Amendments to the NGO legislation adopted by Azerbaijan over the last three years have restricted funding of civil society organizations by foreign donors and operation of foreign donors in the country. Despite the repeated calls of domestic and international organizations, the authorities have not lifted the restrictive requirements of multi-tier registration. The "single window" principle for registration of grants and foreign funding created by the Cabinet of Ministers' decrees failed to eliminate these restrictions. EMDS presents an analysis of the "single window" principle and remaining restrictions for civil society.

Main restrictions on foreign funding of NGOs before the "single window" principle:

1. Foreign donors are required to register at the Ministry of Justice in order to be able to provide funding in Azerbaijan.

2. A donor, including a donor NGO should obtain a right to issue each individual grant from the Ministry of Finance which should provide the positive opinion about the grant's "financial-economic justification." The law does not specify the parameters of "financial-economic justification" leaving it in complete discretion of the Ministry.

3. Domestic and foreign NGOs can be recipients of grants only from Azerbaijani government, domestic individual and legal persons, and foreign donor registered in Azerbaijan.

The restrictions can be described in a following step-by-step summary:

1. A foreign donor should register its local chapter at the Ministry of Justice;

2. A foreign donor should obtain a right to issue an individual grant - a positive opinion of the Ministry of Finance on "financial-economic justification" of a grant;

3. Recipient organization should register a grant at the Ministry of Justice which has the wide discretion over the registration process.

What is the "single window" principle?

Series of decrees signed by the President and the Cabinet of Ministers established the "single window" principle for grant-making in Azerbaijan entering into force in January 2017. The new principle establishes the Ministry of Justice as the coordinating state body for provision of grants by foreign donors to NGOs and individual persons.

The single window principle moved the burden of obtaining the right to issue each grant from donors to recipients. Now, foreign donors do not need to apply for obtaining the right to issue a grant. Instead, a recipient organization applies for it to the Ministry of Justice, as the coordinating body, which in turn sends the documents to the Ministry of Finance for an opinion on "financial-economic justification" of a grant. Ambiguous and wide discretion of the Ministries of Justice and Finance remain.
Steps NGOs should undertake based on the "single window" principle:

1. Within 30 days of signing an agreement with a donor, a recipient should apply to the Ministry of Justice for the donor to obtain the right to issue the grant and to register the grant agreement.

2. A recipient should provide following documents for the donor to obtain the right to issue a grant:
   a) Grant agreement and project charter;
   a) If the agreement is signed by someone else than the legal representative, a document proving the relevant authority of the person;
   b) Application for the registration of grant agreement;
   c) Financial-economic justification of the grant.

3. A recipient should provide following documents for the registration of a grant agreement:
   b) Copy of the agreement, including the addendums and amendments, signed by parties;
   c) Copy of the project charter based on agreement signed by parties;
   d) Copy of the identification document of the individual recipient person;
   e) If submitted by other person on behalf of the recipient, or when the agreement is signed by someone else than the legal representative, a document proving the relevant authority of the person.

4. Within one day, the Ministry of Justice should send the grant agreement and its "financial-economic justification" to the Ministry of Finance. If any of required documents are missing, the recipient is informed and given 10 days to address the shortcomings.

5. The Ministry of Finance should review the documents and provide its opinion about "financial-economic justification" of grant within 7 days, which can be extended for another 7 days in case additional investigation is needed, to the Ministry of Justice.

6. If the Ministry of Finance’s opinion is negative, the Ministry of Justice should inform the recipient or the donor within 3 working days.

7. If the Ministry of Finance’s opinion is positive, the foreign donor obtains the right to issue the grant.

Results of "single window" principle:

1. The "single window" principle failed to lift the restrictions introduced by the recent amendments to the laws on NGOs and grants. In order to adequately address these restrictions, the relevant laws should be amended by the Parliament, instead of changes to the regulations by presidential decrees.

2. Foreign NGOs are required to sign an agreement with the Ministry of Justice in order to become donors. Rules for signing this agreement are in complete discretion of the Ministry of Justice.

3. The "single window" principle puts the burden of obtaining the right to issue a grant of foreign donor and the registration of a grant agreement on the shoulders of recipient. However, the principle did not change the ambiguous and wide discretion of the Ministry of Finance on approving the grant based on its "financial-economic justification", as well as the powers of the Ministry of Justice on registration of a grant agreement. Both ministries have the powers to deny the registration of a grant on groundless bases.

4. The "single window" principle mentions the registration of grant agreements as service agreements, but fails to provide details on how and where such registration can be carried out.

5. Ultimately, the "single window" principle has failed to establish an adequate legal framework for the operation of domestic and foreign NGOs, along with their local representatives in line with the international standards.