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Freedom of the Press 2017 - Azerbaijan

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Press Freedom Status: Not Free

Total Score: 90/100 (↓1) (0 = Most Free, 100 = Least Free)

Legal Environment: 29/30

Political Environment: 39/40 (↓1)

Economic Environment: 22/30

Quick Facts

Population: 9,800,000

Freedom in the World Status: Not Free

Net Freedom Status: Partly Free

Internet Penetration Rate: 77.0%

Key Developments in 2016:

- The parliament tightened legal restrictions on media freedom, broadening the scope of existing criminal defamation legislation in November and amending martial law in December to expand permissible information controls.
- A number of journalists were released from prison during the year, either by court order or presidential pardon, but several others remained behind bars at year's end.
- The websites of Meydan TV, the *Azadlıq* newspaper, Voice of America, and Radio Free Europe/Radio Liberty (RFE/RL)'s Azerbaijani service were periodically blocked in November and December.
- The diversity of the media landscape continued to shrink, particularly after the progovernment television channel ANS and the print version of the opposition *Azadlıq* were forced to cease operations in July and September, respectively.

Executive Summary

Media professionals operate in a highly repressive environment, and freedom of the press is routinely and systematically violated. The government of President Ilham Aliyev perceives the

free press as a threat to the stability of its increasingly authoritarian rule, and has waged a campaign to punish and silence independent voices in recent years.

Legislators took a number of steps to tighten the country's already restrictive legal environment in 2016. In November, the parliament expanded a law against insulting the president to include online content, and also made it illegal to disseminate libelous or insulting content under false user accounts. Legislation passed in December grants the government wide control over content disseminated by media outlets in case of declaration of martial law.

The government maintained a tight grip over the country's information landscape and continued to punish those who express criticism or dissent. After heavy fighting broke out along the line of contact with Nagorno Karabakh, a disputed territory held by Armenian separatists, the government heavily censored coverage of combat deaths and threatened outlets whose reporting disagreed with the information published by the Ministry of Defense. In July, the National Television and Radio Council (NTRC) terminated the license of the private progovernment television channel ANS after it ran a portion of an interview with Muslim cleric Fethullah Gülen, claiming that the content harmed Azerbaijan's relations with Turkey and constituted "terrorist propaganda." The move followed a failed coup attempt in Turkey that the country's regime accused Gülen of orchestrating. Separately, in September, *Azadliq* suspended its print edition after its state-run publishing house terminated services due to the newspaper's outstanding debts.

The few independent outlets that are still able to reach audiences in Azerbaijan face constant pressure and risk. In April, authorities launched a criminal investigation into Meydan TV, an independent outlet operating from Germany, for illegal entrepreneurship, tax evasion, abuse of power, and other spurious charges. Reporters and bloggers also continued to face harassment, threats, violence, and intimidation by authorities. Although several media professionals were released from prison during the year, many others were detained, arrested, or convicted in politically motivated cases.

Legal Environment: 29 / 30

The constitution, the Law on Mass Media, and the Law on the Right to Obtain Information guarantee freedom of speech and the right to access to information. However, these guarantees fall short of international standards in several cases and are systematically violated in practice. Defamation remains a criminal offense, punishable by up to three years in prison and large fines. Disseminating information that damages the honor and dignity of the president can be punished with up to two years in prison, or up to five years when linked to accusations of other criminal activity. Under the Law on Mass Media, the government can close online media outlets if they are found guilty of defamation twice in one year.

The government and political elite use defamation and insult suits as one of many legal means of punishing individual journalists and stifling independent and opposition media. The opposition newspaper *Azadliq* has been a frequent target of defamation suits in recent years, facing exorbitant fines that have contributed to its precarious financial situation. Government rhetoric also undermines the journalistic profession, as officials routinely disparage critical journalists, denouncing them as "anti-Azerbaijani" or accusing them of espionage.

Constitutional changes passed in a hastily organized and controversial referendum in September 2016 mainly served to expand executive power, but had more direct negative consequences on freedom of expression as well. The amendments included an expanded prohibition of hate speech based on a vague and open-ended definition, leading critics to worry about the potential to justify a wide range of restrictions on speech.

In November, the parliament passed changes to the criminal code that extended provisions against insulting the president to include any content posted online. The changes also prohibited defamatory or insulting content using false user information. Separately, in legislation passed in December, the parliament expanded the government's ability to control media content in case of martial law. Legislators framed the move as a response to the heavy fighting with Nagorno Karabakh in April.

Independent journalists and media outlets are unlikely to receive a fair trial, as the executive branch controls the judiciary, which is also limited by corruption and inefficiency.

The government has failed to appoint a special information ombudsman as required by freedom of information legislation, transferring the role instead to an existing ombudsman's office. Authorities at all levels systematically refuse to respond to information requests. Lawsuits filed by media outlets and civil society representatives over state agencies' failure to answer requests generally do not yield results. Commercial enterprises have the right to withhold information about their registration, ownership, and structure, which severely limits the ability of reporters to uncover corporate corruption and identify the private assets of public figures.

The government nominates all nine members of the NTRC, and members' terms may be renewed indefinitely. *The deputy chairperson, Sona Veliyeva, is the wife of Ali Hasanov, the powerful head of the social-political department within the president's administration.* She also owns the *Kaspi* newspaper. The NTRC favors state-owned broadcasters in licensing decisions, which remain opaque. The council has repeatedly failed to publish a list of available television and radio frequencies despite an obligation to do so annually. The British Broadcasting Corporation, RFE/RL, and Voice of America have been off local airwaves in Azerbaijan since 2009, when NTRC regulations banned foreign broadcasters from accessing national frequencies; these services broadcast online and via satellite. Following a failed coup attempt in Turkey in July, both the NTRC and the Press Council released statements prioritizing diplomatic relations with Ankara over media freedom.

The government has been known to monitor and harass social media activists, journalists, and bloggers online. Italian cyber-surveillance company Hacking Team showed that would allow it to covertly monitor the online activities of its citizens. The targets of such surveillance remain unclear.

Political Environment: 39 / 40 (↓1)

The Aliyev regime and its elite allies exercise extensive control over the news and information content of outlets that are owned by the state or progovernment individuals. The opposition has limited access to such outlets. Independent outlets struggle to obtain access to government officials and events, which limits their ability to provide well rounded reporting.

Although official censorship is prohibited by law, authorities use various methods, including contradictory legislation, to censor the media. Legal amendments adopted in 2009 restrict the ability of journalists to film or photograph individuals without their consent, even at public events. The broadly repressive environment also contributes to a high level of self-censorship.

Officials exercised heavy control over reporting about the April clashes in Nagorno Karabakh, particularly coverage of combat deaths. Meydan TV faced harsh reprisals, including accusations of treason, after publishing fatality numbers that contradicted those given by the Ministry of Defense, which has been known to publish artificially low statistics on this issue. ANS also came under fire for unfavorable content during the year. The NTRC filed a suit to revoke the channel's broadcast license in July, after the channel aired a preview of an interview with Gülen, whom Ankara accused of masterminding the coup attempt in Turkey. In justifying its decision, the

NTRC stated the need to protect relations between Azerbaijan and Turkey and to prevent the dissemination of "terrorist propaganda." A Baku court granted the regulator's request. The Gülen-linked *Zaman-Azerbaijan* newspaper and Zaman.az webpage were also closed following the coup attempt. Separately, the websites of *Azadlıq*, Meydan TV, Voice of America, and RFE/RL were intermittently blocked in November and December.

Diversity and plurality are severely limited in the media landscape, which inhibits prospects for robust, informed public debate. Several independent outlets – including Mediaforum.az, Meydan TV, and RFE/RL – have closed their Baku offices in recent years due to government pressure or threats, with some choosing to operate from abroad, and the state's shuttering of several outlets in 2016 further exacerbated the situation. Media monitoring by Institute for Reporters' Freedom and Safety, a local press freedom organization, during the September referendum campaign found coverage to be largely one-sided, favoring the government-backed "yes" vote.

Security forces often interfere with the media's ability to cover events. During antireferendum rallies before the September vote,

Many media professionals and freedom of expression activists have fled the country or gone into hiding to avoid persecution. Those who remain in Azerbaijan continued to face retaliatory harassment, intimidation, violence, and threats in 2016, and impunity for such attacks remained the norm. Authorities arbitrarily use various criminal laws – including those pertaining to hooliganism, drug and weapons possession, treason, and tax evasion – to prosecute media professionals in reprisal for critical coverage. In April, for example, state investigators opened a criminal case against Meydan TV for illegal entrepreneurship, large-scale tax evasion, and abuse of power. Separately, in June, police arrested Fikrat Faramazoglu, the editor of the news website jam.az, on charges of extortion. He remained behind bars at year's end, and his lawyer reported that he had been tortured in custody.

A presidential pardon in March led to the release of five journalists and bloggers. Also in March, Rauf Mirkadirov, a correspondent for the Russian-language *Zerkalo* newspaper who had been convicted of espionage in 2015, received conditional release. In May, the Supreme Court suspended Khadija Ismayilova's sentence, granting her release. Ismayilova, a contributor to RFE/RL who had exposed corruption among Azerbaijan's ruling elite, has faced an extensive campaign of government harassment for several years and was convicted of tax evasion, illegal entrepreneurship, abuse of power, and embezzlement in 2015. Despite her release, she is prohibited from leaving Azerbaijan and faces restrictions on her professional activities. Such restrictions on personal freedoms are common for journalists who have run afoul of the Aliyev regime.

The Committee to Protect Journalists reported that five journalists remained behind bars as of December, though local groups gave higher estimates. Prison conditions are dire for journalists and for political prisoners in general; ill-treatment and denial of medical care are routine.

Economic Environment: 22 / 30

Print and broadcast media are almost entirely in the hands of the government and its allies, sometimes controlled through nominal intermediaries. The lack of laws to facilitate transparency in the private sector makes it difficult to identify the true owners or beneficiaries of news outlets. According to the NTRC, there are ten national television stations, including a public broadcaster and three other state-run stations; 13 private regional television stations; and more than a dozen national radio stations. More than 30 daily newspapers are registered, and the opposition papers *Yeni Musavat* and *Azadlıq* have historically been the most widely read. In September 2016, *Azadlıq* suspended its print version after the state-run Azerbaijan Publishing House terminated the paper's contract due to outstanding debts. *Azadlıq* had been unable to access its bank accounts

since the arrest of its financial director in August, and its bank refused to authorize the paper's new financial director as signatory.

Online media, including internet-based television, have grown in importance in recent years. Approximately 78 percent of the population used the internet in 2016; mobile data subscriptions significantly exceed the number of fixed broadband accounts. Blogs and social media platforms such as Facebook are widely used for sharing critical opinions on the ruling elites and illuminating subjects that are often ignored in the mainstream media, but the government has countered such activity by criminalizing defamation online, prosecuting bloggers and activists, and harassing online outlets.

The handful of independent and opposition media outlets that continue to operate are struggling for survival. The authorities use economic pressure on distribution, printing, and advertising to control the print, broadcast, and digital industries. The allocation of state advertising and state subsidies is not conducted transparently. In a post-mission statement in September, the UN special rapporteur on the situation of human rights defenders noted that his office had received reports of the government pressuring private companies to refrain from advertising with critical and independent media. Many journalists work without employment security or contracts, and receive irregular salaries.

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