

Oversight of the prevention measures, including good practices and other initiatives, in the Republic of Azerbaijan

(with special reference to articles 5,7,12 and 13 of UNCAC)

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Introduction

Preventive measures have been an integral part and best placed in the frontline of all policy and strategies aimed at curbing corruption in Azerbaijan. Both the Anticorruption ACT 2005 and State Program on Combating Corruption, with its Action plan for years 2004-2006, include special chapters/measures on prevention of corruption. These two major documents set the initial framework and triggered the new wave of preventive reforms within the framework of fight against corruption in the country.

National Strategies

As stated above, in order to implement or maintain effective, coordinated anti-corruption policy that promotes the participation of society and reflects the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability, Azerbaijan has developed and carried out two national strategies in years 2004-2011.

State Program for Combating Corruption and its Action Plan for years 2004-2006 was approved by the Presidential Decree of the President of Republic Azerbaijan on September 3, 2004.

The results of evaluation of implementation of State Program on Combating Corruption indicate that as early as in year 2006, major prevention-related requirements of UNCAC were either initiated or in the process of active implementation. In 2007, the Government adopted another major reforms document, the National Strategy on Increasing Transparency and Combating Corruption, which *inter alia*

aimed to boost reforms and harmonize the existing anti-corruption mechanisms with the international requirements, mainly UNCAC. With prevention defined as its core stone (principle), the Strategy molded mainly through the measures of preventive character. These measures cover almost all areas mentioned in Chapter II of UNCAC.

Anticorruption ACT 2005 stipulates that all state bodies and officials shall, within their competence, carry out the fight against corruption. Although indirectly, but it makes all state bodies responsible for implementation of preventive measures. Separate body within the meaning of Article 6 of the UNCAC, Commission for Combating Corruption, was established in the year of 2005.

Specialized agencies

Commission is a specialized agency for anti-corruption issues and functions with the structure composed of 15 members. Commission is composed of 15 members: 5 members are appointed by each branch of power. The CCC Charter was approved by the CCC (Charter) ACT 2005. Commission coordinates the anticorruption activities throughout the country and operates in parallel with the Cabinet of Ministers, and reports regularly to the President and the Parliament.

Commission has numerous preventive character duties which include, participation in formulation of state anti-corruption policies; coordination of different stakeholders related to the area; analysis, oversight and evaluation of state and efficiency of implemented measures; collection of asset declarations from public officials; and development of recommendations and etc. The Commission on Combating Corruption, while overseeing implementation of National Strategy, also monitors and evaluates corruption prevention measures.

Anticorruption Department with the Prosecutor General's Office, specialized agency in the area of detection and criminal [pre-trial] investigation of corruption offences, is also involved and contributes significantly into implementation of preventive measures along with the Commission. In order to secure the specialization in the field of prevention, Preventive and Analysis Division and Organizational and Information Division were instituted within the structure of the Department in 2011.

Participation of society

Commission set up exemplary model of cooperation and working relations with numerous NGO's and involved them into joint prevention activities. Commission strengthened such cooperation by becoming the member of Anti-Corruption Information Network of NGO's specialized in the area of fight against corruption and supported several projects of preventive character, carried out by them. Network comprises 25 NGOs specialized in combating corruption including local chapter of the Transparency International – TI-Azerbaijan, Fund for Struggle against Corruption, Young Lawyers Association of Azerbaijan, etc (www.anticornet.az). This framework of cooperation increased the efficiency, speeded-up interaction and boosted ideas for joint projects. Such innovative ideas included financial and logistical support of the NGOs by Commission, with a view to increase their capacities and material technical base; organization of public hearings and public awareness projects in regions; conduct of surveys and etc.

In September 2007 and 2009, the Commission entrusted Anti-Corruption Information Network of NGO's with the implementation of public survey and study, aimed at providing clearer insight into the extent of corruption in Azerbaijan, its causes, features and the sectors most affected by it. Network also acts as useful resource for all its members as it grants access to all its facilities and resources for its member organizations.

Representatives of the Commission take part in Network's meetings which facilitates exchange of information and ideas. Evaluation Reports on implementation of the National Strategy for Increasing Transparency and Combating Corruption have considerably improved thanks to the assistance and input provided by Network members. At the same time civil society members are represented in Working Groups acting under the Commission. This WG has formulated a number of Bills in the area of fight against corruption.

NGOs also have the opportunity to benefit from the resources of the Council of State Support to Non-Governmental Organizations under the President of the Republic of Azerbaijan, which allocates grants to NGO projects. Council has set anti-corruption and governance issues as one of the priority areas.

Realization of the renowned webpage project www.rusum.az came as a result of successful cooperation with NGO. Webpage includes information on all tariffs and duties collected by state bodies in return of services, provide means for sending complaints and appeals to all state bodies, as well as information on legislation related to state duties and tariffs. Project also provides online legal aid, interactive

communication with users and regular updates in the form of e-letters to its users.

Civil Service

Azerbaijan introduced new procedures and rules for recruitment, hiring, attestation, replacement, promotion in civil service. The reforms in this area were championed by innovative Commission on Civil Service Commission under the President of the Republic of Azerbaijan¹. Civil Service Commission brought necessary developments and credit in this area, promoting transparency, equality and merit-based advancement in civil service recruitment. Current recruitment to civil service consists of several stages. First stage is general admission tests, where applicants are required to get certain score above defined minimum. At the second stage, the candidates sit an interview by professional group of interviewers, which may be filmed, subject to the permission of the applicant. Pool of experts and questions has been developed and special Appellate Body established thought the involvement of independent experts. This measure is set up to enable candidates to lodge their complaints, in order to address their concerns. Entire process is open to public and all related information is available online on Commission's webpage.

Presidential Decree was issued on the 25 February 2011 "On the improvement of the social protection of the traffic patrol service officers of the Ministry of Internal Affairs and some measures on the regulation of traffic rules". Under the Decree 25 percent of the fines collected due to the violation of the traffic rules will be used as additions to the monthly salaries of the officers of the traffic patrol service and other officers participating in the regulation of traffic.

President of the Republic of Azerbaijan signed on February 14, 2011 a Decree "On the improvement of social protection of the officers of State Customs Committee, simplification and increasing of transparency in the customs procedures". Under the Decree 25 percent of the extra budgetary funds of the Customs Committee (which is formed from allocation part of confiscated goods and fines collected) will be allocated as additions to the monthly salaries of the customs officers.

Code of Conduct

¹ 19 January, 2005

Codes of Conducts were adopted for all civil servants employed by offices of executive, legislative and judicial branches. Public Servants Ethical Behavior Code, enacted through the Statute, sets the general framework by providing a body of mandatory norms for all types of civil servants. The framework of the AZPAC project, run in conjunction with the Council of Europe, more than 200 civil servants were trained in the area of ethic behavior. In addition, the ethic codes were developed and enacted for specialized categories of civil service, including judges, notaries, tax and customs officers, prosecutors, etc. Excerpts from the ethic codes were made available to the public through bill boards placed at the entrances of these institutions. The ethic codes were listed among the ground for disciplinary and administrative liability.

Draft law on Conflict of Interest was developed with the assistance of civil society and international stakeholders. Several public hearings of draft law were organized.

Review of legislation

Normative Legal Instruments ACTS 1999 provides for the independent scientific expert examination of statutes and statutory instruments at all levels. Draft legislation may submitted for review or adoption may be subjected to independent scientific expert examination in order to assess its quality and research the possible negative social, economic, legal and other consequences.

Other measures

Uploading of full information on the activity, regulating mechanism, legislation related to the public institution on its web-site has become another efficient tool for corruption prevention. A number of institutions went even further, such as a Ministry of Taxes, introducing comprehensive web-based system of tax declaration and payment, as well as complaining and appealing procedures. Also, all public levies and fees were declared on the appropriate web-pages. The process of installing non-cash payments of fines, fees and levies is underway. Thus the Ministry of Internal Affairs and the Central Bank of Azerbaijan are about to complete the installation of terminals in police patrol cars, in order to secure on-line electronic payment of road traffic fines. Social payments, including pensions are paid through the mediation of private banks excluding interaction of recipients with social aid workers.

As of the 1st January 2008, the registration of legal persons is performed according to the “one stop shop” principle with a unified procedure centralized and implemented under the responsibility of the Ministry of Taxes. Under the new system, the time needed for the registration of business entities was reduced to 3 days after the submission of required documents. The similar practice also has been applied by customs and migration administrations and is underway in several other institutions.

According to the Presidential Decree of February 14, 2011 State Customs Committee, Ministry of Internal Affairs and Ministry of Justice have to ensure that the procedures on customs registration, state registration, entry into Registry, issuing of state registration documents and number plates, also procedures on ownership, use and transfer rights on the vehicles be carried out according to the ‘one window’ principle.

According to the Presidential Decree of February 14, 2011 *“On the improvement of social protection of the officers of State Customs Committee, simplification and increasing of transparency in the customs procedures”*, all the customs payments should be carried out by the State Customs Committee only via bank transfer or credit cards. Also in order to increase operational efficiency and transparency in the services rendered by the customs bodies, the Committee was tasked to establish an electronic administration system (electronic queue).

By the Decree №-393, The Cabinet of Ministers was assigned to present during two months its proposals on the simplification of the procedures on rendering of services and issuing of documents, registration procedures of transfer of vehicles to the third persons on the basis of rent or letters of attorney which is carried out by the Traffic Police Department of the Ministry of Internal Affairs.

By the Decree №-396 the State Customs Committee together with the State Border Service were assigned during one month to ensure that in the frontier posts all the relative laws and regulations on customs regulations, information on tariffs, list of restricted goods be posted on placards visible to the public, also to set up electronic devices to calculate customs tariffs of goods.

In order to prevent corruption crimes in the area of administration of state and municipal property, the President issued Decree of 22/06/2010. The decree sets forth a whole range of administrative and civil law measures and foresees a proactive approach.

In order to increase the transparency of the civil service, the Government continued its follow-up measures upon adoption of the Freedom of Information ACT. Each public and local self governing institution is set to appoint the contact point and develop its rules in line with the specially developed guidelines.

Among the efficient measures to curb bureaucracy, the full scale administrative procedure was introduced through enactment of the material law and rules of procedure, as well as installing of new administrative courts throughout Azerbaijan.