

Unofficial translation

**Approved by a Decree of
the President of
Azerbaijan Republic
of 3 September 2004**

**State Program on Fighting Corruption
(Years 2004-2006)**

Stressing the fact that the Constitution of Azerbaijan Republic declares the human and citizen rights and freedoms as the ultimate goals of the State, emphasizing that the State takes care to increase the welfare of the nation and every citizen, and guarantees the necessary social security and living standards;

Taking into consideration that corruption creates a threat to democracy, human rights, and rule of law, makes useless the public administration and violates the principles of equality and social justice;

Emphasizing the fact that corruption creates obstacles for economic development, conditions for the development of a shadow economy and unfair competition, makes the environment unfavorable for investments, and causes the inefficient use of the budget and credit reserves;

Expressing anxiety regarding the fact that the corruption is closely related to other organized and economical criminality, especially the legalization of illegal incomes;

Emphasizing the necessity of implementing a common state policy on struggling against corruption, developing legislation in the field of struggling with corruption, taking preventive measures, increasing transparency and effectiveness in the activity of state bodies, the prosecution of persons who commit corruption related offences, defending the rights of victims violated by corrupt practices, providing effective control mechanism in fighting corruption;

Stressing the transnational nature of corruption, the importance of international cooperation in fighting against corruption, and supporting all international initiations in this field;

Taking into the consideration the "Law of Azerbaijan Republic on Fighting Corruption," the UN and CoE conventions on fighting corruption and provisions of other international documents;

The Republic of Azerbaijan confirming the political will on fighting corruption once again, adopts the State Program on Fighting Corruption.

I. General provisions

1. Political will in fighting corruption

The basis of the strategic course of the Azerbaijan Republic in fighting corruption has been defined by two decrees of the President of the Azerbaijan Republic on “Strengthening the fight against criminality and measures on strengthening of the rule of law,” dated August 9, 1994 and “Strengthening the fighting of corruption in Azerbaijan Republic,” dated June 8, 2000.

During this period of time the Azerbaijan Republic has joined several International documents, including the Civil Law Convention on Corruption, “Criminal Law Convention on Corruption of the Council of Europe the UN Convention Against Transnational Organized Crime and has signed the UN Convention Against Corruption.

Reformation of the economic, social security, financial and banking systems, court system, law enforcement and other fields has been initiated and the legislative basis has been improved. New laws on privatization, banks, public service, local self-governing, public procurement; new codes on customs, tax, criminal, criminal procedure, civil, civil procedure, administrative offenses, labor; the “State Program II on Privatization of the State Property in Azerbaijan Republic;” the “State Program on Reducing Poverty and Economic Development” and other regulatory acts have been adopted. The decrees of the President of Azerbaijan Republic: “On regulation of the public control on the production, service and financial-credit activity and prohibition of unreasonable examinations” of June 17, 1996; “On the improvement of State control system and elimination of artificial obstacles to development of entrepreneur activity” of January 7, 1999; “About the Measures on Acceleration of the Social-Economical Development in Azerbaijan Republic” dated November 24, 2003; and “On Approving the State Program on Social-Economical Development of the Regions” dated February 11, 2004 have initiated a new stage in economic reforms in the country and created the legal-economic background for fighting against corruption.

The law “on Fighting Corruption” was adopted in January 13, 2004. The main subjects regulated by this law are:

- Definition of corruption;
- The subjects of corruption related offences;
- The agencies fighting corruption;
- Financial requirements and responsibility for violations of these provisions; -
- Corruption related offenses and responsibilities for such offenses.

The Decree of the President of Azerbaijan Republic on implementation of the law “on Fighting Corruption” was signed on March 3, 2004. The main subjects regulated by the Decree are listed below:

- To prepare suggestions on conforming the current legislation to the law “on Fighting Corruption;”
- To prepare the Statute of the Commission on Fighting Corruption under the State Council on Public Service Management;
- To create the new department on fighting corruption under supervision of the Prosecutor General.

According to the abovementioned decree, the Cabinet of Ministers is required to improve the draft “State Program on Fighting Corruption” (hereinafter “State Program”) according to the new law “on Fighting Corruption” and requirements of the International treaties to which Azerbaijan is party and submit it to the President of Azerbaijan Republic.

An inter-ministerial working group has been set up under the Cabinet of Ministers to review the draft State Program.

The suggestions and conclusions of the United Nations, Council of Europe, World Bank, Organization on Economic Cooperation and Development and other international organizations, non-governmental organizations were taken into consideration and the experience of some States that reached significant results in fighting corruption were used during the preparation of the State Program.

The State Program confirms once more, that the political will in fighting corruption should be clearly expressed and the efforts of the state bodies and public should be joined. The social-economic status of the country and international experience in fighting corruption should be taken into consideration, and the long-term and consistent struggle against corruption should be set up.

2. The Goals and Duties of the State Program

The State Program on Fighting Corruption is designed to provide a national integrity system for the effective implementation of fighting corruption. For these purposes, the State Program considers the general responsibilities and measures in fighting corruption, participation of different units in the implementation process and coordination of mutual activities of these units.

All the bodies dealing with fighting corruption must abide by the general duties outlined in the State Program. General duties on fighting corruption defined in the State Program are listed below:

2.1. Guarantee the Rule of Law

The measures on fighting corruption and the duties and responsibilities of state bodies are defined by legislative acts. The agencies fighting against corruption shall function according to these acts.

2.2. Guarantee of transparency

The state bodies abide by the principle of transparency in their activities. Once transparency is provided, the public is more informed about the decisions made by the state bodies and this allows implementation of more effective public control of these bodies. Transparency allows the establishment of public discussions, strengthens the public confidence in the state bodies and in this way, leads to increasing the sense of responsibility in these bodies. Once transparency is provided, the activity of the state bodies shall be improved, abuse of power circumstances shall be eliminated, and the activity of state bodies shall be effectively analyzed and assessed.

2.3. Controlling the Activity of State Bodies

According to the legislation of the Azerbaijan Republic, administrative, judicial and parliamentary control on the activity of state anti-corruption bodies is provided and precise control mechanisms are established for these purposes.

2.4. Preventing Corruption and Liability for Corruption related offenses

According to the Legislation of the Azerbaijan Republic, corruption related offences result in criminal, administrative, civil and disciplinary responsibility. Fighting corruption is not limited to just charging persons with corruption related offences; it also includes the determination of the conditions leading to corruption, elimination of these conditions and implementation of preventive measures.

2.5. Public education and cooperation against corruption

To increase the effectiveness of fighting corruption, the measures listed below are taken: necessary measures for increasing the public awareness about the consequences of corruption are implemented; experiences of other countries in related field are studied; international initiatives are supported; also cooperation with the state bodies and non-governmental organizations, mass media, international organizations and other partners in the field of fighting corruption is implemented.

II. Measures on fighting corruption

The State Program determines the implementation of the complex measures on fighting corruption:

3. The Measures on improvement of the legislation

Measures listed below in the field of legislation shall be implemented to provide the execution of the measures outlined in the State Program and implementation of the effective measures against corruption:

-Improvement of the legislation of Azerbaijan Republic in the field of fighting corruption to bring it up to the standards of the Conventions of the United Nations, Council of Europe and other international documents to which Azerbaijan is a party.

-Make amendments and changes to the Criminal Code of Azerbaijan Republic criminalizing a number of corruption related activities according to the international conventions and conforming the criminal responsibility for such an offenses to the international experience;

-According to the international standards and international experience, adopt laws establishing liability of legal entities for corruption related offenses and improve the legislation regulating the procedure for seizure and forfeiture of corruption related assets;

-Adopt laws defining liability for committing corruption related offences by by any persons who direct or work for, in any capacity, private sector entities;

-Adopt the Statutes of the Commission on Combating Corruption under the State Council of Management of the Public Service, and the Department on Fighting Corruption under the Prosecutor General.

-Adopt necessary legislative acts ensuring the implementation of the other measures defined by the State Program.

-An appropriate anti-corruption related expertise of draft legislative acts shall be implemented to improve the legislation. Creation of a new working group on improvement of the corruption related legislation is considered as well.

For the purpose of providing transparency in legislation creation of a single Internet based electronic legal database is considered. Development of the procedure of submitting the draft laws for public discussions is also being implemented.

4.Measures in the field of activity of the bodies fighting corruption

Article 4 of the law of Azerbaijan Republic "On Fighting Corruption" indicates, that all the state bodies and officers must fight corruption within the frame of their responsibilities. According to subsection 4.2 of this Law, the functions of the specialized body in the field of fighting corruption shall be carried

out by the Commission on Combating Corruption under the State Council on Management of the Public Service (hereinafter "Commission"). The executive, legislative and judicial power bodies appoint the members of the Commission. The scope of responsibilities of the Commission is outlined in the Statute that is approved according to the law.

The members representing the executive, legislative and judicial powers in the Commission were appointed on April 21, 2004.

The Commission will control the implementation of the State Program; receive information about implementation of the provisions of the State Program by central and local executive authorities and by other related state bodies, analyze the status of implementation of the State Program and give information about the commission of corruption crimes to the related state bodies for taking necessary measures, and implementing prosecution of cases.

The other responsibilities of the Commission shall be defined by the Azerbaijani legislation.

The Department on Fighting against Corruption under the Prosecutor General shall carry out the prosecution of all the corruption related offenses. For this purpose the effective cooperation between this Department and other law enforcement agencies, and a single information database between them should be created.

For the purpose of fighting corruption, establishment of the new internal control mechanisms within the central executive bodies is considered. The main purpose of implementing internal control is to provide the administrative control within the state agencies and identify the persons who commit corruption related offenses for taking appropriate measures.

To guarantee the effectiveness of the specialized anti-corruption bodies, their independence from any other agencies must be ensured.

The activity of the anti-corruption agencies must be constantly improved, their experience must be generalized and the means for effective cooperation between these agencies must be created.

The anti-corruption agencies create their activity based on the cooperation with the public and representatives of private sector. Having the public confidence to the anti-corruption bodies is one of the most important factors in fighting against corruption. Thus, their activity must be as transparent as possible, and these agencies must inform the public about the measures they take and publish regular reports for these purposes.

5. Measures on functions of state bodies

Measures on the functions of state bodies are aimed at improving the activity of these bodies, developing transparency and professionalism in their activity.

For the purpose of improving their activity, state agencies must improve and make public the procedures and rules for examining of individuals' submissions and applications. For the purpose of promoting transparency and effectiveness, all state agencies must finish creating their own internet based web pages containing information about their activity, and establish the process for sending and receiving citizens' claims and applications by electronic means.

The State Program requires improvement of the administrative proceedings (i.e. passing, motivating, executing and canceling of administrative acts at the initiative of individuals and administrative bodies and examination of submissions and applications by these bodies) and for these purposes, suggests adopting a law on administrative proceedings and drafting proposals on amendments and additions to the other legislative acts.

Necessary measures are taken to precisely define the responsibilities of the state bodies, to eliminate duplications in state bodies' functions, and for these purposes, to implement necessary legislative measures and make appropriate changes in the normative legislature acts defining the status of state bodies.

Measures are implemented on the preparation and implementation of the complex anti-corruption actions in central and local executive bodies and local self-governing bodies; and a qualified analysis of the corruption status of the public and private sectors.

Freedom of information is one of the factors guaranteeing transparency in the activity of state agencies. Necessary measures are taken to improve the methods of gaining information and ways of using freedom of information; to define precisely the responsibilities of the state bodies in providing access to information; to make suggestions on amendments and additions to the legislative acts regulating freedom of information for these purposes, and improve the system for the use of information by individuals.

The State Program suggests the implementation of the necessary measures for improving the activity of the public servants, their logistics and finances guarantees.

Measures are taken on the preparation or improvement of the official codes of conduct of public service officers and bringing these codes up to the standards of the existing UN and CoE recommendations; determination of responsibilities for

the violation of these codes, and education and training of public servants on fighting corruption.

Involving qualified and professional persons to public service is necessary for the activity of state bodies to be more effective and to meet current requirements. The procedures of recruitment to the public services defined in the law of Azerbaijan Republic "on Public Service" and the other legislative acts regulating public service shall be improved and the recruitment process in all the spheres of public service should be based on competition. Along with this, measures must be implemented to increase the prestige of public service, to implement programs encouraging people to public service, and enlist specialists from private sector to public service.

Appropriate measures shall be taken to create the public servants activities' assessment system, and the public service areas requiring the principle of rotation shall be precisely outlined in order to increase effectiveness of the public service.

For the promotion of logistical and financial status of public servants, necessary measures are taken to gradually increase the salaries of public servants and other public officers and measures are taken to develop their social security.

For the purpose of establishing the procedures for declaring assets and property status by the public officers, the creation of precise mechanisms on monitoring public officers' assets and financial status under these procedures, and determination of the state agency carrying out the function of financial control shall be implemented.

According to the UN and Council of Europe's recommendations and international practice, necessary measures are taken to increase transparency in political parties' financial activity. For these purposes appropriate measures shall be taken to set control mechanisms and improve the monitoring of financing activities of the political parties.

6.Measures on the activity of Law Enforcement Bodies and Court system.

Reformation of the judicial system is continuing as new judicial selections in 2005 are held. The purpose of these reforms is to promote the independency of judges and effectiveness of their activity, reform the Judicial-Legal Council, and provide for the participation of a new selection unit in the judicial selections procedures. Reforms will be implemented in accordance with the existing UN and Council of Europe's recommendations in this field.

In the framework of suggested reforms, definition of the new procedures for initiating disciplinary actions against judges and the circumstances under which

disciplinary actions against judges for corruption offenses can be initiated is considered.

In accordance with the suggested reforms, newly selected judges will be trained for a specified period of time before they start functioning. During these trainings the judges shall be acquainted with the new forms of corruption and organized crime, gain new knowledge in this field, study international conventions and be acquainted with the experience of the European Court on Human Rights. Also measures shall be implemented on the qualification and training of acting judges and prosecutors on combating corruption and adopting of official ethics codes of law enforcement personnel.

International obligations on combating corruption to which Azerbaijan Republic has joined, require limiting the immunity of judges related to their criminal liability to the level acceptable in a democratic society.

Implementation of the necessary measures conforming the legislation regulating the discontinuation of immunity of judges up to the international standards and international experience is suggested for these purposes.

Cooperation between the agencies fighting corruption offenses must be improved; statistical reports on corruption related crimes must be created; necessary measures must be taken on creating a united informational database about corruption related offenses.

Internal control units under the law enforcement agencies' administration shall be defined to fight corruption within these agencies. These units shall be expected to provide internal security within the related law enforcement agency; to implement administrative control; to identify the personnel engaged in corruption and take the necessary measures under their responsibility. Changes and amendments to the charters of appropriate law enforcement agencies shall be made for these purposes.

Necessary measures are taken on strengthening the logistics of the Department on Fighting Against Corruption under the Prosecutor General of Azerbaijan Republic and other anti-corruption state agencies and rewarding officers demonstrating professionalism in discovering corruption crimes for the purpose of motivation of the law enforcement personnel.

Providing law enforcement personnel with high state allowance rates is one of the important factors in combating corruption. For these purposes, necessary measures are taken to gradually increase the salary of law enforcement personnel and strengthen their social security.

For improvement of the Institute of Advocacy, increase the amount of legal assistance paid by the State and implementation of the requirements arising from

the new amendments and changes to the “Law on Advocates and Advocacy activity” is envisaged.

For improvement of the notary activity, new measures are considered on transferring relevant funds through notary offices’ deposit bank accounts when the parties conclude an economic transaction via a notary, development of the cooperation mechanisms of notaries with the anti-corruption bodies, and new amendments and changes to the law of Azerbaijan Republic “On Notaries” is considered. Implementation of these measures shall decrease the circulation of cash funds, prevent the legalization of the incomes gained from illegal operations, strengthen the tax control, provide for the taxes on profits to be paid on time and in full and get the notaries to function impartially.

7. Measures on economical and social fields.

Corruption in economic field disrupts fair competition, develops a shadow economy, leads to evasion of taxes from incomes, and slows down the investments, development of securities, insurance and financial markets.

Disruption of fair competition results mainly in the creation of monopolies. The existence of monopolies leads to price manipulations in the internal market by the monopolist enterprises, and creates obstacles in business development and conducting business in those economic fields.

To ensure fair competition and regulate the monopolies, measures on adoption of the Antimonopoly Code and improvement of the mechanisms in the field of preventing unfair competition is considered.

Measures are taken to provide the equal participation of all of the individuals in the privatization process, to promote transparency in the field of privatization, to improve the assessment system of privatized state enterprises and the control mechanisms on privatization.

The Decree of the President of Azerbaijan Republic “On Improvement of the Rules for Giving Special Permissions (license) for Some Fields of Activity” dated September 2, 2002, has completely improved the licensing system and significantly reduced the amount of licensed activity fields. In accordance with the decree, the number of documents for obtaining a license has been reduced to a minimum, the amount of fees to be paid for a license has been decreased approximately 2.5 times, the terms of licenses has been increased and the centralized state registration of issued licenses has been established. Nevertheless, bureaucracy and abuse of power still occur in the licensing process.

Necessary measures are taken on improving transparency in licensing activity, precise definition of the terms and conditions of licensing, making this information public, and on easing the license issuing and extending activity.

Measures must be taken to improve land plot mechanisms of local executive and self-governing powers between individuals and legal entities, to strengthen control over this field, and provide equal and fair possibilities in using of land.

For the improvement of investment activity, measures are taken to accelerate the adoption of a new law on investments, and improve the methods and forms of the state regulation of investments.

Improvement of the legislation on public procurement and systematization of the related regulatory acts are implemented. Several laws and decrees regulating public procurement in Azerbaijan Republic have come into force, and the State Agency on Public Procurement has been established. Implementation of the necessary measures to improve the activity of the State Agency on Public Procurement, provide transparency in all stages of public procurement, inform the public on public procurement, improve the competition criterias, assess the process, and procurement mechanisms, and precisely define the methods of assessment are considered. Appropriate measures are taken in order to bring into conformity public procurements carried out by local self-government bodies to the requirements of the legislation on public procurement.

For the improvement of financial and bank businesses, additional measures are taken on accelerating bank reforms, improving bank services, promoting fair competition and transparency in banking.

In most cases corruption is connected with other organized and economic crimes, and especially with money laundering crimes. Money laundering results not only in legalization of profits earned from corruption and other criminal activities, but also negatively affects the financial and bank system of the state. To strengthen the combating of the legalization of the corruption related incomes, appropriate changes and additions to the criminal legislation, adoption of a law on preventing the legalization of illegal incomes, and conforming the legislation to the UN, Council of Europe's, FATF recommendations in this field are considered. Measures are taken to prepare an action plan against the legalization of illegally made profits, create the identification mechanisms of customers by financial agents, register, record and keep records of financial transactions and promote transparency in financial reports and accountant records.

Implementation of the measures increasing the volume of non-cash payments between the parties of civil circulation in order to provide transparency in the financial operations and settlements between business enterprises and economic agents is considered.

To improve auditing activity, necessary measures are taken to improve the legislative basis and bring this type of activity up to the international audit standards, to develop the national audit standards, to reform the accounting and statistics systems in accordance with international standards. Improvement of the Chamber of Auditors and procedures for hiring and dismissing the internal audit managers is considered. Measures are taken to strengthen the cooperation of the audit services with anti-corruption units, determine their obligations in the field of combating corruption, improve codes of conduct for auditors pertinent to corruption and determine penalties for the violation of these codes.

To improve tax and customs systems, necessary measures are taken to improve the payment procedures, tax related legislation, and to prepare and make public the explanatory comments. Measures are taken to apply automatic systems of customs control and registration, set up desks to provide information about customs related normative acts and tariffs, simplify customs control, provide transparency in customs procedures and provide foreign participants of economic relations with information on economic regulations. Measures are taken on preparing codes of conduct for tax and customs officers and determining responsibilities for violation of these codes, and conforming customs related legislation to the recommendations of the International Customs Organization on combating corruption.

Measures are taken to improve the legislation in the field of financial control, the activity of the bodies implementing financial control, and to precisely define the financial control procedures and the norms regulating these procedures. Periodic reporting of the activity by the financial control bodies shall be implemented in order to provide transparency in their activity. As a part of improving financial control, measures defining control mechanisms and procedures on execution of the local budgets and reconciling the sums expended on the requirements of the budget are also considered.

Measures are taken to improve the budget system and budget classifications, and provide transparency in the establishment and proper disbursement of the funds of local self-government bodies.

Corruption must be combated not only in public, but also in the private sector. For these purposes and to fight against corruption in the private sector, implementation of preventative measures, and changes to the legislation establishing criminal responsibility for corruption related offenses are considered.

8. Implementation of educational measures.

The State program considers appropriate measures to comprehensively inform and educate the society on the essence and reasons of corruption and the

danger that corruption might cause. Education and information measures are carried out by all the participants of the State Program.

9. Cooperation on fighting against corruption.

The participants of the State Program shall cooperate not only with the state agencies but also with Ombudsman, non-governmental organizations, mass media, international organizations, and other partners. At the same time strengthening cooperation with the international and regional anti-corruption organizations, and studying the international experience on combating corruption is also considered.

The state bodies fighting against corruption shall cooperate with the international organizations and law enforcement units of the foreign countries in accordance with the Azerbaijan legislation and international treaties to which Azerbaijan is a party.

10. Control over the implementation of State Program.

The Cabinet of Ministers of the Republic of Azerbaijan and the Commission shall supervise the implementation of the State Program and report on the implementation of the measures considered in the Program to the President of the Azerbaijan Republic on a regular basis. Also, public control on implementation of the measures of the State Program shall also be implemented in the forms (providing transparency, cooperation, education) established by the Program.

As a part of its annual report the Cabinet of Ministers of the Azerbaijan Republic shall inform the Milli Majlis (Parliament) of Azerbaijan Republic on the measures implemented in the field of fighting against corruption.