Transparency Azerbaijan

EUROPEAN NEIGHBOURHOOD POLICY:

MONITORING AZERBAIJAN'S ANTI-CORRUPTION COMMITMENTS

www.transparency.az

Table of Contents

I. Foreword 2

II. Acknowledgements 3

III. Executive Summary 4

1. Judicial reform 4
2. Public sector reform 5
3. GRECO implementation 6
4. Recommendations 7

IV. Background to the study 9

V. Findings: Implementation of Governance & Anti-Corruption Commitments of the EU – Azerbaijan Action Plan 10

1. Objective1: Strengthening the Judiciary 10
2. Objective2: Civil Service/Public Sector reform 27
3. Objective3: Implementation of Azerbaijan - GRECO Recommendations 44

Cover photo: © Flickr/retlaw snellac

© 2010 Transparency Azerbaijan. All Rights Reserved

Foreword

The enlargement of the European Union led to the emergence of a new EU program, the European Neighbourhood Policy (ENP), which Azerbaijan joined in 2004. Pursuant to the publication of the Country Report[1] in March 2005, Azerbaijan's ENP Action Plan was finally adopted in November 2006. This is a "political document laying out strategic objectives of the cooperation between Azerbaijan and the EU".[2]

The ENP provides perspectives for unprecedented and significant economic integration and in-depth political cooperation, and it is aimed to promote stability, security and welfare both in EU countries and ENP policy member countries.

The ENP sets out 10 priority areas for Azerbaijan, all of which are of equal importance: (1) contribution to a peaceful solution of the Nagorno Karabakh conflict; (2) strengthening democracy in the country, including through a fair and transparent electoral process; (3) strengthening the protection of human rights and of fundamental freedoms and the rule of law; (4) improving the business and investment climate, particularly by strengthening the fight against corruption; (5) improving the functioning of the customs' service; (6) support balanced and sustained economic development, including protection of the environment; (7) further convergence of economic legislation and administrative practices; (8) strengthening EU-Azerbaijan energy bilateral cooperation, and energy and transport regional cooperation; (9) enhancement of cooperation in the field of justice, freedom and security, including in the field of border management; and (10) strengthening regional cooperation.

Comprehensive monitoring of the implementation of the ENP Action Plan is performed by the Azerbaijan National Committee for European Integration (ANCEI),[3] while this report focuses on three aspects constituting the core of the anti-corruption strategy: reforms in the judiciary, public service and implementation of obligations assumed before the GRECO group.

Implementation of the Action Plan is expected to significantly further the approximation of Azerbaijan legislation, norms and standards to those of the EU; however, there are no sanctions if ENP commitments are not met, and compliance is based only on the principle of voluntary compliance.

Overall, implementation by Azerbaijan of its international commitments is uneven, with substantial accomplishments in some sectors, moderate success in others and no achievements in certain areas. This picture produces an impression that a long-term vision has yet to be formed, and that reforms are implemented on an ad hoc basis. Transparency Azerbaijan sincerely hopes that this report will assist the government in identifying areas in need of urgent reform, which will lead towards systematic compliance with the commitments made by the country under the ENP.

---

[1] European Neighborhood Policy, Country Report Azerbaijan, March 2005 available at http://ec.europa.eu/world/enp/documents_en.htm#2
[2] Source: EU-Azerbaijan Action Plan, available at http://ec.europa.eu/world/enp/pdf/action_plans/azerbaijan_enp_ap_final_en.pdf
[3] Source: The 2008 Progress assessment report by the Azerbaijan National Committee for European Integration is available at http://aamik.az/ts_general/

Acknowledgements

Transparency Azerbaijan wishes to gratefully acknowledge the valuable input of all those individuals and representatives of state and non-state institutions who contributed to the development of this report. The project team at TI Secretariat and TI Brussels Office is also grateful to TI staff members in Yerevan, Baku, Tbilisi and Berlin for their continuing support. Finally we wish to extend our appreciation to the Norwegian Ministry of Foreign Affairs who provided the financial support for this project.

Executive summary

This report presents the findings of a monitoring exercise of Azerbaijan's delivery on commitments made under the European Neighbourhood Policy Action Plan, which it signed in 2006. It focuses on three aspects of governance, all of which are considered central to anti-corruption reform in the country: reform in the judiciary, public sector and implementation of obligations assumed before the GRECO group. Examining the legal framework as well as the implementation of law in practice, this study provides key insights into progress in improving governance and reducing corruption risks in Azerbaijan, and highlights areas in which progress has been limited or non-existent.

One of the key findings emerging from this report is that while the legal system in Azerbaijan, created with substantial assistance from the international community, is reasonably solid, there is considerable discrepancy between the letter of the law (overall scoring 64.5%) and the practice of implementing it (48%) in the specific areas of judicial and public sector reform. This is broadly in line with the Global Integrity Report 2009 for Azerbaijan, in which the broader legal framework scored 88 out of 100 and actual implementation only 40 out of 100. In this report, the implementation gap was therefore assessed as "huge".[4]

Judicial reform

The ongoing reform of the *judicial system*, started back in 2000 with the help of European Union, aims at ensuring independence of judges and enhancing their moral and professional standards and status. Our findings clearly indicate that considerable progress has been achieved in the creation of a legislative and institutional framework to govern the judicial system. In particular, improvements are observed in the enhancement of professional standards of the judicial corps (training efforts for the judiciary are scored at 100%), modernisation of court procedures, expediting of court hearings and securing funding for the judiciary, including a reasonably high remuneration rate for judges. The score for the adequacy of judicial resources is 75%.

However, the judicial system has a long way to go towards true independence, particularly from the executive power (which is scored at 58%). The important step of this development process will be to transfer the authority to allocate and manage its own budget from the executive power to the judicial branch. Though legislation provides for rules of allocation of cases to judges, often these requirements are not met, which does not serve to ensure the even distribution of the workload among judges nor their independence.

Many of the good laws regulating the judiciary are not backed up by supporting legislation that would allow the implementation thereof, and some of them even have loopholes that allow for arbitrary interpretation of the laws. For example, although the process for the selection of judges has seen some improvement and transparency at the initial stages, there is still a lack of clear criteria for final selection of judges, as well as for the appointment of senior judges. Also, promotion is based on attestation, and there are no clear systems in place to conduct and execute an impartial performance assessment.

[4] Source: Global Integrity Report, Azerbaijan: Integrity Scorecard Indicators, available at http://report.globalintegrity.org/Azerbaijan/2009/

Other areas in need of improvement concern the adequacy of the judicial clerks, who should be included in judicial training programs, and the low quality of the service of free public defenders and courtroom translators, partially related to the low level of remuneration for their services. Access to justice is rated at only 50%.

Court hearings are generally open, but there are cases in which hearings are conducted in closed session for political reasons. Though court transcripts are duly maintained, there is no regulation in statutory acts obliging courts to publish all court decisions without exception. Transparency of the judicial system rated at 58%, which shows significant room for improvement.

Public sector reform

Our analysis of the *public sector* reveals similar issues with regard to the implementation gap between law and policy. Although the legal framework for the civil service was established back in 2000, the institution responsible for the management of the civil service – the Civil Service Commission under the President of Azerbaijan Republic – was established only in mid-2005. Such time gaps between the adoption of laws and the creation of mechanisms for their implementation are anything but unusual in modern Azerbaijan state-building practices.

Nevertheless, in the five years since its inception, the Commission has conducted several good development reforms and improved employment practices in particular. The current legal and institutional framework has reflected many internationally recognised good practices, *inter alia*, posting civil service vacancy announcements online and through the mass media, use of a competition process with broad use of testing and interviews, and keeping a database of alternative finalists. Along with these reforms, professional training prospects for civil servants have improved.

However, this report reveals an obvious need for further profound reforms of employment and promotion practices in the civil service to ensure the transparency and accountability of civil servants and their protection from political interference (these factors are scored at 50%), as well as to develop new regulatory mechanisms and enforce existing ones in the field of civil service, with an overall aim to make public servants less vulnerable to discretionary decisions by their superiors. The civil service reforms should also focus on providing further legal and institutional tools to enhance integrity in the public sector (scored very low at 33%). Following the example of the judicial system, the professionalism of public servants needs to be enhanced and remuneration rates increased. This factor is evaluated at 50%.

There is hope that some advancement will be achieved due to existing and subsequent reform initiatives. In particular the Civil Service Commission under the President of Azerbaijan Republic is adopting annual action plans to achieve the goals reflected in the “State program on the poverty reduction and sustainable economic development for the years 2008-2015,” and the “National Strategy on increasing transparency and combating corruption for the years 2007-2011”. There are series of technical assistance projects to the Civil Service Commission implemented under support of the UNDP and EU, which hopefully will provide necessary support for the further introduction of international good practices.

The *public procurement* system in Azerbaijan is in an ongoing process of development. While the legal framework for the system displays many internationally recognised good practices and requirements, implementation remains a source of persistent difficulty, and the objectives of the system in terms of delivering economy, efficiency, value for money, transparency and accountability remain to be achieved to a

significant extent. At the same time, there are prospects for progress. The government and the World Bank have recently agreed on an action plan for improvement of the public procurement system, following the completion of a review of the system conducted in cooperation with the government. Furthermore, the current ENP process presents an additional opportunity to measure the state of development of the procurement system with reference to international standards of good practice, and to set targets and work towards improvements needed, which is supported by the fact that the procurement system is rated at 44%.

GRECO implementation

Our analysis of the implementation of *GRECO recommendations* reveals substantial progress (the score of 67% testifies to this), mainly concerning legislative initiatives, enhancement of cooperation between various agencies, development of curriculums, organisation of training programs, and comprehensive research to get insight into the problem of corruption. Efforts of the government to establish a financial intelligence unit have led to fruitful results; however, there is room for further intensive work.

One of the key recommendations put forward by GRECO was to introduce new provisions allowing for the confiscation of proceeds of corruption, including provisions allowing for the confiscation of assets held by third parties. While these have been implemented in law, we find that in practice that not much use is made of these provisions. Moreover, the efficiency and capacity of law enforcement officers and court executors (bailiffs) to implement confiscation should be improved.

Efforts must be made to overcome the “entrenched culture of secrecy within government institutions in Azerbaijan”.[5] Though some national agencies have enhanced their websites and set up information hotlines (the best example being the Ministry of Tax), absence of a unique methodology for establishment and operation of hotlines, and of legal provisions for accountability thereof, diminishes their efficiency.

In order to improve transparency of the public administration system, legislation and systems must be put in place to oblige public servants to report suspicions of corruption and to protect those who do, as well as to enforce submission of asset declarations by officials.

This report details a lack of a series of important laws (and/or supporting acts) to regulate the integrity of public servants and introduce preventive measures against and penalties for corruption-related crimes, including liability for legal persons. While legislation envisions liability for individuals, there is no liability for legal entities, and therefore if a company bribes a government official, that company’s employee bears responsibility but not the company as a whole. This gap presents a challenge for the government to bring the Azerbaijan legal system in line with the best global practices.

Efforts of the Tax Ministry to enhance detection of corruption while exercising fiscal duties are commendable. However more work needs to be done to apply in practice recently-adopted penalties in the area of accounting crimes.

[5] Source: Quote from Arif Aliev, chairperson of Yeni Nesil in Article 19 Press Release, 3 November 2009, Source: Article 19 available at http://www.article19.org/pdfs/press/azerbaijan-article-19-launches-report-on-the-right-to-access-to-information.pdf,]

Recommendations

In order to deliver on its ENP commitments and improve the governance situation in the country at large, TI Azerbaijan (TI Az) addresses the following recommendations to the government of Azerbaijan:

The judicial system can benefit from the following improvements:

1. Clear guidelines should be produced for the final selection stage of judges; provisions allowing the bypassing of the exams system should be eliminated; clear systems to conduct and execute impartial performance assessment should be created.
2. Further reforms aimed at separation of judicial and executive powers, including ensuring financial independence of the judicial system, should be introduced.
3. The principles of even distribution of cases among judges should be implemented in practice.
4. Transparency of all stages of litigation needs to be enhanced.

Important aspects to be addressed in the further development of the *civil service* system include:

1. The legal and procedural framework for the civil service should be amended so as to ensure transparency in the civil service (development of detailed regulations on entering, promotion and rotation in the civil service); similarly, submission of financial declarations by civil servants should be enforced.
2. Capacity-building and professional upgrade programs at the civil service should be implemented, e.g. by conducting regular training on international good practices with a special focus on managerial skills.
3. The government should introduce internal control systems in public institutions based on international good practices to ensure protection of witnesses of illegal practices (whistleblowers) in the civil service.

To ensure further development of the *procurement system* the following aspects should be addressed:

1. The legal and procedural framework for the procurement process should be further developed so as to increase transparency and incorporate internationally recognised good practices, including revision of the procurement law, detailed formal rules on the selection process, adoption of consolidated and detailed regulations to support proper implementation of the Procurement Law, and issuance of standard bidding documents (including general conditions of contracts) for each of the main types of procurement.
2. Ongoing capacity-building and professional upgrade programs should be introduced for the procurement workforce.
3. The independence of the State Procurement Agency should be strengthened so that it functions purely as an oversight and policy guidance body for the procurement system; an independent panel for review of complaints from bidders should also be established.
4. A system for ongoing, comprehensive collection of data on procurement activities should be put in place, and centralised collection and reporting of the data should be introduced, including automated capture of information and database for prices. These should be accessible by the general public.

To ensure that commitments *before GRECO* are met, the following recommendations can be helpful:

1. The capacity-building programs for judges, judicial clerks, court executors and law enforcement officers should be continued.
2. Results of the second survey on the extent of corruption in Azerbaijan should be published, detailing its causes, features and the sectors most affected by corruption, as well as sharing actions and measures made and/or planned by the government pursuant to the survey's findings.
3. An authorised Agency on Information Matters or Information Ombudsman should be established, with appropriate capacity and independence, and openness to the public at large.
4. Several crucial laws and supporting regulatory acts in the following areas should be introduced: conflict of interest law; law on the criminal accountability of legal persons; whistleblower protection; punishment of deprivation of the right to hold certain positions onto legal entities outside of public service; submission of financial declarations by public officials; etc. These should include sanctions for violation of provisions to respective codes.
5. Civil society monitoring of the implementation of the newly adopted regulations should be supported.

Background to the study

The European Neighbourhood Policy (ENP) is a framework for bilateral agreements between the European Union (EU) and its neighbours to the south and east.[6] It has the stated objective of "avoiding the emergence of new dividing lines between the enlarged EU and our neighbours and instead strengthening the prosperity, stability and security of all concerned".[7] Within the framework of the ENP, certain states[8] have signed "Action Plans" that are designed to outline the specific commitments of that state in the context of its relationship with the EU. Amongst many other policy areas (e.g. environmental and energy policies, immigration and border control, human rights, economic development, conflict resolution), anti-corruption and good governance feature prominently in all of the Action Plans signed to date.

While the European Commission (EC) carries out periodic reviews of implementation of ENP Action Plans, many civil society organisations, including TI national chapters, have also been actively monitoring their government's work in relation to the Action Plans. The impact of this work has generally been somewhat limited, due to the lack of an analytical monitoring framework, clear benchmarks and timelines. This report is part of a regional project funded by the Foreign Ministry of Norway, currently being implemented in Armenia, Azerbaijan and Georgia, which aims to monitor ENP implementation. It seeks to maximise the impact of the monitoring work by using a solid indicator-based framework to assess progress in the ENP areas related to anti-corruption, namely the judiciary, the public sector and the implementation of international conventions.

The indicators were developed by the Transparency International Secretariat, in consultation with TI national chapters in Armenia, Azerbaijan and Georgia. The wording of each Action Plan was analysed and common objectives related to governance and anti-corruption were identified. Three core areas emerged, which all of the Action Plans address to a greater or lesser extent: judicial reform, reform of the public sector and implementation of international conventions. For each of these objectives, specific sub-objectives were identified related to the principles of independence, transparency, accountability and integrity. Relevant indicators were developed (using international standards and best practices) to measure progress in these areas. Each indicator was scored on a three-point scale of compliance from 0 to 2 (where 0 is non-compliance and 2 is full compliance), based on the collected information which is summarised in an adjacent note. The scoring systems allows for aggregation across indicators to obtain an overall score for each dimension.

The data on which the assessment is based was collected using a desk review of legislation and relevant policy documents, as well as through key informant interviews between November 2009 and March 2010, and covers progress in terms of ENP implementation until end of 2009.

[6] Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Palestinian Authority, Syria, Tunisia, Ukraine.
[7] See 'The Policy: What is the European Neighbourhood Policy?' http://ec.europa.eu/world/enp/policy_en.htm.
[8] All ENP countries except Algeria, Belarus, Libya and Syria have signed an Action Plan.

Findings: Implementation of Governance & Anti-Corruption Commitments of the EU – Azerbaijan Action Plan

Objective 1: Strengthening the Judiciary					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
Ensure Independence of judiciary	To what extent are there legal provisions in place requiring that the selection and promotion of judges be based on merit?		**1**		The selection process for position of judges as envisaged in the Law on Courts and Judges[9] is based on written and verbal exams, organised by the Judges Election Committee[10] under the Judicial Legal Council,[11] the governing body for the judicial system. Upon completion of long-term trainings by successful candidates, this Committee reviews accomplishments of the trainees and interviews them and recommends the list for appointment by the executive branch. The Law on Courts and Judges[12] also provides for the special order of selection to the position of judges, allowing avoidance of procedures envisaged in Article 93-3 of the current law. Provided that candidates are eligible under general requirements[13] and if they additionally enjoy authority in the sphere of

[9] Article 93-3 of the Law on Courts and Judges
[10] The Judges Election Committee was established by the Legal Judicial Council as envisaged by Article 14 of the Law on the Legal Judicial Council dated 28 December 2004
[11] Judicial Legal Council was established under the Presidential decree #30 dated 1 December 1998 and functions in accordance with the Law on the Legal Judicial Council dated 28 December 2004
[12] Article 93-4 of the Law on Courts and Judges
[13] Article 126 of the Constitution of Azerbaijan Republic

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
					jurisprudence, and have 20 years of experience in the profession and high moral standards, they can be appointed by executive authorities for the position of senior judges upon the recommendation of the Judges Selection Commission. The latter provisions seem to be rather broad and may allow arbitrary decisions. Promotion is based on attestation and there are no clear systems in place to conduct and execute impartial performance assessment, which allows space for arbitrary decisions.

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	In practice, to what extent is the selection and promotion of judges based on merit?		**1**		TI Az is often invited to be a part of the group of independent observers for the first two selection stages (contrary to the law described above, both stages are conducted in written form – a test and an essay), but never to the final, decisive, face-to-face interview. Final selection is based on rather broadly defined criteria, and according to competition participants (both successful and unsuccessful), selection is not based on merit.[14] Therefore, one may draw a conclusion that there is no adherence to Article 93-3 of the Law on Courts and Judges. What is more, the law does not say anything about the duration of training courses for successful semi-finalists, after which a candidate for position of the judge is invited to an interview. In real life, the courses take up six months of theory studies at the Academy of Justice and a further three months of practice with courts.[15] Furthermore, even with selected candidates, the law does not clarify the processes of appointment of judges. This uncertainty may result in a situation in which selected candidates for the post of judge have to wait for their appointment for years.[16] Given the evidence presented here on the selection of judges, it is unlikely that promotions are entirely based on merit.[17]

[14] Source: Interview with judges and semi-finalists dated 19 March 2010
[15] Source: Interview with Aliovsat Aliev, chairman of Information and Society Public Union dated 18 March 2010
[16] Source: Progress Assessment on the Action Plan which Azerbaijan signed with the European Union, by Azerbaijan National Committee for European Integration (ANCEI), available at http://aamik.az/ts_general/download/Brief_ANCEI_report_on_AP_Azerbaijan-2007_eng.pdf
[17] Source: Interview with Intigam Aliev, president, Legal Education Society, dated 1 March 2010

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	To what extent are there legal provisions which provide for security of tenure (to prevent judges from being threatened with arbitrary termination of their contract)?	**2**			According to the Constitution,[18] judges are independent, accountable only to the Constitution and laws of the Azerbaijan Republic, and are irremovable during the term of the powers. Chairmen and deputy chairmen of courts, as well as chairmen of court boards, are selected from among judges for the period of five years and cannot hold these positions in respective courts for more than two terms.[19] Other judges are appointed for the period of five years, and if no professional deficiencies are found when evaluating activities thereof (i.e. if a judge fully fulfils his/her obligations as set forth by Articles 99 and 99-1 of the Law on Courts and Judges), with the suggestion of Judicial Legal Council their mandate can be prolonged till the end of electoral qualification – 65 years. In special cases this term, again at the suggestion of Judicial Legal Council, could be prolonged till the judge reaches the age of 70 years.[20] Irremovability and inviolability during the term of powers of judges are also covered by other statutory acts.[21] Besides, the Constitution[22] provides that powers of judges can be terminated only according to the rules provided in the law. A judge's power can be suspended or terminated by the decision of Legal Judicial Council if the latter receives information on acts of criminal character and other violations.[23] The bases for the termination of powers of judges are covered in Law on Courts and Judges.[24] Legally, judges are well protected from arbitrary termination of their contract.

[18] Part I of the Article 127 of the Constitution of Azerbaijan Republic
[19] Article 94 of the Law on Courts and Judges
[20] Article 96 of the Law on Courts and Judges
[21] Article 97, Article 100 and Article 101 of the Law on Courts and Judges
[22] Part III of the Article 128 of the Constitution of Azerbaijan Republic
[23] Part IV and V of the Article 128 of the Constitution of the Azerbaijan Republic
[24] Article 113 of the Law on Courts and Judges

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	In practice, is it the case that judges are not removed from office for anything other than misconduct or incapacity to carry out judicial functions?		**1**		In practice, the fact that final appointment is made upon recommendation from the Judicial Legal Council by the President for lower rank judges[25] *without* approval from the Parliament, and for the most senior rank judges[26] *with* approval from the Parliament, does not make the judiciary very independent from the impact of the executive branch. In real life, judges are not free from political interference[27] and obviously fear removal for political reasons.[28] This is indirectly testified by the fact that the courts are flooded with complaints from civil society organisations about the refusal of registration by the Ministry of Justice, which at best are rejected and at worst completely ignored, evidently not willing to go against the Ministry. NGO founders have appealed to the Supreme Court, the Ministry of Justice, the Court and Law Council and other authorised entities to take disciplinary action against senior judges, but to no avail.[29] Judges are also removed for inefficiencies at work and misconduct. According to an interview[30] with the Minister of Justice, in the year 2009 the Judicial Legal Council initiated disciplinary cases against 22 judges, two of whom were fired for serious law violations. Also, the powers of three judges were recently terminated and several judges received reprimands and have been downgraded for being too stern on the accused. Ramiz Rzayev, Head of Supreme Court, in his recent press conference[31] indicated that judges gave too much preference to pre-trial custody rather than milder measures available.

[25] Article 109.9 Azerbaijan Republic Constitution and Article 94, Law on Courts and Judges
[26] Articles 109.9 and 95.10 Azerbaijan Republic Constitution and Article 94 of the Law on Courts and Judges
[27] Source: Global Integrity Report 2009 available at http://report.globalintegrity.org/Azerbaijan/2009/scorecard/91/80b
[28] Source: Interview with an anonymous judge dated 18 January 2010
[29] Source: Progress Assessment on the Action Plan signed between Azerbaijan and European Union (2009), Report on ENP AP of the Azerbaijan National Committee for European Integration, available at http://aamik.az/en/reports.html
[30] Source: Interview of Fikrat Mammadov, Minister of Justice, available at http://www.525.az/view.php?lang=az&menu=2&id=10373
[31] Source: Press Conference by Ramiz Rzayev, Chairman of Supreme Court, available at http://www.525.az/view.php?lang=az&menu=17&id=11612

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	To what extent are there legal regulations in place to ensure that judicial salaries are comparable to those of other high-level government employees?		**1**		The Law on Courts and Judges[32] and Law on Constitutional Court[33] and other statutory acts regulate official salaries of judges of the Azerbaijan Republic. Regulations of salaries of high-level government employees are provided for in special tables of ranks.[34] But there are no laws that correlate judicial salaries to salaries of other government employees.
	In practice, are judicial salaries comparable to the salaries of other high-level government employees?	**2**			In practice, judicial salaries and salaries of high-level employees of both legislative and executive authorities are comparable. For example, salaries of the heads of the Supreme Court and Constitutional Court constitute 1,785 manats (US $2,213)[35] per month, while the head of the Presidential Office is paid 1,900 manats (US $2,356), and the heads of the Parliament Office and Office of Chamber of Accounts receive 1,550 manats (US $1,922). At the same time, the heads of Supreme and Constitutional Courts Offices, as well as of the offices of Judicial Legal Council and Ombudsman are entitled to a salary of 1,525 manats (US $1,891).[36] According to the Minister of Justice, salaries of judges have increased 25-fold as compared to the year 2000,[37] which is evidence of real progress in terms of bringing salaries of judges in line with best international practices.

[32] Article 106 of the Law on Courts and Judges
[33] Article 71 of the Law on Constitutional Court
[34] Source: Public Servant's Budget Memo under State Budget for 2009
[35] The national currency in Azerbaijan is the manat or AZN; the exchange rate to USD is 1.24 as of 1 March 2010 from Bloomberg, available at Coin Mill.Com: The Currency Converter http://coinmill.com/AZN_USD.html#AZN=1
[36] Source: Public Servant's Budget Memo under State Budget for 2009
[37] Source: Interview of Fikrat Mammadov, Minister of Justice, available at http://www.525.az/view.php?lang=az&menu=2&id=10373

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	Is the judiciary legally entitled to propose, allocate and manage its own budget?		**1**		Rules for the financing of courts are envisioned in the Law on Courts and Judges,[38] Law on Constitutional Court[39] and other statutory acts. According to the Law on Courts and Judges, the allocation of the judicial budget is provided under a separate article of the state budget. The respective presidential decree[40] sets the Cabinet of Ministers and Ministry of Justice to manage funding of the courts, while the Ministry of Justice and high instance courts are entitled to send proposals with regard to the next year's budgetary allocations to respective executive authorities, set as the Cabinet of Ministers under another Presidential decree.[41] The above-mentioned shows that the judiciary is not entitled to allocate and manage its budget.
	In practice, does the judiciary propose, allocate and manage its own budget?			**0**	In practice[42] the judiciary is not allowed to allocate and manage its budget; however, high instance courts (but not low instance courts) have the right to propose their budgets. This is another example of the judicial system being dependent on the executive branch. More information on the issue is not available.
	To what extent are there regulations regarding the assignment of cases to judges by an objective method administered by the judiciary?	**2**			According to the rules of assignment,[43] cases shall be assigned on the basis of coding procedures. Names of judges are encoded numerically starting with the number 1. The coding process shall be conducted by random numbers selected at the general meeting of the judges, and cases are assigned in strict sequence of cases received by the court with regards to the coded number of the judges, with the exception of judges who are out of

[38] Article 90 of the Law on Courts and Judges
[39] Article 70 of the Law on Constitutional Court
[40] Decree #30 by the President of Azerbaijan Republic dated 1 December 1998
[41] Decree #29 by the President of Azerbaijan Republic dated 12 February 2004
[42] Source: Interview with judges dated 17 March 2010
[43] Chapter XI of the Instructions on Carrying out of Clerical Work in Courts of Azerbaijan Republic

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
					office or overloaded with cases already assigned. In order to ensure equal assignment among judges, the clerical service of the court draws a supervision list of assignment of cases. A responsible clerk daily shall fill in and sign a list of cases received in sequence. One copy of the supervision list shall be introduced to the chairman of the respective court, with another copy kept in a separate folder. At the end of each quarter the clerical service shall analyse the situation on the assignment of cases with subsequent discussion at the meeting organised by the chairman of the court.
	In practice, are judges assigned to cases by an objective method, in a process administered by the judiciary?		**1**		In practice the distribution of cases in courts is not always conducted in full compliance with the above rules. The instances, in which cases are forwarded to the chairman of the court without being encoded first, and later allocated by his/her arbitrary decision to other judges, are quite frequent.[44] So far no automated innovative technologies are used in courts. "However, there are some discussions on moving to a blind assignment system."[45]
Freedom from Interference	To what extent is there a specific legal framework or constitutional provision to protect judges from external interference or improper influence by public officials or private interests?	**2**			The Constitution of Azerbaijan Republic and Law on Courts and Judges envisage the independence of judges, and prohibits direct or indirect restriction of legal proceedings for any reason, illegal influence, pressing, threat and intervention, and disrespect towards the court.[46]
	In practice, to what extent are judicial proceedings and decisions free of bias or improper influence by public officials or private interests?			**0**	As indicated above, the legislation regulating selection and promotion of judges has loopholes that allow space for undue impact from the executive branch. This is indirectly testified by the fact that some politically colored cases have not been accepted by courts for review. For example

[44] Source: Interview with judges
[45] Source: Global Integrity Report 2009 available at http://report.globalintegrity.org/Azerbaijan/2009/scorecard/91/80b
[46] Article 127-3 of the Constitution of Azerbaijan Republic, Article 9 of the Law on Courts and Judges.

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
					in 2009 all complaints about mistreatment filed by journalists, political party members, NGO representatives, students and others with law enforcement agencies and the courts (including the complaint filed by the editor-in-chief of the *Talishi-Sado* newspaper, Novruzali Mammadov, who died in prison) were rejected.[47] In general the judicial system is under a strong influence from the executive power.[48]
SCORE (Judicial Independence)		**14/24 (58%)**			
Improve **training** of judges, prosecutors and officials in the judiciary (**Human Resource Management)**	To what extent are there legal provisions to ensure that judges, prosecutors and officials are regularly trained in new judicial practices and procedures and new and/or changing laws?	**2**			According to the legislation,[49] the Judicial Legal Council is responsible for upgrading the professional qualification of judges, except for judges of the Supreme Court and Court of Appeal, and ensures the provision of courts with necessary legal materials. However, legislation does not specify the provisions for the training of judicial clerks.
	In practice, is it the case that judges, prosecutors and officials are regularly trained and given access to new judicial practices and procedures and new and/or changing laws?	**2**			Trainings are conducted in the new Academy of Justice, recently set on the basis of the former Legal Training Center within the Ministry of Justice (not fully operational yet). According to an interview with the Minister of Justice,[50] taking into account the significance of trainings for judges in order to eliminate deficiencies and qualifying activities, the Judicial Legal Council learnt international experience and designed a new curriculum based on recommendations of the European Judges Advisory Council and findings of surveys conducted among judges. In 2009 the Judicial Legal Council designed 17 training courses on various topical issues, and all first instance

[47] ANCEI Progress Report for 2009
[48] Global Integrity Report 2009 available at http://report.globalintegrity.org/Azerbaijan/2009/scorecard/91/80b
[49] Article 86 of the Law on Courts and Judges
[50] Source: Interview of Fikrat Mammadov, Minister of Justice, available at http://www.525.az/view.php?lang=az&menu=2&id=10373

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
					court judges were involved in these programs with the participation of experienced foreign specialists. Practice of joint trainings for judges and law enforcement officers is in place. For more please see Objective 3. The Justice Academy will also train other legal professionals, including defence lawyers, which is also a positive development.
SCORE (Judicial Human Resources Management)		**4/4 (100%)**			
Improve **access to justice**	To what extent are there legal provisions which provide for free public defence for persons without means to cover procedural costs?		**1**		According to the Constitution,[51] in cases provided by the law, legal aid is provided free of charge at the expense of the state. Following the Law on Courts and Judges,[52] the right for judicial protection of the rights and freedoms of citizens of the Azerbaijan Republic, as well as foreigners living in its territory and persons without citizenship, as well as legitimate interests of legal bodies, from all encroachments and infringements of laws is provided at any stage of legal proceedings. This issue is also covered by some other statutory acts.[53] Ramiz Rzayev, chairman of the Supreme Court, in his recent press conference[54] spoke of plans to establish an agency to provide barristers for poor families. If people with low income levels cannot afford a lawyer, costs will be paid by this agency based on a contract between a lawyer and an assistance recipient. In practice, the professional level of state lawyers is weak. This is explained by the fact that lawyers with higher qualifications do not wish to participate in processes that

[51] Part II of Article 61 of the Constitution of the Azerbaijan Republic
[52] Article 10 of the Law on Courts and Judges
[53] Article 92.9.24, Article 90.7.9 and Article 91.5.5 of the Criminal Procedural Code, Article 19 and Article 20 of the Law on Attorneys and Advocateship Activities
[54] Source: Press Conference by Ramiz Rzayev, Chairman of Supreme Court, available at http://www.525.az/view.php?lang=az&menu=17&id=11612

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
					are financed from the state treasury, though the price of rendering legal aid at the expense of the state was raised from 0.99 manats (US $1.22) an hour to 2 manats (US $2.48).[55] Today, the cost of such services in the private sphere is estimated much higher and is quoted at minimum 200 manats (US $248) and maximum 5,000 manats (US $6,200) per case[56].[57]
	To what extent are there adequate interpretation services (e.g. for non-native language or deaf court users) in place in the court system?		**1**		According to the Constitution,[58] legal proceedings are carried out in the state language of the Azerbaijan Republic or in the language of the majority of the local population of an administrative unit. Participants of a proceeding not knowing the language of legal proceedings are guaranteed the right of full acquaintance with materials of the case, participation in court by means of a translator and verbal pleading in court in the native language. This is also covered by several other laws.[59] In practice, there are very few translators with knowledge of a foreign or local language and an understanding of the legal system, and the quality of translations leaves much to be desired.[60]
SCORE (Access to Justice)		**2/4 (50%)**			

[55] Source: http://www.baki-xeber.com/new/2010/02/01/get=39778
[56] There is no practice for lawyers in Azerbaijan to bill per hour, except for a few big legal firms
[57] Source: Interview with Intigam Aliev, president, Legal Education Society 1 March 2010
[58] Part X of the Article 127 of the Constitution of Azerbaijan Republic
[59] Article 14 of the Law on Courts and Judges, Article 26 and Article 99 of the Criminal Procedural Code, Article 11 and Article 65 of the Civil Procedural Code
[60] Source: Interview with a judge dated 18 January 2010

Objective 1: Strengthening the Judiciary - continued						
Sub-objective	**Indicators**		**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
			Full	**Partial**	**None**	
			2	**1**	**0**	
Ensure the judicial sector has adequate **resources** to carry out its functions	**Financial Resources**	To what extent are changes in the overall judicial budget commensurate with the growth of the national budget and also reflect changes in demands for judicial services?	**2**			According to the Statement of the Chamber of Accounts[61] on the Draft Law[62] of Azerbaijan Republic on the State Budget for the year 2010, allocations to the judiciary increased threefold during last five years, and it was allowed to expand the number of courts and judges, as well as to upgrade the material and technical base of the judiciary. Allocations to the judicial budget for 2009 as compared to 2008 increased in absolute terms but decreased in proportion to the overall budget. As for the 2010 budget forecast the picture is slightly different: the overall decrease of the state budget, due to a decline in oil prices, resulted in a decrease of the judicial budget but a growth of the judiciary's share of public funds. This signifies that the government provides proper funding to the judicial system, even at the expense of other sectors of the public economy.
	Human Resources/Capacity	Are there procedural rules in place to discourage excessive adjournments; ensure judges have adequate time to hear cases and prepare judgments; and ensure that appeals are	**2**			Procedural operations are defined in the Civil Procedural Code,[63] Criminal Procedural Code[64] and Law on Administrative Execution,[65] Administrative Procedures Code[66] and other statutory acts. In cases not covered by the legislation, these shall be defined by court. For example, preparatory sessions for criminal cases in low instance courts and those reviewed by the Court of Appeal shall be heard within 15 days after the entry of the case, and this term can be prolonged up to 30 days depending on the volume of a case, while the court hearing shall be conducted a maximum of 15 days after a preparatory session is over. Appeals to Supreme Court shall be heard within 30 days after finalisation of the initial review. Sanctions are established and executed for excessive

[61] Source: http://www.ach.gov.az/index.php?/az/content/319
[62] The draft law has been signed into law as of the date of this report
[63] Chapter X of Civil Procedural Code
[64] Article 48.2.3, Article 202 and Article 203 of Criminal Procedural Code
[65] Article 48 of Law on Administrative Execution
[66] Chapter V of Administrative Procedures Code

Objective 1: Strengthening the Judiciary - continued						
Sub-objective	**Indicators**		**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
			Full	**Partial**	**None**	
			2	**1**	**0**	
		(whether physical or online), etc?				staff: paralegals and judicial clerks who are neglected by training programs, which primarily focus on judges. This is especially true of provincial courts in comparison to the courts in the capital city of Baku, which are much better equipped and staffed.[74]
SCORE (Judicial Resources)		**6/8 (75%)**				
Improve **transparency** of judiciary	To what extent are courtroom proceedings required by law to be open to the public and the media?		**2**			According to the Constitution,[75] legal proceedings in all courts shall be held publicly. Hearing of cases in closed sessions is allowed only if the court considers that an open session can disclose a state, professional or trade secret, or if there is a need to keep personal or family issues confidential. Openness of courtrooms is also covered by several other laws.[76]
	In practice, are courtroom proceedings generally open to, and able to accommodate, the public and the media?			**1**		In practice, courtroom proceedings are open, but there are cases when hearings are conducted in closed session for political reasons. For example, journalists were not allowed to enter the courtroom in the process of Intigam Ismayilov,[77] who was dismissed from work due to his pro-oppositional political convictions,[78] and journalists also stayed out of courtroom in the appeal process of former Minister of Economic Development Farhad Aliyev.[79] Journalists also did not manage to enter the courtroom in the trial of young bloggers Adnan Hajizade and Emin Milli.[80] Another example involves representatives of international organisations, embassies and the NGO sector willing to observe the

[74] Source: Survey among judges in Ganja, by TI Az Ganja Legal Resource Center, December 2009
[75] Part V of the Article 127 of the Constitution
[76] Article 12 - Publicity of Legal Proceedings – of the Law on Courts and Judges, Article 10 – Publicity of Court Review – of the Civil Procedural Code and Article 27 - Publicity of Crime Judgement Execution – of the Criminal Procedural Code
[77] Source: http://www.nakhchivan.org.az/content/view/740/28/lang,az/
[78] Source: http://www.nakhchivan.org.az/content/view/736/28/lang,az/
[79] Source: http://www.irfs.az/content/view/938/28/lang,az/
[80] Source: http://ol-az.blogspot.com/2009/09/bir-mhkm-iclas-da-arxada-qald.html

Objective 1: Strengthening the Judiciary - continued						
Sub-objective	**Indicators**		**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
			Full	**Partial**	**None**	
			2	**1**	**0**	
		heard without undue delay?				adjournments by decisions of Legal Judicial Council.
		In practice, are cases heard and judgments handed down without lengthy delays and excessive adjournments?		**1**		Very much different from a couple of years ago,[67] most cases are heard in due time. This is especially true with criminal cases, while some delays may occasionally occur with civil suits.[68] Overall, in practice, judges adhere to the terms of hearing cases[69] and mostly examine them without delay, as the Judicial Legal Council imposes disciplinary penalties for infringement of the given terms.[70]
		To what extent does each judge have the basic tools necessary to do his or her job, e.g., sufficient office space, adequate support staff, word processing equipment, a law library		**1**		According to the legislation,[71] in order to create the necessary conditions for the exercise of justice by courts in line with requirements of the procedural legislation, each court is provided with specially equipped premises, judicial authority signs (national banner, state emblem and official emblem of justice) and judges' gowns, letterhead, stamps, necessary logistical means, etc. Judges are provided with cards identifying their status. Activities and technical/organisational support of judges is provided in a separate article of the state budget. According to first-hand information,[72] new premises allocated for newly set up courts are spacious and well-equipped. A source[73] reveals there still are difficulties in logistics support due to insufficient financial and material support of courtrooms. Another problem is the low professional level of the junior

[67] Source: "Azerbaijan's Yawning Gap between Reforms on Paper and in Practice" by Rena Safaralieva, in Global Corruption Report 2007, publication by Transparency International 2007, available at http://www.transparency.org/publications/gcr/gcr_2007#book
[68] Source: Interview with a judge dated 1 February 2010
[69] Source: Experience of TI Az Advocacy and Legal Advice Center clients
[70] Source: Interview of Fikrat Mammadov, Minister of Justice, available at http://www.525.az/view.php?lang=az&menu=2&id=10373
[71] Article 90 of the Law on Courts and Judges
[72] Source: Interview of Fikrat Mammadov, Minister of Justice, available at http://www.525.az/view.php?lang=az&menu=2&id=10373
[73] Source: Interview with regional judges dated 14 March 2010

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
					Supreme Court process of termination of registration of the Election Monitoring Center, who were not allowed into the court building by police officers.[81] Observers were told that there are instructions not to let outside people in. There are courtrooms with cameras installed for court records, but no cameras outside courtrooms for people to observe processes online.
	To what extent does the law require that judicial decisions be published and be open to public scrutiny?		**1**		There is no regulation in statutory acts obliging courts to publish all court rulings, except for a few instances described further. Decisions of plenary sessions of the Constitutional Court shall be published in the official state newspapers.[82] The Civil Procedures Code envisages that[83] all court rulings by which new statutory acts are adopted or old acts that lose their legitimacy shall be published in the mass media. According to Fikrat Mammadov, Ministry of Justice,[84] in order to ensure transparency of court activities, discussions are underway to publish all court rulings of higher instance, including annulled and changed decisions of lower instance courts.
	Are judicial decisions published?		**1**		As indicated above, decisions of plenary sessions of the Constitutional Court are indeed published in the official state newspapers, *Azerbaijan*, *Respublika* and other official newspapers.[85] In some cases, decisions of the Supreme Court and Court of Appeal are published on their websites. Supreme Court Plenary decisions are compiled and published in a special journal (brochure) on a regular basis. However, no examples of decisions of courts of first instance being published are available.[86]

[81] Source: http://azadliq.az/?p=9810
[82] Article 69 of the Law on Constitutional Court
[83] Article 221.3, Article 304.3 of the Civil Procedural Code
[84] Source: Interview of Fikrat Mammadov, Minister of Justice, available at http://www.525.az/view.php?lang=az&menu=2&id=10373
[85] Article 69 of the Law on Constitutional Court
[86] Source: Interview with anonymous lawyer dated 19 January 2010

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	To what extent does the law require that a transcript of courtroom proceedings be maintained and made available to the public?		**1**		There are legal obligations in the Civil Procedures Code,[87] Criminal Procedures Code[88] and other legal texts regulating the rights of participants of court hearings to get acquainted with the transcripts, but there are no legal provisions to make transcripts available to the public. Maintenance of transcripts is regulated by Instructions[89] on Carrying out of Clerical Work in Courts, which also provides for the list of those who can get acquainted with materials with permission from either the chairman of the court or a judge, upon production of documents revealing identity of the requestor (passport, military ticket, etc.).
	Is a transcript or some other reliable record of courtroom proceedings maintained and available to the public?		**1**		Yes, transcripts are maintained and participants of a lawsuit, as stated above, can get acquainted with materials in courtrooms. In cases where participants of the process disagree with the transcripts (misinterpretation or an important issue missing), they can take a copy of the transcripts and submit a protest to the judge. In general, both individuals and legal persons of the Azerbaijan Republic have the right to use documents of the State Archive Fund.[90] Depending on terms of keeping documents in the Fund, rules of using documents of the State Archive Fund are specified by the organ of the respective executive authority. Court archives are sent to the National Archive in rare cases and mostly are stored in the court itself, which does not make the Archive very useful.[91] In summary, reliable records of courtroom proceedings are kept but they are not available to the general public. As described above, there are no rules obliging courts to give out court materials at a simple request and no provisions prohibiting this. Court authorities use this

[87] Article 47.2 of Civil Procedural Code
[88] Article 22 of Criminal Procedural Code
[89] Chapter XXII and Chapter XXIII of the Instructions on Carrying out of Clerical Work in Courts of Azerbaijan Republic
[90] Article 16 of the Law on National Archive Fund
[91] Source: Interview with a practicing lawyer dated 9 February 2010

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
					loophole in the legislation and thus complicate access to court materials to general public and media.[92]
SCORE (Transparency)		**7/12 (58%)**			
FINAL SCORE (Judicial Reform)		**33/52 (63%)**			

[92] Source: Interview with Intigam Aliev, president, Legal Education Society dated 1 March 2010

Objective 2: Civil Service/Public Sector Reform					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
Independence, **Accountability** and **Transparency** of Civil Service	To what extent are there regulations which prevent undue political interference in the appointment and promotion of civil servants?		**1**		The Azerbaijani legal framework has a series of normative legal acts regulating the civil service,[93] the most important being a special Law on Civil Service. Article 27.1 of this law sets the right to be recruited for civil service to all citizens aged 16 and over, having professional skills in accordance with requirements of the relevant position and regardless of their race, nationality, language, sex, social origin, property status, place of residence, religion, beliefs, membership in social and other organisations. Article 4.1.9 of the named law also sets equal rights for all citizens to be employed and promoted in the public sector, except for prohibitions for the entry set in Article 27.2. In accordance with Article 28 of the named law, entry into the civil service is conducted on a competitive basis. While medium and senior grades shall only undergo an interview, according to Article 29.2, recruitments for the lowest grades of 6 to 9 of the public service table shall be performed under competition *and/or* an interview. In case of competition, persons successfully passing exams are allowed to the next stage – an interview. According to Article 29.7 of the law, the interview is conducted by a commission of at least three people, including the person concerned, i.e. a representative of the employing public institution. In fact, this may lead to a pre-judged decision and political interference in the appointment process. As for promotion, the regulations are vague and allow more space for arbitrary decisions.[94]

[93] Law on Civil Service, dated 21 July, 2000 # 926-I; Law on Mandatory insurance of civil servants, dated 30 April, 2002 # 318-IIQ; Decree of President on Adoption of Regulations on entering the civil service through the competition dated 24 June, 2009, # 108; Decree of President on Establishment of Commission on Civil Service dated 19 January, 2005 # 180; Decree of the President on Approval of Regulations of the Civil Service Commission 3 June, 2005 # 247; Ethics code of civil servants dated 31 May, 2007 # 352-IIQ

[94] Source: Article 32, Law on Civil Service, dated 21 July, 2000 # 926-I

Objective 2: Civil Service/Public Sector Reform - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	To what extent are recruitment and promotion regulations effective in preventing political interference (e.g. are selection committees able to work without political interference)?		**1**		In practice, civil society is invited to paper/computer-based tests and a written essay of the recruitment process in several key public agencies[95] and all NGOs, including TI Az, who monitor the first two stages finds them fair and transparent.[96] However, the final stage, the interview, is conducted behind closed doors, with the final selection criteria not clearly defined in the legislation. The right of civil society to monitor the recruitment process is not set forth in the legislation and can be revoked easily. However, with the consent of the applicant, an interview can be video recorded and made available to independent observers at request. Moreover, the Civil Service Commission had established an appeal commission responsible for the review of appeals from unsatisfied applicants.[97] Also, some ministries hire new people as individual consultants (under a service agreement). In fact, these are not considered full-fledged civil servants and are not entitled to a benefit package, though they execute the same duties and receive the same salaries. When a competition for the "vacant positions" is announced, these people go through the standard procedure (competition and/or interview), but they are, in fact, in a more advantageous position. A similar scheme is often applied with promotion. Civil servants can be promoted as acting department heads. As a result, people perform functions for years but are not fully protected by the law and thus are vulnerable and easily manipulated. There are numerous cases in which newly appointed heads of public agencies make use of the provisions of Article 29.2 to downgrade civil servants in order to appoint new, loyal people brought along from previous jobs to key positions.[98] This occurs despite Article 21.4 of the Law on Civil Service, which clearly prohibits the excuse of changes in the structure or management of public agencies as grounds for termination from the civil service.

[95] Ministry of Justice, Prosecutors; Office, Judiciary, Ministries of Foreign and Internal Affairs
[96] Source: TI Az first-hand experience
[97] Source: Letter from B.Xalilov, chairman, Civil Service Commission under the President of Azerbaijan Republic dated 23 April 2010
[98] Source: Interview with an anonymous informant, dated 23 January 2010

Objective 2: Civil Service/Public Sector Reform - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
					The evidence suggests that civil servants are not protected from political interference in Azerbaijan, and this view is shared by many other observers.[99]
	To what extent are there comprehensive regulations regarding political activities of existing civil servants (e.g. political party membership, expression of political views)?	**2**			Article 20.1.6 of the Law on Civil Service forbids joining activities of any political party during the term of civil service. Article 4.2 of the Law on Civil Service[100] also forbids the establishment of branches of political parties in the civil service. Article 4.3 says that while performing duties civil servants shall be guided by the Constitution of the Republic of Azerbaijan, laws and other legislative acts and not be impacted by decisions of political parties and social organisations. Under Article 10.4 of the named law, the legal status of the persons holding political positions shall be determined by other legislative acts, unless otherwise specified in this law. Article 31.5 of the law prohibits attestation of civil servants on the basis of their political views or beliefs. These legal provisions seem to be clear and sufficient to make the public service free from political views.
	To what extent are these regulations enforced?		**1**		In reality, civil servants are encouraged to join events conducted by the ruling party of Yeni Azerbaijan, and there are even cases in which the chairs of branches (regional offices) of the ruling and supporting political parties are civil servants. However, joining the activities or membership in opposition parties is considered to be a serious disadvantage and will sooner or later result in dismissal from the office under an unrelated pretext.[101]

[99] Source: Indicator 45; Global Integrity Report 2008, available at http://report.globalintegrity.org/Azerbaijan/2008/scorecard/54
[100] Source: Law on Civil Service, dated 21 July, 2000 # 926-I
[101] Source: Interview with an anonymous informant dated 23 January 2010

Objective 2: Civil Service/Public Sector Reform - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	To what extent are there legal requirements for the disclosure/declaration of personal assets, income, financial interests for public sector employees?**		**1**		Under Article 5 of the Law on Combating Corruption, public officials should file regular asset disclosure forms illustrating sources, types and amount of income, stock holdings, taxable properties and other assets. Article 3.1 of the Law On Approval of Rules for Submission of Financial Information by Officials stipulates that among others, the senior echelon of public officials, including the President, should submit their declarations to the Anti-corruption Commission, and lower ranks to the respective financial/accounting departments. Under the named law,[102] civil servants shall submit a declaration within 30 days of taking up their responsibilities. The Cabinet of Ministers was instructed to draw up such forms and rules, which has not been carried out so far.[103] The mechanism for verification of financial declarations has not yet been set up. Thus, the legislation does not define an independent auditing of the executive branch asset disclosure forms. Under Article 8 of the latter law, the Commission itself controls the accuracy of the information submitted.[104] Article 6.5 of the Law On Approval of Rules for Submission of Financial Information by Officials[105] envisions administrative responsibility for delay, while criminal responsibility for the willful falsification and concealment of information is also set forth in the Crimnal Code.[106] The Law on Combating Corruption also refers to disciplinary procedures.[107] However, it is not clear from the language of the law what disciplinary procedures or punishment would be applied, and it is unknown if any have been applied. Still, both elected and appointed officials can be brought to criminal responsibility for the falsification of documents.[108]

[102] Source: Law On Approval of Rules for Submission of Financial Information by Officials # 93-IIQ, dated 7 April, 2006
[103] Source: Presidential Decree #278 dated 9 August 2005
[104] Source: Global Integrity Report 2009 http://report.globalintegrity.org/reportPDFS/2009/Azerbaijan.pdf
[105] Source: Law On Approval of Rules for Submission of Financial Information by Officials # 93-IIQ, dated 7 April, 2006
[106] Source: Article 313, Criminal Code of Azerbaijan Republic # 787-IQ, dated 30 December,1999.
[107] Source: Article 6, Law on combating corruption, effective 1 January 2005
[108] Source: Article 313, Criminal Code of Azerbaijan Republic # 787-IQ, dated 30 December, 1999

Objective 2: Civil Service/Public Sector Reform - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	To what extent does disclosure of personal assets, income, financial interests of public sector employees occur in practice?**			**0**	So far, public officials have not submitted any financial declarations because as indicated above, no forms for such a disclosure have been prepared and approved by the authorised agency, i.e. Cabinet of Ministers.
	To what extent are there legal regulations protecting civil servants against arbitrary dismissals or political interference?		**1**		Article 10 of the Law on Rules of Ethical Behavior for Civil Servants provides that civil servants shall follow only legal orders within their authority and given/issued by higher officials. The above-mentioned article partially provides for the protection of civil servants from the execution of illegal orders and assignments. However, Article 33 of the Law on Civil Service provides for more reasons of termination of civil service, including omission of duties. The grounds for dismissal from the civil service are violations of Article 18 (which lists the duties and obligations of civil servants) and Article 20 (setting prohibitions for civil servants). These two articles could be broadly interpreted and thus provide little legal protection. Article 20.1.6 forbids participation in the activities of political parties; however as described above, this is quite common in respect of the ruling party.
	In practice, are the regulations protecting civil servants from arbitrary dismissal effective?		**1**		Thus, the existing Law on Civil Service specifically provides that new appointments to senior positions or restructuring of public agencies shall not serve as a basis for civil service termination.[109] However, this norm is not supported by implementing regulations. Neither the authorised public agency (Commission on Civil Service) nor civil society are allowed to conduct monitoring and compile statistics of dismissals as a result of changes in key positions at public institutions. The information on administrative reviews of cases from civil servants is not available. According to several sources and TI Az Advocacy and Legal Advice Centre cases, these regulations in practice are more often ineffective, despite the fact that the Law on Civil Service provides civil servants with

[109] Source: Article 21, Law on Civil Service, dated 21 July, 2000 # 926-I

Objective 2: Civil Service/Public Sector Reform - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
					the right to protect his/her legal rights and interests in authorised agencies and court.[110] However, TI Az's Advocacy and Legal Advice Centre has received first-hand information on cases of restoring a job after wrongful dismissal at the Ministry of Communication and Information Technologies with the help of a civil society organisation, and at the Copyright Agency under a court decision.[111] Thus, this indicator is scored at 1, as regulations are neither utterly ineffective nor effective, and rather depend on an individual case and the persistence of the dismissed to defend their rights. Procedures on judicial protection of rights are set forth in the Civil Code.
SCORE (Independence, Accountability and Transparency)		**8/16 (50%)**			
Human Resources	To what extent are wages in the public sector competitive enough to sustain an appropriate standard of living for public sector employees, in accordance with the country's economic		**1**		In general, the current level of wages in the public sector is not sufficient to sustain an appropriate standard of living for public sector employees, which provokes a general tendency of the moving of low- and medium-level civil servants to the private sector.[112] This is despite the fact that the country is definitely not poor. Azerbaijan's GDP is based on purchasing-power-parity (PPP) per capita at US $9,352, according to IMF 2009 data,[113] which makes its economy No. 81 out of 181 surveyed worldwide. Still, the minimum wage for public sector employees is determined as follows (as of 1 March 2010 in USD official exchange rate): 175 manats (US $217) per month for administrative staff and 120 manats (US $149) for the assisting staff.[114] These salaries for newcomers are basic and are increased depending on work experience and grades. By comparison, the minimum wage is set at 75 manats (US $93),[115] while the minimum living standard calculated by the government is 77 manats (US $95),[116] which is 30% below realistic consumer basket as per independent experts.[117]

[110] Source: Article 19.0.9, Law on Civil Service, dated 21 July, 2000 # 926-I
[111] Source: TI Az first-hand experience
[112] Source: Interview with an anonymous informant dated 25 January 2010
[113] Source: http://en.wikipedia.org/wiki/Richest_country
[114] Source: Memory booklet, publication of Azerbaijan Ministry of Finance, 2009, Expert publishing house
[115] Source: Presidential Decree #2577, dated September 2008
[116] Source: Law on Living Standard Minimum for 2010 dated 26 November 2009

Objective 2: Civil Service/Public Sector Reform - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	situation?				It should be noted that the wage profile in the public sector is very uneven. Some agencies pay wages competitive with the private sector rate, mostly in law enforcement and the petroleum production and refining sector. For example, the salary of the chairman of the Supreme Court is set by the law at 1,785 manats (US $2,222).[118] Some sectors (social services) pay extremely low wages. Therefore, according to the report of the State Statistics Committee, the average salary in the civil service is US $429 (as of 10 June 2009).[119]
	To what extent are there legal provisions to ensure that civil servants are regularly trained to improve their technical and managerial competencies?		**1**		According to Article 19.0.13 of the Law on Civil Service, civil servants have a broadly defined right to be educated at the state's expense and receive relevant training, as well as to take a leave for an educational purpose in an order provided by the law. More details are specified in the Resolution of the Cabinet of Ministers, which sets out the types and terms of professional trainings for civil servants; as well as financing procedures for the additional trainings.[120] The Civil Service Commission, under the President, is responsible for coordination of the training activities in public institutions.[121] More concrete obligations of the state bodies to educate employees are foreseen in some sector regulations. For example, Article 2.9 of the Ethics Regulations of Justice Servants provides for rights and obligations with regard to the conduct of training programs for members of the judicial services. However, the regulations do not specify the content of the training programs nor the consequences for dereliction of duties by officials responsible for the organization of such programs. Moreover, there are no monitoring and evaluation mechanisms for the trainers and trainees.

[117] Source: Azerbaijan's minimum wage well below cost of living: interview with economist Ogtay Ahverdiyev, 19 January 2010, available at http://www.news.az/articles/6965
[118] Source: Law dated 8 May 2007 on amendment to the to the Article 106 of the Law on Courts and Judges, dated 10 June 1997
[119] Source: APA newspaper http://az.apa.az/news.php?id=156681
[120] Rules on types, forms, terms and financing of the additional professional trainings for civil servants, Cabinet of Minsiters Resolution No 44 dated 19 March 2009.
[121] Presidential Decree No 247 dated 3 June, 2005

Objective 2: Civil Service/Public Sector Reform - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	In practice, is it the case that civil servants are regularly trained to improve their technical and managerial competencies?		**1**		In practice, the availability and quality of professional training programs vary dramatically from one public agency to another. Most national public agencies have their own training centres and conduct structured induction trainings for newcomers (Customs Committee, Ministry of Taxes, Prosecutors, Ministry of Justice, Ministry of Internal Affairs, etc.) and mid-career professionals. In addition, some civil servants receive mid-career trainings in Azerbaijan and abroad under the technical assistance projects to these public agencies, implemented with support of USAID, EU, CoE, GTZ, etc., as well as international organisations.[122] Some Azerbaijan public institutions have demonstrated success in this area, for example the establishment of the WCO regional training centre in Baku by the World Customs Organization. The information that the public agencies are conducting trainings aimed to improve their managerial skills and competences is available for certain public institutions. The state body responsible for conducting of trainings for civil servants is the Academy of Public Administration under the President of Azerbaijan Republic, which have a low capacity to conduct trainings on the improvement of technical and managerial competences.[123] The information providing the justification of promotion in the civil service under the professional upgrade is not available.
	To what extent are there provisions to ensure that civil servants are regularly trained about ethics, integrity and codes of conduct in the public sector?****		**1**		Training on ethics issues is broadly envisioned in Article 19.0.1 of the Law on Rules of Ethical Behavior for Civil Servants and sector codes of conduct – e.g., for judges, prosecutor's office employees, police officers, tax and customs officials, and internal regulations at some public agencies. Organization of quarterly training programs on issues of ethics and integrity is envisioned in the Action Plan of the Civil Service Commission.[124] However, existing regulations do not specify the contents of trainings or repercussions for non-compliance.

[122] Source: The list of seminars and trainings conducted at Customs Committee is available on http://www.az-customs.net/az/arxnews/
[123] Source: List of events conducted at the Academy of Public Administration http://www.dia.edu.az/xeber_en.php
[124] Action Plan for 2009-2010 of the Civil Service Commission, which is part of the implementation of the National Strategy for Increasing Transparency and Combating Corruption.

Objective 2: Civil Service/Public Sector Reform - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	In practice, is it the case that civil servants are regularly trained about ethics, integrity and codes of conduct in the public sector?****		**1**		The code of ethical behaviour – with sections on corruption, gifts and conflicts of interest – is included in the curriculum of the training of all central and executive bodies, judges and prosecutors. In general, training programs at law enforcement agencies, as well as the Ministry of Taxes and Customs Committee, are much better organised and coordinated in comparison to other public agencies.[125] A series of training courses have previously been organized by the Civil Service Commission on its own and jointly in cooperation with international organizations, such as Council of Europe and UNDP.[126] Available reports of public agencies do not specify information on the duration, topics nor the rankings of the recipients of trainings.
SCORE (Human Resources)		**5/10 (50%)**			
Integrity	To what extent are there legal provisions in place to protect whistleblowers in the public sector?***			**0**	Protection of whistleblowers is envisioned in the draft law on Conflict of Interest, the adoption of which has been delayed, while existing legislation is rather inconsistent on the issue. Although a public official shall be subject to criminal liability for failure to report serious or especially grave crimes,[127] and few corruption related offences fall under this category, there is no legal protection for those who do. In other words, if officials do not report grave incidents they may be punished, and in case of lighter offences they will get away with it, except for police officers who are required to report all kinds of law violations.[128] But if they do, the law will not protect them unless a criminal case is opened, and then the Law on State Protection of Participants of the Criminal Process steps in. Hence, as of now there is really no motivation for officials to do so. Ordinary citizens do not have any reporting obligations and receive some protection under the Criminal Code[129] – i.e. they are freed from criminal responsibility for paying a bribe if they reported it before the information became known to law enforcement bodies, or if they have been exposed to a threat on the part of an official.

[125] Source: www.taxes.gov.az and www.customs.gov.az
[126] Source: Letter from B.Xalilov, chairman, Public Service Commission under the President of Azerbaijan Republic dated 23 April 2010
[127] Source: Article 182, Criminal Code of Azerbaijan Republic # 787-IQ, dated 30 December, 1999
[128] Source: Articles 13 and 15, Law on Police # 727-IQ, dated 28 October, 1999
[129] Source: Note to Article 312, Criminal Code of Azerbaijan Republic # 787-IQ, dated 30 December, 1999

Objective 2: Civil Service/Public Sector Reform - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	To what extent are whistleblowers in the public sector protected in practice?***			**0**	Protection of whistleblowers in practice is nonexistent, which is supported by other external evaluations.[130] Statistics are not available on the reporting of corruption-related offences. There are no specific systems to receive signals of suspicions of corruption with most public agencies (exceptions being the Ministries of Tax and Education). However, many government bodies have online facilities and hotlines through which people, including officials, can report anything, including corruption suspicions. At any rate, the efficiency of these tools is minimal, as the law prohibits reviewing anonymous reports and few people, least of all civil servants, would dare to reveal their identity when reporting corruption suspicions. The gap in the official whistleblower mechanisms has partly been filled by civil society organisations such as TI Azerbaijan's Corruption Hotline. However, it should be noted that even civil society does not receive many reports other than complaints from victims of corruption themselves, as the reporting of somebody else's misdoings is contrary to national culture.

[130] Source: Public Anti-corruption Initiatives available at http://www.business-anti-corruption.com/country-profiles/europe-central-asia/azerbaijan/initiatives/public-anti-corruption-initiatives/

Objective 2: Civil Service/Public Sector Reform - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	To what extent are comprehensive codes of conduct regarding conflicts of interest, rules on gifts and hospitality, post-employment restrictions, etc. for public sector employees in place?*	**2**			In place are the comprehensive Law on Rules of Ethical Behavior for Civil Servants and the Law on Combating Corruption, which were developed with substantial input from civil society and are generally viewed by the external experts as comprehensive and substantive laws. There are also specific Codes of Ethics for Customs, Tax, Ministry of Internal Affairs and Ministry of Justice servants. Generally, the legislation is rather well developed and will be further elaborated in the Law on the Prevention of Conflict of Interest, which is currently in the draft stage. However, these laws are not free of deficiencies in the area of hospitality. Namely, Article 8 of the Law on Combating Corruption allows "ordinary hospitality," but unlike the case of gifts it does not set forth any limit in monetary expression. As for the prevention of conflict of interest, this area is not well covered due to delays with the adoption of respective legislation. This is discussed in more detail in objective 3. Some restrictions for post-employment are set forth for law enforcement officers. The law sets out a prohibition for civil servants to move to entities supervised when in public service within period of time, again as set forth by the legislation.[131] However, this time period and other measures remain unspecified and shall be set forth by the Law on the Prevention of Conflict of Interest, which was passed in the Parliament in the first reading in mid-2006 but has stalled since.
	To what extent are these codes of conduct followed in practice?*	-	-	-	There are no implementing regulations allowing the authorised public agency (Commission on Civil Service) and/or civil society to monitor and report on the status of the implementation of codes of conduct at public institutions. Neither is there any information on the level of implementation of codes in the available reports by public institutions. This indicator is not scored, as no sufficient information on the issue is available.

[131] Source: Article 15.3, Law on Rules of Ethical Behavior for Civil servants # 352-IIIQ, dated 31 May, 2007

Objective 2: Civil Service/Public Sector Reform - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
SCORE (Public Sector Integrity)		**2/6 (33%)**			
FINAL SCORE (Public Sector Reform)		**15/32 (47%)**			

Objective 2: Civil Service/Public Sector Reform - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
Optional Indicators					
Public Procurement	To what extent do public procurement regulations exist requiring open competitive bidding as a general rule with exceptions regulated in the law kept to a minimum?	**2**			The Law on Public Procurement[132] sets several procurement methods based on the value of the supposed price. If the supposed price is more than 50,000 manats (US $62,000), it shall follow the open tender procedures; if the supposed amount is between 2,000 manats (US $2,489) and 50,000 manats (US $62,000), the method of request for quotations may be followed. The law specifies the criteria and methodology for the use of a two-stage tender process, limited participation and procurement from the one-source method. Information on bids is available at www.tender.gov.az, as well as major newspapers. Article 19 of the named law determines special cases when limited and closed tenders shall be conducted and these cases seem reasonable. However, the method of procurement from one source[133] is not supported by the detailed implementing regulations, thus creating opportunities to avoid transparency of public procurement.

[132] Source: Law on Public Procurement # 245-IIQ, dated 27 December, 2001
[133] Source: Article 21, Law on Public Procurement # 245-IIQ, dated 27 December, 2001

Objective 2: Civil Service/Public Sector Reform - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	In practice, to what extent is open bidding the general rule for public contracts, with exceptions regulated in the law and kept to a minimum?		**1**		In practice, the bidding process for public contracts is open and information about them is available. In accordance with the Report of the State Procurement Agency, the major part of procurement is conducted under the open tender method (approximately 94%).[134] According to statistics of the State Procurement Agency for 2008, the total number of bids was 8,839,[135] for a total amount of 2.5 billion manats (US $3.1 billion). However, information on tenders with participation of domestic subcontractors and amounts of fewer than 10 million manats can remain unpublished under the existing legal framework,[136] which is another grey area of concern. So, information on most tender winners, as well as the total number of projects, is not available. Some sources even claim that tenders for most of the contracts have not been held, and that "contractors are defined on the basis of mysterious decisions".[137]
	To what extent are there detailed formal rules (weighting evaluation criteria, use of price lists, certified quality standards, awards set by committees, etc.) to ensure objectivity in the contractor selection process?		**1**		Article 36 of the law[138] determines the general rules for the review, assessment and comparison of tender proposals. With regard to implementation of the latter article, the State Procurement Agency had adopted the general Methodological Instructions for the review, assessment and comparison of tender proposals. However, the detailed formal rules to ensure objectivity in the contractor selection process have not been adopted yet. The current Azerbaijan system of quality assessment is under development (EU Twinning, GTZ, etc., technical assistance projects, providing assistance for the development of national legislation and institutional framework in the field of technical regulation, certification).

[134] Source: Report on state procurement by state agencies and enterprises of the Azerbaijan Republic for 2008, available at http://tender.gov.az/hesabatlar/Hesabat2008.html
[135] Source: Report on state procurement by state agencies and enterprises of the Azerbaijan Republic for 2008, available at http://tender.gov.az/hesabatlar/Hesabat2008.html
[136] Source: Order 124 of the Ministry of Finances, dated 22 July 2002
[137] Source: Global Integrity Report 2009 available at http://report.globalintegrity.org/Azerbaijan/2009/scorecard/62/51j
[138] Source: Law on Public Procurement # 245-IIQ, dated 27 December 2001

Objective 2: Civil Service/Public Sector Reform - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	To what extent are these rules followed in practice?		**1**		It is difficult to judge to what extent these rules are followed in practice, but some picture can be drawn based on the surveys among companies, tender participants and independent journalist investigations. "There are cases when information about the winner of tender is not disclosed. At the same time, there are indirect obstacles which hinder suppliers to bid. In particular, there cases, where bidders' participation fees are not refunded to suppliers, resulting in limited number of bidders."[139] The following challenges exist in the procurement sector: - Business leaders rate the diversion of public funds to companies, individuals, or groups due to corruption with a score of 3.8 on a 7-point scale (1 being "very common" and 7 "never occurs"). - Business leaders rate the favouritism of government officials towards well-connected companies and individuals when deciding upon policies and contracts with a score of 3.6 on a 7-point scale (1 being "always show favouritism" and 7 "never show favouritism").[140] Also, 37.6% of the companies surveyed expect to give gifts to secure a government contract, with the value of a gift expected to secure a government contract being 1.1% of the contract value.[141] Also, existing legislation provides for the establishment of tender committees comprised of authorised representatives of several public agencies involved. Thus, decision-makers are all the time selected from the same restricted number of people. There is nothing to stop the recurrent committee members from developing "favourites". Independent, medium-sized local businesses do not even try to participate in the tender process unless they have established informal contacts in advance.[142] In addition, there is need for developing and promoting monitoring procedures.
	To what extent does the law provide for a		**1**		Article 24 of the Law on Public Procurement[143] provides contractors with the right to appeal the decision of the tender commission. However, third parties are not entitled to request a review or complain about a decision

[139] Source: Journalist investigation by F.Suleymanoglu, "Azadliq" newspaper, source http://sei.az/news-656.html)
[140] Source: World Economic Forum: The Global Competitiveness Report 2009-2010 available at (http://www.weforum.org/en/)
[141] Source: The World Bank & IFC: Enterprise Surveys 2009 available at (http://www.enterprisesurveys.org/)
[142] Source: Interview with an anonymous source dated 16 February 2010
[143] Source: Law on Public Procurement # 245-IIQ, dated 27 December 2001

Objective 2: Civil Service/Public Sector Reform - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	procedure to request a review of and appeal against a procurement decision?				of the tender commission. The independence of the reviewing body is questionable, as it is set by the State Procurement Agency. This creates conditions for conflict of interests. In addition, review procedures and existing penal mechanisms as set forth in Chapter VIII of the above law are considered liberal both for the bidder and the supplier.
	To what extent are these review mechanisms effective in practice?		**1**		Statistics on the review of complaints have not yet been disclosed by the State Procurement Agency for the year 2009. The only available report is for the year 2008, which does not provide ample information about the content of complaints. According to the above report, complaints received mainly concerned the organisation of tender procedures and the holding of tenders. As a result of review, the reviewing body gave relevant recommendations and claimed that it had rendered methodical help to ensure impartiality and remove shortcomings.[144] According to a State Procurement Agency's official, "…there are three stages of review of appeal. At first stage, appeal is reviewed by the tenderer; the State Procurement Agency intervenes at the second stage of review; if the complainant is not satisfied with the decision made, he/she may complaint further to the court. Mainly these complaints are solved at the first stage."[145] According to data available to TI Az,[146] the State Procurement Agency received 16 complaints within the first half of 2009. The Agency annulled more than 30 bidding procedures, as a result of considering complaints and monitoring.
	To what extent is there a system in place to monitor public procurement, as well as to			**0**	The law foresees monitoring of public procurement by the State Procurement Agency; however, there are problems with enforcement of the requirements. Part of the problem lies in the absence of comprehensive regulations on monitoring. So the system exists partially. According to an official of the State Procurement Agency, "…the Agency had developed and submitted to the Ministry of Justice the Regulations (instructions) for conducting of monitoring over the implementation of

[144] Source: Report for year 2008, official website of the State Procurement Agency; http://tender.gov.az/hesabatlar/Hesabat2008.html
[145] Source: Interview of Zahid Valiyev, the Head of Trainings and foreign relations sector at the State Procurement Agency to the ANS Press http://anspress.com/index.php?a=2&lng=az&nid=21741
[146] Source: Materials made available to TI Az in connection with the meeting of Azerbaijan NGOs with the team of the OECD Anti-Corruption Network for Eastern Europe and Central Asia preparing the second round of anti-corruption monitoring of Azerbaijan dated 10 December 2009

Objective 2: Civil Service/Public Sector Reform - continued					
Sub-objective	**Indicators**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	detect misconduct and apply sanctions accordingly?				procurement contracts. This control is foreseen by the Law on Public Procurement and Bylaws of the Agency. The enforcement of control would be much more effective upon adoption of the named regulations."[147] In addition, the law does not provide for civil society monitoring of public procurement. According to independent lawyer Mr. Alasgar Mammadli, "The Law on Public Procurement foresees the principle of effectiveness and evidence of use of public money. The effectiveness could be achieved by transparency. There is lack of awareness of general public on these processes. This is not required by the law and therefore represents a serious problem".[148] On the other side, the Procurement Agency is in the process of setting up a blacklist of companies violating tender provisions,[149] in accordance with the provisions of the 2007-2011 National Strategy on Increasing Transparency and Combating Corruption.[150]
	To what extent does this monitoring system function effectively in practice?			**0**	Article 4.1.2. of the law[151] provides the State Procurement Agency with the right to control the implementation of procurement contracts. However, the detailed implementing regulations in terms of control over the implementation of contracts so far have not been adopted. So the effectiveness and legal frame for the monitoring system could not be appraised.
TOTAL SCORE		**7/16 (44%)**			
TOTAL SCORE (Public Sector Reform) – in cases where optional indicators		**22/48 (46%)**			

[147] Source: Interview with Zahid Valiyev, Head of trainings and foreign relations sector at the State Procurement Agency to the ANS Press http://anspress.com/index.php?a=2&lng=az&nid=21741
[148] Source: Journalist investigation of tenders in education sector, by A.Farhadova, "Express" newspaper, available at http://sei.az/news-656.html
[149] Source: Information by the State Anti-corruption Commission on implementation in 2008 of the 2007-2011 National Strategy for Increasing Transparency and Combating Corruption Report, available at http://www.commission-anticorruption.gov.az/upload/file/annual%20NAP%20report%202008.pdf
[150] Source: Strategy is available at www.commission-anticorruption.gov.az
[151] Source: Law on Public Procurement # 245-IIQ, dated 27 December, 2001

Objective 3: GRECO Implementation					
Sub-objective	**GRECO Recommendations**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
Corruption Research	Has the GRECO recommendation to carry out a comprehensive study, in order to gain a clearer insight into the extent of corruption in Azerbaijan, its causes, its features and the sectors most affected by it been implemented?	**2**			The Information and Cooperation Network of the Anticorruption NGOs carried out a relevant survey at the end of 2007 following the order of the State Commission on Combating Corruption. The results were scrutinised at the sessions of the Commission[152] but not made available to public, except for a brief presentation of major findings. The second survey conducted at the end of 2009 is being finalised as of date of this report.[153] In addition, the Commission on Combating Corruption is conducting an ongoing survey assessing the key anti-corruption measures through its website.[154] It is unknown if any actions and measures have been made and/or planned by the Commission pursuant to the surveys' findings.
Public Sector Human Resources Management (Detection and	Has the GRECO recommendation to take the necessary measures to	**2**			This recommendation has been implemented. Pursuant to the recent Presidential decree[155] that sets coordination and cooperation in combating corruption-related violations in the field of management of state and municipal property and means, an amendment was introduced to the internal regulation[156] instructing the Prosecutors to

Objective 3: GRECO Implementation - continued					
Sub-objective	**GRECO Recommendations**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
prosecution of corruption)	improve communication, feedback and cooperation in practice of all agencies involved in the detection, investigation and prosecution of corruption (i.e. police, prosecution and tax authorities) been implemented?				forward court decisions to the relevant investigation departments of other public agencies in order to improve communication and feedback between respective agencies. Enhancement of cooperation was achieved through another innovation[157] : an investigator shall participate in the criminal case circumstances discussion with a public prosecutor appearing in the court on behalf of the state. The practice of establishing joint investigation teams is also extensive. As a rule, all investigation teams are led by prosecutors/investigators of the Prosecutor's Office.[158]
Public Sector Human Resources Management (Police, Prosecution, Tax authorities)	Has the GRECO recommendation to set up a working group of representatives from the various training centres to share best practices and to design a plan for joint training of police, prosecution and tax authorities on investigations into complicated economic crimes, including corruption been implemented?	**2**			The chief of the analytical information division of the Anti-corruption Department under the Prosecutor's Office chairs a newly formed ad hoc working group composed of representatives of the training centres, including the Prosecutor General, Ministry of Internal Affairs and Ministry of Taxes, as well as the Ministry of National Security.[159] This ad hoc group has developed a special curriculum for anti-corruption training modules that were incorporated into the training programs of the agencies referred to above. Some of the training topics may recur for new groups of beneficiaries or at the upgraded level.
Public Sector Human Resources Management (Financial	Has the GRECO recommendation to establish a comprehensive specialised	**2**			The newly formed ad hoc working group is chaired by the chief of the analytical information division of the Anti-corruption Department under the Prosecutor's Office and composed of representatives of the training centres, including the Prosecutor General, Ministry of Internal Affairs and Ministry of Taxes, as well as the Ministry of National Security. The

Objective 3: GRECO Implementation - continued					
Sub-objective	**GRECO Recommendations**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
crimes)	training programme for the agencies concerned to increase their expertise on how to carry out financial investigations (both of financial crimes and of the possible proceeds of crime), in particular as regards corruption, been implemented?				ad hoc group has developed a special curriculum for anti-corruption training modules that were incorporated into the training programs of the agencies referred to above. The topics on how to carry out financial investigations (both of financial crimes and of the possible proceeds of crime) have been included in the above curriculum and have been conducted.[160]
Human Resources Management (Judiciary and Public Sector)	Has the GRECO recommendation to give a core number of prosecutors from the Department for the Defence of the State Indictment and a core number of judges systematic and particular training in dealing with corruption cases – building on existing training opportunities – and to provide that, wherever possible, corruption	**2**			The internal regulation of the Prosecutor's Office[161] draws a circle of public prosecutors authorised to deal with corruption-related cases, while the judicial system does not have a list of designated judges.[162] Various training courses for judges and prosecutors were conducted at the Prosecutor's training centre at least once every three months with the participation of the OSCE, the Council of Europe (AzPac), Germany's Technical Cooperation Organization (GTZ), US Department of Justice, EU Twinning Project with the Prosecutor's Office and other international organisations. These courses also examined precedents set by the European Court of Human Rights.[163] So, in practice, the core number of prosecutors is most often in receipt of such training programs while there seems to be no systematic approach with judges. Though all judges are participating in regular trainings conducted by the Judiciary Council, as well as under various technical assistance projects being implemented, there are no special courts or specialised judges responsible for reviewing corruption trials.

Objective 3: GRECO Implementation - continued					
Sub-objective	**GRECO Recommendations**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	prosecutions should be conducted in court by prosecutors with that systematic training, before judges with such training, been implemented?				
Seizure of Assets	Has the GRECO recommendation to make full use in practice of the new provisions allowing for the confiscation of assets of an equivalent value to the proceeds of corruption and to introduce provisions allowing for the confiscation of assets held by third parties been implemented?		**1**		Article 51 of the Criminal Code envisions mandatory confiscation upon conviction of the assets obtained as a result of corruption or the equivalent value of the proceeds of corruption in case it is not possible to confiscate the actual assets for a number of reasons. It is difficult to assert whether full use has been made of the practice of confiscation, in the view of meager value of the assets confiscated: value of property that was subject to the intermediary measures, such as freezing, arresting, etc. was 105,302 manats (US $131,465) in 2006 and 180,180 manats (US $224,945) in 2007. Neither 2008 and 2009 data, nor data for value of property confiscated as a result of court decisions, is available to TI Az.[164] The new provisions allowing for confiscation of assets held by third parties have been introduced. However, under the Civil Code the confiscation of property from a third person shall be based on a civil suit (within a criminal case), abolishing the transaction with property.
Public Sector Human			**1**		Yes, training on legal provisions on confiscation and interim measures

Objective 3: GRECO Implementation - continued					
Sub-objective	**GRECO Recommendations**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
Resources Management (Seizure of Assets)	Has the GRECO recommendation to establish guidelines and thorough training for those officials (i.e. investigators, prosecutors and judges) who are required to apply the legal provisions on confiscation and interim measures been implemented?				Yes, training on legal provisions on confiscation and interim measures has been implemented. Interim measures are applied by Prosecutors based on the court sanction, while confiscation is performed by court executors (bailiffs) pursuant to the court verdict. There are no special guidelines on how to freeze/arrest and confiscate; at least, information is not available. The confiscation and interim measures are common for all crimes, including corruption, and are regulated by legislation in force; however, there seem to be no special guidelines on how to confiscate.
Seizure of Assets (Legislation)	Has the GRECO recommendation on assessing the effectiveness of	**-**	**-**	**-**	Information is not available. Therefore, no scoring is provided.

Objective 3: GRECO Implementation - continued					
Sub-objective	**GRECO Recommendations**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	the amended Penal Code and on verifying, in particular, that the measures introduced are appropriate for the seizure and deprivation of the proceeds of corruption offences, by collecting detailed information on the use, and failure to use, confiscation and interim measures been implemented?				
Anti-money laundering system	Has the GRECO recommendation to ensure that the anti-money laundering system becomes operational as soon as possible, to rapidly provide the FIU with appropriate staff, resources and access to relevant information sources (databases), to provide training to the FIU's staff as well as to	**2**			Azerbaijan has created a legislative basis to combat money laundering and terrorist financing. Pursuant to the joining of the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime in March 2003,[165] Azerbaijan adopted a law to honor its obligations.[166] Subsequently, the Ministry of Finance dissolved its previous financial structure, and established and as of April 2009 put into operation a new intelligence unit entitled the Public Financial Control Service.[167] The unit is responsible for controlling the use of budgetary funds according to their destination, and it receives and processes reports from reporting agencies. The Ministry of Finance and the General Prosecutor's Office have signed a memorandum of understanding on establishing an effective channel of communication, and from April through December 2009 the unit performed six complex financial examinations pursuant to the request of law enforcement agencies.[168] The unit has received good external evaluation.[169] The FIU is equipped with appropriate staff and resources: its staff is made of 124 persons and it had a budget of 601,600 manats (US $751,072) for the year 2009,[170] but there are deficiencies regarding access to databases.[171] Training was not yet provided to the FIU staff, nor to

Objective 3: GRECO Implementation - continued					
Sub-objective	**GRECO Recommendations**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	investigators, prosecutors and judges on the new provisions, and to educate reporting entities regarding their reporting duties under the new legislation been implemented?				prosecutors, judges and reporting agencies, but it is planned for the year 2010.[172]
Access to Information	Has the GRECO recommendation on (i) setting up the 'Authorized Agency on Information Matters' as provided for in the law 'On the Right to Obtain Information' as soon as possible and to providing it with adequate resources to carry out its functions, (ii) providing training to those civil servants required to respond to requests for information under the new law, (iii) holding civil servants' accountable for			**0**	There are serious gaps between the law on freedom of information[173] and its implementation in practice. The Authorized Agency on Information Matters or Information Ombudsman envisioned by the law has not been set up, though discussions in the Parliament are under way. Neither has the single electronic registry of documents available on the Internet been created. There are no dedicated public information offices in ministries, and though press agencies have been informally instructed to attend to information requests, they have neither official competence nor knowledge on how to do so. The general public cannot get access to information on government departments nor to the designated officials to whom to send requests.[174] No systematic and comprehensive training for those civil servants required to respond to requests for information has been provided; neither are public civil servants being held accountable for failure to comply with the requirements of the aforementioned law. There have been no overt efforts by the authorities to raise public awareness about the right to access to information.[175] However, it should be acknowledged that national authorities have improved their performance in replying to queries compared to previous years. As a result, the rate of responses to information queries is in the range of 25-30% for ordinary citizens and 70-75% for civil society organisations such as TI Az.[176] A number of government agencies have also enhanced their websites and set up information hotlines, speeding up the process of obtaining information, the best sample being the Ministry of Tax. However, the absence of a unique methodology for the establishment and operation of hotlines, as well as legal provisions for

Objective 3: GRECO Implementation - continued					
Sub-objective	**GRECO Recommendations**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	failure to comply with the requirements of the aforementioned law, and (iv) raising the awareness among the general public about their right to access information been implemented?				accountability thereof, diminishes their efficiency. '''
Public Sector – Conflict of Interest	Has the GRECO recommendation to enact and implement standards on conflict of interest for all civil servants and officials – including standards with regard to situations where officials move to the private sector – and to provide for an appropriate mechanism to enforce these standards been implemented?*		**1**		There are several provisions covering conflict of interest in Azerbaijan legislation. Civil servants are obliged to avoid and report potential conflict of interest situations.[178] In addition to specialised legislation covering law enforcement officers, the above law sets out post-employment restrictions, namely prohibiting civil servants from moving to entities in the private sector supervised when in public service within period of time again as set forth by the legislation. However, the full details shall be set forth by the Conflict of Interest Law, which was passed by the Parliament in the first reading in mid-2006 but has been stuck ever since, which has drawn much criticism from civil society. Accordingly, no sanctions for violation of this provision are foreseen in the Administrative or Criminal Code, nor in the Code of Administrative Violations. Thus, no implementing mechanisms exist to prevent conflicts of interest, including post-employment. Even if they were, most senior officials own companies obtained before or during office. Some of them are even in monopoly positions and keep their businesses after being in the government.[179] This recommendation has been partially implemented.
Public Sector – Disclosure of Assets	Has the GRECO recommendation to (i) ensure that financial declarations can		**1**		Under Article 5 of the Law on Combating Corruption, public officials should file regular asset disclosure forms, illustrating sources, types and amount of income, stock holdings, taxable properties and other assets. Furthermore, the Law on Approval of Rules for Submission of Financial Information by Officials covers appointed as well as elected officials,

Objective 3: GRECO Implementation - continued					
Sub-objective	**GRECO Recommendations**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	be verified in an effective manner, (ii) provide for an appropriate means of enforcing the provisions regarding financial declarations with regard to all officials concerned, and (iii) consider disclosing the financial declarations of elected and appointed officials to the public, as a preventive measure, with a view to increasing transparency in the public sector been implemented?**				and requires submission of declarations within 30 days of taking up their responsibilities. Later the Cabinet of Ministers was instructed to draw up such forms and rules for both types of officials as well[180], which so far has not been carried out. As to the agency that is the recipient of such declarations, according to the Law on the Rules, the senior echelon of public officials including the President shall submit declarations to the Anti-corruption Commission, and lower ranks to the respective financial/accounting departments. Members of the Azerbaijani Parliament, including the Nakhichevan Parliament, report to an entity selected by the respective Parliaments, which is yet to be set up, and local elected governments shall submit declarations to the body "specified by the law,[181] which later was set as the Ministry of Justice.[182] All authorities receiving asset declarations are required to review the statements for accuracy and completeness of information, and compare the current statement with the financial information submitted previously. Additional information may be requested from filers for the sake of clarification. However, the cause or procedure for this action is not clear from the language of the legislation. The mechanism for verification of financial declarations has not yet been set up. Thus, the legislation does not define an independent auditing of the executive branch's asset disclosure forms. Under Article 8 of the law, the Commission itself controls the accuracy of the information submitted.[183] All asset declarations are considered commercial or bank secrets and shall be disclosed only in the event of a corruption or criminal investigation pursuant to court decision. Use of the financial information for anything other than the actions specified above constitutes criminal liability. This provision nullifies the whole of idea of this as a tool for improved accountability of the public servants.
Public Sector Human Resources Management - Whistleblowing	Has the GRECO recommendation on introducing clear rules/guidelines requiring civil servants to report suspicions of corruption and to			**0**	This recommendation has not been implemented: there are no clear rules/guidelines requiring civil servants to report suspicions of corruption, nor are civil servants who report suspicions of corruption in public administration in good faith adequately protected from retaliation. However, these norms are envisioned on the draft Conflict of Interest Law.

Objective 3: GRECO Implementation - continued					
Sub-objective	**GRECO Recommendations**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	ensure that civil servants who report suspicions of corruption in public administration in good faith are adequately protected from retaliation been implemented?***				
Public Sector Human Resources Management - Integrity	Has the GRECO recommendation on establishing rules requiring periodic and continuing anti-corruption, ethics and integrity training for all civil servants, including such issues as reporting corruption, gifts and conflicts of interest been implemented?****	**2**			Training on anti-corruption, ethics and integrity issues is broadly envisioned in Article 19.0.1 of Law on Rules of Ethical Behavior for Civil Servants and sector codes of conduct, e.g., for judges, Prosecutor's Office employees, police officers, tax and customs officials, etc., and internal regulations at some public agencies. However, existing regulations do not specify the frequency and content of trainings, nor the responsibility for non-compliance.[184] . Also organization of quarterly training programs on issues of ethics and integrity is envisioned in the Action Plan of the Civil Service Commission. A series of training courses was organized by the Commission on its own and jointly in cooperation with international organizations, such as Council of Europe and UNDP, covering all of the country.[185]
Anti-bribery legislation (Individual liability)	Has the GRECO recommendation on adopting the necessary legislation to provide for liability of legal persons for the offences of bribery, trading in influence and money laundering		**1**		To honor its respective international obligations,[186] the country has made some preliminary steps in this direction. A draft law "On the criminal accountability of legal persons" was drawn up and submitted for review and comments to the working group set up jointly with the Council of Europe. It is planned to include the criminal accountability of legal persons in the new version of the Criminal Code.[187] However, no training for judges or investigators has been conducted in this respect. Azerbaijan legislation envisions the head of any legal entity or any other authorised official thereof shall bear liability for illegal actions of any of its staff member on duty.[188]

Objective 3: GRECO Implementation - continued					
Sub-objective	**GRECO Recommendations**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	with sanctions that are effective, proportionate and dissuasive, in accordance with the Criminal Law Convention on Corruption (ETS 173), and to provide training to investigative and judicial authorities on these issues been implemented?				
Public/Private Sector Integrity	Has the GRECO recommendation on ensuring that a sanction disqualifying a person from engaging in certain specific professions and activities is effective in practice, in respect of persons acting in a leading position in a legal person been implemented?		**1**		The punishment for depriving the right to hold certain positions or to be engaged in certain types of activity for a certain period of time is envisioned in Chapter 33 of the Criminal Code for all types of official abuse, including corruption-related offences. Also, Article 27 of the Law on Public Service specifically prohibits people who have been subject to the punishments mentioned above from being recruited to public service. Specific legislation also has similar provisions, e.g. for temporary debarment from participating in public procurement contracting.[189] However, all these provisions cover civil servants and are not applicable to persons in leading positions of other types of legal persons, e.g. in the private sector. There is evidence of some implementation of this sanction albiet infrequently, with only 4 cases of respective court decisions in 2009.[190] Notwithstanding this, the record show a very small number of persons convicted for bribery[191] : 62, 52 and 68 persons in the years of 2006, 2007 and 2008, respectively.[192]
Public Sector - Codes of Conduct	Has the recommendation that tax authorities pay particular attention to the problem of		**1**		To improve detection of corruption in the exercise of their fiscal duties, the Ministry has developed special Corruption Detection Guidelines that are thoroughly assessed by peers.[193] Information on corruption and other offences by tax inspectors and/or in application of tax legislation by reporting entities can be given to the Ministry online.[194] While existence of this tool is commendable, no follow-up on the signals

Objective 3: GRECO Implementation - continued					
Sub-objective	**GRECO Recommendations**	**Scale of compliance**			**Notes and sources – Please fully explain the score attributed, giving details of the situation in law and practice. Include references to primary sources (interviews, field tests) and secondary sources (reports, literature, media, etc.)**
		Full	**Partial**	**None**	
		2	**1**	**0**	
	corruption in the exercise of their fiscal duties, and to this end develop guidelines and specific training modules concerning the detection of corruption offences and the enforcement of the relevant legislation been implemented?				received is publicly available. A memorandum of understanding has been signed between the Ministry of Tax and Prosecutor General Office to design specific training modules concerning the detection of corruption offences and such trainings have been organized.[195] However, the evidence suggests that the relevant legislation has not been implemented efficiently: only one person in one case in 2007 and 12 persons in eight cases in 2008 have been prosecuted and convicted for false accounting, which may include some cases of concealment of bribes.[196] No other more precise data are available.
Public Sector - Accountability	Has the recommendation to review the provisions on account offences, and to establish appropriate sanctions fully in line with Articles 14 and 19 of the Criminal Law Convention on Corruption been implemented?	**2**			Inline with Article 14 (Account offences) and Article 19 (Sanctions and Measures) of the Council of Europe Criminal Law Convention against Corruption, amendments were made to the Criminal Code: Articles 313 (forgery by an official), 320 (forgery, illegal preparation and sale of official documents, state awards, stamps and forms or use of false documents) and 179 (embezzlement, misappropriation or other misuse of entrusted property) envisage criminal accountability; while the Code of Administrative Violations sets forth administrative penalties for possible accompanying violations: Articles 204-1 (violation of financial rules in financial-economic activities at state budget-financed enterprises and organisations), 247-1 (violation of the legislation covering accounting procedures) and 249 (violation of the rules of writing off taxes and compulsory fees). A loophole exists concerning legal persons who cannot be held liable under current criminal law, though draft legislation is underway. Still, administrative and civil legislation applies to legal persons for corruption and similar offences.[197] This recommendation has been therefore deemed to have been fully implemented.
TOTAL SCORE (Implementation of International Conventions)					**23/34 (67%)**

Transparency Azerbaijan
J. Jabbarli Street 16, flat 7
Baku AZ 1009. Azerbaijan

Phone: +994 - 12 - 418 11 09
Phone/Fax: +994 - 12 - 596 20 38

info@transparency.az
www.transparency.az