

Overall Score:

**65 - Weak**

Legal Framework Score:

**88 - Strong**

Actual Implementation Score:

**42 - Very Weak**

Category I. Civil Society, Public Information and Media

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## I-1. <sup>74</sup>Civil Society Organizations

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### 1. Are anti-corruption/good governance CSOs legally protected?

100

1a. In law, citizens have a right to form civil society organizations (CSOs) focused on anti-corruption or good governance.

**YES** | NO

**Comments:**

There are no restrictions for Civil Society Organizations (CSOs) to focus on anti-corruption and good governance issues in law. The Anti-Corruption State Program, approved on Sept. 3, 2004, indicates that CSOs should be engaged in the public control process to fight corruption and promote good governance principles.

**References:**

Reference: Anti-Corruption State Program of Azerbaijan Republic

**YES:** A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

**NO:** A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

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1b. In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.

YES | NO

**Comments:**

The law on Non-Government Organizations allows NGOs to use domestic and foreign financial sources (article number 24). According to the law on Mass Media, however, foreign citizens can set up mass media organizations if there is bilateral agreement between countries (article number 14). Another article of this law prohibits mass media organizations from getting any financial assistance from foreign sources (article number 21). Foreign sources can be used for partial financing, such as sponsoring special programs/talk shows on TV.

**References:**

Reference: The law on Non-Government Organizations and the law on Mass Media.

**YES:** A YES score is earned if anti-corruption/good governance CSOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

**NO:** A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for CSOs focused on anti-corruption or good governance.

1c. In law, anti-corruption/good governance CSOs are required to disclose their sources of funding.

YES | NO

**Comments:**

According to the law on Non-Government Organizations, Civil Society Organizations (CSOs) are responsible for disclosing their annual financial reports (article number 29.3). The law on Mass Media also requires disclosing financial activities (article number 21).

**References:**

Reference: the law on Non-Government Organizations and the law on Mass Media.

**YES:** A YES score is earned if anti-corruption/good governance CSOs are required to publicly disclose their sources of funding.

**NO:** A NO score is earned if no such public disclosure requirement exists.

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## 2. Are good governance/anti-corruption CSOs able to operate freely?

67

2a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no concrete response to this question, such as no” or “yes.” However, Civil Society Organizations (CSOs) are able to operate freely when they focus on anti-corruption issues. There is pressure from the government, however, on CSOs that want to focus on procurement of state projects and the activities of top senior government members.

**References:**

Reference: Azadliq newspaper articles between March 2007 and May 2007  
www.azadliq.az

**100:** CSOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

**75:**

**50:** CSOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the CSO. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

**0:** Other than pro-government groups, CSOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

2b. In practice, anti-corruption/good governance CSOs actively engage in the political and policymaking process.

100 | 75 | 50 | 25 | 0

**Comments:**

Such practice is not usual for Azerbaijan. Even some legislation requires such participation, but it does not work in practice. For example, according to the legislation, there should be one representative from Civil Society Organizations (CSOs) in the Observation Council of State Oil Fund of Azerbaijan Republic. However, only state officials are engaged with the Observation Council. Besides that, according to the Chapter of Anti-Corruption Commission approved by the president on May 3, 2005, the commission should cooperate with CSOs to engage them in anti-corruption initiatives. However, there is no proof that CSOs are engaged in the commission’s activities or programs.

**References:**

Reference: Oil and Gas Report by Himayedar (May 2006).  
President’s Chapter signed on May 3, 2005.

**100:** Civil society organizations focused on anti-corruption or good governance are an essential component of the political process. CSOs provide widely valued insights and have political power. Those CSOs play a leading role in shaping public opinion on political matters.

**75:**

**50:** Anti-corruption/good governance CSOs are active, but may not be relevant to political decisions or the policymaking process. Those CSOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

**25:**

**0:** Anti-corruption/good governance CSOs are effectively prohibited from engaging in the political process. Those CSOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

2c. In practice, no anti-corruption/good governance CSOs have been shut down by the government for their work on corruption-related issues during the study period.

**YES** | NO

**Comments:**

No Civil Society Organizations (CSOs) were shut down by the government last year.

**References:**

Reference: Reports by different NGOs, including Azerbaijan NGO Collation's Reports in 2007.

**YES:** A YES score is earned if there were no CSOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period.

**NO:** A NO score is earned if any CSO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the CSO's work may not be explicit, however the burden of proof here is low. If it seems likely that the CSO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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### 3. Are civil society activists safe when working on corruption issues?

100

3a. In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.

**YES** | NO

**Comments:**

None of the Civil Society Organization's (CSO) activities were imprisoned last years, however, the government's pressure is still strong on NGOs.

**References:**

Reference: Reports by different NGOs, including Azerbaijan NGO Collation's Reports in 2007.

**YES:** A YES score is earned if there were no CSO activists imprisoned because of their work covering corruption. YES is a positive score.

**NO:** A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the person was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

3b. In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.

YES | NO

**Comments:**

None of the Civil Society Organization's (CSO) activities were physically harmed last year.

**References:**

Reference: Reports by different NGOs, including Azerbaijan NGO Collation's Reports in 2007.

**YES:** A YES score is earned if there were no documented cases of CSO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work. YES is a positive score.

**NO:** A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3c. In practice, in the past year, no civil society activists working on corruption issues have been killed.

YES | NO

**Comments:**

No civil society activists working on corruption issues were killed last year.

**References:**

Reference: Reports by different NGOs, including Azerbaijan NGO Collation's Reports in 2007.

**YES:** A YES score is earned if there were no documented cases of CSO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

**NO:** A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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#### 4. Can citizens organize into trade unions?

75

4a. In law, citizens have a right to organize into trade unions.

YES | NO

**Comments:**

According to the Law on Trade Unions, approved Feb. 24, 1994, citizens are free to set up trade unions.

**References:**

Reference: Law on Trade Unions (Feb. 24, 1994).

**YES:** A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

**NO:** A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

4b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

**Comments:**

Despite the fact that there are no barriers in the legislation to setting up trade unions, it is not easy to establish unions. For instance, workers have not yet been able to set up unions in some oil companies in Azerbaijan.

**References:**

Reference: Interview with Mirvari Gahramanli, NGO activist (August 2007).

**100:** Trade unions are common and are an important part to the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

**75:**

**50:** Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

**25:**

**0:** Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

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## I-2. Media

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### 5. Are media and free speech protected?

100

5a. In law, freedom of the media is guaranteed.

YES | NO

**Comments:**

The Constitution of Azerbaijan Republic is the main guarantee of free speech. The second part of 50th article of the Constitution mentions that all mass media organizations are free; no state censure can be established for mass media, and the state supports freedom of speech. Besides that, according to the law on Mass Media, all mass media organizations (including print and electronic media) are free (article number 1). According to the law on TV and Radio Broadcasting, TV and radio channels are free and no censure can be applied.

**References:**

Reference: The Constitution of Azerbaijan Republic.

**YES:** A YES score is earned if freedom of the press is guaranteed in law, including to all political parties, religions, and ideologies.

**NO:** A NO score is earned if any specific publication relating to government affairs is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

5b. In law, freedom of speech is guaranteed.

YES | NO

**Comments:**

The second part of 50th article of the Constitution indicates that all citizens are free to get information and distribute it by legal ways, and the state is the guarantee for the freedom of speech.

**References:**

Reference: The Constitution of Azerbaijan Republic

**YES:** A YES score is earned if freedom of individual speech is guaranteed in law, including to all political parties, religions, and ideologies.

**NO:** A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

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## 6. Are citizens able to form print media entities?

100

6a. In practice, the government does not create barriers to form a print media entity.

100 | 75 | 50 | 25 | 0

**Comments:**

In the last five years, all barriers to forming print media have been removed. Amendments were made to the law on Mass Media on April 30, 2002, and after that, no permission has been needed to form print media. However, information is required to be submitted to the Ministry of Justice.

**References:**

Interview with Dunya Sakit, editor-in-chief, Expert Journal" (August 2007).

**100:** Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of print media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

**0:** Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

6b. In law, where a print media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | NO

**Comments:**

No license is needed to form print media. Therefore, no appeal mechanism is necessary.

**References:**

Reference: The law on Mass Media of Azerbaijan Republic.

**YES:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied print media license, including through the courts. A YES score is also earned if no print license is necessary.

**NO:** A NO score is earned if there is no appeal process for print media licenses.

6c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Seven days is required to get permission.

**References:**

Interview with Dunya Sakit, editor-in-chief, Expert Journal" (August 2007).

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**50:** Licensing is required and takes more than two months. Some groups may be delayed up to six months.

**25:**

**0:** Licensing takes close to or more than one year for most groups.

6d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

No fee is required.

**References:**

Interview with Dunya Sakit, editor-in-chief, Expert Journal" (August 2007).

**100:** Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

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## 7. Are citizens able to form broadcast (radio and TV) media entities?

38

7a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

### Comments:

In practice, the government does not allow the formation of TV and radio. For instance, ANS TV, the first and most famous private TV channel, was rejected licenses from 2003 to 2007. License applications for that TV company were not considered that period. There are almost no independent TV channels in Azerbaijan, despite the fact that some channels are called independent." The main argument of the government to prevent citizens from forming TV and radio channels is that there is no more space to broadcast new channels. The government has a monopoly position in forming TV and radio channels.

### References:

Reference: Azadlig Newspaper Articles from February 2006 to August 2006.  
[www.azadliq.az](http://www.azadliq.az)

**100:** Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

**25:**

**0:** Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

7b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | NO

**Comments:**

There is an appeal mechanism if the license is denied. However, since the court system is totally controlled by the government, the appeal procedure is a formality. There is no case of the court supporting citizens' rights who want to form a new TV or radio channel.

**References:**

Reference: Law on TV and Rado Broadcasting of Azerbaijan Republic.

**YES:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied broadcast media license, including through the courts. A YES score is also earned if no broadcast license is necessary.

**NO:** A NO score is earned if there is no appeal process for broadcast media licenses.

7c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the law on TV and Radio Broadcasting, (article number 14/23) 75 days are required to get a license to form a TV or radio channel. Within 60 days, government bodies make a decision whether or not to give the license, and the decision is submitted to the applicant within 15 days. But, in practice, it does not work.

**References:**

Reference: Law on TV and Rado Broadcasting of Azerbaijan Republic.

Interview with Rovshen Hacıyev, deputy editor-in-chief, Azadlig Newspaper (August 2007).

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**50:** Licensing is required and takes more than two months. Some groups may be delayed up to six months.

**25:**

**0:** Licensing takes close to or more than one year for most groups.

7d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the President Act on License for specific sectors, approved Dec. 29, 2005, and amendments to this act made on June 29, 2006, 11,000 AZN (US \$12,500) is needed to get a license to form a TV or radio channel. This amount is 200 times higher than the minimum wage, and 60 times higher than the average salary in Azerbaijan.

**References:**

Reference: President Act on License for specific sectors.

Interview with Rovshen Hacıyev, deputy editor-in-chief, Azadlig newspaper (August 2007).

**100:** Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

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## 8. Can citizens freely use the Internet?

100

8a. In practice, the government does not prevent citizens from accessing content published online.

100 | 75 | 50 | 25 | 0

**Comments:**

Everybody is free to use the Internet, according to the law on Telecommunication approved on June, 14, 2005 (article number 43).

**References:**

Reference: Law on Telecommunication of Azerbaijan Republic.

Interview with Rafiq Mammadli, director of Mammadli Research Center (July 2007).

Reports of State Statistic Committee (August 2007).

**100:** The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

**75:**

**50:** Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

**25:**

**0:** Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

8b. In practice, the government does not censor citizens creating content online.

100 | 75 | 50 | 25 | 0

**Comments:**

There is not any censor for citizens creating content online.

**References:**

Reference: Law on Telecommunication of Azerbaijan Republic.  
Interview with Rafiq Mammadli, director of Mammadli Research Center (July 2007).  
Reports of State Statistic Committee (August 2007).

**100:** The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

**75:**

**50:** In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

**25:**

**0:** The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

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## 9. Are the media able to report on corruption?

75

9a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

YES | NO

**Comments:**

If the information is accurate and can be confirmed, the law does not prohibit to report it, even if it can damage the reputations of public figures.

**References:**

Reference: Law on Mass Media of Azerbaijan Republic.

**YES:** A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

**NO:** A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

9b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | **50** | 25 | 0

**Comments:**

There is such a censorship, but it is not written. Some media owners use such a censorship to avoid future problems. For example, the most well-known independent newspaper, Gündelik Azerbaijan, has started using such a censorship after two of the newspaper's journalists were harmed.

**References:**

Reference: Interview with Rovshen Hacıyev, deputy editor-in-chief of Azadlıg newspaper (August 2007).

**100:** The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

**75:**

**50:** The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

**25:**

**0:** The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

9c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | **75** | 50 | 25 | 0

**Comments:**

There is no practice to apply open censorship in Azerbaijan, however, the pressure of the government can be characterized as informal censorship.

**References:**

Interview with Rovshen Hacıyev, deputy editor-in-chief of Azadlıg newspaper (August, 2007).

**100:** The government never prevents publication of controversial corruption-related materials.

**75:**

**50:** The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. This score is appropriate if in countries where illiteracy is high, the government may allow a free print press but censor broadcast media.

**25:**

**0:** The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

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## 10. Are the media credible sources of information?

65

10a. In law, print media companies are required to disclose their ownership.

**YES** | NO

**Comments:**

According to the Law on Mass Media, print media ownership must be disclosed publicly. In practice, however, it is difficult to determine who is the actual owner.

**References:**

Reference: Law on Mass Media of Azerbaijan Republic.

**YES:** A YES score is earned if print media companies are required by law to disclose all owners of the company.

**NO:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being disclosed.

10b. In law, broadcast (radio and TV) media companies are required to disclose their ownership.

**YES** | NO

**Comments:**

The Law on Mass Media of Azerbaijan Republic requires that broadcast media companies disclose ownership. However, it is difficult to determine the actual owners of some TV and radio channels.

**References:**

Reference: Law on Mass Media of Azerbaijan Republic.

**YES:** A YES score is earned if broadcast media companies are required by law to disclose all owners of the company.

**NO:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain type of entities or agents from being disclosed.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | **50** | 25 | 0

**Comments:**

Professionalism is one of the main problems in the Azerbaijan mass media. Both government and opposition journalists (many, but not all) are not trying to report accurate information; they try to criticize opponents. There is no almost independent media in Azerbaijan.

**References:**

Reference: Interview with Rovshen Agayev, NGO activist.

**100:** Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

**75:**

**50:** Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

**25:**

**0:** Editors and journalists are widely known to sell" favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | **50** | 25 | 0

**Comments:**

TV and radio was under government control during the recent elections. Therefore, political parties and independent candidates did not receive fair media coverage.

**References:**

Reference: Interview with Rovshen Hacıyev, deputy editor-in-chief of Azadlig newspaper (August 2007).

**100:** All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

75:

**50:** Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

25:

**0:** The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice this rarely happens in Azerbaijan.

**References:**

Reference: Interviews with main political parties, such as Musavat and Azerbaijan People's Front Party.

**100:** The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

75:

**50:** The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

25:

**0:** The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

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## 11. Are journalists safe when investigating corruption?

33

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

YES | NO

**Comments:**

Seven journalists were imprisoned last year. Three of them (Eynulla Fatullayev, the editor of Realniy Azerbaijan and Gundelik Azerbaijan; Rovshen Kebirli, the editor of Muxalifet newspaper; and Yashar Agazade, the correspondent of Muxalifet newspaper) were famous corruption investigators in Azerbaijan.

**References:**

[www.mediaforum.az](http://www.mediaforum.az)

**YES:** A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period. A YES score is positive.

**NO:** A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

YES | **NO**

**Comments:**

Fikret Huseynli, the correspondent of Azadlig newspaper, was physically harmed last year. He was investigating internal corruption facts in the government.

**References:**

[www.azadliq.az](http://www.azadliq.az)

**YES:** A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues. A YES score is positive.

**NO:** A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

**YES** | NO

**Comments:**

No journalist was killed last year.

**References:**

Reference: Interview with Rovshen Hacıyev, deputy editor-in-chief of Azadlig newspaper (August 2007).

**YES:** A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period. A YES score is positive.

**NO:** A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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## 73 I-3. Public Access to Information

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### 12. Do citizens have a legal right of access to information?

100

12a. In law, citizens have a right of access to government information and basic government records.

**YES** | NO

**Comments:**

The Constitution of Azerbaijan Republic supports freedom of speech and free access to the information (article number 50). Everybody has the right to seek, get and distribute information. According to the Law on Access to the Information, approved Sept. 30, 2005 (article number 2), citizens have a legal right of access to information, and everybody has the right to have access to any information that is not state secret. Besides that, the Law on Freedom of Speech, approved June 19, 1998, indicates that citizens have the right to access to all information besides state secrets, commercial secrets, etc.

**References:**

Reference: The Constitution of Azerbaijan Republic.

**YES:** A YES score is earned if there is a formal right to access government documents, including constitutional guarantees. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request.

**NO:** A NO score is earned if there is no such right.

12b. In law, citizens have a right of appeal if access to a basic government record is denied.

**YES** | NO

**Comments:**

Citizens have the right of appeal. However, the court usually does not protect citizens' access of information rights.

**References:**

Reference: Law on Access to Information of Azerbaijan Republic.

**YES:** A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

**NO:** A NO score is earned if there is no such formal process.

12c. In law, there is an established institutional mechanism through which citizens can request government records.

YES | NO

**Comments:**

According to the Law on Official Statistic, approved Feb. 18 1994, citizens have a right of access and to request government information and basic government records.

**References:**

Reference: Law on Access to Information of Azerbaijan Republic.

**YES:** A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

**NO:** A NO score is earned if there is no such formal mechanism or institution.

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### 13. Is the right of access to information effective?

30

13a. In practice, citizens receive responses to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Law on Access to Information (article number 24), government bodies have to respond to citizens' requests within seven days. But in practice, citizens' requests are not responded to for several months.

**References:**

Reference: Interview with Rovshen Hacıyev, deputy editor-in-chief of Azadlig newspaper (August 2007).

**100:** Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

**75:**

**50:** Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

**25:**

**0:** Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

13b. In practice, citizens can use the access to information mechanism at a reasonable cost.

100 | 75 | **50** | 25 | 0

**Comments:**

According to the Law on Access to Information (article number 14), access to information is free and a list of that information is indicated in article 29 of this law. Other information can be obtained by signing contracts and making payments. The cost depends on the seller and the buyer; there is no concrete cost for access to information.

**References:**

Reference: Interview with Rovshen Hacıyev, deputy editor-in-chief of Azadlig newspaper (August 2007).

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

13c. In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

100 | 75 | 50 | **25** | 0

**Comments:**

Citizens are not usually using their appeal rights because there are no independence courts in Azerbaijan. There is no practice that anybody apply to the court to have access to information.

**References:**

Reference: Interview with Zamin Haci, correspondent of Yeni Musavat" newspaper (August 2007).

**100:** The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

13d. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | **25** | 0

**Comments:**

Citizens are not usually using their appeal rights because there are no independence courts in Azerbaijan. There is no practice that anybody can apply to the court to have access to information. Therefore, there is no mechanism to calculate costs.

**References:**

Reference: Interview with Zamin Haci, correspondent of Yeni Musavat" newspaper (August 2007).

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

**25:**

**0:** The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

13e. In practice, the government gives reasons for denying an information request.

**Comments:**

The government bodies usually do not give any reason for denying an information request. Some government structures sometimes give general reasons for denying an information request.

**References:**

Reference: Interview with Rovshen Hacıyev, deputy editor-in-chief of Azadlig newspaper (August 2007).

**100:** The government always discloses to the requestor the specific, formal reasons for denying information requests.

**75:**

**50:** The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

**25:**

**0:** The government does not regularly give reasons for denying an information request to the requestor.

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## Category II. Elections

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### II-1. ~~62~~ Voting & Citizen Participation

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14. Is there a legal framework guaranteeing the right to vote?

100

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

YES | NO

**Comments:**

From a legislative aspect, there is a legal framework guaranteeing the right to vote. The legal base of this is based on Election Code approved May 27, 2003. The law guarantees the right to vote.

**References:**

Reference: The Election Code of Azerbaijan Republic.

**YES:** A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

**NO:** A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

YES | NO

**Comments:**

According to The Election Code of Azerbaijan Republic (article number 7.1.), elections for Parliament of Azerbaijan Republic, Presidential Post of the country and municipalities are mandatory. Based on The Constitution of Azerbaijan Republic, elections are held every five years (article number 84). Parliamentary elections are held in November every five years, according to the Constitution. Presidential elections are held in October every five years, according to the Election Code of Azerbaijan Republic (article number 178.1), and municipality elections are held in December every five years, according to the code (article number 211).

**References:**

Reference: The Election Code of Azerbaijan Republic.

**YES:** A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

**NO:** A NO score is earned if no such framework exists.

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## 15. Can all citizens exercise their right to vote?

50

15a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

**Comments:**

In both the presidential elections in 2003 and the parliamentary elections in 2005, the names of voters, especially those who supposedly supported opposition candidate(s), were not included in the voting list and were refused voter IDs. As a result, they were not able to vote.

**References:**

Reference: Elections Monitoring Centers Reports (November,2005 and May,2007).

**100:** Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

**75:**

**50:** Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

**25:**

**0:** Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

15b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

**Comments:**

According to The Election Code of Azerbaijan Republic, ballots are secret or equivalently protected (article number 103). The last elections show that despite the code's requirement, ballots are not secret and are not protected. During the elections, additional voting bulletins were put to the ballot, which changed the results of the elections.

**References:**

Reference: Election Monitoring Center' Bulletins (2006-2007).

**100:** Ballots are secret, or there is a functional equivalent protection, in all cases.

**75:**

**50:** Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

**25:**

**0:** Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

15c. In practice, elections are held according to a regular schedule.

100 | 75 | 50 | 25 | 0

**Comments:**

All elections have been held in regular time in the last decade.

**References:**

Reference: Election Monitoring Center's Reports (2007).

**100:** Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

**75:**

**50:** Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

**25:**

**0:** Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

---

## 16. Are citizens able to participate equally in the political process?

80

16a. In law, all citizens have a right to form political parties.

**YES** | NO

### Comments:

According to the Law on Political Parties (articles number 1 and 2), more than 1,000 supporters are required to form political parties.

### References:

Reference: Law on Political Parties.

**YES:** A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

**NO:** A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

16b. In law, all citizens have a right to run for political office.

**YES** | NO

### Comments:

According to the Election Code (article number 3), without any discrimination according to ethnic, religious, language, social condition, position, thinking, political, trade unions and other public union membership, everybody who is more than 18 years old can run for municipality office; who is more than 25 years old can run for parliamentary office; and who is more than 35 years old can run for presidential office.

**References:**

Reference: The Election Code of Azerbaijan Republic.

**YES:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if Individuals with a history of violence, terrorism, or criminality are banned from running for office.

**NO:** A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no serious problem to forming political parties in practice, however, the main problem is acting after registration, especially taking into consideration pressure from the government on opposition parties.

**References:**

Reference: Reports of different political parties, including Azerbaijan People's Front Party, Musavat Party and Yeni Azerbaijan Party.

[www.azadliq.az](http://www.azadliq.az)

**100:** While there is no guarantee of electoral success, political parties can form freely without opposition.

**75:**

**50:** Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

**25:**

**0:** Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

16d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

**Comments:**

Now there is no problem to run for political office in practice in Azerbaijan. The government, however, abolishes some candidates in the election process without any serious reason. For instance, some well-known candidates were dropped from the elections as a result of government pressure in the 2005 parliamentary elections.

**References:**

Reference: Interview with Emin Aliyev, head of Democratic Changes Center in Salyan (July 2007).

**100:** While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

**75:**

**50:** Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office.

**25:**

**0:** Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

16e. In practice, an opposition party is represented in the legislature.

100 | 75 | **50** | 25 | 0

**Comments:**

There are about 10 representatives from different opposition parties in the parliament.

**References:**

[www.azerbaijan.az](http://www.azerbaijan.az)

**100:** The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

**75:**

**50:** The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

**25:**

**0:** The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

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## II-2. Election Integrity

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17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

100

17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

YES | NO

**Comments:**

The Central Election Commission (CEC) is the election monitoring agency that has the following structure: Central Election Commission, Constituency Election Commission and Precinct Election Commission (Con.ECs and PECs). The Central Election Commission consists of 18 members. The members of the CEC are approved by the Parliament. Six members of the CEC are representatives from different political parties that has the majority in Parliament. Six members are independents. The Constituency Election Commissions consists of nine members.

**References:**

Reference: The Election Code of Azerbaijan Republic.

**YES:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

**NO:** A NO score is earned if no domestic agency or set of domestic agencies/entities that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

---

18. Is the election monitoring agency effective?

60

18a. In law, the agency or set of agencies/entities is protected from political interference.

YES | NO

**Comments:**

Under law, the Central Election Commission is protected from political interference.

**References:**

Reference: The Election Code of Azerbaijan Republic.

**YES:** A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, the Central Election Commission has no independence.

**References:**

Reference: Interview with different human rights defenders and lawyers, for instance, interview with Rauf Gasimov, the representative of Musavat Party to observe the last election in 2005. Interviews were taken in July 2007.

**100:** Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The Central Election Commission has a full-time professional staff.

**References:**

[www.cec.gov.az](http://www.cec.gov.az)

**100:** The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | **50** | 25 | 0

**Comments:**

Not all the time. The Central Election Commission sometimes make reports available to the public. The main problem, however, is that some reports, such as list of voters, were posted online, but the information was not correct. Voters who supposedly supported the opposition parties were excluded from the list. Reports about falsification are not open to the public.

**References:**

Reference: Election Monitoring Center's Reports (2007).

**100:** Reports are released to the public on a predictable schedule, without exceptions.

**75:**

**50:** Reports are released, but may be delayed, difficult to access, or otherwise limited.

**25:**

**0:** The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | 50 | **25** | 0

**Comments:**

According to the election code, if the infringement described in the complaint can be considered a criminal act according to the criminal code of the Republic of Azerbaijan, the Central Election Commission can apply to the relevant public prosecutors. Usually the commission does not implement it. There are very few facts about this.

**References:**

Reference: Election Monitoring Center's Reports on the election day monitoring of the third elections to the Milli Majlis of the Republic of Azerbaijan, held Nov. 6, 2005.  
[www.accessdemocracy.org/library/1981\\_az\\_emcbrief\\_020106.pdf](http://www.accessdemocracy.org/library/1981_az_emcbrief_020106.pdf)

**100:** When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

**75:**

**50:** The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

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## 19. Are elections systems transparent and effective?

54

19a. In practice, there is a clear and transparent system of voter registration.

100 | 75 | 50 | 25 | 0

**Comments:**

There is not a clear and transparent system for voter registration. The problem is that the government always tries to exclude the names of voters who are potential supporters of opposition party candidates. In the last election, along with that problem, the names of deceased people were included on the list, and election members voted in favor of them to support the ruling party's candidate.

**References:**

Reference: Election Monitoring Center's Report on the election day monitoring of the third elections to the Milli Majlis of the Republic of Azerbaijan, held Nov. 6, 2005. [www.accessdemocracy.org/library/1981\\_az\\_emcbrief\\_020106.pdf](http://www.accessdemocracy.org/library/1981_az_emcbrief_020106.pdf)

**100:** There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

**75:**

**50:** There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

**25:**

**0:** The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and ghost" voting by non-existent voters is common.

19b. In law, election results can be contested through the judicial system.

YES | NO

**Comments:**

According to the Election Code (article number 112.3), election results can be contested through the judicial system.

**References:**

Reference: The Election Code of Azerbaijan Republic.

**YES:** A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

**NO:** A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

19c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

**Comments:**

Since there is no independent court system in Azerbaijan, election results have never been effectively appealed through the judicial system.

**References:**

Reference: Election Monitoring Center's Report on the election day monitoring of the third elections to the Milli Majlis of the Republic of Azerbaijan, held Nov. 6, 2005. [www.accessdemocracy.org/library/1981\\_az\\_emcbrief\\_020106.pdf](http://www.accessdemocracy.org/library/1981_az_emcbrief_020106.pdf)

**100:** The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

**75:**

**50:** The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

**25:**

**0:** The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

19d. In practice, the military and security forces remain neutral during elections.

**Comments:**

In practice, the military and security forces never remain neutral during elections. Police forces are used both in the propaganda stage of the election and on election day.

**References:**

Reference: Election Monitoring Center's Report on the election day monitoring of the third elections to the Milli Majlis of the Republic of Azerbaijan, held Nov. 6, 2005. [www.accessdemocracy.org/library/1981\\_az\\_emcbrief\\_020106.pdf](http://www.accessdemocracy.org/library/1981_az_emcbrief_020106.pdf)

**100:** The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

**75:**

**50:** The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

**25:**

**0:** The military or other security forces are an active and explicit player in politics and overtly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

19e. In law, domestic and international election observers are allowed to monitor elections.

YES | NO

**Comments:**

According to the Election Code (article numbers 40.7, 41, 42 and 44), domestic and international election observers are allowed to monitor elections.

**References:**

Reference: The Election Code of Azerbaijan Republic.

**YES:** A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

**NO:** A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

19f. In practice, election observers are able to effectively monitor elections.

**Comments:**

In practice, election observers can effectively monitor the election process in some stages; however, there are huge problems for observation of the election, especially when the votes are calculated.

**References:**

Reference: Election Monitoring Center's Report on the election day monitoring of the third elections to the Milli Majlis of the Republic of Azerbaijan, held Nov. 6, 2005. [www.accessdemocracy.org/library/1981\\_az\\_emcbrief\\_020106.pdf](http://www.accessdemocracy.org/library/1981_az_emcbrief_020106.pdf)

**100:** Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers' activities.

**75:**

**50:** Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

**25:**

**0:** Election observers' movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

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## 71 II-3. Political Financing

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### 20. Are there regulations governing political financing?

71

20a. In law, there are regulations governing private contributions to political parties.

YES | NO

**Comments:**

There are regulations governing political financing. According to the Law on Political Parties (article 17), political parties do not have the right to get any financial assistance from foreign states, including foreign companies. Any financial aid from foreign sources is prohibited by law. According to article number 18 of that code, incomes of political parties can be the following: memberships, income from estate renting/sales, incomes from events, publications, articles, etc.

**References:**

Reference: Law on Political Parties of Azerbaijan Republic.

**YES:** A YES score is earned if there are any formal rules (by law or regulation) controlling private contributions to political parties.

**NO:** A NO score is earned if there is no regulation of private contributions to political parties.

20b. In law, there are limits on individual donations to candidates and political parties.

**YES** | NO

**Comments:**

According to the Election Code (article number 156.2), individual donations to candidates in the parliamentary elections and to political parties can not exceed US\$630.

**References:**

Reference: The Election Code of Azerbaijan Republic.

**YES:** A YES score is earned if there are any limits, regardless of size, on individual contributions to political candidates and political parties. A YES score is earned if individual contributions are prohibited.

**NO:** A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

20c. In law, there are limits on corporate donations to candidates and political parties.

**YES** | NO

**Comments:**

According to the Election Code (article number 156.2), cooperative donations to candidates in the parliamentary elections and to political parties can not exceed US\$12,650.

**References:**

Reference: The Election Code of Azerbaijan Republic.

**YES:** A YES score is earned if there are any limits, regardless of size, on corporate contributions to political candidates and political parties. A YES score is earned if contributions are prohibited.

**NO:** A NO score is earned if there are no limits on corporate contributions to candidates or political parties. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

20d. In law, there are limits on total political party expenditures.

YES | **NO**

**Comments:**

There are no limits for political parties at all.

**References:**

Reference: Law on Political Parties of Azerbaijan Republic.

**YES:** A YES score is earned if there are any limits, regardless of size, on political party expenditures. A YES score is earned if all party expenditures are prohibited.

**NO:** A NO score is earned if there are no limits on political party expenditures. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20e. In law, there are requirements for disclosure of donations to political candidates and parties.

**YES** | NO

**Comments:**

According to the Election Code (articles number 95.1 and 95.3), registered candidates, political parties and political party groups should publish their financial reports no later than five days after they were registered.

**References:**

Reference: The Election Code of Azerbaijan Republic.

**YES:** A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties or candidates.

**NO:** A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties or candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations.

20f. In law, there are requirements for the independent auditing of the finances of political parties and candidates.

YES | **NO**

**Comments:**

There is no requirement for the auditing of finances of political parties and candidates in the legislation in Azerbaijan. However, the tax department can check financial activities of political parties and candidates.

**References:**

Reference: The Tax Code of Azerbaijan Republic.

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of candidate and party finances. The auditing is performed by an impartial third-party.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties and candidates or if such requirements exist but allow for candidates or parties to self-audit.

20g. In law, there is an agency or entity that monitors the political financing process.

YES | NO

**Comments:**

The tax department monitors the political financing process by checking financial activities usually one a year.

**References:**

Reference: The Tax Code of Azerbaijan Republic.

**YES:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around political financing. A YES score is earned even if the agency/entity is ineffective in practice.

**NO:** A NO score is earned if there is no such agency or entity.

---

## 21. Are the regulations governing political financing effective?

29

21a. In practice, the limits on individual donations to candidates and political parties are effective in regulating an individual's ability to financially support a candidate or political party.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no limits on individual donations to candidates and political parties. However, there are informal restrictions. In practice, there are problems with individual donations to pro-government candidates and political parties. The government harasses the individuals who finance opposition parties and candidates. The government uses different obstacles to prevent them from financing opposition parties.

**References:**

Reference: Yeni Musavat" newspaper reports (March 2007 through July 2007)  
www.musavat.com

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

**75:**

**50:** Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which individuals can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

21b. In practice, the limits on corporate donations to candidates and political parties are effective in regulating a company's ability to financially support a candidate or political party.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no limits on corporate donations to candidates and political parties. However, there are informal restrictions to do it. Some companies were closed due to their election campaign support of opposition parties.

**References:**

www.musavat.com

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a company can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which companies can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

21c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no limits on total party expenditures in general, but the legislation does put some limits on total party expenditures for the election process.

**References:**

[www.musavat.com](http://www.musavat.com)

**100:** Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

21d. In practice, when necessary, an agency or entity monitoring political financing independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The tax department can monitor political financing, however, there are no independent investigations.

**References:**

Reference: Interview with Mehemed Talibli, chairman of Economic Innovations Center (August 2007).

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to political financing. The agency is fair in its application of this power.

**75:**

**50:** The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power.

21e. In practice, when necessary, an agency or entity monitoring political financing imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The tax department has the right to impose penalties while monitoring political financing, something it does no more than once a year. There are no facts, however, that the tax department has imposed penalties on major political parties.

**References:**

[www.azadliq.az](http://www.azadliq.az)

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power.

21f. In practice, contributions to political parties and candidates are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

The legislation does not require independent auditing, therefore no auditing is taking place on contributions to political parties and candidates.

**References:**

Referene: Interview with Azer Mehtiyev, chairman of the Center for Economic Initiatives.

100: Political party and candidate finances are regularly audited using generally accepted auditing practices. This includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

75:

**50:** Political party and candidate finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party or candidate may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

**25:**

**0:** Party and candidate finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

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## 22. Can citizens access records related to political financing?

17

22a. In practice, political parties and candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | **50** | 25 | 0

### Comments:

In practice, political parties and candidates do not only not disclose data relating to financial support and expenditures within a reasonable time period, they usually don't do it at all.

### References:

Reference: Institute for Peace and Democracy's Reports

<http://eng.kavkaz.memo.ru>

**100:** Political parties and candidates disclose their sources of funding and expenditures at least every quarter.

**75:**

**50:** Political parties and candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

**25:**

**0:** Political parties and candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

22b. In practice, citizens can access the financial records of political parties and candidates within a reasonable time period.

100 | 75 | 50 | 25 | **0**

### Comments:

Usually there is no access to such information.

**References:**

Reference: Institute for Peace and Democracy in Azerbaijan.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take two to four weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

22c. In practice, citizens can access the financial records of political parties and candidates at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Since usually there is no access to such information; no cost is occurred in this process.

**References:**

[www.ekspert.az](http://www.ekspert.az)

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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Category III. Government Accountability

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### 23. In law, can citizens sue the government for infringement of their civil rights?

100

23. In law, can citizens sue the government for infringement of their civil rights?

YES | NO

#### Comments:

According to the Constitution of Azerbaijan Republic (article 60), citizens can sue the government for infringement of their civil rights.

#### References:

Reference: The Constitution of Azerbaijan Republic.

**YES:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

**NO:** A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

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### 24. Can the chief executive be held accountable for his/her actions?

44

24a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | 50 | 25 | 0

#### Comments:

There are very few cases in which the chief executive gives reasons for his policy decisions in Azerbaijan.

#### References:

Reference: Azadliq" newspaper articles (2007)  
[www.azadliq.az](http://www.azadliq.az)

**100:** The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

**75:**

**50:** The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

**25:**

**0:** The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

24b. In law, the judiciary can review the actions of the executive.

YES | NO

**Comments:**

According to the Constitution of Azerbaijan Republic (article number 7), the judiciary can review the actions of the executive, and everybody is equal under judiciary rules, and no discrimination can be applied among citizens.

**References:**

Reference: The Constitution of Azerbaijan Republic.

**YES:** A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

**NO:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

24c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

**Comments:**

Without permission of the president, the judiciary can not review the actions of the executive.

**References:**

Reference: Azadliq" newspaper articles  
[www.azadliq.az](http://www.azadliq.az)

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power. It does not need to rely upon the executive to initiate a constitutional or legal review.

**75:**

**50:** The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

**0:** The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

24d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | **25** | 0

**Comments:**

The chief executive often limits the use of executive orders for establishing new regulations, policies, or government practices.

**References:**

Reference: Institute for Peace and Democracy, Institute Reports (2006).

**100:** The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

**75:**

**50:** The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

**25:**

**0:** The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

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## 25. Is the executive leadership subject to criminal proceedings?

100

25a. In law, the heads of state and government can be prosecuted for crimes they commit.

**YES** | NO

**Comments:**

According to the Constitution of Azerbaijan Republic (article 107), if the president is involved in criminal activities he/she can be prosecuted for crimes they commit. In order to do it, with initiative of the Constitutional Court, the Supreme Court can request to the parliament within 30 days. At least 95 of 125 parliamentary members' votes are needed to approve the Supreme Court's request to commit the president. After that, the Constitutional Court has to approve parliament's decision to arrest the president

and remove him/her from office. The Constitutional Court has one week to approve the parliament's decision. If the court does not approve the decision, then the president can not be prosecuted for the crime committed.

Meanwhile, according to the Constitution of Azerbaijan Republic (article number 123), if the prime minister is involved in criminal actives, he/she can be arrested after the president's improvement.

**References:**

Reference: The Constitution of Azerbaijan Republic.

**YES:** A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**NO:** A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

25b. In law, ministerial-level officials can be prosecuted for crimes they commit.

**YES** | NO

**Comments:**

According to the Constitution of Azerbaijan Republic (article 107), ministerial-level officials can be prosecuted for crimes they commit. In order to do so, the procurator general must request to and the approval of the president.

**References:**

Reference: The Constitution of Azerbaijan Republic.

**YES:** A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

**NO:** A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

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## 26. Are there regulations governing conflicts of interest by the executive branch?

38

26a. In law, the heads of state and government are required to file a regular asset disclosure form.

**YES** | NO

**Comments:**

According to the Law on Anti-Corruption, approved May 3, 2005 (articles 3 and 5), and the Law on Reporting of Financial Data by

Senior Figures, approved June 24, 2005 (article 3 and 5), the president and primer minister are required to file a regular asset disclosure forms.

**References:**

Reference: The Legislation of Azerbaijan Republic.

**YES:** A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**NO:** A NO score is earned if either the head of state or government is not required to disclose assets.

26b. In law, ministerial-level officials are required to file a regular asset disclosure form.

**YES** | NO

**Comments:**

According to the Anti-Corruption Law approved May 3, 2005 (articles 3 and 5), and the Law on Reporting of Financial Data by Senior Figures approved June 24, 2005 (article 3 and 5), the ministers are required to file a regular asset disclosure forms.

**References:**

Reference: The Legislation of Azerbaijan Republic.

**YES:** A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

**NO:** A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

26c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

**YES** | NO

**Comments:**

There are regulations for gifts and hospitality offered to members of the executive branch in Azerbaijan. According to the Anti-Corruption Law of Azerbaijan Republic, the value of gifts can not exceed US\$65. If the value of the gift is more than that, the executive branch member can not accept it, otherwise it can be characterized as a bribe.

**References:**

Reference: The Anti-Corruption Law of Azerbaijan Republic.

**YES:** A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

**NO:** A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

26d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

YES | **NO**

**Comments:**

Legislation does not require independent auditing of the executive branch asset disclosure forms.

**References:**

Reference: Interview with Rovshen Agayev, independent expert (August 2007).

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

26e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

YES | **NO**

**Comments:**

Under law, there are no restrictions on heads of state, government officials and ministers entering the private sector after leaving the government.

**References:**

Reference: The Legislation of Azerbaijan Republic.

**YES:** A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**NO:** A NO score is earned if no such restrictions exist.

26f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

Since there are no such restrictions, efficiency can not be evaluated.

**References:**

Reference: Interview with Rovshen Agayev, independent expert (August 2007).

**100:** The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

26g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no control mechanisms to regulating gifts and hospitality offered to members of the executive branch, and therefore it is not effective.

**References:**

Reference: Interview with Gubad Ibadoglu, chairman of the Economic Research Center  
[www.erc-az.org](http://www.erc-az.org)

**100:** The regulations governing gifts and hospitality to members of the executive branch are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside

interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

26h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | **0**

**Comments:**

There is no legal requirement for the auditing of executive branch asset disclosures in Azerbaijan.

**References:**

Reference: Interview with Dr. Azer Mehtiyev, independent researcher (August 2007).

**100:** Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** Executive branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

---

## 27. Can citizens access the asset disclosure records of the heads of state and government?

**0**

27a. In law, citizens can access the asset disclosure records of the heads of state and government.

YES | **NO**

**Comments:**

Citizens can not access the asset disclosure records of the heads of state and government.

**References:**

Reference: Law on Reporting of Financial Data by Senior Figures of Azerbaijan Republic.

**YES:** A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**NO:** A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

27b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can not access the asset disclosure records of the heads of state and government.

**References:**

Reference: Interview with Rovshen Agayev, independent expert (August 2007).

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some additional delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

27c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can not have access the asset disclosure records of the heads of state and government at all. Therefore, cost can not be subject to the research.

**References:**

Reference: Interview with Rovshen Agayev, independent expert (August 2007).

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

---

28. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

0

28. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100 | 75 | 50 | 25 | 0

**Comments:**

In Azerbaijan, almost all members of the government are members of the ruling party. Therefore, in practice, official government functions are not kept separate and distinct from the functions of the ruling political party.

**References:**

Reference: Interview with Rovshen Agayev, independent expert (August 2007).

**100:** Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

**75:**

**50:** The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be the use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

**25:**

**0:** The government bureaucracy is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

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## III-2. Legislative Accountability

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29. Can members of the legislature be held accountable for their actions?

29a. In law, the judiciary can review laws passed by the legislature.

YES | NO

**Comments:**

Yes, but only the Constitutional Court can review laws passed by the legislature. According to the Constitution of Azerbaijan Republic (article number 130), the Constitutional Court checks laws passed by the legislation whether they oppose the constitution or not. If there is contradiction between the laws passed by the legislation and the constitution, then the court has the right to review the law.

**References:**

Reference: The Constitution of Azerbaijan Republic.

**YES:** A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

**NO:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

29b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

**Comments:**

For example, the Constitution Court reviewed the tax code passed by the parliament in 2002, and the court made some amendments to the code.

**References:**

Reference: Reports from Ministry of Taxes  
[www.tax.gov.az](http://www.tax.gov.az)

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

**75:**

**50:** The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

**0:** The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

29c. In law, are members of the national legislature subject to criminal proceedings?

YES | **NO**

**Comments:**

According to the Constitution of Azerbaijan Republic (article 90), members of the national legislature can be subject to criminal proceedings. The parliament, however, must first make a decision to lift immunity.

**References:**

Reference: The Constitution of Azerbaijan Republic.

**YES:** A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

**NO:** A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings.

---

30. Are there regulations governing conflicts of interest by members of the national legislature?

29

30a. In law, members of the national legislature are required to file an asset disclosure form.

**YES** | NO

**Comments:**

There are serious problem in this sphere. According to the Law on Reporting of Financial Data by Senior Figures (article 3.1.), public figures are required to file an asset disclosure form to the Commission on Fighting with Corruption, which is under State Management Council. This law also indicates (article 3.3.) that parliamentary members are required to file an asset disclosure form to a special state body determined by the parliament. However, this body has not been approved yet. Therefore, there is gap in the law and parliamentary members who do not file an asset disclosure form.

**References:**

Reference: Law on Reporting of Financial Data by Senior Figures.

**YES:** A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**NO:** A NO score is earned if any member of the legislature is not required to disclose assets.

30b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

YES | **NO**

**Comments:**

Under law, there are no restrictions on parliamentary members entering the private sector after leaving the government.

**References:**

Reference: The Azerbaijan Legislation including Constitution.

**YES:** A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**NO:** A NO score is earned if no such restrictions exist.

30c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

**YES** | NO

**Comments:**

There are regulations governing gifts and hospitality offered to members of the parliament in Azerbaijan. According to the Anti-Corruption Law of Azerbaijan Republic, the value of gifts can not exceed US\$65. If the value of the gifts is more than that, then the parliamentary member can not accept it, otherwise it can be characterized as a bribe.

**References:**

Reference: The Anti-Corruption Law of Azerbaijan Republic.

**YES:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

**NO:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

30d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

YES | **NO**

**Comments:**

No auditing is needed.

**References:**

Reference: The Legislation of Azerbaijan Republic.

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

30e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

Since there are no such restrictions, efficiency can not be evaluated.

**References:**

Reference: Interview with Rovshen Agayev, independent expert (August 2007).

**100:** The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off” period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

30f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no any control mechanisms to regulate gifts and hospitality offered to members of parliament, and therefore it is not effective.

**References:**

Reference: Interview with Mehmed Talibli, chairman of the Economic Innovations Center (July 2007).  
Reports by different newspapers, including 'Gundelik Azerbaijan, Azadlig, etc.

**100:** The regulations governing gifts and hospitality to national legislators are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to legislators. Legislators never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to national legislators are routinely ignored and unenforced. Legislators routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

30g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

No auditing is needed.

**References:**

Reference: Interview with Arzu Semedbeyli, parliamentary member in Azerbaijan (August 2007).

**100:** Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** Legislative branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

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### 31. Can citizens access the asset disclosure records of members of the national legislature?

0

31a. In law, citizens can access the asset disclosure records of members of the national legislature.

YES | NO

**Comments:**

According to the Law on Reporting of Financial Data by Senior Figures, approved June 24, 2005 (article 9), their declarations are personal information and can not be submitted to another person.

**References:**

Reference: Law on Reporting of Financial Data by Senior Figures of Azerbaijan Republic.

**YES:** A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**NO:** A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

31b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can not access the asset disclosure records of parliamentary members. Therefore, time can not be subject to the research.

**References:**

Reference: Interview with Rovshen Agayev, independent expert (August 2007).

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

31c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can not access the asset disclosure records of parliamentary members. Therefore, cost can not be subject to the research.

**References:**

Reference: Interview with Rovshen Agayev, independent expert (August 2007).

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

---

## 32. Can citizens access legislative processes and documents?

100

32a. In law, citizens can access records of legislative processes and documents.

YES | NO

**Comments:**

The Law on Information Access (article number 29) indicates a list of information that can be disclosed and methods of doing it (article 30). According to the same law (article 29.1.11.), citizens can access records of legislative processes and documents as soon as those processes and documents are passed by parliament.

**References:**

Reference: Law on Information Access of Azerbaijan Republic.

**YES:** A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

**NO:** A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there exemptions to the general right that are not clearly defined by formal rules.

32b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no problem for citizens having access to records of legislative processes and documents within a reasonable time period since the Daily Azerbaijan newspaper publishes all legislative processes and documents, and they are also posted online at [www.meclis.gov.az](http://www.meclis.gov.az).

**References:**

Reference: Expert Journal's" reports.

[www.ekspert.az](http://www.ekspert.az)

Interview with Galib Togrul, coordinator of Media Campaign on Transparency in Azerbaijan (August 2007).

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

32c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no problems for citizens having access to records of legislative processes and documents at a reasonable cost since the Daily Azerbaijan newspaper publishes all legislative processes and documents, and they are also posted online at [www.meclis.gov.az](http://www.meclis.gov.az).

**References:**

Reference: Expert Journal's" reports.

[www.ekspert.az](http://www.ekspert.az)

Interview with Galib Togrul, coordinator of Media Campaign on Transparency in Azerbaijan (August 2007).

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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47  
III-3. Judicial Accountability

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33. Are judges appointed fairly?

83

33a. In law, there is a transparent procedure for selecting national-level judges.

YES | NO

**Comments:**

According to the Law on Courts and Judges (article number 93), judges can put forward their candidacy to the Judges Selection Committee under the Judicial-Legal Council. The committee selects judges through exams and interviews. Finalists are required to go through training while being provided with monthly salary from the state budget via the Judicial-Legal Council. Each candidate is evaluated after the training. Evaluation is held by applying a credit system, and after that, the final list of selected judges is announced.

**References:**

Reference: Law on Courts and Judges of Azerbaijan Republic.

**YES:** A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

**NO:** A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

33b. In practice, there are certain professional criteria required for the selection of national-level judges.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Constitution of Azerbaijan Republic (article number 126), individuals with a university degree in law, five years of work experience in this sphere and is more than 30 years old can be a candidate for judge. Besides that, the Law on Courts and Judges (article number 93.4) indicates that individuals with high reputations in the law sphere, 20 years work experience as lawyer and high morality can be selected as judges without taking exams. But all of them are not working in practice, all the time.

**References:**

Reference: Azerbaijan Lawyers' Association's Reports (June 2007).

**100:** National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

**75:**

**50:** Most national-level judges selected meet these qualifications, with some exceptions.

**25:**

**0:** National-level judges are often unqualified due to lack of training or experience.

33c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

**YES** | NO

**Comments:**

According to the Constitution of Azerbaijan Republic (article number 109.9), the president approves the list of judges that is submitted by the Judges Selection Committee under the Judicial-Legal Council.

**References:**

Reference: The Constitution of Azerbaijan Republic.

**YES:** A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency independent from the body appointing the judges.

**NO:** A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by a body directed by the body appointing the judges (such as review by the head of police if judges are appointed by the executive).

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### 34. Can members of the judiciary be held accountable for their actions?

79

34a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

**YES** | NO

**Comments:**

According to the Law on Courts and Judges (article number 5), all decisions should have legislation basis, and reasons for those decisions are required to be given.

**References:**

Reference: The Law on Courts and Judges of Azerbaijan Republic.

**YES:** A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

**NO:** A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

34b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

**Comments:**

Yes, judges were given reasons for their decisions, even though some decisions were not completely fair.

**References:**

Reference: Azerbaijan Lawyers' Association's Reports (July 2007).

Interview with Rovshen Hacibeyli, deputy editor-in-chief of "Azadlig" newspaper.

Reports by the Parliament of Azerbaijan Republic (April 2007).

**100:** Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

**75:**

**50:** Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

**25:**

**0:** Judges commonly issue decisions without formal explanations.

34c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

YES | NO

**Comments:**

The Judicial-Legal Council is a disciplinary agency for the national-level judicial system. The Law on Court-Law Council, approved Oct. 28, 2004 (article 1), indicates that this council is responsible for forming court systems, selecting judges, evaluating judges' actions, changes in judges' positions/offices and other issues related to the court system.

**References:**

Reference: Law on Judicial-Legal Council of Azerbaijan Republic.

**YES:** A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary.

**NO:** A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

34d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

YES | NO

**Comments:**

The Law on Judicial-Legal Council (article number 4) mentions that the council is an independent agency that does not depend on the executive branch.

**References:**

Reference: The Law on Judicial-Legal Council of Azerbaijan Republic.

**YES:** A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is operationally independent from political interference by the executive, legislative and judicial branches.

**NO:** A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an inherently subordinate organization, such as an executive ministry, legislative committee, or by an internal judiciary committee or council that can only act with the approval of judges themselves.

34e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

Since those agencies are not politically independent, they are not able to initiate investigations. There are quite a few facts that say those agencies did initiate investigations.

**References:**

Reference: Interview with HR Defenders.  
Reports by the Institute for Democracy and Peace (July 2007).

**100:** The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The judicial disciplinary agency (or equivalent mechanism), though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

34f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

100 | 75 | **50** | 25 | 0

**Comments:**

Without political decisions, the council does not impose penalties on offenders.

**References:**

Reference: Interview with Zamin Haci, independent researcher (August 2007).

**100:** When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

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### 35. Are there regulations governing conflicts of interest for the national-level judiciary?

39

35a. In law, members of the national-level judiciary are required to file an asset disclosure form.

**YES** | NO

**Comments:**

The Anti-Corruption Law (article number 2) and the Law on Submitting Financial Records by Public Figures (article number 2 and 3) require members of the national-level judiciary to file an asset disclosure form.

**References:**

Reference: The Legislation of Azerbaijan Republic.

**YES:** A YES score is earned if all members of the national-level judiciary are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**NO:** A NO score is earned if any member of the national-level judiciary is not required to publicly disclose assets.

35b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

YES | NO

**Comments:**

There are regulations governing gifts and hospitality offered to judges in Azerbaijan. According to the Anti-Corruption Law of Azerbaijan Republic, the value of gifts can not exceed US\$65. If the value of the gifts is more than that, judges can not accept it, otherwise it can be characterized as a bribe.

**References:**

Reference: The Anti-Corruption Law of Azerbaijan Republic.

**YES:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

**NO:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the national-level judiciary. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

35c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

YES | NO

**Comments:**

Legislation does not require independent auditing of the asset disclosure forms of members of the national-level judiciary.

**References:**

Reference; The Anti-Corruption Law of Azerbaijan Republic

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary asset disclosures. The auditing is performed by an impartial third-party.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

35d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

YES | **NO**

**Comments:**

Under the law, there are no restrictions for national-level judges entering the private sector after leaving the government.

**References:**

Reference: The Law on Judicial-Legal Council of Azerbaijan Republic.

**YES:** A YES score is earned if there are regulations restricting national-level judges ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**NO:** A NO score is earned if no such restrictions exist.

35e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

100 | 75 | **50** | 25 | 0

**Comments:**

Since there are no such restrictions, efficiency can not be evaluated.

**References:**

Reference: Interview with Rovshen Agayev, independent expert (August 2007).

**100:** The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no or few cases of judges taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain cases, judges are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

35f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no control mechanism to regulate gifts and hospitality offered to members of national-level judges, and therefore it is not effective.

**References:**

Reference: Interview with Rovshen Agayev, independent expert (August 2007).

**100:** The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to judges. Judges never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to members of the national-level judiciary are routinely ignored and unenforced. Judges routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

35g. In practice, national-level judiciary asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

Since there is no asset disclosure system for national-level judges in practice in Azerbaijan, they can not be audited.

**References:**

Reference: Interview with Dr. Azer Mehtiyev, chairman of the Center for Economic Initiatives.

**100:** National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** National-level judiciary asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** National-level judiciary asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

## 36. Can citizens access the asset disclosure records of members of the national-level judiciary?

0

36a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

YES | **NO**

### Comments:

According to the Law on Reporting of Financial Records by Senior Figures approved June 24, 2005 (article 9), their declarations are personal information and can not be submitted to another person.

### References:

Reference: The Law on Reporting of Financial Records by Senior Figures of Azerbaijan Republic.

**YES:** A YES score is earned if members of the national-level judiciary file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**NO:** A NO score is earned if there is no asset disclosure for members of the national-level judiciary. A NO score is earned if the form is filed, but not available to the public.

36b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | **0**

### Comments:

Citizens can not access the asset disclosure records of the national-level judges at all. Therefore, time can not be subject to the research.

### References:

Reference: Interview with Rovshen Agayev, independent expert (August 2007).

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

36c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can not access the asset disclosure records of the national-level judges at all. Therefore, cost can not be subject to the research.

**References:**

Reference: Interview with Rovshen Agayev, independent expert (August 2007).

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## III-4. Budget Processes

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37. Can the legislature provide input to the national budget?

75

37a. In law, the legislature can amend the budget.

YES | NO

**Comments:**

The Law on Budget System, approved July 2, 2004 (article number 13), indicates that a draft budget be submitted to the parliament no later than Oct. 15, and the parliament is required to approve it by Dec. 20. During this period, the parliament has the right to amend the budget.

**References:**

Reference: The Law on Budget System of Azerbaijan Republic.

**YES:** A YES score is earned if the legislature has the power to add or remove items to the national government budget.

**NO:** A NO score is earned if the legislature can only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

37b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

**Comments:**

All expenditures, except investment and reserve foundation's expenditures, require legislative approval. Although investment and reserve foundation's expenditures are discussed in the parliament, the Cabinet of Ministries approve those expenditures, and priorities are determined by the cabinet, not by the parliament.

**References:**

Reference: The Law on Budget System of Azerbaijan Republic.

Reports by the National Budget Group, [www.nbg-az.org](http://www.nbg-az.org).

Reports by Expert Journal," [www.ekspert.az](http://www.ekspert.az).

Reports by the Center for Economic and Social Development (CESD), [www.cesd.az](http://www.cesd.az).

Reports by Parliament of Azerbaijan Republic, [www.parliament.az](http://www.parliament.az).

**100:** All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

**75:**

**50:** Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

**25:**

**0:** The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

37c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

**Comments:**

The legislature does not have sufficient capacity to monitor the budget process and provide input or changes.

**References:**

Reference: Interview with Azer Mehtiyev, chairman of the Center for Economic Initiatives (August 2007).

**100:** Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

**75:**

**50:** Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

**25:**

**0:** Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

---

### 38. Can citizens access the national budgetary process?

33

38a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | **50** | 25 | 0

**Comments:**

The national budgetary process is not conducted in a transparent manner in the debating stage, since budget discussions are conducted in a closed circle. The public has access to the budget discussions and budgetary process only when the budget is discussed in the parliament for a short time.

**References:**

Reference: Interview with Gubad Ibadoglu, chairman of the Economic Research Center (ERC) (August 2007).

Reports by Transparent Budget Project.

[www.ekspert.az](http://www.ekspert.az)

[www.erc-az.org](http://www.erc-az.org)

**100:** Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

**75:**

**50:** There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

**25:**

**0:** Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

38b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

**Comments:**

Since no budget hearings are required in the legislation, no cases for holding budget hearings are in practice. Therefore, citizens are not able to provide input at budget hearings.

**References:**

Reference: Interview with Gubad Ibadoglu, chairman of the Economic Research Center (ERC).  
Reports by the Economic Research Center.  
[www.erc-az.org](http://www.erc-az.org)

**100:** Citizens, usually acting through CSOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

**75:**

**50:** Citizens or CSOs can provide input, but this information is often not relevant to budget decisions.

**25:**

**0:** Citizens or CSOs have no formal access to provide input to the budget debate.

38c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, citizens do not have access to itemized budget allocations. For instance, the defence and reserve foundation's share of expenditures of the total 2007 state budget is more than 60 percent, but neither citizens nor leading CSOs do not have access to itemized directions of those expenditures.

**References:**

Reference: Reports by the National Budget Group.  
[www.nbg-az.org](http://www.nbg-az.org)  
Expert Economic Journal.  
[www.ekspert.az](http://www.ekspert.az)  
Interview with Zohrab Ismayil, chairman of Free Economy Center.

**100:** Citizens, journalists and CSOs can access itemized lists of budget allocations. This information is easily available and up to date.

75:

50: Citizens, journalists and CSOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

25:

0: Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

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### 39. In law, is there a separate legislative committee which provides oversight of public funds?

100

39. In law, is there a separate legislative committee which provides oversight of public funds?

YES | NO

#### Comments:

Under the law, there is a separate legislative committee that provides oversight of public funds, called the Chamber of Accounts, which was formed by the parliament.

#### References:

Reference: Law on Budget System of Azerbaijan Republic.

**YES:** A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

**NO:** A NO score is earned if no such body exists within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

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### 40. Is the legislative committee overseeing the expenditure of public funds effective?

13

40a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

#### Comments:

Department heads do not regularly submit reports to this committee, and there are no cases of them submitting the report to the parliament.

**References:**

Reference: Rovshen Agayev, deputy chairman of the Economic Initiatives Center (August 2007). Reports by Expert Journal.”

**100:** Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

**75:**

**50:** Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

**25:**

**0:** There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

40b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

**Comments:**

The committee does not act in a non-partisan manner, and there are not representatives from opposition parties serving on the committee in the current parliament. Representatives of the opposition parties, however, have previously served as members of the committee.

**References:**

Reference: Rovshen Agayev, deputy chairman of the Economic Initiatives Center. Reports by Transparent Budget Project in Azerbaijan. [www.ekspert.az](http://www.ekspert.az)

**100:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee’s work to roughly the same extent as any other member of the committee.

**75:**

**50:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members’ ability to shape the committee’s activities.

**25:**

**0:** The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

40c. In practice, this committee is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

Both the president's office and senior persons of the parliament interfere with the committee's actions. Therefore, in practice, this committee is not protected from political interference.

**References:**

Reference: Interview with Mehemed Talibli, chairman of the Centre for Economic Innovation ( August 2006).  
Reports by Expert Economic Journal  
www.ekspert.az

**100:** This committee operates independently of the political process, without incentive or pressure to render favorable judgments on politically sensitive issues. Investigations are rarely praised or criticized by political figures.

**75:**

**50:** This committee is usually independent but is sometimes influenced by negative or positive political incentives. This may include public praise or criticism by the government.

**25:**

**0:** This committee is commonly influenced by personal or political forces or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties that ultimately influence the committee's behavior and decision-making. Negative incentives may include threats, harassment or other abuses of power by the government.

40d. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | 25 | 0

**Comments:**

There is not evidence, so far, that the committee initiates independent investigations into financial irregularities.

**References:**

Reference: Interview with Mehemed Talibli, chairman of the Centre for Economic Innovation (August 2006).  
Reports by Expert Journal.”  
www.ekspert.az

**100:** When irregularities are discovered, the committee is aggressive in investigating the government.

**75:**

**50:** The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

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Category IV. Administration and Civil Service

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IV-1. <sup>58</sup> Civil Service Regulations

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41. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

100

41a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

YES | NO

**Comments:**

There are regulations in the Law on Civil Service approved by 2000 and The Law on Combating Corruption approved by 2004. Both laws focus on relations between the state and civil servants.

**References:**

Reference: The Law on Civil Service of Azerbaijan Republic.

**YES:** A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

**NO:** A NO score is earned if there are no formal rules establishing an independent civil service.

41b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

**Comments:**

The Anti-Corruption Law (article number 7.1) indicates that the next of kin of an official may not hold any office under his or her direct subordination, except for the elective offices and other cases provided for in the legislation. Those in violation of the law will be transferred within 30 days of finding of that violation.

**References:**

Reference: The Anti-Corruption Law of Azerbaijan Republic.

**YES:** A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

**NO:** A NO score is earned if no such regulations exist.

41c. In law, there is an independent redress mechanism for the civil service.

**YES** | NO

**Comments:**

Civil servants can appeal in an administrative way based on the requirements of the civil procedural code.

**References:**

Reference: Civil Procedure Code of Azerbaijan Republic.

**YES:** A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. Civil servants are able to appeal the mechanism's decisions to the judiciary.

**NO:** A NO score is earned if no such mechanism exists.

41d. In law, civil servants convicted of corruption are prohibited from future government employment.

**YES** | NO

**Comments:**

According the Law on Civil Service (article 27), a person shall be ineligible for civil service in the following cases: if there is a court decision that he/she has no legal capabilities or has limited legal capabilities; if the court has deprived him/her of the right to hold a civil position for a certain period of time.

**References:**

Reference: The Law on Civil Service of Azerbaijan Republic.

**YES:** A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

**NO:** A NO score is earned if no such rules exist.

## 42. Is the law governing the administration and civil service effective?

42

42a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

### Comments:

In practice, civil servants are not protected from political interference. Civil servants, particularly senior officials, have direct or indirect relations with the ruling party.

### References:

Reference: Interview with Rovshen Agayev, independent expert.  
BBC Reports on Azerbaijan Election in 2005.  
Azadlg" newspaper reports.  
[www.azadliq.az](http://www.azadliq.az)

**100:** Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

**75:**

**50:** Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

**25:**

**0:** Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

42b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | 50 | 25 | 0

### Comments:

Civil servants are usually appointed based on a personal relationship, regional factors, political relations, etc. Some ministries, however, use an exam system to select civil servants, but positions offered by exam are not high ranking.

### References:

Reference: Reports by HR Defence Organizations in Azerbaijan.

Musavat” newspaper.  
Interview with Xalig Bahadir, leading researcher.

**100:** Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

42c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | 75 | 50 | **25** | 0

**Comments:**

Nepotism and patronage are the main problems in civil-service management.

**References:**

Reference: Interview with Mehemmed Talibli, chairman of the Economic Inovations Center.  
Reports by Azadliq” newspaper.

**100:** Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

**75:**

**50:** Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

**25:**

**0:** Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

42d. In practice, civil servants have clear job descriptions.

100 | 75 | **50** | 25 | 0

**Comments:**

Unlike the business sector, civil servants do not have clear job descriptions.

**References:**

Reference: Interview with civil servants in the Ministry of Economic Development. Reports by Economic Research Center (ERC).

**100:** Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable means to map positions to both human capital requirements (including the position's authority and responsibilities) and base pay.

**75:**

**50:** Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

**25:**

**0:** Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

42e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, civil servant bonuses constitute only a small fraction of their total pay.

**References:**

Reference: Interview with Rovshen Agayev, independent expert (August 2007). Reports of "Gundelik Azerbaijan" newspaper.

**100:** Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

**75:**

**50:** Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

**25:**

**0:** Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

42f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | 50 | 25 | 0

**Comments:**

The government has never published civil servants' positions along with the number of positions actually filled.

**References:**

Reference: Reports by National Ombudsman of Azerbaijan.

Reports by CESD.

[www.cesd.az](http://www.cesd.az)

Reports by the Institute for Democracy and Peace.

**100:** The government publishes such a list on a regular basis.

**75:**

**50:** The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

**25:**

**0:** The government rarely or never publishes such a list, or when it does it is wholly incomplete.

42g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, if a senior official or minister is dismissed from their position, usually they do not seek redress in the courts, because this can create further problems for them or even for their family.

**References:**

Reference: Interview with Xalig Bahadur, leading expert.

Reports by Musavat.”

[www.musavat.com](http://www.musavat.com)

**100:** The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

**75:**

**50:** The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

**25:**

**0:** The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

42h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

**Comments:**

The government agencies usually pay civil servants on time.

**References:**

Reference: Reports by the Ministry of Finance.

[www.finance-az.gov](http://www.finance-az.gov)

Reports by the Parliament.

[www.parliament.az](http://www.parliament.az)

Reports by CESD.

[www.cesd.az](http://www.cesd.az)

**100:** In the past year, no civil servants have been paid late.

**75:**

**50:** In the past year, some civil servants have been paid late.

**25:**

**0:** In the past year, civil servants have frequently been denied due pay.

42i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

**Comments:**

Connections with the ruling party are more important than convicting corruption. There are a very limited number of cases that civil servants have been convicted of corruption.

**References:**

Reference: Interview with Rovshen Agayev, leading expert.

Reports by Transparency Azerbaijan.”

**100:** A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

---

### 43. Are there regulations addressing conflicts of interest for civil servants?

33

43a. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

YES | NO

**Comments:**

The Anti-Corruption Law and civil servants regulates those requirements.

**References:**

Reference: The Anti-Corruption Law of Azerbaijan Republic.

**YES:** A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

**NO:** A NO score exists if no such requirements exist in regulation or law.

43b. In law, there are restrictions for civil servants entering the private sector after leaving the government.

YES | NO

**Comments:**

There are no restrictions on civil servants entering the private sector after leaving the government.

**References:**

Reference: The Legislation of Azerbaijan Republic.

**YES:** A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**NO:** A NO score is earned if no such restrictions exist.

43c. In law, there are regulations governing gifts and hospitality offered to civil servants.

YES | NO

**Comments:**

Under the Anti-Corruption Law (article number 8), gifts may be received by an official in connection with performing his or her official duties if the value is no more than US\$65. If the value is more than that, then the civil servant can not accept it, otherwise it can be characterized as a bribe.

**References:**

Reference: Anti-Corruption Law of Azerbaijan Republic.

**YES:** A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

**NO:** A NO score is earned if there are no such guidelines or regulations.

43d. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no any cases to evaluate effectiveness.

**References:**

Reference: The Legislation of Azerbaijan, including Anti-Corruption Law.

Interview with Xalig Bahadur, leading expert.

**100:** The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

43e. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no control mechanism.

**References:**

Reference: Interview with state officials.

Interview with NGO activists.

Reports by Azadliq.”

www.azadliq.az

**100:** The regulations governing gifts and hospitality to civil servants are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to civil servants. Civil servants never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

43f. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

Most civil servants usually ignore recusal requirements and take part in policy decisions where their personal interests are affected.

**References:**

Reference: Interview with Rovshen Hacıyev, an independent expert (August 2007).

Reports by media, including Baki Xeber.”

**100:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

**75:**

**50:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

25:

0: Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

---

#### 44. Can citizens access the asset disclosure records of senior civil servants?

0

44a. In law, citizens can access the asset disclosure records of senior civil servants.

YES | **NO**

**Comments:**

There are no requirements.

**References:**

Reference: The Legislation of Azerbaijan Republic.

**YES:** A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

**NO:** A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

44b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | **0**

**Comments:**

It is very hard to get such information.

**References:**

Reference: Interview with Rovshen Agayev, deputy chairman of the Center for Economic Initiatives (August 2007).  
Reports by Expert.”  
[www.ekspert.az](http://www.ekspert.az)

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

44c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

It is very difficult or almost impossible to have access to such records.

**References:**

Reference: Interview with Rovshen Agayev, deputy chairman of the Center for Economic Initiatives (August 2007).  
Reports by Expert.”  
[www.ekspert.az](http://www.ekspert.az)

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## IV-2. Whistle-blowing Measures

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45. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

0

45a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | **NO**

**Comments:**

There is no law on whistle-blowing.

**References:**

Reference: The Legislation of Azerbaijan Republic.

**YES:** A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**NO:** A NO score is earned if there are no legal protections for public-sector whistleblowers.

45b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | **0**

**Comments:**

In practice, the government does not have whistle-blower protection measures, and there is no witness-protection program in Azerbaijan.

**References:**

Reference: Interview with Mehemed Talibli, independent expert.  
Reports by Expert.”  
[www.ekspert.az](http://www.ekspert.az)

**100:** Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

45c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

**Comments:**

There is no law covering the private sector.

**References:**

Reference: The Legislation of Azerbaijan Republic.

**YES:** A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**NO:** A NO score is earned if there are no legal protections for private-sector whistleblowers.

45d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no protection.

**References:**

Reference: Interview with Mehemed Talibli, independent expert.  
Reports by Expert.”  
[www.ekspert.az](http://www.ekspert.az)

**100:** Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

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46. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

46. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

YES | NO

**Comments:**

The Anti-Corruption Law has such requirements.

**References:**

Reference: The Anti-Corruption Law of Azerbaijan Republic.

**YES:** A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

**NO:** A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

---

47. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

38

47a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The Ministry of Taxes and police department use internal reporting mechanisms, and they are full-time staff.

**References:**

Reference: CESD Reports.

[www.cesd.az](http://www.cesd.az)

Interview with Ilham Hacıyev, an independent expert (July 2007).

**100:** The agency/entity has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

47b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

Funding comes from the state budget.

**References:**

Reference: Reports by Ministry of Finance.

Reports by the Parliament.

Reports by ERC.

[www.erc-az.org](http://www.erc-az.org)

**100:** The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

47c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency cannot resolve complaints very fast, usually it takes more than month. Serious abuses are not investigated with any urgency.

**References:**

Reference; Interview with Rovhsen Agayev, independent expert, August, 2007, Reports by Azadliq", [www.azadliq.az](http://www.azadliq.az)

**100:** The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

47d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency does not effectively investigate. The agency may start investigations but not complete them.

**References:**

Reference: Interview with some HR Defenders, including Mirvarin Gehremanli and Emil Aliyev (July 2007).  
Reports by the media, including Gunderlik Azerbaijan.”  
[www.gunazer.com](http://www.gunazer.com)

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

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46  
IV-3. Procurement

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48. Is the public procurement process effective?

55

48a. In law, there are regulations addressing conflicts of interest for public procurement officials.

YES | NO

**Comments:**

The Procurement Law (article number 13) includes regulations addressing conflicts of interest for public procurement officials. Public procurement officials and their relatives do not have the right to participate in the procurement.

**References:**

Reference: Procurement Law of Azerbaijan Republic.

**YES:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

**NO:** A NO score is earned if no such rules exist.

48b. In law, there is mandatory professional training for public procurement officials.

YES | NO

**Comments:**

Law on Procurement does not require mandatory professional training for public procurement officials.

**References:**

Reference: Procurement Law of Azerbaijan Republic.

**YES:** A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process.

**NO:** A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, unrelated to procurement processes, or voluntary.

48c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

**Comments:**

The Procurement Agency closes its eyes to illegal actions related to state tenders. In practice, there are no clear mechanisms to enforce the conflicts-of-interest regulations for public procurement officials.

**References:**

Reference: Interview with Rovshen Agayev, deputy chairman of the Economic Initiatives Center. Reports by the Center for Procurement Research.

**100:** Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

**75:**

**50:** Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

**25:**

**0:** Conflict of interest regulations do not exist, or are consistently ineffective.

48d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

YES | **NO**

**Comments:**

There is no mechanism for monitoring the assets, incomes and spending habits of public procurement officials neither in the Anti-Corruption Law nor in the Procurement Law. In general, no laws provides such mechanisms.

**References:**

Reference: The Legislation of Azerbaijan Republic including Anti-Corruption Law not in Procurement Law.

**YES:** A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

**NO:** A NO score is earned if no such mandate exists.

48e. In law, major procurements require competitive bidding.

**YES** | NO

**Comments:**

The Law on Procurment (article number 11) requires holding competitive bidding for major procurements. More than three bidders are required to hold tenders.

**References:**

Reference: Law on Procurment of Azerbaijan Republic.

**YES:** A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

**NO:** A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

48f. In law, strict formal requirements limit the extent of sole sourcing.

YES | NO

**Comments:**

The Law on Procurement (article 45) requires strict formal requirements that limit the extent of sole sourcing. All negotiations should be secret, and information can not be transferred to other bidders.

**References:**

Reference: The Law on Procurment of Azerbaijan Republic.

**YES:** A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

**NO:** A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

48g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

YES | NO

**Comments:**

According to the Law on Procurement (article number 57) unsuccessful bidders can instigate an official review of procurement decisions.

**References:**

Reference: Law on Procurement of Azerbaijan Republic.

**YES:** A YES score is earned if there is a formal appeal process for unsuccessful bidders.

**NO:** A NO score is earned if no such process exists.

48h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

YES | NO

**Comments:**

The Law on Procurement (article number 60) gives unsuccessful bidders the right to challenge procurement decisions in a court of law.

**References:**

Reference: The Law on Procurement of Azerbaijan Republic.

**YES:** A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

**NO:** A NO score is earned if no such process exists.

48i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

YES | NO

**Comments:**

There are no such requirements in the legislation.

**References:**

Reference: The Law on Procurment of Azerbaijan Republic.

**YES:** A YES score is earned if there are formal procurement blacklists, preventing convicted companies from doing business with the government.

**NO:** A NO score is earned if no such process exists.

48j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | 0

**Comments:**

Since there is no public access to the major tenders' bidders, it's difficult to say whether companies guilty of major violations of procurement regulations participate in future procurement bids or not. The law, however, does not prohibit it, therefore they can do it.

**References:**

Reference: Interview with Azer Mehtiyev, chairman of the Economic Initiatives Center.  
Reports by Center for Economic and Social Development (CESD).  
[www.cesd.az](http://www.cesd.az)

**100:** A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

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## 49. Can citizens access the public procurement process?

88

49a. In law, citizens can access public procurement regulations.

YES | NO

**Comments:**

Citizens can have access to the public procurement process either by visiting the Web site of the Procurement Agency ([www.tender.gov.az](http://www.tender.gov.az)) or through state newspapers.

**References:**

Reference: The Law on Procurement of Azerbaijan Republic.  
Reports at [www.tender.gov.az](http://www.tender.gov.az)

**YES:** A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

**NO:** A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

49b. In law, the government is required to publicly announce the results of procurement decisions.

YES | NO

**Comments:**

The Law on Procurement (article 5.3) requires publicly announcing the results of procurement decisions within five bank days.

**References:**

Reference: The Law on Procurement of Azerbaijan Republic.

**YES:** A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

**NO:** A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

49c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

All results are published in the state newspapers and posted on the Web site.

**References:**

Reference: Interview with Azer Mehtiyev, chairman of the Economic Initiatives Center.

Reports by the Center for Economic and Social Development (CESD).

[www.cesd.az](http://www.cesd.az)

Reports by Procurement Agency.

[www.tender.gov.az](http://www.tender.gov.az)

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

49d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Since all results are published in the state newspapers and posted on the Web site, no high costs are needed to access the information.

**References:**

Reference: Interview with Azer Mehtiyev, chairman of the Economic Initiatives Center.  
Reports by the Center for Economic and Social Development (CESD).  
[www.cesd.az](http://www.cesd.az)  
Reports by Procurement Agency.  
[www.tender.gov.az](http://www.tender.gov.az)

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

49e. In practice, major public procurements are effectively advertised.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, information about major procurement are distributed by the official newspapers. However, that does not mean that major public procurements are effectively advertised. The problem is that such announcements are usually formal and not all information related to the procurement is covered.

**References:**

Reference: Interview with Azer Mehtiyev, chairman of the Economic Initiatives Center.  
Reports by the Economic Research Center.  
[www.erc-az.org](http://www.erc-az.org)

**100:** There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

**25:**

**0:** There is no formal process of advertising major public procurements or the process is superficial and ineffective.

49f. In practice, citizens can access the results of major public procurement bids.

**Comments:**

In practice, there are not any serious problems for citizens having access to the results of major public procurement bids.

**References:**

Reference: Interview with Azer Mehtiyev, chairman of the Economic Initiatives Center.

Reports by the Procurement Agency.

[www.tender.gov.az](http://www.tender.gov.az)

Reports by CESD.

[www.cesd.az](http://www.cesd.az)

**100:** Records of public procurement results are publicly available through a formal process.

**75:**

**50:** Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

**25:**

**0:** This information is not available to the public through an official process.

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## IV-4. Privatization

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### 50. Is the privatization process effective?

42

50a. In law, all businesses are eligible to compete for privatized state assets.

YES | NO

**Comments:**

According to the Law on Privatization of State Companies approved May 16, 200 and the Second State Program on Privatization, all businesses are eligible to compete for privatized state assets.

**References:**

Reference: Legislation on Privatization including State Programs.

**YES:** A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

**NO:** A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

50b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

YES | **NO**

**Comments:**

No laws or State Programs address the conflicts of interest of government officials involved in privatization. Only the law on civil service has general provisions about that.

**References:**

Reference: Legislation on Privatization of Azerbaijan Republic including State Programs.

**YES:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

**NO:** A NO score is earned if there are no such formal regulations.

50c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | **25** | 0

**Comments:**

Since there is no specific law on this issue, in practice, it can not be evaluated.

**References:**

Reference: Interview with Mehmed Talibli, chairman of the Center for Economic Innovations (August 2007).

Reports by Azadliq" newspaper

[www.azadliq.az](http://www.azadliq.az)

"Privatization Process in Azerbaijan" paper by Gubad Ibadoglu (May 2006) Azerbaijan.

**100:** Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

**75:**

**50:** Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

**25:**

0: Conflict of interest regulations do not exist, or are consistently ineffective.

## 51. Can citizens access the terms and conditions of privatization bids?

100

51a. In law, citizens can access privatization regulations.

YES | NO

### Comments:

Citizens can access the terms and conditions of privatization bids by Mulkiyyet newspaper, which is published by the State Estate Committee of Azerbaijan Republic.

### References:

Reference: Second Privatization Program of Azerbaijan Republic.  
Mulkiyyet newspaper reports.  
[www.mulkiyyet.az](http://www.mulkiyyet.az)

**YES:** A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

**NO:** A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

51b. In practice, privatizations are effectively advertised.

100 | 75 | 50 | 25 | 0

### Comments:

Since all information related to the privatization bids are published in the newspaper, it can be said that privatizations are effectively advertised.

### References:

Reference:  
Interview with Gubad Ibadoglu, chairman of the Economic Research Center.  
Reports by CESD.  
[www.cesd.az](http://www.cesd.az)  
Reports by Mulkiyyet" newspaper  
[www.mulkiyyet.az](http://www.mulkiyyet.az)

**100:** There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

**25:**

**0:** There is no formal process of advertising privatizations or the process is superficial and ineffective.

51c. In law, the government is required to publicly announce the results of privatization decisions.

**YES** | NO

**Comments:**

According to article 25.3 of the Law on Privatization of State Companies, information on privatization of the state-owned enterprises are required to be published in the media within 15 days.

**References:**

Reference: The Law on Privatization of State Companies of Azerbaijan Republic.

**YES:** A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

**NO:** A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

51d. In practice, citizens can access privatization regulations within a reasonable time period.

**100** | 75 | 50 | 25 | 0

**Comments:**

Yes, citizens can access the information through the media.

**References:**

Reference: Interview with Gubad Ibadoglu, chairman of the Economic Research Center.  
Report on Sustainable Development in Azerbaijan by Ministry of Economic Development.  
CESD reports.  
[www.cesd.az](http://www.cesd.az)  
Reports by "Mulkkiyyet" newspaper.  
[www.mulkkiyyet.az](http://www.mulkkiyyet.az)

**100:** Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

51e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can access the information through the media for a low cost.

**References:**

Reference:

Interview with Gubad Ibadoglu, chairman of the Economic Research Center.

Report on Sustainable Development in Azerbaijan by Ministry of Economic Development.

CESD reports.

[www.cesd.az](http://www.cesd.az)

Reports by "Milkiyyet" newspaper.

[www.mulkiyyet.az](http://www.mulkiyyet.az)

**100:** Records (defined here as the rules governing the competitive privatization process) are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## Category V. Oversight and Regulation

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### V-1. <sup>74</sup>National Ombudsman

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52. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

52. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

YES | NO

**Comments:**

Yes. According to the Law on Ombudsman approved Dec. 28, 2001, the Ombudsman Institute was established in Azerbaijan.

**References:**

Reference: The Law on Ombudsman of Azerbaijan Republic.

**YES:** A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

**NO:** A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

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### 53. Is the national ombudsman effective?

61

53a. In law, the ombudsman is protected from political interference.

YES | NO

**Comments:**

According to the Law on Ombudsman (article number 2), the chairman of the Ombudsman Institute is an independent person elected from three candidates by the parliament. Eighty-three votes out of 125 are required.

**References:**

Reference: The Law on Ombudsman of Azerbaijan Republic.

**YES:** A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

53b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

The chairman of the Ombudsman Institute was elected in 2003 for seven years. This period is determined by the Law on Procurement (article number 4). In practice, however, it is hard to say that the ombudsman is protected from political interference.

**References:**

Reference: Interview with S.Ibrahimli, chairman of the Political and Social Studies Center (August 2007).  
Reports by Council of Europe.  
Reports by Institute for Democracy and Peace.

**100:** This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information. .

**75:**

**50:** This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

53c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no case in Azerbaijan where the ombudsman was removed from office. The government, however, can do it any time without relevant justification, if needed.

**References:**

Reference: Interview with Rovshen Agayev, independent expert.  
Reports by HR Defende Organizations in Azerbaijan.  
Azadlig" newspaper.  
www.azadliq.az

**100:** The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

53d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Yes. The Ombudsman Institute has a professional, full-time staff.

**References:**

Reference: Annual Reports of The Ombudsman Institute.  
Interview with The Ombudsman Institute staff.  
[www.ombudsman.gov.az](http://www.ombudsman.gov.az)

**100:** The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

53e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, the Ombudsman Institute is under pressure from the office of president, and without its permission, the ombudsman can not really make decisions.

**References:**

Reference: Interview with Rovshen Agayev, independent expert.  
Report by HR Defence Organizations.  
Reports by International Organizations.  
<http://www.demaz.org>

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have

clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

53f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The ombudswoman receives regular funding from the state budget.

**References:**

Reference: The Law on Ombudsman and Law on State Budget of Azerbaijan Republic.

Reports by Ombudsman Institute.

[www.ombudsman.gov.az](http://www.ombudsman.gov.az)

Reports by Azadlig" newspaper.

[www.azadliq.az](http://www.azadliq.az)

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

53g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

**Comments:**

Yes, the reports can be downloaded from the Ombudsman's site.

**References:**

Reference: <http://www.ombudsman.gov.az>

Reports by Watch Dog Organizations in Azerbaijan.

**100:** The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

53h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | **25** | 0

**Comments:**

The ombudsman very seldom initiates investigations in Azerbaijan.

**References:**

Reference: Reports of HR Protection Organizations, including Institute of Peace and Democracy. Interview with independent experts.

**100:** The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

**75:**

**50:** The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

53i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | **0**

**Comments:**

Not really. There are no cases on this matter.

**References:**

Reference: Interview with Rovshen Agayev, independent expert (August 2007).

Reports by Watch Dog Organizations.

Reports by Ombudsman Institute.

<http://www.ombudsman.gov.az>

**100:** When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

53j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

The government acts on the findings of the Ombudsman Institute.

**References:**

Reference: Interview with Mehmed Talibli, chairman of Economic Innovation.

Reports by Institute for Democracy and Peace.

**100:** Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, ombudsman's reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Ombudsman reports are often ignored, or given superficial attention. Ombudsman reports do not lead to policy changes.

53k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

**Comments:**

According to the Law on Ombudsman (articles 10, 12 and 13), requests must be reviewed within 30 days. In practice, it does not work for all cases.

**References:**

Reference: Yen Musavat" newspaper ( 2007).  
Reports by Watch Dog Organizations in Azerbaijan.

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

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#### 54. Can citizens access the reports of the ombudsman?

100

54a. In law, citizens can access reports of the ombudsman(s).

YES | NO

**Comments:**

The Law on Ombudsman (article 14) requires providing such access. The ombudsman has to submit the annual report to the president and gives a speech in the Parliament. The speech is required to be published in an Azerbaijan newspaper.

**References:**

Reference: Law on Ombudsman of Azerbaijan Republic.

**YES:** A YES score is earned if all ombudsman reports are publicly available.

**NO:** A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

54b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Annual reports are published in the newspaper and posted on the Web site.

**References:**

Reference: <http://www.ombudsman.gov.az>  
[www.azerweb.com/en/report.php?id=589](http://www.azerweb.com/en/report.php?id=589) –

**100:** Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

54c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Annual reports are published in the newspaper and posted on the Web site, which is free to use.

**References:**

Reference: <http://www.ombudsman.gov.az>  
[www.azerweb.com/en/report.php?id=589](http://www.azerweb.com/en/report.php?id=589) –

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## V-2. Supreme Audit Institution

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55. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

55. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

YES | NO

**Comments:**

According to the Constitution of Azerbaijan (article 92), the Chamber of Account and Chamber of Auditors are established in Azerbaijan.

**References:**

Reference: The Legislation of Azerbaijan Republic.

**YES:** A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

**NO:** A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

---

56. Is the supreme audit institution effective?

56

56a. In law, the supreme audit institution is protected from political interference.

YES | NO

**Comments:**

Under the Law on Audit Service (article 1), the chamber is an independent institution and is protected from political interference.

**References:**

Reference: The Law on Audit Service of Azerbaijan Republic.

**YES:** A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

56b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

It depends on the political decision. If the government wants it, the head of the audit agency can be removed without relevant justification.

**References:**

Reference: Interview with Rovshen Agayev, independent expert.  
Reports by local and international organizations.  
[www.ourworld.comuserve.com](http://www.ourworld.comuserve.com)

**100:** The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the agency can be removed at the will of political leadership.

56c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The Chamber of Audit has a full-time, professional staff.

**References:**

Reference; Interview with staff of The Chamber of Audit.  
Reports by The Chamber of Audit  
[www.audit.gov.az/index\\_en.php](http://www.audit.gov.az/index_en.php)

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

56d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

The Chamber of Audit is not totally depended on the government; however, it is hard to evaluate how independent it is, in terms of appointments.

**References:**

Reference: Interview with Vugar Bayramov, chairman of the Center for Economic and Social Development (CESD).  
Reports by CESD on auditing.

**100:** Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

56e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

It regularly receives funding from the state budget and fees according to the contracts.

**References:**

Reference: Interview with Vugar Bayramov, chairman of the Center for Economic and Social Development (CESD) (August 2007).

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

56f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | **25** | 0

**Comments:**

The chamber's site is not often updated, and reports are submitted only to the parliament. Citizens hardly have access to those reports.

**References:**

Reference: Interview with Vugar Bayramov, chairman of the Center for Economic and Social Development (CESD).  
www.audit.gov.az/index\_en.php

**100:** The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

**25:**

**0:** The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

56g. In practice, the government acts on the findings of the audit agency.

100 | 75 | **50** | 25 | 0

**Comments:**

In practice, the government acts on the findings of the audit agency.

**References:**

Reference: Interview with Vugar Bayramov, chairman of the Center for Economic and Social Development (CESD).  
Reports by ERC.  
www.erc-az.org

**100:** Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

56h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | **50** | 25 | 0

**Comments:**

The audit institute is able to initiate its own investigations; however, the results of those investigations are not open to all citizens.

**References:**

Reference: Interview with Vugar Bayramov, chairman of the Center for Economic and Social Development (CESD) (August 2007).  
ERC Reports.  
www.erc-az.org

**100:** The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

**75:**

**50:** The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

**25:**

**0:** The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

---

57. Can citizens access reports of the supreme audit institution?

57a. In law, citizens can access reports of the audit agency.

YES | NO

**Comments:**

The Law on Audit Service requires public disclosure of reports.

**References:**

Reference: The Law on Audit Service of Azerbaijan Republic.

**YES:** A YES score is earned if all supreme auditor reports are available to the general public.

**NO:** A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

57b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

There is very limited access to reports, and reports take more than a month to acquire.

**References:**

Reference: Interview with Rovshen Agayev, independent expert (August 2007).  
Reports by Expert<sup>™</sup> Economic Journal.  
[www.ekspert.az](http://www.ekspert.az)

**100:** Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

57c. In practice, citizens can access the audit reports at a reasonable cost.

**Comments:**

There is a high cost to accessing to those reports, due to limited access. The costs are prohibitive to most citizens.

**References:**

Reference: Interview with Rovshen Agayev, independent expert.  
Reports by Expert™ Journal.  
www.ekspert.az

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## 69 V-3. Taxes and Customs

---

58. In law, is there a national tax collection agency?

100

58. In law, is there a national tax collection agency?

YES | NO

**Comments:**

According to the Act on Ministry of Taxes approved March 29, 2001, there is a Ministry of Taxes.

**References:**

Reference: The Act on Ministry of Taxes.

**YES:** A YES score is earned if there is a national agency formally mandated to collect taxes.

**NO:** A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

## 59. Is the tax collection agency effective?

100

59a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

### Comments:

The ministry has a full-time, professional staff. It has 2,000 employees in 14 regional offices.

### References:

Reference: Interview with Azer Mehtiyev, chairman of Centre for Economic Initiatives.  
Reports by Ministry of Taxes.  
[www.taxes.gov.az/eng/](http://www.taxes.gov.az/eng/)

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

59b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

### Comments:

The ministry receives regular funding from the state budget.

### References:

Reference: [www.tax-gov.az](http://www.tax-gov.az)  
Reports by Ministry of Finance.  
Reports by Parliament.  
[www.parliament.az](http://www.parliament.az)

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

---

## 60. In practice, are tax laws enforced uniformly and without discrimination?

50

60. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | **50** | 25 | 0

### Comments:

There are some discrimination facts when it comes to tax collection, especially regarding businessmen who are not loved by the ruling party. Those businessmen are under pressure from the Ministry of Taxes. For example, in 2005, Azpetrol National Gasoline Company of Azerbaijan was announced as the Best Model Tax Payer” in Azerbaijan by the Ministry of Taxes. But in late 2005, the president of Azpetrol had political problems with the government, and he was arrested. Since then, the Ministry of Taxes has announced several times that Azpetrol was breaking the tax law.

### References:

Reference: Interview with Rovshen Agayev, deputy chairman of Centre for Economic Initiatives. Reports by media.  
[www.azadliq.az/public/print.php?id=8673](http://www.azadliq.az/public/print.php?id=8673)  
[www.525ci.com/new/2007/08/18/anons=2](http://www.525ci.com/new/2007/08/18/anons=2)

**100:** Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

**75:**

**50:** Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

**25:**

**0:** Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

---

## 61. In law, is there a national customs and excise agency?

100

61. In law, is there a national customs and excise agency?

YES | NO

**Comments:**

According to the Act on Committee of Customs approved in 1992, there is a Committee of Customs.

**References:**

Reference: Act on Committee of Customs.

**YES:** A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

**NO:** A NO score is earned if that function is spread over several agencies, or does not exist.

---

62. Is the customs and excise agency effective?

88

62a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Yes, the committee has a full-time, professional staff of about 1,000 people.

**References:**

Reference: Interview with Azer Mehtiyev, chairman of Centre for Economic Initiatives.  
Reports by committee.  
[www.az-customs.net](http://www.az-customs.net)

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

62b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The committee receives regular revenues from the state budget, and 2 percent of the collected tax is reserved to use on behalf of committee employees.

**References:**

Reference: Interview with Azer Mehtiyev, chairman of Centre for Economic Initiatives.

Reports by Ministry of Finance.

[www.finance-az.org](http://www.finance-az.org)

Reports by Committee of Customs.

[www.az-customs.net](http://www.az-customs.net)

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

---

63. In practice, are customs and excise laws enforced uniformly and without discrimination?

25

63. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, customs and excise laws are never enforced uniformly and without discrimination.

**References:**

Reference: Interview with Rovshen Agayev, deputy chairman of Centre for Economic Initiatives.

Reports by media and watch dog organizations.

[www.azadliq.az/index.php?category=8&id=6539](http://www.azadliq.az/index.php?category=8&id=6539)

[www.isagambar.az/2005/3101-yenimusavat.htm](http://www.isagambar.az/2005/3101-yenimusavat.htm)

[www.adalet-az.com/aze/2007/01/25](http://www.adalet-az.com/aze/2007/01/25)

**100:** Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

75:

50: Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

25:

0: Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

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## V-4. State-Owned Enterprises

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64. In law, is there an agency or equivalent mechanism overseeing state-owned companies?

100

64. In law, is there an agency or equivalent mechanism overseeing state-owned companies?

YES

NO

**Comments:**

There are several ministries to oversee state-owned companies, however, there is a special department in the Cabinet of Ministry that controls those issues.

**References:**

Reference: The Law on Management of State-Owned Companies.  
Act on Cabinet of Ministry.

**YES:** A YES score is earned if there is an agency or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. State-owned companies are defined as companies owned in whole or in part by the government.

**NO:** A NO score is earned if this function does not exist.

---

65. Is the agency or equivalent mechanism overseeing state-owned companies effective?

75

65a. In law, the agency or equivalent mechanism overseeing state-owned companies is protected from political interference.

YES | NO

**Comments:**

According to the Act on State-Owned Companies, those companies can not be subject of political processes. The State Securities Committee of Azerbaijan is a financial regulatory agency that oversees publicly listed companies.

**References:**

Reference: The Law on Management of State-Owned Companies.  
Act on the State Securities Committee.

**YES:** A YES score is earned only if the agency or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency or equivalent mechanism is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

65b. In practice, the agency or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The committee has a full-time staff.

**References:**

Reference: Interview with Gubad Ibadoglu, chairman of ERC (August 2007).  
Reports by Securities Committee (June 2007).

**100:** The agency or equivalent mechanism has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65c. In practice, the agency or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The committee receives funding from the state budget.

**References:**

Reference: Interview with Gubad Ibadoglu, chairman of ERC (August 2007).

Reports by Securities Committee (June 2007).

Reports by the Parliament (2006).

**100:** The the agency or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The the agency or equivalent mechanism has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

65d. In practice, when necessary, the agency or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | **25** | 0

**Comments:**

The committee overseeing state-owned companies very seldomly initiates independent investigations.

**References:**

Reference: Interview with Mehemed Talibli, leading expert (August 2007).

Reports by Center for Economic Initiatives (July 2007).

**100:** When irregularities are discovered, the agency or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

**75:**

**50:** The agency or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

65e. In practice, when necessary, the agency or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | **50** | 25 | 0

**Comments:**

The committee overseeing state-owned companies sometimes imposes penalties on offenders.

**References:**

Reference: Interview with Gubad Ibadoglu, chairman of ERC (August 2007).  
Reports by Center for Economic Initiatives (July 2007).

**100:** When rules violations are discovered, the agency or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

**75:**

**50:** The agency or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

---

## 66. Can citizens access the financial records of state-owned companies?

50

66a. In law, citizens can access the financial records of state-owned companies.

**YES** | NO

**Comments:**

Financial records of state-owned companies are required to be published in the official newspapers.

**References:**

Reference: Act on Securities Committee (2007).  
Reports by Center for Economic Initiatives (July 2007).

**YES:** A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

**NO:** A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

66b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, the financial records of state-owned companies are not very often updated.

**References:**

Reference: Interview with Gubad Ibadoglu, chairman of ERC (August 2007).  
Reports by Center for Economic Initiatives (July 2007).

**100:** State-owned companies always disclose financial data, which is generally accurate and up to date.

**75:**

**50:** State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, or file the information behind schedule.

**25:**

**0:** Financial data is not available, or is consistently superficial or otherwise of no value.

66c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

**Comments:**

Some companies are using international standards.

**References:**

Reference: Interview with Gubad Ibadoglu, chairman of ERC (August 2007).  
Reports by Center for Economic Initiatives (July 2007).

**100:** Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

**75:**

**50:** Financial records of state-owned companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

**25:**

**0:** State-owned companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

66d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

It is very hard to get financial records of state companies.

**References:**

Reference; Interview with Mehemmed Talibli, leading expert, August, 2007.  
Reports by Center for Economic Initiatives, July, 2007.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

66e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

It is very hard to get financial records of state companies at a reasonable cost.

**References:**

Reference; Interview with Mehemmed Talibli, leading expert, August, 2007.  
Reports by Center for Economic Initiatives, July, 2007.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

---

## 75 V-5. Business Licensing and Regulation

---

67. Are business licenses available to all citizens?

56

67a. In law, anyone may apply for a business license.

YES | NO

**Comments:**

According to the Law on the Entrepreneurship Activity, all Azerbaijan citizens may apply for a business license.

**References:**

Reference: Law on the Entrepreneurship Activity of Azerbaijan Republic.

**YES:** A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

**NO:** A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required

67b. In law, a complaint mechanism exists if a business license request is denied.

YES | NO

**Comments:**

According to the Law on Entrepreneurship activities (Article 11), a complaint mechanism exists if a business license request is denied.

**References:**

Reference: Law on the Entrepreneurship Activity of Azerbaijan Republic.

**YES:** A YES score is earned if there is a formal process for appealing a rejected license.

**NO:** A NO score is earned if no such mechanism exists.

67c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

If the applicant is not willing to pay a bribe, then process takes longer. According to the World Bank calculations, 28 procedures and 212 days are needed to obtain the necessary license.

**References:**

Reference: World Bank, Doing Business Report.  
[www.worldbank.org](http://www.worldbank.org)  
Interview with Gubad Ibadoglu, chairman of ERC.  
[www.erc-az.org](http://www.erc-az.org)

**100:** Licenses are not required, or licenses can be obtained within roughly one week.

**75:**

**50:** Licensing is required and takes around one month. Some groups may be delayed up to a three months

**25:**

**0:** Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

67d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, any necessary business license can only be obtained through a very high cost.

**References:**

Reference: World Bank, Doing Business Report.  
[www.worldbank.org](http://www.worldbank.org)  
Interview with Gubad Ibadoglu, chairman of ERC.  
[www.erc-az.org](http://www.erc-az.org)

**100:** Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

---

## 68. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

68a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

**YES** | NO

### Comments:

Those standards are posted in many laws, but they are very complicated, and are really adapted to the international standards.

### References:

Reference: The Legislation of Azerbaijan Republic.

**YES:** A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

**NO:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

68b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

**YES** | NO

### Comments:

Those standards are posted in many laws, but they are very complicated, and are really adapted to the international standards.

### References:

Reference: The Legislation of Azerbaijan Republic.

**YES:** A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

**NO:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

68c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

**YES** | NO

**Comments:**

Those standards are posted in many laws, but they are very complicated, and are really adapted to the international standards.

**References:**

Reference: The Legislation of Azerbaijan Republic.

**YES:** A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

**NO:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

---

## 69. Does government effectively enforce basic health, environmental, and safety standards on businesses?

25

69a. In practice, business inspections by government officials to ensure public health standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | **25** | 0

**Comments:**

In practice, business inspections by government officials to ensure public health standards are being met are not always carried out in a uniform and even-handed manner.

**References:**

Reference: Interview with Rovshen Agayev, an independent expert.  
Reports by international organizations, WHO and WB, 2007.

**100:** Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

69b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, business inspections by government officials to ensure public health standards are being met are not always carried out in a uniform and even-handed manner.

**References:**

Reference: Interview with Rovshen Agayev, an independent expert.  
Reports by international organizations, WHO and WB, 2007.

**100:** Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public environmental standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

69c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, business inspections by government officials to ensure public health standards are being met are not always carried out in a uniform and even-handed manner.

**References:**

Reference: Interview with Rovshen Agayev, an independent expert.  
Reports by international organizations, WHO and WB, 2007.

**100:** Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public safety standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

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## Category VI. Anti-Corruption and Rule of Law

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### VI-1. ~~70~~ Anti-Corruption Law

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#### 70. Is there legislation criminalizing corruption?

100

70a. In law, attempted corruption is illegal.

**YES** | NO

**Comments:**

The criminal code of Azerbaijan criminalized corruption. According to the code (article number 33), corruption is illegal.

**References:**

Reference: The Criminal of Azerbaijan Republic.

**YES:** A YES score is earned if corruption laws include attempted acts.

**NO:** A NO score is earned if this is not illegal.

70b. In law, extortion is illegal.

YES | NO

**Comments:**

According to Criminal Code approved in 2000, extortion is illegal.

**References:**

Reference: The Criminal of Azerbaijan Republic.

**YES:** A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

**NO:** A NO score is earned if this is not illegal.

70c. In law, offering a bribe (i.e. active corruption) is illegal.

YES | NO

**Comments:**

Criminal code (article number 312), and Anti-corruption Law (article number 9.2.2) mention that offering a bribe is illegal.

**References:**

Reference: The Criminal of Azerbaijan Republic.

**YES:** A YES score is earned if offering a bribe is illegal.

**NO:** A NO score is earned if this is not illegal.

70d. In law, receiving a bribe (i.e. passive corruption) is illegal.

YES | NO

**Comments:**

According to the Criminal Code (article 311.1), receiving a bribe is illegal.

**References:**

Reference: The Criminal of Azerbaijan Republic.

**YES:** A YES score is earned if receiving a bribe is illegal.

**NO:** A NO score is earned if this is not illegal.

70e. In law, bribing a foreign official is illegal.

**YES** | NO

**Comments:**

According to the Criminal Code, bribing a foreign official is illegal.

**References:**

Reference: The Criminal of Azerbaijan Republic.

**YES:** A YES score is earned if bribing a foreign official is illegal.

**NO:** A NO score is earned if this is not illegal.

70f. In law, using public resources for private gain is illegal.

**YES** | NO

**Comments:**

According to Anti-Corruption Law, it is prohibited to use public resources for private gain.

**References:**

Reference: The Criminal of Azerbaijan Republic.

**YES:** A YES score is earned if using public resources for private gain is illegal.

**NO:** A NO score is earned if this is not illegal.

70g. In law, using confidential state information for private gain is illegal.

**YES** | NO

**Comments:**

According to the criminal code (article number 284), using confidential state information for private gain is illegal.

**References:**

Reference: The Criminal of Azerbaijan Republic.

**YES:** A YES score is earned if using confidential state information for private gain is illegal.

**NO:** A NO score is earned if this is not illegal.

70h. In law, money laundering is illegal.

**YES** | NO

**Comments:**

Money laundering is prohibited by law. There is, however, a gap in the legislation in terms of money laundering.

**References:**

The Criminal Code of Azerbaijan.

**YES:** A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

**NO:** A NO score is earned if this is not illegal.

70i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

**YES** | NO

**Comments:**

According to the criminal code, conspiracy to commit a crime is illegal.

**References:**

Reference: The Criminal Code of Azerbaijan Republic.

**YES:** A YES score is earned if organized crime is illegal.

**NO:** A NO score is earned if this is not illegal.

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## VI-2. Anti-Corruption Agency

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71. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

71. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

YES | NO

**Comments:**

The Commission on Combating Corruption under the State Council on Management of the Civil Service was established according to the Anti-Corruption Act of 2004.

**References:**

Reference: Anti-Corruption Law of Azerbaijan Republic.

**YES:** A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

**NO:** A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

---

72. Is the anti-corruption agency effective?

44

72a. In law, the anti-corruption agency (or agencies) is protected from political interference.

YES | NO

**Comments:**

Under the law, the anti-corruption agency (or agencies) is protected from political interference.

**References:**

Reference: Anti-Corruption Law of Azerbaijan Republic.

**YES:** A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

72b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, the anti-corruption agency is almost not protected from political interference.

**References:**

Reference: Reports by Azadliq newspaper.  
[www.azadliq.az](http://www.azadliq.az)  
Reports by Transparency International.  
Reports by Anti-Corruption Collation.

**100:** This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information. .

**75:**

**50:** This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

72c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

The eead of the anti-corruption agency can be removed from office without relevant justification.

**References:**

Reference: Reports by Azadliq newspaper.  
[www.azadliq.az](http://www.azadliq.az)

**100:** The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director(s) can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director(s) can be removed at the will of political leadership.

72d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100 | 75 | 50 | **25** | 0

**Comments:**

The main criteria is the network or regionalism.

**References:**

Reference: Reports by Azadliq newspaper.  
[www.azadliq.az](http://www.azadliq.az)  
Reports by Transparency International.  
Reports by Anti-Corruption Collation.

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

72e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100 | 75 | **50** | 25 | 0

**Comments:**

The agency has a full-time staff, but it is hard to characterized them as professional.

**References:**

Reference: Reports by Azadliq newspaper  
www.azadliq.az  
Reports by Transparency International.  
Reports by Anti-Corruption Collation.

**100:** The agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

72f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency receives funding from the state budget.

**References:**

Reference: Reports by Azadliq newspaper.  
www.azadliq.az  
Reports by Transparency International.  
Reports by Anti-Corruption Collation.

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

72g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

**Comments:**

Such reports are not often made.

**References:**

Reference: Reports by Azadliq newspaper.  
www.azadliq.az.  
Reports by Transparency International.  
Reports by Anti-Corruption Collation.

**100:** The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

72h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency is regulated by the president's office.

**References:**

Reference: Reports by Azadliq newspaper.  
www.azadliq.az.  
Reports by Transparency International.  
Reports by Anti-Corruption Collation.

**100:** The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

**75:**

**50:** The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

**25:**

**0:** The agency (or agencies) lacks significant powers which limit its effectiveness.

72i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency can independently initiate investigations, but agreement from the president's office is crucial.

**References:**

Reference: Reports by Azadliq newspaper.  
www.azadliq.az.  
Reports by Transparency International.  
Reports by Anti-Corruption Collation.

**100:** When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

**75:**

**50:** The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

---

### 73. Can citizens access the anti-corruption agency?

25

73a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

It takes a long time.

**References:**

Reference: Reports by Azadliq newspaper.  
www.azadliq.az.  
Reports by Transparency International.  
Reports by Anti-Corruption Collation.

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

73b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | **25** | 0

**Comments:**

It depends on the level of complaint, because if citizens complain about high-ranking officials to the anti-corruption agency, there will definitely be fear of recrimination. But if citizens complain about a university educator or doctor to the anti-corruption agency, there will not be fear of recrimination.

**References:**

Reference: Reports by Azadliq newspaper.  
[www.azadliq.az](http://www.azadliq.az)  
Reports by Transparency International.  
Reports by Anti-Corruption Collation.

**100:** Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

---

74. Is there an appeals mechanism for challenging criminal judgments?

67

74a. In law, there is a general right of appeal.

YES | NO

**Comments:**

The Constitution indicates the right of appeal (articles number 57, 60 and 65).

**References:**

Reference; The Constitution of Azerbaijan Republic.

**YES:** A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

**NO:** A NO score is earned if there is no such process.

74b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, appeals are not all resolved within a reasonable time period.

**References:**

Interview with Azer Mehtiyev, the chairman of Economic Initiatives Center, July, 2007.  
Reports by CESD.  
[www.cesd.az](http://www.cesd.az)

**100:** Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

**25:**

**0:** Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

74c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

In some cases, citizens can use the appeals mechanism at a reasonable cost.

**References:**

Interview with Azer Mehtiyev, the chairman of Economic Initiatives Center, July, 2007.

Reports by CESD.

www.cesd.az

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments.

**25:**

**0:** The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments.

---

## 75. In practice, do judgments in the criminal system follow written law?

25

75. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | **25** | 0

**Comments:**

In practice, judgments in the criminal system very seldom follow written law.

**References:**

Reference; Interview with leading HR Defenders, August, 2007.

Reports by Azerbaijan Lawyers Unions, 2007.

**100:** Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

**75:**

**50:** Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

**25:**

**0:** Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

---

76. In practice, are judicial decisions enforced by the state?

100

76. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

**Comments:**

The state plays a crucial role in judicial decisions.

**References:**

Reference; Interview with leading HR Defenders, August, 2007.  
Reports by Azerbaijan Lawyers Unions, 2007.

**100:** Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

**75:**

**50:** Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

**25:**

**0:** Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

---

77. Is the judiciary able to act independently?

75

77a. In law, the independence of the judiciary is guaranteed.

YES | NO

**Comments:**

It is guaranteed by several pieces of legislation, including the Constitution of Azerbaijan.

**References:**

Reference; The Constitution of Azerbaijan Republic.

---

**YES:** A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence include financial issues (drafting, allocation, and managing the budget of the courts ).

**NO:** A NO score is earned if there are no formal rules establishing an independent judiciary.

77b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

National-level judges are commonly influenced by politics, personal biases or incentives.

**References:**

Reference; Interview with leading HR Defenders, August, 2007.  
Reports by Azerbaijan Lawyers Unions, 2007.

**100:** National level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

**75:**

**50:** National level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

**25:**

**0:** National level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

77c. In law, there is a transparent and objective system for distributing cases to national-level judges.

YES | NO

**Comments:**

Under the law, there is a transparent and objective system for distributing cases to national-level judges.

**References:**

Reference; Law on Judicial-Legal of Azerbaijan Republic.

**YES:** A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

**NO:** A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

77d. In law, national-level judges are protected from removal without relevant justification.

YES | NO

**Comments:**

Under the law, national-level judges are protected from removal without relevant justification.

**References:**

Reference; Law on Judicial-Legal of Azerbaijan Republic.

**YES:** A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

**NO:** A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

---

## 78. Are judges safe when adjudicating corruption cases?

100

78a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

YES | NO

**References:**

Reference; Interview with leading HR Defenders, August, 2007.  
Reports by Azerbaijan Lawyers Unions, 2007.  
Reports by President Office.

**YES:** A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

**NO:** A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

78b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

YES | NO

**Comments:**

In the last year, no judges have been killed because of adjudicating corruption cases.

**References:**

Reference; Interview with leading HR Defenders, August, 2007.  
Reports by Azerbaijan Lawyers Unions, 2007.  
Reports by President Office.

**YES:** A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

**NO:** A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

---

## 79. Do citizens have equal access to the justice system?

82

79a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

**Comments:**

Racial or ethnic bias is not very important for judicial decisions, because the decision is made based on bribes.

**References:**

Reference; Interview with leading HR Defenders, August, 2007.  
Reports by Azerbaijan Lawyers Unions, 2007.

**100:** Judicial decisions are not affected by racial or ethnic bias.

**75:**

**50:** Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

**25:**

**0:** Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

79b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no gender discrimination.

**References:**

Reference; Interview with leading HR Defenders, August, 2007.  
Reports by Azerbaijan Lawyers Unions, 2007.

**100:** Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

**75:**

**50:** Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

**25:**

**0:** Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

79c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

YES | NO

**Comments:**

According to various legislation, the state provides legal counsel for defendants in criminal cases who cannot afford it.

**References:**

Reference; Interview with leading HR Defenders, August, 2007.  
Reports by Azerbaijan Lawyers Unions, 2007.

**YES:** A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

**NO:** A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

79d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

**Comments:**

The state usually provides legal counsel for defendants in criminal cases who cannot afford it, but they are not always professionals.

**References:**

Reference; Interview with leading HR Defenders, August, 2007.  
Reports by Azerbaijan Lawyers Unions, 2007.

**100:** State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

**75:**

**50:** State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

**25:**

**0:** State-provided legal aid is unavailable to most impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

79e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

**Comments:**

Not all categories of the population earning the median yearly income can afford to bring a legal suit.

**References:**

Reference; Interview with leading HR Defenders, August, 2007.  
Reports by Azerbaijan Lawyers Unions, 2007.

**100:** In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance.

**75:**

**50:** In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive.

**25:**

**0:** The cost of engaging the legal system prevents middle class citizens from filing suits.

79f. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

**Comments:**

In some cases, a typical small retail business can afford to bring a legal suit.

**References:**

Reference; Interview with leading HR Defenders, August, 2007.  
Reports by Azerbaijan Lawyers Unions, 2007.

**100:** In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance.

**75:**

**50:** In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive.

**25:**

**0:** The cost of engaging the legal system prevents small businesses from filing suits.

79g. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | 50 | 25 | 0

**Comments:**

Yes, citizens can do it.

**References:**

Reference; Interview with leading HR Defenders, August, 2007.  
Reports by Azerbaijan Lawyers Unions, 2007.

**100:** Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

**75:**

**50:** Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

**25:**

**0:** Courts are unavailable to some regions without significant travel on the part of citizens.

## VI-4. Law Enforcement

80. Is the law enforcement agency (i.e. the police) effective?

42

80a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

Bribe, regionalism and network is more important than professional criteria.

**References:**

Interview with Xalig Bahadur, an independent expert, July, 2007.  
Reports by different media, 2007.

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

80b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

**Comments:**

They do not have such problems.

**References:**

Interview with Xalig Bahadur, an independent expert, July, 2007.  
Reports by different media, 2007.

**100:** The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

80c. In practice, the law enforcement agency is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

There is not sufficient mechanism to protect enforcement agencies from political interference.

**References:**

Interview with Xalig Bahadur, an independent expert, July, 2007.  
Reports by different media, 2007.

**100:** The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

**75:**

**50:** The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

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## 81. Can law enforcement officials be held accountable for their actions?

58

81a. In law, there is an independent mechanism for citizens to complain about police action.

YES | NO

**Comments:**

According to the legislation, the Anti-Corruption Commission, the Office of the General Prosecutor, the Ministry of Internal Affairs, and the Ministry of National Security are responsible for investigating complaints.

**References:**

Reference: The Legislation of Azerbaijan Republic.

**YES:** A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

**NO:** A NO score is earned if there is no such mechanism

81b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

It takes a very long time.

**References:**

Interview with Xalig Bahadur, an independent expert, July, 2007.  
Reports by different media, 2007.

**100:** The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

81c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

YES | NO

**Comments:**

According to article 215 of the criminal procedural code, the Prosecutor's Office investigates cases in which law enforcement officials are involved in corruption.

**References:**

Reference: Criminal Procedural Code of Azerbaijan Republic.

**YES:** A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

**NO:** A NO score is earned if no such agency/entity exists.

81d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, the agency very seldom independently initiates investigations into allegations of corruption by law enforcement officials.

**References:**

Interview with Xalig Bahadur, an independent expert, July, 2007.  
Reports by different media, 2007.

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

81e. In law, law enforcement officials are not immune from criminal proceedings.

YES | NO

**Comments:**

According to article 25 of the constitution, all citizens are equal under the law and court.

**References:**

Reference: The Constitution of Azerbaijan Republic.

**YES:** A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

**NO:** A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

81f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | 0

**Comments:**

Generally, law enforcement officials have protection from most criminal investigations. The reality is that the law enforcement community protects itself and therefore, in practice, law enforcement officials are immune from criminal proceedings.

**References:**

Interview with Xalig Bahadur, an independent expert, July, 2007.  
Various media reports, 2007.

**100:** Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

**75:**

**50:** Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

**25:**

**0:** Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.