

2. EXECUTIVE

Summary

Executive power in Azerbaijan Republic is the strongest branch of the government and is accountable to the President. The Executive possesses all necessary resources to perform its duties, including the salaries and provisions of its staff. Accountability of the Executive is well provisioned for in the law, but in practice needs to be improved through enhancing independence of the other two branches of power – the Legislature and Judiciary. Civil society has some impact on the decision-making processes through several NGO networks, including the development of the state budget. As of recently, the Executive designates funding for common projects with NGOs under several national and international programmes and action plans.

There is also much room to enhance transparency of the executive, especially online transparency, which is slowly but surely being accomplished under various governments' programmes.

Though the level of corruption in the country is perceived to be relatively high, there have been significant advancements in the last couple of years, including the development of the anti-corruption legislation with the executive as one of the actors initiating the law making process, improvement of recruitment to the civil service, introduction of electronic services, and establishment of district public service centres.

The provided table presents the indicator scores summarising the capacity, governance and the role of the Executive on the public sector and legal systems. The assessment section will present more detailed information on the score and analyse the different aspects of the Executive.

EXECUTIVE

Overall Pillar Score 68/100

| DIMENSION | INDICATOR | LAW | PRACTICE |
|----------------------|----------------|-----|----------|
| Capacity 92/100 | Resources | - | 75 |
| | Independence | 100 | 100 |
| Governance 50/100 | Transparency | 50 | 50 |
| | Accountability | 75 | 25 |

| | | | |
|--------|---------------------|----|----|
| | Integrity | 50 | 50 |
| Role | Executive Oversight | 50 | |
| 63/100 | Legal Reforms | 75 | |

Structure and organisation

The authority and responsibility of the executive is regulated by the Constitution of Azerbaijan Republic.¹ Executive is one of the three branches of government along with Legislature and the Judiciary. The executive consists of two structures – Office of the President and the Cabinet of Ministers. Local executive authorities represent the authority of the Office of the President in the regions.

The President of the Republic of Azerbaijan is a Supreme Commander-in-Chief of the armed forces of the Republic of Azerbaijan. The President of Azerbaijan Republic can be dismissed if he/she commits grave crimes upon a motion from the Constitutional Court and the confirmation of Supreme Court within 30 days pursuant to presentation of the case to the Parliament. The minimum of 95 votes of the members of the Parliament are required to validate the impeachment or dismissal of the President. The respective decree of the Parliament has to be signed by the Constitutional Court as a final step.

The president forms the Presidential Administration and appoints the head of the Administration who is authorized to implement the Constitutional authorities.

According to the Article 114 of the constitution,² the President of the Republic of Azerbaijan forms the Cabinet of Ministers and appoints the Prime Minister with the approval of the Parliament. The Cabinet of Ministers is a superior body of the executive power of the president. The cabinet is responsible for the implementation of the executive authorities. The Cabinet of Ministers includes the Prime Minister, Vice-Prime Ministers and the 20 ministries.

Local executive duties are performed by heads of local executive offices. Heads of local executive offices are assigned and/or dismissed by the president. Local executive offices function according to the “Statutes on Local Executive Offices”, adopted in June 2012.³

¹ Constitution of the Republic of Azerbaijan, 12 November 1995, www.president.az

² Constitution of the Republic of Azerbaijan, 12 November 1995, www.president.az

³ Statutes on Local Executive Offices approved by presidential decree, 6 June 2012, www.president.az

Assessment

Resources (practice): 75

To what extent does the executive have adequate resources to effectively carry out its duties?

The Executive has appropriate resources to carry out its duties and is equipped with all the necessary financial, technical and human resources.⁴ The budget of executive is financed from the state budget. Funding extended to the public entities, including the executive branch, has increased significantly in the recent years.⁵ Thus, in 2006 the budget envisioned about 139 million manat (US\$151.9 million) for support of the executive power⁶, the 2013 budget allocated 290 million manat (US\$369.4 million)⁷ and the 2014 budget 309 million manat (US\$393.6 million) in the same budget line.⁸ Improved tax collection and growth of oil revenues since 2006 has allowed increase of the state budget expenditure.⁹

The staff of the executive are classified as civil servants and they receive higher remuneration than the employees of other branches of power. For example a division head in the Office of President receive 1,500 manat (US\$1,853), while a division head in the Parliament receives 1,300 manat (US\$1,606). However, the current level of salaries of civil servants was approved in 2008¹⁰ and has not critically changed ever since, apart from some amendments in 2013.¹¹

The central and urban executive offices generally do not have problems with human resources and technical support, whereas human resources of local executive offices are in need of more training programmes, mostly in application of modern technologies and professional education.¹² The need for enhancement of the human resources capacity is recognised by the government and development of proposals for improvement of rules regulating complementary education of civil servants is envisioned in the second National Anti-Corruption Action Plan,¹³ however, no public data on developments in this area is available so far.¹⁴

Independence (law): 100

To what extent is the executive independent by law?

⁴ Response from the Office of the President to information request by Transparency Azerbaijan, 11 January 2014

⁵ Interview with Qubad Ibad oglu, Economic Research Centre by the author, 15 April 2014

⁶ Presidential decree on Execution of the 2006 State Budget, 26 November 2005, www.e-qanun.az

⁷ Presidential decree on Execution of the 2013 State Budget, 13 December 2012, www.e-qanun.az

⁸ Presidential decree on Execution of the 2014 State Budget, 19 December 2013, www.e-qanun.az

⁹ Interview with Qubad Ibad oglu, Economic Research Center by the author, 15 April 2014

¹⁰ Presidential decree on Increasing the Salaries of Civil Servants, 9 July 2008, www.e-qanun.az

¹¹ Presidential order on Increase of Salaries of Public Servants, 2 December 2013, Modern agency, 5 December 2013, www.modern.az

¹² Personal experience of Transparency Azerbaijan under Baku, Ganja, Sheki, Lankaran and Quba centres since 2005
¹³ National Anti-Corruption Action Plan approved by the presidential decree dated 5 September 2013, www.president.az

¹⁴ Monitoring Report on Implementation of Azerbaijan National Anti-corruption Action Plan (September 2012-September 2013), publication by Constitution Research Fund in Partnership with Transparency Azerbaijan, November 2013, www.transparency.az

There are no provisions in the legal framework that unduly restrict independence of the executive.

According to the Constitution of the Azerbaijan Republic,¹⁵ executive is an independent part of the government and reports to the president. It is separate from other branches of government and does not depend on any other entity.

The prime minister, deputy prime ministers, ministers, and head of other central executive offices may not possess any other elected or appointed positions, neither hold any business activities such as entrepreneurship, commercial or other paid duties, with the exception of scientific, pedagogical and creative activities.¹⁶

According to the Constitution,¹⁷ should any cases of overlaps with the separation of powers with other branches occur, those shall be solved by the Constitutional Court.

Independence (practice): 100

To what extent is the executive independent in practice?

Executive is fully independent, the strongest branch of the government and is reported to have a certain influence on the other branches of the government, discussed elsewhere in this report.^{18 19 20 21} There are no facts suggesting undue interference with the activities and decisions of the executive by any other inside or outside actors. It has a certain influence over the other branches of power.

Transparency (law): 50

To what extent are there regulations in place to ensure transparency in relevant activities of the executive?

There are some legal provisions to ensure transparency of the government's activities, however, those need to be further developed.

Under the law, the activities of the executive are not required to be recorded in the government information system. The law does not require the cabinet meeting minutes be made publicly available, including the meetings of other executive bodies. However, the law

15 Constitution of the Republic of Azerbaijan, 12 November 1995, www.president.az

16 Constitution of the Republic of Azerbaijan, 12 November 1995, www.president.az

17 Point 8 of part III of article 130 of the Constitution of Republic of Azerbaijan, 24 August 2002, www.e-qanun.az

18 Eastern Partnership: Civil Society Forum, Judicial Independence in the Eastern Partnership Countries. www.eap-csf.eu/assets/files/publications/Judicial_Independence_in_the_EaPCountries.pdf

19 Bertelsmann Transformation Index 2012: Azerbaijan Country Report, www.bti-project.de

20 Resolution 1917 (2013): The honouring of obligations and commitments by Azerbaijan, Council of Europe Parliamentary Assembly, www.europarl.europa.eu

21 Adam Hug, Introduction to Spotlight on Azerbaijan, edited by Adam Hug, publication by Foreign Policy Centre, London, May 2012, <http://fpc.org.uk/fsblob/1462.pdf>

regulating access to information²² ensures that information requests may be submitted in verbal or written form and responded to in a timely manner. The same law stipulates proactive information disclosure of all of the information held by public authorities, except for those explicitly prohibited in legislation,²³ and defines the scope of information classified as confidential.

According to the Law on Budget System,²⁴ the information about the government budget and expenditure shall be open to the public. However, this law does not contain any provisions requiring participation of civil society in the preparation and discussion of the state budget. More details are provided in the pillar on Supreme Audit Institutions of this report.

Under Article 5 of the Law on Combating Corruption,²⁵ public officials should file regular asset disclosure forms. Furthermore, the Law on Approval of Rules for Submission of Financial Information by Officials²⁶ details this process. However, under the law, this information is not to be disclosed to the general public. Also, supporting legislation has not been designed. More details are provided in the pillars on Public Service and Anti-Corruption Agencies of this report.

Azerbaijan National Action Plan under the Open Government Partnership Initiative²⁷ envisions some important steps to further develop legal framework, and to facilitate access to information and on-going publicity of the state institutions and activities.

Transparency (practice): 50

To what extent is there transparency in relevant activities of the executive in practice?

According to the results of monitoring conducted by a local NGO in 2011,²⁸ online transparency of the Cabinet of Ministers (www.cabmin.gov.az) was rated at a low 19 per cent. For comparison, public agencies most transparent online, such as the State Commission on Civil Service, Ministry of Tax, State Oil Fund and Prosecutor General, were awarded the highest scores of 55-56 per cent, which proves that there is considerable room for further enhancement of the transparency of public agencies. Along with that, the website of the President (www.president.az) is quite informative and includes information on activities, decrees of the president and other decisions.

In line with the law, the government shares information on its performance, not only through the dedicated websites and portals but also through media and NGO networks.

22 Law on the Right to Obtain Information, 30 September 2005, www.e-qanun.az

23 Global Right to Information Rating: Azerbaijan, www.rti-rating.org

24 The Law on Budget System, 2 July, 2002 www.maliyye.gov.az/sites/default/files/The_Law_on_budget_system_of_the_Republic_of_Azerbaijan.pdf

25 The Law on Combating Corruption, 1 January 2005, www.e-qanun.az

26 Law on Approval of Rules for Submission of Financial Information by Officials, 24 June 2005, www.e-qanun.az

27 Action Plan under the Open Government Partnership Initiative approved by the presidential decree, 5 September 2012, www.presidents.az

28 Online Transparency of the State Agencies, Media Rights Institute, 2011, www.mediarights.az

There is room for further enhancement of the transparency of the budgetary process. According to the Open Budget Index, Azerbaijan received the score of 30 out of maximum 100 in 2006, 37 in 2008, 43 in 2010 and 42 in 2012.²⁹ More details are provided in the pillar on Supreme Audit Agency.

Though the legislation requires disclosure of assets by public servants, due to lack of supporting legislation and lack of formal procedures, this mechanism has not worked so far;³⁰ despite numerous urges from civil society.³¹ Nevertheless, civil society is closely cooperating with the government on this issue. Thus, the Constitution Research Foundation has developed a draft of an income declaration form and presented to the Anti-Corruption Commission, Parliament and the Cabinet of Ministers.³² There are some discussions in media that assets declaration shall be enforced after financial amnesty,³³ however, no such plans are known to the general public. In general, under amnesty media means suspension of the law to enable public officials to declare their assets without fear of prosecution. More details are provided in the pillars on Public Service and Anti-corruption Agencies of this report.

Also, civil society members report problems with establishing necessary communication with executive authorities, especially, in the regions, most probably, because of a low level of awareness of government's national and international programmes among local authorities.³⁴ As the law³⁵ gives too much discretionary power to public agencies to make a decision on what information shall be classified confidential, sometimes they abuse this power by unnecessarily broadening the scope of state secrets. Public agencies also often avoid responding to the questions viewed as sensitive, for example, those requesting financial information, or they offer ample references to legal bases, but refrain from giving direct responses.³⁶

However, there is a considerable improvement in this area, thanks to various information technology projects that have been introduced recently, such as ASAN public service centres³⁷ and a single e-government portal uniting the government's e-services under one roof.³⁸ The aim of the ASAN Service Centers is to provide various state services through a "single window"

²⁹ Open Budget Survey, 2012, www.internationalbudget.org

³⁰ Interview with Alimammad Nuriyev, Information and Cooperation Network of Non-Governmental Organisations for Combating Corruption by the author, 29 November 2013

³¹ Discussions by the civil society during 29 November 2013 presentation of the Monitoring Report on Implementation of Azerbaijan National Anti-corruption Action Plan (September 2012 – September 2013), publication by Constitution Research Fund in partnership with Transparency Azerbaijan, November 2013, Caspian Plaza conference hall

³² Interview with Alimammad Nuriyev, Constitution Research Foundation, co-author of the draft asset declaration form, by the author, 29 November 2013

³³ Financial amnesty to be declared in Azerbaijan, 7 February, 2014

www.en.apa.az/xeber_financial_amnesty_to_be_declared_in_azer_206774.html

³⁴ Monitoring Report on Implementation of Azerbaijan Open Government Initiative Action Plan 2012-2015, publication by Economic Research Center and Transparency Azerbaijan, September 2013, www.transparency.az

³⁵ Law on the Right to Obtain Information, 30 September 2005, www.e-qanun.az

³⁶ Hand book on Freedom of Information in South Caucasus Countries, publication by Transparency International, May 2012, www.transparency.az

³⁷ www.asan.gov.az

³⁸ www.e-qov.az

process, as well as information on legal procedures and state fees. Also, some progress has been made in the course of implementation of the first year of the Action under the OGP in facilitation of access to information. Thus, civil society assessed implementation at 24 per cent by September 2013³⁹ and the government at 64 per cent by the end of 2013.⁴⁰ Though the government's self-assessment is more favorable than the evaluation by civil society, the progress is obvious.

Accountability (law): 75

To what extent are there provisions in place to ensure that members of the executive have to report and be answerable for their actions?

The constitution and other laws have adequate provisions regulating accountability of the executive.

As mentioned above, the executive branch reports to the president as stated in the Constitution of Azerbaijan Republic.⁴¹ Meanwhile, the Cabinet of Ministers governs the ministries and other executive offices. The oversight of the executive is regulated by the Order of the President on "Regulations of Work with the Documents in the Office of the President of Azerbaijan Republic".⁴² Article 16 of the Regulations sets the guidelines for the oversight of the actions of executive members by judiciary and legislative branches, whereas the oversight of the progress on decrees or orders of the President is performed through the designated divisions of the Office of the President.

Actions of the executive are to be overseen by the Parliament, the judiciary and the chamber of audit, and accountable to the Parliament, as discussed in the respective chapters of this report.

According to the Constitution, one of the functions performed by the Parliament is the vote of confidence to the Cabinet of Ministers⁴³ that is regulated by a dedicated law.⁴⁴ According to Article 1 of this law, the Cabinet shall submit its annual report at the 5th meeting of the spring Parliamentary session. Also, the Parliament is entitled to submit an enquiry to the Cabinet on the issues within the range of its responsibilities, which has to be responded to within one

³⁹ Monitoring Report on Implementation of Azerbaijan Open Government Action Plan (September 2012-September 2013), publication by Economic Research Center in partnership with Transparency Azerbaijan, September 2013, www.transparency.az

⁴⁰ Information by the Anti-Corruption Commission on the on Implementation of Azerbaijan Open Government Action Plan for 2012 – 2013, www.anti-corruption.gov.az

⁴¹ Constitution of Republic of Azerbaijan, 15 November 1995 with amendments of 24 August 2002, www.e-qanun.az

⁴² Regulations of Work with the Documents in the Office of the President of Azerbaijan Republic, 10 February 2014, www.president.az

⁴³ Article 95 – 14, Constitution of Republic of Azerbaijan, 15 November 1995, Constitution of Republic of Azerbaijan, 15 November 1995 with amendments of 24 August 2002, www.e-qanun.az

⁴⁴ The Constitutional law on Additional Guarantees To Ensure Vote of Confidence of Milli Majlis to the Cabinet of Ministers, 24 December 2002, www.e-qanun.az

month by an authorised official of the cabinet. Members of the Parliament are also entitled to send enquiries to the cabinet and individual ministries.

The Constitutional Court's function is to review compliance of the legislative acts, issued by the executive, with the constitution and to make decisions in case of legal loopholes.⁴⁵

Under the law,^{46 47} the chamber of accounts is entrusted to exercise control over formation and implementation of the state budget, including extra-budgetary funds, and budgetary expenditure. In general, according to the Open Budget Survey,⁴⁸ the oversight of the budget is not well provided for in the legislation. Also, the country is in the process of creating an efficient system of internal audit in the public offices,^{49 50 51} however cooperation of these structures with the chamber of accounts is not provided for in the regulatory framework.⁵²

The prime minister is immune from any criminal cases unless captured in the process of committing a crime. The immunity of the prime minister can be lifted by the president, according to the presentation of the Supreme Court.⁵³

Under the law, the executive is not obliged to consult on any actions taken with public or with any special groups; however, members of the executive are accountable for their wrongdoings.

Accountability (practice): 25

To what extent is there effective oversight of executive activities in practice?

There is much room to improve the government's reporting system and oversight of executive activities in practice. Steps are slowly but surely being taken under two important government Action Plans.^{54 55} Many government entities prepare annual reports with information on achievements and shortcomings, place those on the websites, as well as arrange meetings with civil society and media dedicated to discussion of the year's results. However, there is no

45 The Law on Constitutional Court, 23 December 2003, www.e-qanun.az

46 The Law on the Chamber of Accounts, 9 July 1999, www.ach.gov.az

47 Article 92, Constitution of Republic of Azerbaijan, 12 November 1995, www.e-qanun.az

48 Open Budget Survey 2012, by International Budget Partnership, www.internationalbudget.org

49 Third Round of Monitoring: Azerbaijan, Monitoring Report, by OECD, Anti-Corruption Network for Eastern Europe and Central Asia, Istanbul Anti-Corruption Action Plan, Paris, 25 September 2013, www.oecd.org

50 www.commission-anticorruption.gov.az

51 Corporate and Public Sector Accountability Project, www.worldbank.org

Analysis of Legislation Regulating Chamber of Account, Presentation by Qubad Ibad oglu, Economic Research Center at the Conference on the Outside Supervision of Public Funds, organised by Entrepreneurship Development Foundation, 17 January 2014, www.edf.az/ts_general/download/ESPFCP_Gubad_Ibadoglu_17_01_14.pdf

52 The Law on Internal Audit, 22 May 2007, www.e-qanun.az

53 Constitution of Republic of Azerbaijan, 12 November 1995, www.e-qanun.az

54 National Anti-corruption Action Plan for 2012 – 2015 approved by the presidential decree 5 September 2012, www.president.az

55 Open Government Partnership Action Plan for 2012 – 2015 approved by the presidential decree 5 September 2012, www.president.az OGP and A-C

single standard or guideline regulating the content and format of these reports. Also, these reports are not assessed as very detailed.⁵⁶

In practice the cabinet of ministers presents its annual reports to the Parliament, however, these reports are not extensively debated or contested judging by media coverage, neither are these reports available to the general public in full, nor contain much information on shortcomings or targets that have been not met.⁵⁷

The Chamber of Accounts presents quarterly and annual reports on audits conducted to the Parliament. Even though there are reports on the activities of the chamber of accounts on their website, those reports contain rather general information. As public disclosure of the reports on individual audits conducted by the Chamber of Accounts is not mandatory under the law,^{58 59} only limited information seeps out to media either at random and or at the discretion of the chamber. Also, the chamber does not plan or conduct any audits against corruption or fraud based on suspicions of the media and general public;⁶⁰ as under the law, the chamber conducts audit only in accordance with the annual plan and at request of law enforcement agencies.⁶¹ Last but not the least, in practice, the government does not arrange nation-wide budget discussions,^{62 63} apart from Parliamentary economic policy commission discussions.

Integrity (law): 50

To what extent are there mechanisms in place to ensure the integrity of members of the executive?

Legal framework contains adequate provisions to ensure integrity of the staff of the executive offices. The integrity rules are managed by the general Law on the Code of Conduct of Civil Servants⁶⁴ and sectoral codes. Anti-corruption provisions, such as gift giving and receiving, acceptance of any kind of privileges, and so on, are included in the Codes of Conduct of civil servants. Therefore, civil servants are not allowed to demand or receive any kind of extra gifts, prizes, or rewards that would create biased decision-making. According to Article 8.2 of

56 Discussions by the civil society during presentation of the Monitoring Report on Implementation of Azerbaijan Open Government Initiative National Action Plan (September 2012 – September 2013), publication by Economic Research Center in partnership with Transparency Azerbaijan, November 2013, Caspian Plaza conference room
57 Interview of Mahammad Talibli, Institute of Economic Research, to Azadliq newspaper, 14 March 2014, www.azadliq.info

58 Internal Regulations of the Chamber of Accounts, 5 March 2002, www.ach.gov.az

59 Rules on Preparation, Performance and Documenting Results Of Financial-Budgetary Supervision Activities Performed by the Chamber of Accounts, approved by the Board of the Chamber of Accounts, 11 March 2009, www.ach.gov.az

60 Third Round of Monitoring: Azerbaijan, Monitoring Report, by OECD, Anti-corruption Network for Eastern Europe and Central Asia, Istanbul Anti-corruption Action Plan, Paris, 25 September 2013, www.oecd.org

61 The Law on the Chamber of Accounts, 2 July 1999, www.ach.gov.az

62 Engaging Civil Society in the Anti-corruption Work, publication by Transparency Azerbaijan, July 2013, www.transparency.az

63 Interview with Qubad Ibad oglu, Center for Economic Research dated 17 September 2013 by the author

64 The Law of the Republic of Azerbaijan on the Code of Ethics and Conduct of Civil Servants, 31 May 2007, www.e-qanun.az

Anti-Corruption Law,⁶⁵ any kind of gifts for hospitality and valued at an amount not succeeding 55 manat (\$70USD) are allowed. The gifts exceeding that amount are considered the property of the organisation that the recipient belongs to.

The responsibilities of civil servants on prevention of conflicts of interest are reflected in the Article 8.2 of the Codes of Conduct.⁶⁶ According to the article, a civil servant is not allowed to create room for any kind of conflict of interest or abuse the job responsibilities for personal reasons.

Along with this, there are no specific regulations to ensure integrity of the senior members of the executive, i.e. ministers and deputy ministers, which may be considered a gap in the legislation. According to Article 2.3 of the National Action Plan Against Corruption for 2012 – 2015, the Supreme Court, Ministry of Justice, and Commission on Fighting Corruption have been assigned to develop the draft law on protecting whistleblowers on corruption cases.⁶⁷ The Action Plan indicates the preparation of the draft law rather than the law itself which might take longer than expected to adopt the actual law on whistleblower protection. However, the representatives of the Supreme Court – that is the main responsible party on this law – indicated the importance of protection of persons on providing the information on corruption cases.

There are not any laws indicating the restrictions on post-ministerial employment.

Integrity (practice): 50

To what extent is the integrity of members of the executive ensured in practice?

The control on getting familiarised and obeying the Code of Conduct is performed by the respective agencies and the Commission on Civil Service. Commission on civil service organises trainings and conveys the information on Code of Conduct to the members of executive. Commission on civil service prepares reports on annual basis activities sought for raising awareness and the current situation on obeying the Codes of Conduct. According to the 2013 report, there have been administrative charges to 390 civil servants working in different executive offices.⁶⁸

There are some symptoms of the “revolving door” as some of the members of executive and their family members are reported by media to be engaged in business activities,⁶⁹ though this is prohibited under the law. However, there are no proven cases of the conflict of interest of

65 The Law on Combating Corruption, 13 January 2004, www.e-qanun.az

66 The Law of the Republic of Azerbaijan on the Code of Ethics and Conduct of Civil Servants, 31 May 2007, www.e-qanun.az

67 National Anti-Corruption Action Plan (NACAP) 2012 – 2015 (Endorsed by the Presidential Decree of the 5th September 2012), www.commission-anticorruption.gov.az

68 The 2013 Report on the State of Compliance with Ethical Behaviour Rules, Civil Service Commission, www.csc.gov.az, www.csc.gov.az/aze/index.php?option=com_content&view=article&id=3031%3Aetik-davran-msllri-il-bal-2013-cw-il-uezr-mlumat&catid=106%3Aetik-davran-qaydalar-il-bal-hesabatlar&Itemid=331&lang=az

69 Interview with Panah Huseynov, former Prime Minister by the author, 25 November 2013

the high rank executive officials, though it is difficult to say if such cases are not in existence or have not been duly monitored.

Public sector management: 50

To what extent is the executive committed to and engaged in developing a well-governed public sector?

Improvement of public sector management is set forth in two important documents: National Action Plans on Open Government Initiative⁷⁰ and National Anti-Corruption Action Plan for 2012-2015.⁷¹

The executive branch has achieved some accomplishments in reducing the low level corruption through introduction of the system of electronic services and ASAN centres,⁷² launched in January 2013 by a new government agency – State Agency on Citizens’ Services and Social Innovations. ASAN centres represent a single window agency for public service delivery to render services promptly and transparently.⁷³ Moreover, the competition with ASAN centres drives respective public agencies to render the same services in a much more efficient and corruption free manner.⁷⁴

Pursuant to the strategic decision of the government of Azerbaijan on introduction of electronic services,⁷⁵ followed by adoption of the list of electronic services⁷⁶ (e-services) and the requirements on their development, central executive bodies of the Republic of Azerbaijan started creating e-service sections on their websites. Currently, the number of e-services announced by 41 public institutions is 448.⁷⁷ However, many of those are of informative character rather than interactive services as discussed elsewhere in this report.

Along with this, Azerbaijan has successfully created an e-government infrastructure, which would allow for further development of e-services. Whereas the Ministry of Taxes provides high quality services, many services are not operational so far nor do they provide informative

70 Open Government Initiative. National Action Plan 2012 – 2015. 5 September 2012, www.commission-anticorruption.gov.az

71 National Anti-Corruption Action Plan (NACAP) 2012 – 2015, 5 September 2012, www.commission-anticorruption.gov.az, www.president.az

72 www.asan.gov.az

73 Report on Results of Monitoring of Implementation of Recommendations to Four Public Agencies under Azerbaijan Partnership for Transparency project: Ministry of Labor and Social Protection of the Population; Ministry of Justice; State Registry of Real Estate; Baku Electric Network, publication by Transparency Azerbaijan, presented to government at the round table of 24 January 2014, www.transparency.az

74 Personal experience of Transparency Azerbaijan lawyers under Baku, Ganja, Sheki, Lankaran and Quba centers since 2005

75 Establishment of e-services at public institutions of the Republic of Azerbaijan – 23 May 2011 www.e-qanun.az

76 Decision N 191 of the Cabinet of Ministers on “Guidelines for provision of e-services in specific areas, by central executive authority institutions” and the “List of e-services, 24 November 2011, www.e-qanun.az

77 On amendments to the Decision N 191 of the Cabinet of Ministers on “Guidelines for provision of e-services in specific areas, by central executive authority institutions” and the “List of e-services – 17 October 2012; www.e-qanun.az

services. There is also a strong need for development of e-services aimed at the general population, which require more investments.⁷⁸

Both Action Plans aim at improving the internal supervision system and reinforcing the financial and technical capability of government entities. Some of the government organisations have already created the internal supervision divisions to oversee the performance of their staff.⁷⁹ ⁸⁰ These divisions have a broad range of authority and report directly with the head of organisation as per the law.⁸¹ The information on performance or the non-performance of the civil servants must be submitted to the Civil Service Commission.⁸² After the analysis of the case by the commission, the results are shared with the public. All the information on the above-mentioned cases is reflected in the report in the results of 2013 on Implementation of the Code of Conduct.⁸³ However, the resources of the commission, both human and financial are not sufficient to closely monitor compliance with ethical procedures by the executive branch, along with recruitment to the public service and the need to be enhanced.

The last couple of years has seen some improvement in cooperation of the public sector with government organisations. Thus, public monitoring councils with the representatives of civil society have been created within the government organisations and the activities of the organisations in certain areas are performed with the cooperation of civil servants.⁸⁴ Recently, government entities (mostly in the social sector, i.e. Ministry of Labour and Social Protection of Population and Ministry of Health) tend to provide more funding for collaborative projects with NGOs.

Legal system: 75

To what extent does the executive prioritise public accountability and the fight against corruption as a concern in the country?

Projects and actions in increasing accountability and fighting against-corruption have increased since 2004 when the Law on Combat against Corruption was adopted.⁸⁵ In order to eliminate the cases leading to corruption, “State Program on fighting corruption for 2004-

78 Preliminary results of monitoring of e-services by Transparency Azerbaijan in June – December 2013

79 Monitoring Report on Implementation of Azerbaijan National Anti-corruption Action Plan (September 2012 – September 2013), publication by Constitution Research Fund in partnership with Transparency Azerbaijan, November 2013, www.transparency.az

80 Monitoring Report on Implementation of Azerbaijan National Anti-corruption Action Plan (September 2012 – September 2013), publication by Constitution Research Fund in partnership with Transparency Azerbaijan, November 2013, www.transparency.az

81 Law of the Republic of Azerbaijan On Rules of Ethics Conduct of Civil Servants, (changes and amendments made on the basis of law No 807-IIIQD dated of 28 April 2009, www.csc.gov.az

82 Website of the Civil Service Commission, www.csc.gov.az

83 The 2013 Report on the State of Compliance with Ethical Behaviour Rules, Civil Service Commission, www.csc.gov.az

84 Monitoring Report on Implementation of Azerbaijan National Anti-corruption Action Plan (September 2012 – September 2013), publication by Economic Research Center, in partnership with Transparency Azerbaijan, November 2013, www.transparency.az

85 The Law on Combating Corruption, 13 January 13, 2004, www.e-qanun.az

2006”, “National Strategy on increasing transparency and fight against corruption along with the National Activity Plan on its implementation for 2007-2011” have been adopted by the government. To ensure compliance with the UN Convention Against Corruption , specialised entities – the Anti-Corruption Commission (to take care of policy issues) and Anti-Corruption Department under the Prosecutor General (to investigate and prosecute corruption cases) been established. The head of the Office of the President is also the head of the Commission on Fighting against Corruption.⁸⁶

The Presidential decree dated 8 April 2011 requested the Cabinet of Ministers to develop proposals on amendments to legal documents to enable the use of the electronic database of the Anti-Corruption Department in real time. However, there are crucial problems with these functions. Investigations and charges are generally focused on medium and low level officials.⁸⁷

Though the ranking of Azerbaijan in the Corruption Perception Index⁸⁸ so far is not much to be proud of, (127th place out of 177 countries surveyed in 2013), according to Global Corruption Barometer, 68 per cent of Azerbaijan respondents believe that the government’s efforts to combat corruption are effective.⁸⁹

Recommendations:

- To expedite implementation of the activities set forth under two important government programmes: National Anti-Corruption and Open Government partnership Action Plans.
- To duly oversee development of e-services; to ensure secure data exchange between all public agencies; to educate the population on use of e-services.
- To involve broader circles of the public in the combat against corruption through establishment of public monitoring councils at the national and local levels.

86 Response from the Office of the President to information request by Transparency Azerbaijan, 11 January 2014

87 Interview with Alimamed Nuriyev by the author, 29 November 2013

88 Corruption Perception Index 2013, publication by Transparency International, www.transparency.org

89 Global Corruption Barometer 2013, publication by Transparency International, www.transparency.org

