

PRESENTATION BY THE DELEGATION OF THE REPUBLIC OF AZERBAIJAN

Dear Ladies and Gentlemen,

First of all, I would like to express gratitude on behalf of the members of our delegation to the organizers of this international conference, on an important issue of interest to the world, for organization and invitation to participate in its work, which, we are sure, will be successful.

Corruption is a main social problem, which can call into a question stability of the social structure, undermine democratic and moral values, and interfere with economic and political development.

The legal definition of corruption is usually limited to a narrow sphere of the relations, participants of which, as a rule, are officials. However, this definition is unlikely to be satisfactory in as money-laundering activities of the organized crime penetrate deeper and deeper relations between private persons, having access to management by material resources of society. Partially, absence of clear definition of corruption results in law-enforcement bodies being unable to fight effectively against the dangerous phenomenon. Communist ideology, which did not recognize a fact of existence of corruption in former Soviet Union, considered it as alien element to the socialism and related concept of corruption as inherent to a capitalist system. It resulted in inability of law-enforcement bodies to react adequately upon cases of corruption, and, occasionally, these bodies appeared to be drawn in a net of groups of corruption.

In Azerbaijan, gaining independence has created an opportunity to take legislative, organizational and other measures on struggle against these kinds crime.

During the first years of independence a large economic scandals broke out in a country, and the bodies, which are called to protect the rights of the citizens, have begun to infringe them. The favorable conditions for growth of corruption and bribes have resulted during 1990-1 993 in frequent changes of the government, attempts of *coup d'état*, acts of terrorism, and processes, connected with transition from old economic mechanisms to new, as well as blanks spots in the legislation.

Corruption of law-enforcement system results inevitably in decline of trust of the citizens in authorities, in general, and in the laws, in particular, because, if individual cases of corruption were not punished, then the managers of these bodies either can not, or do not want to stop abuse of power by subordinated persons.

Corrupted law-enforcement bodies tried to enlist the support of certain political circles **goups** in order to secure their own existence.

It should be noted, that the corruption, being the organic phenomenon, penetrated into state structures, including the highest level of authority. So, by the virtue of the Order of ex-president A.Elchibey of Azerbaijan the government had issued two bills each by the nominal cost of \$25000.000 and 72 bills on a total sum \$50.000.000, not guaranteed by the economic resources. Attempts to use these bills by criminal structures with the purpose of illegal enrichment have resulted in the present government declaring these bills void, thus prevented reassignment of the promissory notes to private persons. But, despite this, in 1996 attempts to take advantage by one of bills on a \$25.000.000 were undertaken in one of the **europcean** states.

Headed by Rovshan Javadov, deputy minister of interior, division "OPON", created in 1990 in order to accomplish a task of the struggle against organized crime and terrorism, degenerated essentially in an organized criminal group, supervising and accompanying illicit export of oil, metal, weapons and etc. from a territory of Azerbaijan. Mahir Javadov, a prosecutor in a large industrial district of Baki city, was taking a special leading position in this group. During a conducted investigation it was also ascertained, that Javadov brothers participated in activities of criminal groups, engaged in extortion of money from businessmen under the cover of their official position, so they could steal up huge quantities of money and tried to take measures on money laundering. They have committed a number of grave crimes in order to achieve their purposes, including murders, acts of terrorism. Being internationally wanted for committed crimes Mahir Javadov, coming into agreement with the representatives of the Iranian special service, even today is continuing his criminal activities on the territory of that neighbour state.

One of the officials of Iran's special service, Abdoulhasan Moin-zadeh, the chairman of association of the businessmen of Iran in Azerbaijan, under the cover of commercial activity, was arrested by the law-enforcement bodies and convicted by court for bribe. However, due to the forged documents he has achieved the application of an amnesty to him and illegal discharge. The officials of law-enforcement bodies, who assisted to his illegal discharging, have been

punished, and Moin-zadeh was declared wanted. On return to Iran Moin-zadeh in agreement with Mahir Javadov are preparing acts of terrorism on the territory of our state.

As an example of a corruptin may be Nariman Imranov, former minister of national security, who assisted dangerous criminals in escape from pre-trial jail.

It was ascertained, that he was engaged in extortion of money from the businessmen and manufacturers, directing the received means for funding of armed units, getting ready to commit *coup d'etat*.

Rasul Guliyev, former speaker of the Parliament, which, according to returns of preliminary investigation, misappropriated state funds on a total sum of \$75000.000, being a big tycoon of shadow business, tried to influence the taking of decisions of the high rank officials of law-enforcement bodies by rendering protection and offering bribes. Rasul Guliyev had involved in his criminal activity some officials of parliament and close relatives.

However, it is regretfully to mark, that the similar persons, disclosed in corruption, have taken refuge in other countries.

Organized character of crimes, committed by Rasul Guliyev and his associates, have taken an international character. So, activities of this criminal group are connected with various companies, registered in USA, Austria, France, Belgium, Greece and Russia. It is regretfully to mark, that Rasul Guliyev, being essentially criminal and run away abroad, is covering his crimes by political motives.

During the last years in the Republic a number of officials, including high rank officials, irrespective of their positions, were subjected to prosecution being disclosed in corruption. Muzamil Abdoullayev, the former minister of agriculture, was convicted for the misappropriation of state property in huge amount and bribery, alongside with committing of other crimes.

Some officials, being afraid of disclosing in corruption, resort to various measures, including acts of terrorism against superior officials and attempts of *coup d'etat*, in order to prevent the responsibility for crime they had committed. Just such way was elected by Suret Husseynov, former prime minister. So, he has undertaken attempt of *coup d'etat* in conjunction with superior jfficials, involved in corruption and narcobusines. Kilograms of gold were found during the search in his home besides an arsenal of a weapon, numerous property.

S.Husseyinov was convicted by the Supreme Court to the life imprisonment for the committed crimes.

Corruption among officials of law-enforcement and security bodies, threatens largely the normal activity of all state bodies in all branches of a state authority, irrespective of a development level of a state, infringing in many cases their activity, occasionally paralising them. In the final result these bodies were not capable to exercise the responsibilities duly, settled before them. In its turn, it results in weakening of the economic and social principles of a state, limits prospects of its development.

While presenting the special danger, corruption among officials of law-enforcement and security bodies, directly responsible for safety and maintenance of rule of law in each state, can result in much more dangerous consequences from a position of state organisation. Faig Mirzayev, an officer of Ministry of national security, unduly being the manager of private company, in conjunction with the group of persons misappropriated and peculated the state property in a huge amount. Faig Mirzayev, being incited by minister of national security of that time and misusing his power, has directly organized the escape of dangerous criminals from the pre-trial jail of Ministry of national security.

Political actions are obviously not enough for struggle against corruption at such level. The legal sanctions, availability of the laws and most importantly - firm, steady maintenance of their observance are here necessary.

As far as the corruption among the officials of law-enforcement bodies can undermine the potential efficiency of all governmental decisions, it is extremely important, that the state has considered adequacy of its criminal legislation, including prosedural norms to respond upon appropriate actions, promoting or assisting for corruption in law-enforcement bodies.

After election of Mr. Heydar Aliyev, the President of the Republic of Azerbaijan, deep reforms are being carried out in economy of the country, measures for elimination of factors, negatively influencing on economic development of country are taken in this connection. In particular, number of the decrees, limiting opportunities of abusing the state authority for personal benefit, were issued.

After Azerbaijan took a way of construction of an independent state, one of the first decrees of the President Heydar Aliyev, known in former USSR as initiator of struggle against corruption, person, loyal to principles of consecutive,

courageous and merciless struggle against these phenomenon, has become the decree on strengthening of struggle against criminality.

The struggle against organized crimes, in particular with corruption and bribery, is defined in the decree as one of main directions of activity of law-enforcement bodies. In this connection in the implementation of the decree a new structure on struggle against organized crime, bribery and corruption was created in a system of Ministry of interior.

During the last 3 year law-enforcement bodies disclosed more than 5. 000 crimes in economic sphere, more than 2.000 crimes, connected with misappropriation, about 200 crimes, connected with bribes. Only in 1998 courts convicted about 350 persons, committed **malfesence** in office, and more than 400 persons, committed misappropriation of public property.

The government also recognized, that by the necessary precondition of any effective campaign on struggle against corruption, is a complex of the legislative provisions, prohibiting illegal conduct of officials, including law-enforcement bodies.

The government was aimed to establish the rules of activity in economic sphere and to ensure their strict observance, so that the enterprises of private sector were sure that these rules are really effective. For example, the businessmen could not rely on a judicial system, and they had to conclude the informal agreements, to use informal mechanisms of the control of realisation of these agreements. Therefore, one of main directions of legal reform is creation of independent and impartial judiciary. The normative-legal acts, regulating sphere of administration of justice, were prepared and adopted by parliament first of all.

Taking into account the complaints and appeals in connection with activities of state bodies, carrying out the function of check and control of industrial and financial-credit spheres, the Decree of the President of the Republic of Azerbaijan of June 17, 1996 provided for a number of measures for prevention of cases of abuses, committed by these bodies, for maintenance of the rights and legal interests of the juridical persons. As a result of implementation of this decree was reduced a number of repeated, inefficient checks in a economic sphere, were prevented cases, rendering negative effect on development of market economy. However, despite the prohibition of unreasonable checks in a sphere of business, it has not managed to put the end to cases of unreasonable interference with the activities of businessmen. The law-enforcement bodies under the screen of long investigations unreasonably

interfered in various spheres of business, committed abusing by an official position. There were marked facts of corruption and bribery were marked, cases of artificial obstacles in issues of registration and licensing of the juridical persons, admitted procrastination, misuses, illegal refusal in registration. With the purposes of perfection of a system of the state control, development of business, prevention of unreasonable interference with activities of the native and foreign business people, strengthening of struggle against corruption, bribery and other cases of official abusing, the Decree of the President of the Republic of of January 7, 1999 on perfection of the state control system forbidded flatly to law-enforcement bodies to conduct unreasonable checks in economic activities, in particular, private business. A service of Ministry of interior on struggle against economic crimes was liquidated in connection with its inefficiency. Law on police, prepared and considered in parliament, henceforth does not provide for an opportunity of police to interfere with the economic activities. The activities of law-enforcement bodies in economic sphere is limited only by investigation of criminal cases. Mechanisms of the state control are improved in accordance with the requirements of market economy.

Wide distribution of corruption in economic sphere as one of .kinds of economical crimes has created a situation, which required changes in the legislation. Now Draft Law on struggle against corruption is elaborated, which is directed on widening of the democratic principles, openness and control in governance of society; formation and strenghtening of trust of the population to the state and its structures; stimulation of the competent staff for a state service; creation of conditions for integrity among officials. Law "On state service",. the adoption of which is expected this year, will also promote the achievement of these purposes.

For carrying out the investigative activities, with the purposes of prevention and disclosing of crimes, connected with corruption, the Parlament considers the draft law "On investigative activities".

As well as in connection with the majority of existing today, an international cooperation, directed on strenghtening and widening of efforts, undertaken by states against corruption, is very important. International organizations may play a key role in struggle against corruption by means of the really agreed approach in the field of their competence. In the middle of 1998 President of Azerbaijan has addressed to World Bank with the request to assist in development of the program on struggle against corruption. Such program was elaborated and submitted to government, and its realization already began. It is based on steady, properly planned complex reform of a policy and

institutions of public sector, within the framework of which there are opportunities for unearned income and there are no factors, deterring distribution of corruption.

Main idea of the given document is necessity of increasing efficiency of management and struggle against corruption. A State Commission, which activities covers several spheres – reforms of a control system of public funds, system of audit, state management, and judicial-legal reforms - was created with these purposes by the Decree of the President of the Republic of Azerbaijan.

Measures for prevention of corruption in law-enforcement and security bodies, creation of conditions for integrity of the officials of these bodies are undertaken in the state.

During the last year 173 officials of Ministry of interior were called to the disciplinary liability for the breach of the law, 53 persons were dismissed from bodies of internal affairs, the criminal proceedings were instituted against 65 persons.

In 1998 in customs service 124 officials were called to the disciplinary liability, 11 persons were dismissed, the criminal proceedings were instituted against 13 officials.

During 1997-1998 in bodies of Prosecutor Office 17 officials were dismissed, 3 officials of Prosecutor Office were called to criminal liability and convicted for abusing by a official position and taking of a bribe.

Government aims to give an employment in law-enforcement bodies the persons, with high professional and ethics qualities.

The media is also playing an important role in promoting honesty, preventing officials from corruption, and, occasionally, in the disclosing of particular facts. Moreover, the publications in media, in accordance with the Law, are a ground for beginning of investigation.

Religious principles of Azerbaijan society, which is represented with many religions, are, certainly, promoting the moral values, and important obstacles for the corruption. Islam, as well as Christianity and Judaism, considers taking of a bribe as sinful.

Relatively high salary is another way of preventing of corruption in these bodies, because this given factor has important significance in struggle against corruption.

As it is known to all world community, alongside with difficulties of a transition period, occupation by the neighbour Armenia of 20% of our territory, existence of more than one million refugees and forced migrants, damage, caused by the occupation, and actual being of the republic in state of war do not allow to provide in not large state budget for appreciable increase of the salary of the employees of these bodies.

As it was already mentioned, a special agencies on preventing **offences** and, finally, corruption among officials of law-enforcement and security bodies, were created within these bodies.

In Prosecutor Office issues of struggle against similar phenomenon are entrusted to the special division. Besides it, the Department on supervision at execution of the laws in bodies of internal affairs was created in Prosecutor Office of the Republic, which have the responsibilities on preventing cases of abuses by official position and corruption of police officials.

Special divisions, engaging by struggle against that problem, function in the Ministry of interior and the Ministry of national security of the Republic.

It is known, that one of the widespread forms of corruption is bribery. However, certain difficulties arise at disclosing of these crimes. So, in accordance with the criminal law, a person, offering a bribe is subjected to criminal responsibility, as well as the person, taking a bribe. In the case, when offering of bribe or its accepting answers to interests of both parties, these parties make no complaint and do not inform on it to law-enforcement bodies. The person, offering bribe appeals to law-enforcement bodies on extortion from him of a bribe only in rare cases. In this connection, participation of the government officials in a crime of bribe sometimes appears difficultly to be proved. With such problems we have met during the check of activities of Customs Committee, Ministry of foreign economic relations. However, **inspite** of the fact, that the managers of these bodies were not called to he criminal liability, they were dismissed from the office. For example, Tahir Aliyev, chairman of Customs Committee, Gudrat **Guliyev, minister** of foreign economic relations, Vagif Novruzov, minister of interior, Ilyas Ismayilov, minister of justice, **Ali Omarov**, Prosecutor General, Mammadrafi Mammadov, minister of **defence** were dismissed from the office.

I would like to inform, *ad notam*, that the criminal law, allows in a certain sense to fight struggle against corruption. So, in the Paragraph III Article 171, providing for the responsibility for bribe, is underlined, that the person, offered a bribe, is released of the criminal liability, if there was an extortion of the bribe or if this person has voluntarily declared about the bribe after **occurrence**.

The opportunities, granted by the law, are used by law-enforcement bodies in struggle against corruption.

The history of independence of Azerbaijan totals only 7 years. This **seven**-year history does not cover an extended period of a time.

We feel a sharp need in study and implementation of experience of advanced countries of the world in the field of state building, struggle against corruption, including good organization of struggle against corruption in **law**-enforcement and security bodies.

However, unfortunately, we have to establish the fact, that the cooperation with international organizations not always is given by desired results.

Last years we are seriously disturbed by the crimes in a bank sphere. The law-enforcement bodies disclosed a criminal group in a system of Joint-stock Commercial industrial Investment Bank of Azerbaijan, which activities resulted in misappropriation of \$25.000.000 from budgetary funds. It was ascertained during investigation, that Bashar Hajiyev, head of the branch of this bank, **illegally** transferred money resources, received from tax bearers, on accounts of some enterprises, which, in turn, with the purpose of further "cashing" of these funds directed them to various commercial structures under pretext of purchasing materials and commodity values. Then the money resources, converting in a foreign currency, were transferred on the accounts of the customers in banks of foreign states by drawing up of the forged contracts, or were "cashed" and divided between the members of criminal group.

With the purpose of perfection of the criminal legislation in the sphere of struggle against corruption in banking the Parliament adopted the Law, concerning illegal banking, illegal reception of the credits, infringement of the crediting rules, as well as other crimes in economic sphere. However, under the urgent requirement of International Monetary Fund the implementation of this law should be suspended till October 1, 2000.

We hope that international organizations, the appropriate bodies of advanced countries of the world in their activities will render more effective

assistance in implementation of legal and institutional reforms in Azerbaijan, in exchange of experience for the representatives of states, resently starting the way of independence.

We believe that the Congress of the United States will take the decision on abolishing of Article 907 of the Freedom Support Act, limiting the material assistance of US Government to Azerbaijan, that will doubtless create an opportunity for strenghtening of logistical base of law-enforcement bodies for struggle against corruption.

International organizations could really assist the population of these countries by rendering support to democratic reforms, to creation of more competitive economy, as well as more effective management.

Thank you for attention.