

# **Law of the Republic of Azerbaijan**

## **On Corruption**

This Law is directed on the identification, prevention and liquidation of consequences of offences, related to corruption, protection of social justice, human rights and freedoms of a man and a citizen, creation of favourable terms for development of economy, providing of legality, transparency and efficiency of activity of state authorities and organs of local self-government, officials.

This Law also aims to strengthen public confidence in state authorities, to promote flow of professional personnel for service in state authorities and local self-government to create conditions that exclude those individuals committing offences related to corruption.

### ***Chapter I. General provisions***

#### ***Article 1. Definition of corruption***

Corruption- is an illegal receipt by officials of material and other welfares, benefits or privileges with the use of their status, status of the authority represented by them, post plenary powers or possibilities, effluent from this status and plenary powers, and also bringing in of these officials by physical and legal persons on the side by illegal proposal or promise of transmission to them the noted material and other welfares, benefits or privileges.

#### ***Article 2. Subjects of offences, related to the corruption***

2.1. The subjects of offences, related to the corruption, are:

2.1.1. persons, select or appointed in state authorities in an order, set by the Constitution and laws of the Republic of Azerbaijan;

2.1.2. persons, representing state authorities based on special plenary powers;

2.1.3. civil servants, holding an administrative position;

2.1.4. persons, carrying out organizational-active or administrative-economic functions in the proper structural units of state authorities, in state institutions, enterprises and organizations, and also in state subjects, where the state owns controlling interest;

2.1.5. persons, the candidature of whose on elective positions in the state authorities of the Republic of Azerbaijan is incorporated in an order set by the law;

2.1.6. persons, selected to the organs of local self-government in the set by the legislation of the Republic of Azerbaijan order;

2.1.7. persons, carrying out organizational-active or administrative-economic functions in the organs of local self-government;

2.1.8. persons, carrying out in the cases set by the law organizational-active or administrative-economic functions in non-governmental organs, executing plenary powers of state authorities;

2.1.9. persons, getting material and other welfares, benefits and privileges in an exchange on providing of the illegal affecting on decisions of an official with the use of the influence or relations;

2.1.10. physical and legal persons, illegally offering or promising, or passing to a civil servant material and other welfares, benefits or privileges, and persons, being mediators in realization of similar actions.

2.2. Persons, indicated in the articles 2.1.1—2.1.8 of the following Law, are considered as officials for the purposes of the following Law.

### **Article 3. Scope of Law**

The following Law is used in regard to all physical (including foreigners and persons without citizenship) and legal persons on the territory of the Republic of Azerbaijan, and after its limits in accordance with international agreements the participant of which is the Republic of Azerbaijan, — in regard to the citizens of the Republic of Azerbaijan and legal entities incorporated in the Republic of Azerbaijan.

### **Article 4. Authorities, struggling against corruption**

4.1. All state authorities and officials within the framework of the plenary powers carry out a struggle against corruption. In the case when the accomplishment of offences, related to corruption, entails administrative or criminal responsibility, struggle against corruption in an order set by the legislation, is carried out by law enforcement authorities.

4.2. Functions of an authority, specialized in the area of prevention of corruption, carries out the *Commission on Struggle against Corruption of the Republic of Azerbaijan* (further- the«Commission»).

4.3. Members, appointed by the authorities of executive, legislative and judicial power, enter in the complement of the Commission. Plenary powers of Commission are set in a ratified by the law Regulations.

## **Chapter II. Prevention of corruption**

### **Article 5. Requirements of a financial character**

5.1. Officials should in an order set by legislation present the following information:

5.1.1. about the annual profits with pointing of source, kind and sum;

5.1.2. about the taxable property;

5.1.3. about holdings, securities and other financial means in credit organizations;

5.1.4. about the participation as a shareholder or founder in activity of companies, funds and other economic subjects, part of property in these enterprises;

5.1.5. about a debt, exceeding the five thousand times size of a conditional financial unit;

5.1.6. about other obligations of financial and property character, exceeding the one thousand size of a conditional financial unit.

5.2. *Information, indicated in the article 5.1 of the following Law can be requested in the order set by legislation.*

### **Article 6. Responsibility for violation of requirements of a financial character**

6.1. Officials or persons interested in holding a position, in the order set by legislation, are advised about requirements, foreseen the article 5.1 of the following Law, and law consequences of failure to observe following requirements.

6.2. Rules of realization of control after the observance of requirements, foreseen the article 5.1 of the following Law, is set by *legislation*.

6.3. Failure to observe of requirements, set by the article 5.1 of the following Law by officials, i.e. ill-timed presentation without a valid reason, of information, foreseen by this article, or presentation deliberately of incomplete or distorted information, can entail bringing in of these persons to disciplinary responsibility. Persons concerning whom Constitution and laws of the Republic of Azerbaijan foresees the particular order of bringing in to disciplinary responsibility can be attracted to a disciplinary responsibility with the observance of the following rules.

6.4. The Commission can publish in an official state newspaper a report about persons, not observing requirements, and set by the article 5.1 of the following Law.

### **Article 7. Non-admission of joint work of close relatives**

7.1. Close relatives of officials can hold no position under their direct submission, except for elective positions and other cases foreseen by legislation.

7.2. In case if persons, violating the requirements of the article 7.1 of the following Law, during 30 days after the exposure of violation of these requirements, voluntarily will not remove this violation, they should be transferred on other position, eliminating submission, if it is not possible, one of these persons is dismissed from the occupied post.

7.3. Persons, dismissed from the position on grounds, indicated in the article 7.2 the following Law, can hold a position in other authorities, establishments, enterprises and organizations.

## ***Article 8. Restrictions related to receipt of gifts***

8.1. An official cannot demand, or accept for him or other persons gifts, which can influence on unselfish execution by him the official duties or to give the impression of influence of a similar kind or passed as a fee for execution of his duties or to give the impression of reward of a similar kind. This order on condition of avoidance of affecting unselfish execution of official duties does not spread on the cases of acceptance foreseen by the article 8.2 of the following Law of small gifts and use of ordinary hospitality.

8.2. An official cannot take in connection with execution of official duties over some physical or legal person during one year one or a few gifts by a lump sum more than fifty-five manats. Gifts the cost of which exceeds this sum are considered belonging to the state authority or the organ of local self-government, where a person carries out the official duties.

8.3. In case an official cannot make decision in connection with acceptance gift or the use of ordinary hospitality, he must know the opinion on this question of the direct chief.

8.4. The receipt of one or another benefits or privileges by officials in connection with their official activity on making agreements on civil legal transactions with physical and legal persons or their execution, is forbidden.

8.5. In case if illegal material and other welfares, benefits or privileges, are offered to an official, an official is under an obligation to renounce from them. If material and other welfares, benefits or privileges, are given to an official on not depending on him reasons, he should report about it to the direct chief and to give financial and other gifts, benefits or privileges on an act to the state authority, where the official works.

## ***Chapter III. Offences, related to the corruption, and responsibility for the following offences***

### ***Article 9. Offences, related to corruption***

9.1. Offences, related to corruption, consist of offences, directly stopped up in a corruption, and offences, creating conditions for corruption.

9.2. Offences, stopped up in a corruption are:

9.2.1. direct or indirect requirement, receipt of material and other welfares by an official, benefits or privileges for him or third persons in an exchange on making one or another action or rejection of making of such action in connection with the lead through of duty (plenary powers) or acceptance by him proposal or promise, related to the transmission of these material and other welfares, benefits or privileges;

9.2.2. direct or indirect proposal, promise or transmission by a physical or a legal person to an official of material and other welfares, benefits or privileges for him or third persons in an exchange on making of one or another action or rejection of making such action in connection with the course of duty (plenary powers);

9.2.3. the use of property by an official, illegally got in an exchange for making of one or another action or rejection of making of such action in connection with the course of duty (plenary powers), for a receipt of profit for him or third persons;

9.2.4. acquisition of material and other welfares by an official, benefits or privileges in connection with the course of duty (plenary powers) free of charge or at price (tariff), below market prices or prices managed by the state;

9.2.5. receipt by an official in connection with the course of duty (plenary powers) in contradiction with the legislation of the Republic of Azerbaijan of profit from holdings (deposits), securities, rent, royalty or lease;

9.2.6. direct or indirect proposal, promise or transmission of material and other welfares, benefits or privileges to one or another person, declaring about present possibility for him in an exchange on a certain reward to render illegal influence on the decision of an official;

9.2.7. 7. acceptance by a person, declaring about present for him possibility for an exchange on a certain reward to render illegal influence on the decision of an official, material and other welfares, benefits or privileges or acceptance by him proposal or promise, related to the transmission of these material and other welfares, benefits or privileges.

9.3. Offences, creating conditions for a corruption, are considered as the next actions of an official:

9.3.1. in the period of course of duty (plenary powers) holds other paid position or engaged in other type of activity, except for scientific, pedagogical and creative activity;

9.3.2. for the receipt of material and other welfares, benefits or privileges renders to physical or legal persons illegal assistance in the course of business, and also receipt of subsidies, subventions, grants, credits and other privileges, with the use of the status, status of the authority represented by him, post plenary powers or possibilities, effluent from this status and plenary powers;

9.3.3. carries on entrepreneurial activity directly or by means of other or the invented persons, works holding two jobs (except for scientific, pedagogical and creative activity), and also enters in the complement of managing subjects, carrying out entrepreneurial activity, and financial-credit establishments;

9.3.4. illegally interferes in activity of other state authorities on questions, not included in the sphere of his plenary powers, with the use of the status, status of the authority represented by him, post plenary powers or possibilities, effluent from this status and plenary powers;

9.3.5. renders affecting decision of questions, touching the personal interests, with the use of the status, status of the authority represented by him, post plenary powers or possibilities, effluent from this status and plenary powers;

9.3.6. on acceptance of normative-legal acts and other decisions gives preference to physical or legal persons, not proper to their setting;

9.3.7. takes part as a representative of physical or legal persons in matters of authorities in which holds a position, or conformable, under control, and accountable to him authorities;

9.3.8. groundlessly refuses physical or legal persons in the grant of information, subject a grant by law or other normative-legal acts, detains the grant of this information or gives incomplete or distorted information;

9.3.9. requires from physical and legal persons data and documents, grant of which is not statutory or by other normative-legal acts;

9.3.10. illegally passes material and financial facilities of state authorities or organs of local self-government in the electoral fund of candidates, registered candidates, political parties, blocks of political parties, initiative groups on a referendum;

9.3.11. passes to the non-state structures material and financial resources, belonging to state funds, managing subjects of state authorities or organs of local self-government, if a legislation does not foresee other case;

9.3.12. puts physical or legal persons artificial obstacles in realization of their rights and legal interests;

9.3.13. illegally passes to the physical and legal persons, carrying out entrepreneurial activity, plenary powers, related to government control of this activity.

9.4. Besides cases, foreseen by the following Law, in legislative acts, regulating activity of officials or setting their status, other offences, related to the corruption, can be set.

#### ***Article 10. Responsibility of officials for offences, related to corruption***

10.1. Offences, related to corruption, in the order set by legislation entail disciplinary, civil-legal, administrative or criminal responsibility.

10.2. In case if the accomplishment of offences, foreseen in the article 9 of the following Law, by an official creates civil, administrative or criminal liability, bringing in of an official is carried out in obedience to the proper legislation.

10.3. The measures of disciplinary responsibility for offences, related to corruption, are regulated by the following Law and other legislative acts.

10.4. In case if the accomplishment of offences, foreseen by the article 9 of the following Law, does not create administrative or criminal responsibility, it entails in the order set by the legislation disciplinary responsibility with the observance of the followings special cases:

10.4.1. In the case of accomplishment by persons, selected in the set by Constitution and laws of the Republic of Azerbaijan order, to state authorities, offences, indicated in the article 9 of the following Law, the authority on struggle against corruption gives information about it to the state authority, where the official is selected.

10.4.2. In the case of accomplishment by persons, selected in the set by legislation of the Republic of Azerbaijan order, to the organs of local self-government, offences, indicated in the article 9 of the following Law, the authority on struggle against corruption gives information to the proper election committee about it. In the same time, this election committee during five days from the day of

receipt of materials on it informs about the offence accomplished by the person, the organ of local self-government, where he is selected.

10.4.3. In the case of accomplishment by persons whose the candidatures on elective positions in the state authorities of the Republic of Azerbaijan is incorporated in the order set by the law, of offences, indicated in the article 9 of the following Law, in regard to them are taken measures, foreseen in the Electoral Code of the Republic of Azerbaijan.

10.4.4. In the case of accomplishment of offences, indicated in the article 9 of the following Law by judges, the authority on a struggle against corruption notifies about it Judicial-legal Council for consideration of question of application of a disciplinary punishment.

### ***Article 11. Responsibility of physical or legal persons for offences, related to corruption***

11.1. In case if in the actions of physical persons, accomplishing the offences related to corruption set by the legislation, there is not a corpus delicti, they are exposed to the fine in an administrative order.

11.2. Legal entities, accomplishing the offences related to corruption set by legislation, in the order set by legislation, are exposed to the fine or their activity is halted.

## ***Section IV. Removal of consequences of offences, related to corruption***

### ***Article 12. Withdrawal of the illegally got property and compensation the cost of the illegally got benefits or privileges***

12.1. Illegally got by officials property and cost of the illegally got benefits or privileges are voluntarily paid in behalf on the state. In case of rejection of officials from the voluntarily return of the illegally got property or voluntarily compensation of the cost of illegally got benefits or privileges, the illegally got property or it's cost, the cost of the illegally got benefits or privileges is paid in behalf on the state on the basis of lawsuit of the proper state authorities to a court.

12.2. For provision of a claim on consideration to a court in the set by civil-judicial legislation order can take measures concerning the property of a defendant.

### ***Article 13. Cancellation of acts, offences, related to corruption***

Acts, accepted because of offences, related to corruption, can be cancelled by a proper state authority or court based on appeal of proper state authorities or other persons.

### ***Article 14. Coming of the Law into the force***

The following Law comes into the force from January 1, 2005.

*Ilham Aliyev*

*Baku city, January 13 2004*

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*\*unofficial translation*