

# Law of the Republic of Azerbaijan on combating corruption

This Law is aimed at prevention and detection of offences related to corruption and removal of consequences thereof, protection of social justice, human rights and freedoms, the creation of favourable conditions for development of the economy, and ensuring the lawfulness, transparency and effectiveness of activities of State authorities, municipal bodies, *public legal entities (hereinafter - "structure")* and officials.

The aim of this Law is also to strengthen the confidence of the people in State authorities *and municipal bodies, structures*, to encourage professionals to take service in the State authorities and municipal bodies, *structures*, and to create conditions precluding those persons from committing offences related to corruption.

## **Chapter I. General provisions**

### **Article 1. Definition of corruption**

Corruption shall mean illicit obtaining by an official of material and other values, privileges or advantages, by using for that purpose his or her position, or the status of the body (*structure*) he or she represents, or his or her official powers, or the opportunities deriving from those status or powers, as well as bribery of an official by illicit offering, promising or giving him or her by individuals or legal entities of the said material and other values, privileges or advantages.

### **Article 2. Subjects of offences related to corruption**

2.1. The following persons may be subjects of offences related to corruption:

2.1.1. persons elected or appointed to the State bodies within the procedure laid down in the Constitution and laws of the Republic of Azerbaijan;

2.1.2. persons who represent the State bodies on the basis of special powers;

2.1.3. public servants who hold administrative office;

2.1.4. persons who exercise management or administrative functions in appropriate structural units of the State bodies, in State-owned institutions, enterprises and organizations as well as in enterprises in which the control package of shares is owned by the State;

2.1.5. persons whose candidatures to elective offices in the State bodies of the Republic of Azerbaijan were registered as stipulated by Law;

2.1.6. persons elected to municipal bodies within the procedure laid down in the legislation of the Republic of Azerbaijan;

2.1.7. persons who exercise management or administrative functions in municipal bodies;

*2.1.7-1. heads and employees of the structures, including persons who carry out organizational, administrative or economic functions in the structures under special authority;*

2.1.8. persons who exercise management or administrative functions in non-State entities discharging the powers of State authorities in cases provided for by law;

2.1.9. persons who obtain material and other values, privileges or advantages for having unlawfully influenced the decision of an official, by using for that his or her authority or links;

2.1.10. individuals or legal entities who unlawfully offer, or promise, or give material and other values, privileges or advantages to an official, or who mediate in such acts.

2.2. Persons referred to in Articles 2.1.1 – 2.1.8 of this Law shall be regarded as officials for the purposes of this Law.

### ***Article 3. Scope of application of the Law***

In the territory of the Republic of Azerbaijan this Law shall apply to all individuals, including foreigners and stateless persons, as well as legal entities. Beyond the territory of the Republic it shall apply to citizens of the Republic of Azerbaijan and legal entities registered in the Republic of Azerbaijan, in accordance with the international treaties to which the Republic of Azerbaijan is a party.

### ***Article 4. Bodies carrying out the fight against corruption***

4.1. All State bodies, *municipal bodies, structures* and officials shall, within their powers, carry out the fight against corruption. In cases, where an offence related to corruption gives rise to administrative or criminal responsibility, the fight against corruption shall be carried out by the law enforcement bodies within the procedure laid down by law.

4.2. The functions of a specialized body in the field of prevention of corruption shall be discharged by the *Commission on Combating Corruption* (hereinafter «the Commission») *of the Republic of Azerbaijan*.

4.3. The Commission shall consist of members appointed by the executive, legislative and judicial bodies. The powers of the Commission shall be determined by a statutory act.

## ***Chapter II. Prevention of corruption***

### ***Article 5. Requirements of financial nature***

5.1. Officials shall submit the following information within the procedure laid down by the *legislation*:

5.1.1. yearly, on their income, indicating the source, type and amount thereof;

5.1.2. on their property being a tax base;

5.1.3. on their deposits in banks, securities and other financial means;

5.1.4. on their participation in the activity of companies, funds and other economic entities as a shareholder or founder, on their property share in such enterprises;

5.1.5. on their debt exceeding five thousand times the nominal financial unit;

5.1.6. on their other obligations of financial and property character exceeding a thousand times the nominal financial unit.

*5.2. The information envisaged in Article 5.1 of this Law may be demanded in an order defined by the legislation.*

#### **Article 6. Responsibility for violation of requirements of financial nature**

6.1. Officials or persons wishing to take up a public office, shall be notified of the requirements envisaged in Article 5.1 of this Law as well as of the legal consequences of the failure to comply with those requirements, as provided for in the legislation.

6.2. Rules of exercising the control over compliance with the requirements envisaged in Article 5.1 of this Law shall be defined by the *legislation*.

6.3. Officials' failure to comply with the requirements envisaged in Article 5.1 of this Law, that is the failure, without any reasonable excuse, to timely submit the information mentioned in this Article, or the willful submission of incomplete or distorted information may give rise to disciplinary responsibility of those persons. Persons, in respect of which a special procedure is provided for in the Constitution and laws of the Republic of Azerbaijan for initiating disciplinary proceedings, may be subject to disciplinary responsibility in accordance with those rules.

6.4. The Commission may have published in the official press information of the persons who fail to comply with the requirements envisaged in Article 5.1 of this Law.

#### **Article 7. Prohibition for next of kin to work together**

7.1. The next of kin of an official may not hold any office under his or her direct subordination, except for the elective offices and other cases provided for in the legislation.

7.2. Persons who violate the requirements of Article 7.1 of this Law shall, within 30 days of the finding of that violation, be transferred, if such violation is not removed voluntarily, to another office excluding subordination, and when this is not possible, either of the persons concerned shall be dismissed from his or her office.

7.3. Persons dismissed from their office on the grounds specified in Article 7.2 of this Law, may hold office in other bodies, institutions, enterprises or organizations.

#### **Article 8. Restrictions related to gifting**

*8.1. No public official shall request or accept for himself/herself or other persons any gift which may influence or appear to influence the objectivity and impartiality with which he/she carries out his/her service duties, or may be or appear to be reward relating to his/her duties. This does not include, with the condition of not influencing the objectivity of the service duties, minor gifts as indicated in the article 8.2 of this Law and use of conventional hospitality.*

*8.2. Public officials may not solicit or accept multiple gifts from any natural or legal entities during any twelve month period where the aggregate value of the gifts exceeds fifty five manats. Gifts received above this limit shall be considered as belonging to the State authority, municipal body or structure in which that official is performing his or her service duties (powers).*

*8.3. In cases where the public official may not determine whether the acceptance of a gift violates this article, he/she must seek guidance from either his/her superior public official.*

*8.4. In entering into civil law contracts with physical and legal entities or in performing them, officials shall be prohibited from obtaining any privileges or advantages relating to their service activity.*

*8.5. When being offered illegal material and non-material gifts, privileges or concessions a civil servant official shall refuse them. In case if material and non-material gifts, privileges or concessions are given for reasons not depending on him/her, he/she shall inform his/her direct supervisor about this, and material and non-material gifts, privileges or concessions shall be given on a statement to a state body, municipal body or structure where the civil servant is employed.*

### **Chapter III. Offences related to corruption and responsibility for such offences**

#### **Article 9. Offences related to corruption**

9.1. Offences related to corruption consist of corruption offences themselves and offences conducive to corruption.

9.2. The following acts or inaction shall be considered as corruption offences:

9.2.1. the request or receipt by an official, directly or indirectly, of material and other values, privileges or advantages, for himself or herself or for third persons, or the acceptance of an offer or a promise of such material as other values, privileges or advantages, for acting or refraining from acting in the exercise of his or her service duties or powers;

9.2.2. the offering, promising or giving to an official by individuals or legal entities, directly or indirectly, of material and other values, privileges or advantages, for himself or herself or for third persons, for acting or refraining from acting in the exercise of his or her service duties or powers;

9.2.3. the use by an official of unlawfully obtained property with a view to deriving benefit for himself or herself or for third persons, for acting or refraining from acting in the exercise of his or her service duties or powers;

9.2.4. the obtaining by an official, in the course of performing his or her service duties (powers) of material and other values, privileges or advantages without payment or for price (tariff) lower than the market price or the prices regulated by the State;

9.2.5. the getting by an official, in the course of performing his or her service duties (powers), benefits from savings (deposits), securities, rent, realty or lease;

9.2.6. the offering, promising or giving, directly or indirectly, of material and other values, privileges or advantages to any person who states of his or her ability to exert improper influence over the decision-making of an official;

9.2.7. the receipt of material and other values, privileges or advantages or the acceptance of an offer or a promise of such material or other values, privileges, advantages, by a person who, for certain reward, states of his or her ability to exert an improper influence over-the decision making of an official;

9.3. The following acts or inaction of an official shall be considered as offences conducive to corruption:

9.3.1. in the course of performing his or her service duties (powers), to hold any lucrative office or to engage in any lucrative activity, except for the scientific, pedagogical and creative activity;

9.3.2. using his or her position, or the status of the body (*structure*) he or she represents, or the official powers, or the opportunities deriving from those status or powers, to render any illicit assistance to individuals and legal entities in carrying out their entrepreneur activities, in receiving by them subsidies, subventions, dotation, credits and other privileges with a view to obtaining by them material and other values, privileges or advantages;

9.3.3. to engage, directly, through other or fictitious persons, in entrepreneur activity, to hold more than one office (except for the scientific, pedagogical and creative activity), as well as to enter into the executive bodies of economic entities carrying out entrepreneur activity, and financial and credit enterprises;

9.3.4. to unlawfully interfere with the activity of other State bodies, *municipal bodies or structures* on issues not falling within his or her competence, by using his or her status, or the status of the body (*structure*) he or she represents, or his or her powers, or the opportunities deriving from those status and powers;

9.3.5. to exert influence on the solution of issues related to his or her personal interest, by using his or her status, or the status of the body (*structure*) he or she represents, or his or her powers, or the opportunities deriving from those status and powers;

9.3.6. when adopting normative legal acts and other decisions, to give any advantages to individuals or legal entities not pertaining to their designation;

9.3.7. to be a representative of individuals or legal entities in affairs of the body (*structure*) in which he or she is holding an office or the body (*structure*) under his or her subordination or supervision or accountable to him or her;

9.3.8. to refuse, without due grounds, giving to individuals or legal entities information as provided for in the laws or other normative legal acts, or to delay the giving of that information or to give incomplete or distorted information;

9.3.9. to demand from individuals or legal entities any information the giving of which is not envisaged in the laws or other normative legal acts;

9.3.10. to give, without legal grounds, the material and financial means of the State *bodies, municipal bodies or structures* to the election fund of candidates, registered candidates, political parties, blocks of political parties, referendum initiative groups;

9.3.11. unless otherwise provided for in the legislation, to give to non-State structures the material and financial resources belonging to the State funds, economic entities of State authorities, *municipal bodies or structures*;

9.3.12. to create artificial hurdles to individuals or legal entities for the realization of their rights and legitimate interests;

9.3.13. to give the powers related to the regulation by State of entrepreneur activity to individuals or legal entities exercising such activity.

9.4. In addition to the cases envisaged in this Law, other offences related to corruption may be determined by legislative acts governing the activity or status of officials.

#### **Article 10. Responsibility of officials for offences related to corruption**

10.1. Offences related to corruption shall give rise to disciplinary, civil, administrative or criminal responsibility as provided for in the legislation.

10.2. In cases, where commission by an official of offences referred to in Article 9 of this Law entails civil, administrative or criminal responsibility, instituting of legal proceedings against that official shall be carried out in accordance with relevant legislation of the Republic of Azerbaijan.

10.3. Measures of disciplinary responsibility for offences related to corruption shall be governed by this Law and other legislative acts.

10.4. In cases, where commission of offences referred to in Article 9 of this Law does not entail administrative or criminal responsibility, it shall give rise to disciplinary responsibility as provided for in the legislation, by complying with the following special circumstances:

10.4.1. In cases, where persons elected to the State authorities within the procedure laid down in the Constitution and laws of the Republic of Azerbaijan commit any of the offences referred to in Article 9 of this Law, the anti-corruption body shall inform thereof the State authority, to which the official concerned was elected.

10.4.2. In cases, where persons elected to municipal bodies within the procedure laid down in the legislation of the Republic of Azerbaijan commit any of the offences referred to in Article 9 of this Law, the anti-corruption body shall inform thereof the respective election commission. The election commission shall, within 5 days as of the day when it receives relevant materials, inform of the offence committed by the person concerned the municipal body, to which he or she was elected.

10.4.3. In cases, where offences referred to in Article 9 of this Law are committed by persons whose candidatures to elective offices in the State bodies of the Republic of Azerbaijan were registered as stipulated by law, those persons shall be subject to the measures envisaged in the Election Code of the Republic of Azerbaijan.



10.4.4. *If judges commit any of the offences referred to in Article 9 of this Law, the anticorruption body shall inform Judicial Legal Council thereof for consideration of the matter on application of disciplinary measures.*

## **Article 11. Responsibility of individuals and legal entities for corruption offences**

11.1. Individuals committing corruption offences as defined by law, if these acts do not constitute a crime, shall be subject to an administrative fine.

11.2. *legal entities shall be subject to a fine for committing corruption offences which do not constitute corpus delicti. legal entities shall be subject to a fine as defined by law or other criminal law measures for committing corruption offences which constitute corpus delicti.*

### **Article 11-1. Notification about offenses relating to corruption**

11-1.1. *Information on offenses relating to corruption shall be provided by each person in writing (including email) or verbally.*

11-1.2. *Heads of state and municipal authorities, legal and budgetary organizations, which are in state or municipal ownership or control package of shares of which is owned by the state or municipality (hereinafter - institutions, enterprises and organizations) appoints an appropriate officer or a structural unit (hereinafter - authorized structural unit) in these institutions, enterprises or organizations to receive information on offenses relating to corruption.*

11-1.3. *Employees of institutions, enterprises or organizations may provide information on offenses relating to corruption, to the authorized structural unit.*

11-1.4. *Upon receipt of information on offenses relating to corruption, the authorized structural unit shall register it and notify thereof the person submitting the information.*

11-1.5. *Authorized structural unit should consider the information on offenses relating to corruption, within 20 working days from the date of information' registration and shall inform the informer about the result of consideration. Consideration shall be conducted in accordance with the peculiarities of consideration of appeals on offenses relating to corruption, established by the Law of the Republic of Azerbaijan «On applications of citizens».*

11-1.6. *Consideration of information on offenses relating to corruption can not be entrusted to the person in respect of whom the information is presented, as well as those directly or indirectly interested in the consideration.*

11-1.7. *If the information on offenses relating to corruption concerns the authorized structural unit, the person presenting the information may submit such information to the head of the respective institution, company or organization. The head of the institution, company or organization ensures the receipt of this information, its registration and implementation of the relevant measures provided for in this Law.*

11-1.8. *If the information on offenses relating to corruption concerns the head of the institution, enterprise or organization, the person presenting the information is entitled to submit the specified information to the person who occupies a higher position than the*

*head of an institution, enterprise or organization, or to bodies specializing in the fight against corruption. These bodies shall ensure the reception of this information, its registration and implementation of the relevant measures provided for in this Law.*

#### **Article 11-2. State protection of the person submitting the information on offenses relating to corruption**

*11-2.1. If the person who provided the information on offenses relating to corruption, does not want to disclose information about him/her, the authorized structural unit, head of the institution, company or organization and bodies specializing in the fight against corruption, must ensure his/her confidentiality. This information can be revealed in the case of written consent of the person who provided the information on offenses relating to corruption. Persons guilty of violating the privacy of the person, providing information on offenses relating to corruption, shall be liable in the manner prescribed by the law.*

*11-2.2. Intimidation of the person who provided the information on offenses relating to corruption, or his close relatives, exerting pressure on them, causing physical or mental harm, insult or threat, an insult to the dignity and personal injury entail liability established by law.*

*11-2.3. If there are real grounds for fear of execution of death threats in respect of the person who provided the information on offenses relating to corruption, or his/her close relative, the use of force, destruction or damage to property, then based on appeal of the person who provided the information on offenses relating to corruption, to the prosecutor's office, shall be applied security measures in accordance with the Law of the Republic of Azerbaijan «On state protection of persons participating in criminal proceedings».*

*11-2.4. The institution, company or organization that applies the measures of responsibility in respect of employees of the institution, enterprise or organization, which provided information on offenses relating to corruption, must prove that they result from the circumstances established by the law and do not follow from the information on offenses relating to corruption. In carrying out examination of said person, an authorized representative of the structural unit should participate in the meeting of the examination commission.*

*11-2.5. In the event of a breach by an authorized structural unit, the head of the institution, company or organization and bodies specializing in the fight against corruption, of the requirements of Articles 11-1 and 11-2 of this Law, the person providing the information on offenses relating to corruption, can file a complaint administratively and (or) to the court.*

*11-2.6. The protection provided for in Article 11-2 of this Law shall not be applied in the case of providing wittingly false information on offenses relating to corruption, as well as notification for the purpose of obtaining illegal material and other benefits, bonuses and privileges for themselves or others.*

#### **Chapter IV. Removal of consequences of offences related to corruption**

#### **Article 12. Confiscation of unlawfully obtained property and compensation of unlawfully obtained privileges or advantages**



12.1. The property unlawfully obtained by officials as well as the costs of unlawfully obtained by them privileges or advantages shall be voluntarily compensated to the benefit of the State. In cases, where officials refuse to return the unlawfully obtained property or to compensate it as well as the costs of the unlawfully obtained privileges or advantages, the unlawfully obtained property or its costs and the costs of the unlawfully obtained privileges or advantages shall be compensated to the benefit of the State by a court decision on the basis of a lawsuit brought in by the State bodies, *municipal bodies or structures* concerned.

12.2. Pending judicial examination, measures may be taken by a court against the property of the respondent as provided for in the Civil Procedure Code of the Republic of Azerbaijan.

***Article 13. Revocation of acts adopted as a result of offences related to corruption***

Acts adopted as a result of offences related to corruption *are revoked* by the State bodies, *municipal bodies or structure* concerned or by court pursuant to a request made by the State bodies concerned or other persons.

***Article 14. Entry into force***

This Law shall enter into force as of 1 January 2005.

***President of the Republic of Azerbaijan***

***Ilham ALIYEV***

***City of Baku, 13 January, 2004***

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