Association, disciplinary proceedings have been one of the main means of retaliation for their human rights or professional activities. There are cases of several lawyers whose disbarment and sanctioning were unjustified and politically motivated*’.¹¹

22. On 25 June 2020, the ECtHR, found that Azerbaijan had violated the rights of Khalid Bagirov, an Azerbaijani lawyer who was suspended from practising law and then disbarred. This violated his right to freedom of expression and his right to respect for private life, laid down in Articles 10 and 8 of the European Convention on Human Rights (ECHR). In relation to Article 10 ECHR,

⁷ EHRAC, *EHRAC urges Committee of Ministers to call for end to fresh travel ban imposed on Azerbaijani human rights lawyer Intigam Aliyev* (10 February 2020) <https://ehrac.org.uk/news/ehrac-urges-committee-of-ministers-to-call-for-end-to-fresh-travel-ban-imposed-on-azerbaijani-human-rights-lawyer-intigam-aliyev/>

⁸ FIDH, *Azerbaijan: Arbitrary detention of Mr. Elchin Mammad* (22 May 2020) <https://www.fidh.org/en/issues/human-rights-defenders/azerbaijan-arbitrary-detention-of-mr-elchin-mammad>

⁹ L4L, *Arrest and continued detention of lawyer Elchin Mammad* (10 June 2020)

<https://lawyersforlawyers.org/arrest-and-continued-detention-of-lawyer-elchin-mammad/>

¹⁰ L4L, *Elchin Mammad sentenced* (16 October 2020) <https://lawyersforlawyers.org/elchin-mammad-sentenced/>

¹¹ Report of the Special Rapporteur on the situation of human rights defenders on his mission to Azerbaijan, 2017, <http://undocs.org/A/HRC/34/52/Add.3>.

the ECtHR ruled that the reasons given by the domestic courts in support of Bagirov's disbarment were not "*relevant and sufficient, and that the sanction imposed on the applicant was disproportionate to the legitimate aim pursued*".¹² Moreover, the ECtHR noted that disbarment "*cannot but be regarded as a harsh sanction, capable of having a chilling effect on the performance by lawyers of their duties as defence counsel*".¹³

Elchin Sadigov. On 15 January 2020, disciplinary proceedings were launched against Mr. Sadigov. The proceedings were based on an alleged complaint of one of Mr. Sadigov's clients, who is a citizen of Georgia. Mr. Sadigov succeeded in repealing the deportation order of his client on 15 July 2019. On 8 January 2020, Mr. Sadigov achieved issuing an Azerbaijani residence permit for his client for one year. The client filed a complaint against him with the Azerbaijan Bar Association (ABA) for alleged falsification of lawyer documents. On 26 September 2020, the Presidium of the (ABA) reprimanded Mr. Sadigov. Also, Mr. Sadigov was ordered to work as part of Law Office number 14 in Baku. It is believed that such an order, which seems to take the form of an informal decision by the ABA and which more lawyers have recently received, constitutes an effort to bring independent lawyers under increased oversight.

Mr. Sadigov has been subjected to disciplinary measures in the past. The First Deputy Prosecutor General of Azerbaijan, lodged a complaint against Elchin Sadigov with the ABA on 14 November 2019. The complaint was related to a Facebook post by Mr. Sadigov, in which he discussed the possible cause of the car crash that hospitalised Azerbaijani human rights defender Oktay Gulaliyev in October 2019. Earlier that year, in February 2019, Mr. Sadigov was formally reprimanded. It was also alleged that Mr. Sadigov encouraged his client, Yunus Safarov, to make false claims of torture against the Azerbaijani authorities. Mr. Sadigov is a prominent lawyer in Azerbaijan who defends the cases of several prisoners of conscience and others who have faced politically motivated charges. Recently, Mr. Sadigov represented Tofiq Yagublu, a member of the Coordination Center of the Musavat Party and the National Council, known as a prisoner of conscience. He also defended opposition activists arrested in connection with the 14 July 2020 incident in Yasamal district of Baku where police used excessive force against residents.

Nemat Kerimli. On 7 December 2019, Nemat Kerimli was informed by the ABA that a complaint had been lodged against him by the Prosecutor General's Office. The complaint requested the ABA to discipline Mr. Kerimli for discussing allegations that the Baku police had tortured and mistreated his client Tofiq Yagublu in an interview with an independent media outlet. The Presidium of the ABA dismissed the complaint of the Prosecutor General's Office against Mr Kerimli in a decision on 26 August 2020.

Mr. Kerimli has been subjected to disciplinary measures in the past. Mr. Kerimli was the legal representative of imprisoned journalist Afghan Mukhtarli and visited his client on 20 September 2019 at Prison No. 16. According to Mr. Kerimli, the prison authorities used force against his client prior to their meeting. In the prison, Mr. Kerimli was illegally searched upon arrival and departure. On 24 September 2019, the Penitentiary Service submitted a complaint to the ABA, accusing Mr. Kerimli of attempting to create negative public opinion about the activities of the institution and violating the requirements of the Regulations on the Code of Conduct for Lawyers. On 21 October 2019, the Presidium of the ABA issued a warning to Mr. Kerimli but did not initiate disciplinary proceedings.¹⁴ Moreover, on 28 April 2018, the ABA suspended Mr. Kerimli's license for one year. The decision was made after the Prosecutor General's Office

¹² Bagirov v. Azerbaijan, no. 81024/12 and 28198/15, paragraph 84, ECHR, 25 June 2020.

¹³ Idem, paragraph 83.

¹⁴ Novator, *Nemat Kerimliyə xəbərdarlıq* (22 October 2019) <https://novator.az/2019/10/22/nem-t-k-rimliy-x-b-rdarliq/>

lodged complaints over public statements Mr. Kerimli made about the case of Afghan Mukhtarli. Mr. Kerimli is a prominent lawyer in Azerbaijan, known for taking on cases relating to politically motivated prosecutions.¹⁵

Shahla Humbatova. On 27 November 2019, the ABA decided to suspend the licence of human rights lawyer Shahla Humbatova and to seek her disbarment on the basis of a complaint from a past client and the alleged failure to pay several months of Bar membership dues. Ms. Humbatova has defended numerous high profile Azerbaijani political prisoners and was representing several defendants in the Ganja Case, where her clients' accounts of brutal torture, forced confessions and fabricated evidence have attracted widespread attention.¹⁶

Yalchim Imanov. On 22 February 2019, human rights lawyer Yalchin Imanov was indefinitely disbarred by the Ganja Administrative Economic Court, after the ABA agreed to seek his disbarment from court in November 2017. On 8 August 2017, Mr. Imanov was informed by his client Abbas Huseynov that Mr. Huseynov had been tortured by prison officials. Mr. Imanov witnessed the injuries to Mr. Huseynov himself. Consequently, Mr. Imanov informed the local media about the torture allegations and filed a complaint with the relevant state institutions. One day later, the Penitentiary Service filed a complaint with the ABA, accusing Mr. Imanov of spreading false information and requesting Mr. Imanov's disbarment. Mr. Imanov worked on a number of high-profile and politically-sensitive cases, involving political prisoners and human rights defenders.¹⁷ In July, 2019, Mr. Imanov submitted a complaint to the ECtHR.

Irada Javadova. On 11 June 2018, the Presidium of the ABA announced the impending disbarment of Irada Javadova. Ms. Javadova appealed the decision of the Presidium of the ABA to disbar her. The Presidium of the ABA decided to disbar Ms. Javadova based on information provided by a person who sought her legal assistance. This person claimed that Ms. Javadova made a statement in the media about her case, without having a notarised power of attorney and without her consent. After having received a request from her clients' mother to enquire about the whereabouts of her daughter, Ms. Javadova raised concerns about the possible arbitrary detention of her client. Ms. Javadova raised concerns in an open letter. This resulted in disciplinary action against Ms. Javadova.¹⁸

As a lawyer, Ms. Javadova was involved in many high-profile cases of human rights defenders and political activists. From 2012 to 2017, Ms. Javadova served as a member of the ABA Presidium. In 2017, Ms. Javadova was the only member of the ABA Presidium to vote against the disbarment of human rights lawyer Yalchin Imanov.

23. The disbarment of lawyers should be an exceptional measure, since it prevents a lawyer from exercising his or her profession permanently, thereby severely affecting a lawyer's private life and ability to financially support themselves and their families. It also prevents their clients from having access to a legal representative of their own choosing. In addition, it has been reported that the ABA actively monitors social media activity of its members for any type of criticism expressed against the ABA or the Azerbaijani Government. The President of the ABA has also

¹⁵ Civil Rights Defenders, *Azerbaijani Bar Association must cease harassment of human rights lawyers* (12 December 2019) <https://crd.org/2019/12/12/azerbaijani-bar-association-must-cease-harassment-of-human-rights-lawyers/>

¹⁶ L4L, *Open letter on disciplinary measures against Shahla Humbatova* (14 December 2019), <https://lawyersforlawyers.org/en/open-letter-on-disciplinary-measures-against-shahla-humbatova/>

¹⁷ HRW, *Lawyer disbarred in Azerbaijan after filing torture complaint* (27 November 2017) <https://www.hrw.org/news/2017/11/27/lawyer-disbarred-azerbaijan-after-filing-torture-complaint>

¹⁸ ICJ, *Azerbaijan: Lawyer Irada Javadova disbarment decided in unfair proceedings* (18 June 2018) <https://www.icj.org/azerbaijan-lawyer-irada-javadova-disbarment-decided-in-unfair-proceedings/>

denounced individual lawyers on social media and in public statements, giving rise to a climate of insecurity and intimidation of lawyers who are members of the ABA itself.

24. Principle 24 of the Basic Principles states that lawyers have a right to organise themselves in an independent association. The continuing disciplinary actions brought by the ABA against its own members represent a worrying trend. Lawyers who are critical of the ABA itself or of the Azerbaijani Government, as well as those who publicly speak out against human rights violations committed against their clients, are targeted by the professional representative body that is supposed to support them and ensure that they can carry out their professional functions freely.

VI. Access to a lawyer

a. *Low number of lawyers in Azerbaijan*

25. The right of access to a lawyer has been enshrined in international human rights instruments. The Preamble of the UN Basic Principles on the Role of Lawyers for example states that lawyers have a vital role to play in providing legal services to all-in need of them. Moreover, Principle 1 of the UN Basic Principles of the Role of Lawyers determines that everyone has the right to call upon the assistance of an independent lawyer of their own choice. During the 2018 UPR, several recommendations were made about the low number of lawyers in Azerbaijan, which severely hampers the requirement that all persons have effective access to legal assistance and representation¹⁹.
26. In its reply to recommendation 141.68 during the 2018 UPR, Azerbaijan stated that the number of advocates had already increased significantly compared to earlier years. Before 2018, the ABA did not organise regular qualifications examinations. However, the ABA organised more frequent qualification examinations in 2018 and 2019.²⁰ Qualification examinations were also conducted in 2020.²¹ The ABA has reported that as a result of these examinations in 2018 and 2019, the number of members of the Bar Association increased by one third.²² However, in 2019, the Commissioner for Human Rights of the Council of Europe stated that Azerbaijan has the lowest number of lawyers per 100,000 inhabitants in the Council of Europe area.²³
27. As has been reported on during the 2018 UPR, on 31 October 2017, the Azerbaijan Parliament adopted amendments to the Civil and Administrative Codes of Azerbaijan and the law “On lawyers and lawyers’ activity” that restrict representation in court to lawyers who are members of the Bar Association. The amendments were signed into law on 7 November and entered into force on 1 January 2018.
28. Under the previous law, non-members of the ABA could carry out representation before the courts. However, only ABA members (‘advocates’) could represent individuals in criminal cases. The new provisions now prohibit anyone who is not a member of the ABA from representing clients in any court, with an exception allowed for those representing close relatives such as parents, siblings and children, grandparents and grandchildren. The amendments led to an overall drop in practising lawyers and directly impacted the number of lawyers providing legal services in all regions of the country. Many citizens of Azerbaijan lost their lawyers and

¹⁹ UN Basic Principles on the Role of Lawyers, Preamble and paragraph 8 in particular.

²⁰ ICJ, *ICJ Recommendations to the Azerbaijan Bar Association on the Role and Independence of Lawyers* (8 May 2019) <https://www.icj.org/wp-content/uploads/2019/05/Azerbaijan-ICJ-Recommendations-Bar-Ass-Advocacy-Analysis-Brief-2019-ENG.pdf>, p. 2.

²¹ State Examination Center of the Republic of Azerbaijan, *Vəkillər Kollegiyasına üzv olmaq istəyən namizədlər üçün test imtahanı keçirilib* (30 January 2020) <http://www.dim.gov.az/news/4848/>

²² Azerbaijani Bar Association: <http://www.barassociation.az/en/azecollegium>

²³ Council of Europe, *Azerbaijan needs more freedom of speech, more lawyers and more jobs for refugees* (12 July 2019) <https://www.coe.int/en/web/portal/-/azerbaijan-needs-more-freedom-of-speech-more-lawyers-and-more-jobs-for-refugees>

representation and it also made it increasingly difficult for current and future litigants to find lawyers.

b. Restrictions on access to the legal profession

29. In addition, there are concerns that the ABA examination of candidates, especially the oral part of examinations, is not free from arbitrary and biased decisions against applicants who pass the written examinations but work on human rights related cases.
30. Governments, professional associations of lawyers and educational institutions must ensure “that there is no discrimination against a person with respect to entry into or continued practice within the legal profession on the grounds of race, colour, sex, ethnic origin, religion, political or other opinion, national or social origin, property, birth, economic or other status.”²⁴ In relation to this, the Council of Europe’s Committee of Ministers to Member States on the freedom of exercise of the profession of lawyer has noted that “all necessary measures should be taken to respect, protect and promote the freedom of exercise of the profession of lawyer without discrimination and without improper interference from the authorities or the public”.²⁵ Their recommendation also notes that decisions about the authorisation to practice as a lawyer or to accede to this profession should be taken by an independent body. The UN Special Rapporteur on the Independence of Judges and Lawyers recommended that the entry to the legal profession should not be under the influence of the judicial or executive branches of governments.²⁶
31. Under the law on “lawyers and lawyers’ activity”, individuals wishing to qualify as a lawyer with the ABA have to go through an examination procedure. This examination procedure consists of two stages. The first part of the procedure, which is the written stage, is automatised and conducted by the State Examination Centre of the Republic of Azerbaijan.²⁷ The second stage of the procedure, which is the oral stage, is conducted by members of the Examination Commission.²⁸ According to our information, there are no objective criteria in place for this stage of the examination. The Examination Commission consists of 11 members from the ABA (5), judges (3) and academics (3). While the members representing the ABA are appointed by the Presidium of the ABA, the judges are appointed by the Plenum of the Supreme Court. Moreover, the academics are appointed by the Ministry of Justice. This indicates that the majority of the members of the Commission are appointed by the executive and judicial branches of the governments and not by the legal profession itself. It is the Commission that decides on the admission to the legal profession.
32. Concerns have been raised about the examination procedure, including after the 2018 UPR. In 2019, the Council of Europe Commissioner for Human Rights called on Azerbaijan to “step up its efforts to address effectively the shortage of lawyers in the country, in particular in the regions, including by ensuring that admission to the Bar Association is based on a transparent qualification process and objective criteria”. Lawyers from Azerbaijan have indicated that the examination process allows for arbitrary decisions to be taken when examining candidates. It was reported that some lawyers face bias from the examiners and “the oral part of the

²⁴ UN Basic Principles on the Role of Lawyers, Principle 10.

²⁵ Recommendation No. R (2000) 21 of the Committee of Ministers to Member States on the freedom of exercise of the profession of lawyer, Council of Europe, Adopted by the Committee of Ministers on 25 October 2000 at the 727th meeting of the Ministers’ Deputies, Principle I.1.

²⁶ Report of the Special Rapporteur on the independence of judges and lawyers, UN Doc No A/73/365 (5 Sept. 2018), paras. 60-61.

²⁷ Azerbaijani Bar Association:

http://barassociation.az/uploads/attachments/vekillerin_davranish_qaydalari_haqqinda_asasname_2245c0c648bbfdacc5ff171bd0a691.pdf

²⁸ Lawyers Qualification Commission: <http://www.barassociation.az/specialization>

examination can be used as a barrier to prevent highly qualified and independent lawyers especially those working on human rights issues from joining the Bar Association”.²⁹

33. We were furthermore informed that lawyers belonging to the “Group of Practising Lawyers”, who specialise in human rights cases and are not ABA members, successfully passed the computer-based stage of the test but failed the oral examination between March and June 2018³⁰, while the great majority of all other lawyers who sat the examination at that time passed the examination. It has been reported that the “Group of Practising Lawyers” did not pass the oral stage of the examination due to their human rights background and critical views of the ABA. In connection with this, it has been reported that “some candidates had been asked to refrain from online critical statements towards the Bar Association or law enforcement institutions as a condition for their membership”.³¹ In connection with independent lawyers who are working on human rights cases being refused admission to the ABA, the Council of Europe Commissioner for Human Rights noted that she believes that “the role played lately by the Bar Association in the non-admission to the Bar of certain categories of persons as well as in the context of disciplinary proceedings points to a deficit of institutional independence”.³²

²⁹ ICJ, *ICJ Recommendations to the Azerbaijan Bar Association on the Role and Independence of Lawyers* (8 May 2019) <https://www.icj.org/wp-content/uploads/2019/05/Azerbaijan-ICJ-Recommendations-Bar-Ass-Advocacy-Analysis-Brief-2019-ENG.pdf>, p. 4.

³⁰ OC Media, *Left without a defence: Azerbaijan’s purge of human rights lawyers* (30 August 2018) <https://oc-media.org/left-without-a-defence-azerbajians-purge-of-human-rights-lawyers>

³¹ ICJ, *ICJ Recommendations to the Azerbaijan Bar Association on the Role and Independence of Lawyers* (8 May 2019) <https://www.icj.org/wp-content/uploads/2019/05/Azerbaijan-ICJ-Recommendations-Bar-Ass-Advocacy-Analysis-Brief-2019-ENG.pdf>, p. 5.

³² Council of Europe, *Commissioner for Human Rights of the Council of Europe Dunja Mijatović, Report following her visit to Azerbaijan from 8 to 12 July 2019* (11 December 2019) <https://rm.coe.int/report-on-the-visit-to-azerbaijan-from-8-to-12-july-2019-by-dunja-mija/168098e108>, para. 55.

VII. Conclusion

34. During the 2018 UPR, Azerbaijan received and accepted four (4) recommendations with respect to the effective protection of lawyers, including disciplinary measures taken against lawyers, and access to justice.
35. The Azerbaijani authorities have failed to respect the rights of lawyers by not adequately enabling lawyers to perform their professional functions without intimidation, hindrance, harassment or improper interference. Over the last few years, a number of human rights lawyers have been harassed, criminally prosecuted, suspended or barred from practising law after raising concerns about possible violations of their clients' human rights or after exercising their freedom of expression by publicly speaking out in cases that can be seen as politically sensitive.
36. Furthermore, the Azerbaijani authorities have failed to take substantive steps to uphold the right to a fair trial and to guarantee that every citizen has effective access to justice and legal assistance of their choice. Due to the amendments to the Civil and Administrative Codes of Azerbaijan and the law "On lawyers and lawyers' activity", anyone who is not an ABA member is barred from representing clients in any court. According to our information, many lawyers working on human rights issues or other issues that are labelled as sensitive face restrictions when it comes to access to the legal profession. This has led to an overall decrease in practising lawyers and has directly impacted the number of lawyers providing legal services in all regions of the country.
37. Azerbaijan has, to date, not adequately implemented recommendations 140.70, 140.73, 141.13, and 141.68.
38. L4L and the Law Society urge the authorities of Azerbaijan to:
 - a. respect the rights of lawyers, guarantee that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference, and guarantee that lawyers are not being subjected to disbarment or other disciplinary measures on improper grounds, in line with Principles 16(a) and (c), 23 and 27 of the Basic Principles and Article 19 ICCPR. Azerbaijan should ensure that there are fair and transparent admission proceedings into the legal profession. Azerbaijan should implement recommendations 140.70 and 141.13 fully and without any delay;
 - b. uphold the right to fair trial and guarantee that every citizen has effective access to justice and legal assistance of their choice, in line with the Preamble and Principle 1 of the Basic Principles, Azerbaijan should implement recommendations 141.68 and 140.73 fully and without any delay;

Lawyers for Lawyers (L4L) is an independent, non-political and not-for-profit lawyers' organization established in 1986. Our mission is to promote the independent functioning of lawyers and the legal profession across the world in accordance with internationally recognized norms and standards, including the Basic Principles on the Role of Lawyers. Our work to support lawyers who are at risk as a result of discharging their professional duties, seeks to protect them from threats, risks and reprisals, strengthens their international recognition and protection in laws, policies and practices, and empower them to fulfil their role as essential agents of the administration of Justice. Lawyers for Lawyers was granted special consultative status with the UN Economic and Social Council in July 2013.

The Law Society of England and Wales (the "Law Society") is the professional body representing more than 180,000 solicitors in England and Wales. Its concerns include upholding the independence of the legal profession, the rule of law and human rights throughout the world. The Law Society holds special consultative status with the Economic and Social Council of the United Nations since 2014.