

Global Corruption report 2005,
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Azerbaijan

Corruption Perceptions Index 2004 score: 1.9 (140th out of 146 countries)

Conventions:

Council of Europe Civil Law Convention on Corruption (ratified February 2004)

Council of Europe Criminal Law Convention on Corruption (ratified February 2004)

UN Convention against Corruption (signed February 2004; not yet ratified)

UN Convention against Transnational Organized Crime (ratified October 2003)

Legal and institutional changes

- The Azerbaijan parliament adopted a new anti-corruption law in January 2004. The law provides definitions of corruption and its perpetrators, and outlines the responsibilities of public officials. Though widely welcomed, the law fails to secure public disclosure of the income and property of public officials, and is overly permissive in its obligations to disclose close relatives as third parties in official transactions (see below).
- The March 2004 presidential decree on the application of the new anti-corruption law **stipulates that the law will come into force** in January 2005. The deferred implementation of the law is seen by many as a means of providing corrupt officials the opportunity to conceal their misdeeds prior to implementation. The decree establishes an anti-corruption agency under the prosecutor-general (see below).
- In April 2004 the Commission for the Fight against Corruption was constituted at the first meeting of the Civil Service Executive Board. A major weakness of the commission is its exclusion of civil society and the media. The commission is made up of a mix of presidential, parliamentary and constitutional court appointees. Both the executive board and the commission are headed by Ramiz Mehdiyev, the head of the presidential administration (see below).

Accusation of corruption

Following the ill health (and subsequent death) of former communist leader Heidar Aliiev, the presidential elections of October 2003 saw Heidar Aliyev's son, Ilham, elected to the presidency of Azerbaijan. The change of administration triggered an unraveling of the relative cohesion between territorial-ethnic and economic interest groups, largely held in abeyance under the former leader, and unleashed mutual, wide-scale accusations of corruption.

The principal division which opened up during the elections on the issue of corruption focused on the disposal of state assets in the transition from a centralised economy to a form of market economy. Conservatives, mainly opposition groups, had supported retention of state assets and tight state control over the private sector. Reformers, led by the presidential office, had supported moderate liberalisation. For both groups, corruption, or accusations of corruption, became a key issue in attacking the legitimacy of the opposing camp.

During the elections the conservative camp sought to attack the poor corruption record of the incumbent government, dominated by the Yeni Azerbaijan Party (YAP), and to demonstrate how dispersal of state monopolies had provided a cover for racketeering and widespread corruption. The main opposition parties in particular attempted to make 'the Kozeny scandal' one of the key issues of the election campaign.

Dating from early 2000, accusations of large scale corruption had surrounded the Czech-Irish national Viktor Kozeny, following his failure to secure the privatisation of the State Oil Company of the Azerbaijan Republic (SOCAR) for a US-based investment group (Omega Advisers Inc.).¹ Kozeny had admitted to the *Wall Street Journal* in September 2001 that he had spent US \$83 million on bribes to high-ranking Azeri officials. He further claimed this was done with approval of his client and filed a complaint in a US district court against his US investors, naming several high-ranking Azerbaijan government officials as recipients of bribes.²

This scandal resurfaced again on the eve of the 2003 Azerbaijan presidential elections when, in October 2003, a charge of fraud was filed, again in the US, against Kozeny. Charges included appropriation of Omega Advisers Inc.'s clients' money to the tune of \$182 million, funds intended for the purchase of SOCAR.³

For their part, the reformist camp has portrayed retention of state control of assets as serving the interests of a small elite of high-ranking public officials seeking to protect its control of Azerbaijan's limited markets and resources. The conservative agenda, they argue, is an attempt to sustain a system of patronage, preventing independent players from the private sector from emerging. In his public speech in February 2003, President Ilham Aliyev openly criticised monopolies supported by high-ranking government officials in basic commodities, such as trade in flour and bread products.⁴

In the main, however, the reformist retort to allegations of corruption within its own ranks appears to have been to level allegations of corruption at opposition figures. Such smear campaigns first appeared in spring 2004 with the publication of articles in the official state newspaper *Azerbaijan*, which severely criticised a group of high-ranking government officials reputed to belong to the conservative wing. The article portrayed them as incompetent and corrupt.⁵

The smear campaigns continued in June 2004. Opposition MP Sabir Rustamkhanli complained in parliament about corruption among chairpersons of the parliamentary commissions. Sirius Tabrizli, deputy chairman of the ruling Yeni Azerbaijan Party, demanded concrete facts.⁶ These allegations were downplayed by the chairman of parliament on the grounds that Rustamkhanli had provided no names. Nevertheless, allegations were picked up again by Gohar Bakhchaliyeva, parliamentary vice-speaker, who also forwarded anonymous accusations against unnamed governmental figures opposed to the reformist agenda.⁷

Both locally and internationally there has been widespread criticism that the allegations of corruption against public officials are politically motivated. Locally, figures such as Presidential Chief of Staff Ramiz Mehtiyev have been publicly accused of orchestrating such campaigns.⁸ There has been no response to the allegations of corruption from law enforcement bodies.

A new anti-corruption law

In his March 2004 decree, President Ilham Aliyev endorsed the law 'On the Fight against Corruption' and thus satisfied a precondition of Azerbaijan's admission to the Council of Europe. The law will come into effect in January 2005.

Though the delay for implementing the law has attracted criticism from observers who see this as a 'probationary period' in which to rectify previous misdeeds,⁹ there are indications that such moves have improved public confidence in the ruling party's commitment to tackle corruption. A nationwide household survey conducted by Transparency Azerbaijan in May 2004 revealed that nearly all respondents believed that the implementation of a national anti-corruption programme and the establishment of a special anti-corruption agency would curb corruption. Only one quarter of all respondents did not believe that any serious anti-corruption efforts would result.

Despite such public optimism, it is not clear that the legislation that has been introduced represents a genuine commitment to fight corruption. On the positive side, the law stipulates the creation of a commission for the fight against corruption. However, the fact that both the board and the commission are chaired by a single high-ranking government official, the head of the presidential administration, calls into question the ability of this body to carry out its work impartially. The exclusion of civil society and the media from the commission can do little but accentuate this anxiety.

The track record of the Azerbaijani government in its ability to smother legislation is further cause for concern. Both the law on unfair competition and the law on anti-trust policy worked well in appeasing an international audience, but they failed to prevent the emergence of monopolies.

In the absence of a well-defined national anti-corruption programme to complement the anti-corruption legislation, there is every reason to suppose that this legislation will similarly fail when it comes to implementation. Given the legislation's deferment until after the parliamentary elections of November 2004, there is a very real danger that the legislation will be effectively shelved after the election. The failure to address these issues prior to the elections should ensure the issue of corruption will again dissolve into a political football between interest groups, as it did during the presidential elections.

Moreover, the presidential decree makes provisions for the establishment of an anti-corruption agency under the Azerbaijani prosecutor-general an office which, like the anti-corruption commission, is dependent on executive power. The law does not contain any special provisions envisioning conditions for the release of the chief prosecutor from his duties at a later date. Prosecutors have no legal right to refuse 'orders' coming from the executive authorities.

The drive within the ruling party to develop corruption-related legislation in 2003-04 should be seen as both aimed at appeasing domestic disquiet over corruption in the approach to parliamentary elections, and an attempt to bolster Azerbaijan's poor reputation for corruption at an international, particularly European, level. The likelihood of new waves of clashes between competing groups within the government and between government and opposition parties is very real.

(Rena Safaraliev TI Azerbaijan)

Further reading

Caspian Revenue Watch project, www.eurasianet.org

Elizabeth Lash, *Azerbaijan and Corruption* (Sommerville: Tufts University, 2002), www.transparency-az.org

R. Safaraliev, ed., *Corruption: A Business Ethic Manual for Azerbaijani Companies* (Baku: TI Azerbaijan, 2003)

TI Azerbaijan: www.transparency-az.org

Notes

1. *Fortune* magazine (United States), 6 March 2000.
2. Turan News Agency (Azerbaijan), 4 April 2000.
3. *Echo* (Azerbaijan), 11 October 2003.
4. *Echo* (Azerbaijan), 2 February 2003.
5. *Azerbaijan* (Azerbaijan), 20 April 2004.
6. *Adelet* (Azerbaijan), 5 June 2004.
7. *Zerkalo* (Azerbaijan), 12 June 2004.
8. *Eurasia Insight* (Azerbaijan), 5 May 2004, www.eurasianet.org
9. *Nedelya* (Azerbaijan), 9 January 2004