

Azerbaijan Republic Law of the on Combat Against Corruption

This Law is aimed to disclose, prevent corruption related offenses and eliminate their consequences, to protect social justice, human rights and civil liberties, to create favorable conditions for economic development, to ensure transparency, efficiency and lawfulness of the activities of the public and/or local self-government organs and public officials.

This Law also pursues to strengthen the confidence of the populace towards state structures, to encourage professionals to enter public or local self-government service, and to create conditions, excluding involvement of the staff of such organs in corrupt practices.

PART I. GENERAL PROVISIONS

Article 1. Notion of corruption

Corruption – Abuse by a public official of his/her own status, or the status of the organ represented, or functionary authorities and/or possibilities emerging from such a status and authorities resulting in illegal acquisition of material and non material values, advantages and benefits, including illegal offer and/or promise or giving of such above referenced to material and non material values, advantages and benefits by individuals and legal entities.

Article 2. Subjects of Corruption Related Offences

2.1 The corruption related offences shall be applicable to the following officials:

2.1.1. Individuals appointed and/or elected to public organs, according to the Constitution and laws of the Azerbaijan Republic.

2.1.2 Individuals representing public organs on the basis of special power of attorney.

2.1.3 Public servants holding administrative positions.

2.1.4. Individuals directly performing organizational-managerial and/or administrative-economic functions in relevant structural units of public organs, enterprises and institutions, as well as in economic units with the controlling shares belonging to the state.

2.1.5. Candidates registered, as stipulated by the Law for elections, to elective state organs of the Azerbaijan Republic.

2.1.6. Persons elected to local self-government organs in the procedure, established in the Azerbaijan Republic legislation.

2.1.7. Persons directly performing organizational-managerial and/or economic - administrative functions in local self-government organs.

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2.1.8. Persons directly performing organizational-managerial and/or economic - administrative functions in non-state organs, as authorized by the state and in cases set forth by the law.

2.1.9. Individuals abusing their status or connections to exercise illegal influence on the decision making process of the public officials and thus acquiring material and non material values, advantages and benefits.

2.1.10. Individuals and legal entities making illegal offer and/or promise of material and non-material values, advantages and benefits, and/or individuals acting as intermediaries in such kind of actions.

2.2. Persons indicated in items 2.1.1. and 2.1.8. above, are considered to be officials for the purposes of this law.

Article 3. Sphere of the Law Application

This Law shall be applicable to all individuals and legal entities within the boundaries of the Azerbaijan Republic, including foreigners and stateless persons, and beyond to all Azerbaijan citizens and legal entities registered in Azerbaijan Republic, in accordance with international agreements signed by the Azerbaijan Republic as a party thereto.

Article 4. Anti-corruption Organs

4.1. The combat against corruption shall be undertaken by all state organs and officials within the power of their authority. In case legal offenses related to corruption lead to administrative or criminal liability, combat against corruption shall be undertaken by law enforcement bodies, as set up by the legislation.

4.2. Anticorruption Commission under the Azerbaijan Republic Council for Public Service (hereinafter the Commission) shall perform functions of a specialized organ to prevent corruption.

4.3. The Commission shall be comprised by appointed representatives of executive, legislative and judicial power bodies. Authorities of the Commission shall be set forth by Statutes thereof, approved by the law.

PART II. CORRUPTION PREVENTION

Article 5. Financial measures

5.1 Public officials shall submit following information in the order set forth by the Commission.

5.1.1 Information on annual income, including sources, types and amounts.

5.1.2 Information on taxable property.

5.1.3. Information on deposits with financial institutions, securities and other financial assets.

5.1.4. Information on participation in the capacity of a shareholder or founder in companies, foundations and other economic units, and on share in these organizations.

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5.1.5. Information on debts to the extent of the amount over 5 000 fold conventional financial unit.

5.1.6. Information on other financial and property obligations to the extent of the amount over 1 000 fold conventional financial unit.

5.2. Information submitted to state organs under item 5.1. of this law shall be considered a commercial and bank secret. Dissemination of this information shall result in liability, as set forth by the law. This information shall be requested only by commission set forth in relation to corruption related offenses and/or by an organ which institutes prosecution in respect of a corruption related offense. In such cases information shall be provided only on the basis of a court judgment.

Article 6. Liability for Financial Control Measures Violation

6.1 Public officials and/or individuals aspiring to hold such positions shall be informed of the requirements contained in Article 5.1 of this Law and legal consequences of non-compliance thereof, as set forth by legislation.

6.2 The Commission shall establish mechanisms of supervision of compliance with the requirements set forth by the Article 5.1. of this law.

6.3 Public officials, who failed to comply with requirements contained in Article 5.1 of this Law, in other words, failed to have submitted information in time and without any justified reason for delay, or deliberately submitted incomplete or false information, shall find themselves bearing administrative liability. In case relevant persons violate special order of bringing to liability, as set forth by the Azerbaijan Republic Constitution, applicable to them, they can be brought to administrative liability for violation thereof.

6.4 The Commission is authorized to publish information in an official newspaper on individuals, who violate requirements, as set forth in item 5.1 of this law.

Article 7. Inadmissibility for Relatives to Work Together

7.1 Close relatives of public officials shall not hold any positions whatsoever in the organs directly subordinated to him/her, except for the elective positions and other cases, as set forth by the legislation.

7.2 Should officials, violating requirements under the Article 7.1 of this Law, within 30 days after such a violation is established, not remove such a violation on volunteer basis, they shall be moved to other positions, excluding such subordination, control or reporting. If impossible, one of such public officials shall be relieved of his/her position.

7.3 Officials relieved of their positions under provisions contained in the Article 7.2 of this Law can hold positions in other organs, agencies, institutions and organizations.

Article 8. Restrictions on Gifts

8.1 All gifts received by a public official in connection with performance of functionary duties (executing authorities) of the cost, exceeding 50 conventional financial units, shall belong to the state organ or local –self-governing organ, where the official performs his or her

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functionary duties (executing authorities). In case gifts received are intended for personal use, the official shall reimburse to the to the state organ or local –self-governing organ, where the official performs his or her functionary duties (executing authorities), the amount exceeding the sum indicated above to obtain the gift for personal use.

8.2 It is prohibited to public officials to derive any advantages and/or benefits during conclusion and/or implementation of civil transactions connected with the public position with individuals and legal entities, citizens of Azerbaijan Republic or foreign countries.

8.3 Violations of the provisions contained in Articles 8.1-8.3 of this Law shall result in liability according to Article 6 of this Law.

PART III. CORRUPTION RELATED OFFENCES AND LIABILITY THEREFOR

Article 9. Corruption Related Offences

9.1 Corruption related offences consist of: direct corruption related offenses and offenses creating conditions for corruption related offenses.

9.2 Corruption related offences are as follows:

9.2.1. Acceptance or promise of acceptance of a proposal to commit any action related to performance of functionary duties (authorities) of a public official and/or refusal to commit such an act in return for direct and/or indirect demand, derivation for the benefit of him/herself and/or of third parties of material and non-material values, advantages, benefits.

9.2.2. Giving a proposal or a promise to commit any action related to performance of functionary duties (authorities) of a public official and/or refusal to commit such an act in return for direct and/or indirect demand, derivation for the benefit of him/herself and/or of third parties of material and non-material values, advantages, benefits or of a promise thereof.

9.2.3. Illegal use of property obtained by public officials in the result of any actions in connection with his/her functionary duties (authorities) and/or refusal from performance thereof with the purpose to derive benefit for him/herself or for third parties.

9.2.4 Acquisition by a public official of material and non-material values, advantages, benefits for free, and/or at below market price or the state regulated price (tariffs) in relation to performance of his/her functionary duties (authorities).

9.2.5. Generating profits by a public official from holdings, deposits, securities, rent, royalty or lease related to performance of his/her functionary duties (authorities) in violation of the Azerbaijan Republic legislation.

9.2.6. Direct and/or indirect proposal, promise or providing with material and non-material values, advantages or benefits to any individual indicating his/her ability to illegally influence on decision taken by a public official for a certain award.

9.2.7. Acceptance of material and non-material values, advantages or benefits by any individual indicating his/her ability to illegally influence decision taken by a public

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official for a certain award and/or acceptance by such an individual of a proposal or promise thereof.

9.3 Following actions by an official shall be considered as offenses creating conditions for corruption related offenses.

9.3.1. To hold any other paid jobs or be engaged in any other type of activity, except for academic, pedagogical or a creative activity, during the period of performing of functionary duties (authorities).

9.3.2. Abuse of his or her own status or the status of the organization the official represents, functionary duties and other possibilities resulting from this status to illegally help individuals and legal entities in their performance of entrepreneurial activities, including subsidy, subventions, grants, credits and other benefits with a purpose to obtain material and non-material values, advantages or benefits.

9.3.3. To be engaged in entrepreneurial activities directly or with assistance of other persons, or through figure-heads, to hold a second job (except for academic, pedagogical or a creative activities), as well as take part in work of executive organs of economic units and financial and credit institutions, engaged in entrepreneurial activities.

9.3.4. Illegal interference into affairs of other state organs in respect of the issues beyond his/her authorities by means of use by public official of his/her own status, or the status of the organ represented, or functionary authorities and/or possibilities emerging from such a status and authorities.

9.3.5. Impact on decision making in respect of issues concerning his/her personal interests by means of use by public official of his/her own status, or the status of the organ represented, or functionary authorities and/or possibilities emerging from such a status and authorities.

9.3.6. When preparing and making normative- legal acts and other relevant decisions, to give priority to non competent individuals and legal entities.

9.3.7. To act as a representative (authorized person) of other individuals and/or legal entities in the matters of the organ where he/she holds a position, and/or organs subordinated, controlled or reporting to him/her.

9.3.8. Without any grounds to refuse to individuals and/or legal entities information, which should be made available under the Law and/or other legislative acts, and/or delay making of such information available and/or give out incomplete and/or distorted information.

9.3.9 To demand from individuals and/or legal entities information, giving of which is not stipulated by the Law and/or other legislative acts.

9.3.10 To illegally transfer material and financial resources of state and/or local self-government organs to election funds of individual candidates, registered candidates, political parties, block of political parties, referendum initiative groups.

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9.3.11 To illegally transfer material and financial resources of state and/or local self-government organs to election funds of individual candidates, registered candidates, political parties, block of political parties, referendum initiative groups.

9.3.12. To create artificial obstacles for individuals and/or legal entities in performance of their legal and juridical interests.

9.3.13 To provide to individuals and/or legal entities engaged in entrepreneurial activities with the authority to regulate such entrepreneurial activities, on behalf of the state.

9.4 In addition to cases set forth by this law, normative acts regulating activities of officials and/or defining their status may stipulate other corruption related offenses.

Article 10. Liability of Officials for Corruption Related Offenses

10.1 Corruption related legal offenses result in disciplinary, civil, administrative, criminal liability, as set forth by the legislation.

10.2 Official who commit legal offenses, referred to in Article 9 of this Law, which result in civil, administrative, criminal liability, shall be brought to liability in the order, set forth by Azerbaijan Republic legislation.

10.3 Imposition of disciplinary measures for corruption related offenses shall be regulated by this law and other legislative acts.

10.4 In case of commitment of legal offenses, referred to in Article 9 of this law, which do not result in administrative and/or criminal liability, provided that the below stated special cases are observed, shall result in disciplinary liability in the order, set forth by Azerbaijan Republic legislation.

10.4.1 In case persons elected to state bodies, commit violations referred to in Article 9 of this law, the anti-corruption organ shall inform the organ which has elected the person in question, according to the order set forth by the Azerbaijan Republic Constitution and laws.

10.4.2. In case persons elected to local self-governing bodies commit any of the offences referred to in Article 9 of this Law, the anti-corruption organ shall inform relevant election commission, according to the order set forth by the Azerbaijan Republic Constitution and laws. The election commission shall within 5 days after reception of such information inform the electors on the offences committed by the elective official

10.4.3. In case candidates for the elective positions within the state organs registered in the order provisioned by the law, violate any of the provisions referred to in the Article 9 of this law, they shall be subject to measures, as set forth in the Azerbaijan Republic Election Code.

10.4.4. In case judges violate any of the provisions referred to in the Article 9 of this law, the anti-corruption organ informs the Chairman of the Azerbaijan Republic Supreme Court thereon for review of the issue and imposition of disciplinary measures by Azerbaijan Republic Disciplinary Board of the Supreme Court.

Article 11. Liability of the Individuals and Legal Entities for Corruption Related Offenses

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11.1 In case there is no corpus delicti in the actions of individuals, they be subject to administrative penalty.

11.12 In case legal entities have committed corruption related offense, they shall be subject to penalty, as set forth by the legislation or liquidation.

PART 4. LIQUIDATION OF CONSEQUENCES OF CORRUPTION RELATED OFFENCES

Article 12. Alienation of Illegally Acquired Property and Indemnification of the Cost of Illegally Acquired Advantages and Benefits

12.1 Illegally acquired property and the cost of the illegally acquired advantages and benefits shall be voluntarily indemnified to the state by officials. In case an official refuses to return the illegally acquired property or indemnify of its cost, as well as the cost of illegally acquired advantages and benefits on volunteer basis, such property and/or its cost, as required by the relevant state bodies, shall be confiscated by the court to the benefit of the state.

12.2. Prior to the court hearing, the court may take certain actions in respect of the property of the official involved, in the procedure established in the Civil –Procedural legislation of the Azerbaijan Republic.

Article 13. Abolition of Acts Adopted in the Result of Offences Related to Corruption

The acts adopted in the result of offences related to corruption, shall be abolished by relevant state bodies or by court on the basis of appeal by relevant state organs or any individuals.

Article 14. Entering of the Law into Force

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