



THE ADDRESS ¹

of the NGO Coalition for Increasing Transparency in Extractive Industries to the International Board of Extractive Industries Transparency Initiative

Dear members of the Board,

In the run-up to the 36th Meeting of the EITI Board, Azerbaijan's NGO Coalition has surveyed its member organisations, and analysed and systematised existing challenges faced by them based on the responses provided. It has transpired from the responses that:

- 1) Over 30 member organisations of the NGO Coalition have yet to be officially registered by the Government;
- 2) Twelve grant agreements signed since 2014 could not have been implemented because the agreements or variations thereto have not been officially registered;
- 3) Four persons among the members of the Coalition are still profiled for border checks when travelling abroad or returning to the country;
- 4) Tax penalties remain in force for two member organisations, and funds of three member organisations were written off their bank accounts without prior notice under orders from the Ministry of Taxation;
- 5) One member organisation has not been able to receive a notice of registration from the Ministry of Justice, despite repeated requests (formally called "an extract from the State Registry of Legal Persons", it is needed for NGOs, inter alia, to be able to use grant funds sitting in their bank accounts);

¹ The Address was adopted at the 171st Meeting of the NGO Coalition Council on 4 March 2017.

- 6) Two persons among the members of the Coalition are unlawfully imprisoned: one received a sentence incommensurate with the offence, and the second one was severely penalised simply for a Facebook post. The two together are sentenced to 16 years of imprisonment;
- 7) A criminal case opened against one member of the Coalition has still not been closed; a criminal file of another has been closed, but he is not issued a foreign passport and is forbidden to leave the country;
- 8) Although the Coalition Council elected civil society representatives to the Multi-Stakeholder Group, they have not been given opportunity to commence their term.

Furthermore, the State Council for Supporting Non-Governmental Organisation under the President of the Republic of Azerbaijan ('the NGO Support Council' for short) made a decision to allocate AZN 15,000 (about USD 9,000) to the NGO Coalition for Increasing Transparency in Extractive Industries for institutional and programme support in the frame of the 1st competitive selection for financial support in the financial year of 2016, but then reversed this decision and unilaterally terminated the agreement with the NGO Coalition, depriving the latter of the only remaining source of funds. Currently, the NGO Coalition is challenged to sustain itself. Additionally, the NGO Support Council excluded EITI-related activities from competitive selection topics for the current year.

The status of implementation of the corrective action plan adopted at the 35th Meeting of the EITI Board (held on 26 October 2016 in Astana) was assessed by lawyers represented in the NGO Coalition. It was concluded that despite technical simplifications introduced to relevant by-laws, specifically in the regulations governing obtaining a right to provide financial grants for foreign donors and in the grant registration procedures, no changes were made to the primary legislation, and thus none of the three requirements of the EITI Board have been met.²

The Regulations for Registration of Grant Agreements (Decisions) and the Rules for Obtaining a Right by Foreign Donors to Provide Grants within the Territory of the Republic of Azerbaijan were recently amended by Ordinances of the Cabinet of Ministers of 11 January 2017 and 24 January 2017, respectively. However, according to the Constitution of the Republic, presidential decrees, cabinet ordinances and other regulations have lower legal force than statutory laws. As long as restrictive provisions in the latter remain in full force, changes in by-laws alone are unable to improve legal or practical circumstances of NGOs. Unless the Law on

² A legal brief on the status of implementation of the corrective action plan on civil society is attached hereto.

Grants, the Law on Non-Governmental Organisations (civic unions and foundations), and the Law on State Registration and Maintaining the State Registry of Legal Persons are amended to remove these restrictive provisions, it is impossible to reach a conclusion about change in the legal environment or practical situation of NGOs.

In addition to that, Resolution 11 of the Collegium of the Ministry of Justice of 28 December 2015, which approved the Rules for Examining Activities of Non-Governmental Organisations and Branches and Representative Offices of Non-Governmental Organisations of Foreign Countries, remains in force. The Rules empower the administration with a scope for extensive meddling in NGO activities.

Given the current situation as described above, the NGO Coalition calls on the EITI Board to act in accordance with the EITI Standard and avows that a decision concerning Azerbaijan, if taken in conformity with the EITI Standard requirements and procedures, would be acceptable to us.