



## **Support to the anti-corruption strategy of Azerbaijan (AZPAC)**

**TECHNICAL PAPER/ MATRIX OF COMPLIANCE OF AZERBAIJAN LEGISLATION AND INSTITUTIONAL SETUP WITH  
RELEVANT INTERNATIONAL LEGAL INSTRUMENTS (COUNCIL OF EUROPE CRIMINAL AND CIVIL LAW  
CONVENTIONS ON CORRUPTION, UNITED NATIONS CONVENTION AGAINST CORRUPTION)**

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This matrix summarizes the compliance of the legislation of Azerbaijan with the provisions of the United Nations Convention against Corruption (UNCAC), and Council of Europe Criminal Law and Civil Law Conventions on Corruption that establish clear legislative obligations for signatories. The matrix was completed by Vera Devine using information from opinions on compliance submitted by national and international experts, and where necessary with additional information obtained by the AZPAC Project team.

<b>Provision: United Nations Convention against Corruption (UNCAC)</b>			
	Description	Fulfillment (yes/no/partial)	Notes
Legal obligation(s)	UNCAC Article 7§1 (a-c)— Public sector (non-elected public officials)	Partial	Law on Civil Service; Law on Combating Corruption; laws technically cover requirements of UNCAC; however, a significant number of people working in key positions are exempt from the coverage of both laws; potential reservations about the scope of application of the recruitment and promotion procedures; training not implemented stringently; questions over remuneration and equitable pay scale (might indicate non-compliance with UNCAC standards)
	UNCAC Article 7§2-7§4 (elected public office, political parties; conflict of interest)	Partial	Election Code, Articles 93, 94, 95, 156; Law on Political Parties', Article 18; important gaps remain regarding auditing of political parties' finances, limiting overall political parties' expenditure, as well as concerns over uneven application of financing aspects of existing party finance legislation; need to clarify and amend existing legislation.
	UNCAC Article 8§2— Codes of conduct	Yes	Law on Rules of Ethical Conduct of Civil Servants; Law on Ethics; Law on Procedures for the Submission of Financial Information; Law on Combating Corruption; need to unify terminology throughout all pieces of legislation; concerns remain over even implementation of legislation
	UNCAC Articles 8§4-8§6 (reporting cases of conflict of interest)	Partial	Rules of Ethical Conduct, Article 21, 22§1.2, 23; Law on Approval of Procedures for Submission of Financial Information by Officials (a Presidential Decree); Law on Combating Corruption, Article 5; draft Law on Conflicts of Interest, technically, legislation complies with standards, however, very poor implementation in practice.

	<p>UNCAC Article 9—Public procurement and management of public finances</p> <p>Accounting and auditing</p> <p>Procurement</p> <p>Transparency of state finances and the state budget</p> <p>Government accounting and auditing</p> <p>Dissuasive administrative and civil sanctions, integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification</p>	<p>Partial</p> <p>Partial</p> <p>Partial</p> <p>Partial</p> <p>Partial</p>	<p>Law on the Budget System; Law on Accounting; legal framework not conforming with UNCAC standards, shortcomings in particular in the area of auditing, and in the areas of accounting.</p> <p>Law and Decree on Public Procurement in general in compliance, except for the absence of an appeal procedure. Major concerns over proper implementation of the law.</p> <p>Law on Budget; implementation mechanisms to implement law do not or only partially exist</p> <p>Significant improvements in the Chamber of Accounts’ structure, oversight, resources, independence needed. Concerns over effectiveness of CoA and use of its findings in practice.</p> <p>Law on Accounting does not provide for dissuasive sanctions in the spirit of UNCAC, Code of Administrative Violations not sufficiently specific on sanctions for accounting infringements</p>
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UNCAC Article 10—Public reporting UNCAC Article 13§1 (b)—Access to information	Partial	National Information Ombudsman not yet established as required by Law on Access to Public Information.
UNCAC Article 12—Private sector		
§2 (e)—restrictions on post-service activities of public officials	No	No conflict of interest provisions for public officials on leaving the public service
§3—maintenance of books and records, financial statement disclosures and accounting and auditing standards	Yes	Tax Code, Articles 192, 193, 201, 201, 202, 203, 204, 215, 211, 212, 213, 223, 247, 313, 320, 326
§4 (Disallowing tax deductibility of bribes)	No	There is no direct provision disallowing tax deductibility of bribes in national legislation.
UNCAC Article 15—Criminalization of Bribery (Active and Passive) of National Public Officials	No/unclear	Criminal Code Articles 311 and 312; Article 312 in conjunction with Article 29 appears to <b>not</b> adequately address the requirements of UNCAC, as the promise and offering of a bribe to a public official are not expressly prohibited. Authorities and some experts claim however that the general provision (Article 29) on attempting to commit a crime covers the offering and promising of a bribe.
UNCAC Article 16—(Active and Passive) Bribery of foreign public officials and officials of public	No/Unclear	Possibility of prosecuting anyone on the territory of Azerbaijan for acts which are criminal offences in Azerbaijan is in Criminal Code Article 11. However, no explicit provision in Criminal Code, but offence would be covered if the definition of officials subject to provisions on corruption

	international organizations		offenses in Law on Combating Corruption Articles 2 and 3 are unambiguously applicable in Criminal Code – which is implied in Article 11, Commentary to Article 308 of Criminal Code.
	UNCAC Article 17— Embezzlement, misappropriation or other diversion of property by foreign public official	Yes	Criminal Code Articles 178, 179.
	UNCAC Article 18— Trading in influence (non-mandatory provision)	Yes	Criminal Code Article 312-1§1 and 1§2. Minor discrepancies between UNCAC and domestic legislation exist (not specified).
	UNCAC Article 19—Abuse of functions (non-mandatory provision)	Yes	Criminal Code Article 308.  Article 19 of the UNCAC criminalizes obtaining of an undue advantage, whereas Article 308 of the Azeri Criminal Code defines as criminal the obtainment of the illegal advantage. The meaning of the term undue advantage is broader than the meaning of the term illegal advantage – that means that UNCAC requires criminalization of deeds that are not necessarily illegal but need to be undue in the context of abusing one's functions. Other discrepancies exist. As Art. 19 is non-mandatory, Azeri legislation still in line with UNCAC.
	UNCAC Article 20—Illicit enrichment	No	Optional provision of UNCAC, not yet treated in Azerbaijani legislation.  Very few states implemented this provision in its strict meaning. Article 20 of the UNCAC introduces the reversed burden of proof where a significant increase in the assets of a public official had occurred, and a person cannot reasonably explain the assets in relation to his or her lawful incomes. The reversed burden of proof is eminently a controversial topic and is debated among scholars and legal experts in many countries and is often in direct conflict with national constitutions and also with the European Convention on Human Rights.
	UNCAC Article 21—		Criminal Code, note to Article 308

	Bribery in the private sector (non-mandatory provision)	Partial	The Azeri legislation covers the requirements of Article 21 of the UNCAC only to a certain extent, because it is limited to persons carrying out organizational-administrative or administrative-economic functions in private sector. Such definition does not adequately implement (optional) requirement from the UNCAC.
	UNCAC Article 22— Embezzlement of property in the private sector (non-mandatory provision)	Yes	Criminal Code Articles 178 and 179
	UNCAC Article 23— Laundering of the proceeds of crime	No	Criminal Code Articles 32, 33§4, 33§5, 193§1.  Articles 193 and 194 of the Criminal Code only criminalize the “misentrepreneurship” and “purchase or selling of the property extracted obviously in the criminal way”. Although that purchase or selling of the property extracted obviously in the criminal way in some way covers also the conversion or transfer of proceeds of crime and concealment or disguise of the nature, source, location, disposition, movement, or ownership of proceeds of crime, the purpose of Article 23 is to criminalize all specific situations as defined in Article 23 of UNCAC.
	UNCAC Article 24— Concealment	Yes	Criminal Code Article 307
	UNCAC Article 25— Obstruction of Justice	Yes	Criminal Code Articles 286, 287, 288
	UNCAC Article 26— Liability of legal persons (criminal, civil, or administrative, in accordance with national legal traditions)	No	Law on Combating Corruption Article 11§2; Civil Code Article 52, establish <u>civil</u> liability of legal persons for corruption offences.  The Law on Combating Corruption is not a legal tool used in the area of criminal law. That means that it can not be used with regard to criminal offences established in accordance with the UNCAC. UNCAC requires setting up a system of liability of legal persons for criminal offences and not for administrative or civil violations. It is a fact that liability of legal persons may be criminal, civil or administrative, but that all relates to criminal

			offences that are part of Criminal Code of Azerbaijan. At the moment this type of liability does not exist in Azerbaijan.
	UNCAC Article 27— Participation and attempt	Yes	Criminal Code Articles 32, 33§1, 33§3; and 'Article of Special part of the code that provides for punishment for the perpetrator, with reference to Article 32'
	UNCAC Article 28— Knowledge, intent, and purpose as elements of an offence	Yes	Criminal Code Article 25  Special intent as stipulated in Article 25 of the Criminal Code could manifest itself as a serious problem if the requirement of the UNCAC is to be fulfilled in practice. It is difficult to imagine to what extent these elements of crimes can be inferred from objective factual circumstances regarding corruption and dealing with corruption-related offences transferred from the UNCAC into Azeri legislation.
	UNCAC Article 29— Statute of limitations	Yes	Criminal Code Article 78.  Current legal regulation - definition of provisions which cover statute of limitations could be and should be modernized. To avoid possible misinterpretations the statute of limitations should be more objective and not binding on the nature and degree of action stipulated as public danger but to specific crimes or to statutorily defined years of imprisonment.
	UNCAC Article 30— Prosecution, adjudication, and sanctions  Proportionality of sanctions  Immunities	Yes   Yes, formally	Constitutional Law on the Human Rights Commissioner (Ombudsman), Article 6§2; Constitution, Articles 90§2, 95§3, 107, 123, 128§5; Law on Courts and Judges, Article 101; Election Code Article 70§4; Criminal Procedure Code, Articles 155§1, 155§2; Criminal Code Article 46§2  Legislation formally compliant, though in view of need for immunities to be in place only where absolutely necessary, and obstacles presented by immunities to prosecution of corruption, there may be reason to reconsider scope of immunities for officials who enjoy them (members of Parliament,



	Procedures/restrictive measures	Yes	President, Prime-Minister, Human Rights Commissioner, judges).
	UNCAC Article 31 (§§1-7)—Freezing, seizure and confiscation	Yes	Criminal Code, Articles 51, 193§1; Criminal Procedure Code, Article 128§1; Law On Operative-Search Activities. Further legislation needed to ensure adequate powers exist to support the tracing and other investigative measures needed to locate and identify assets.
	UNCAC Articles 32 and 33—Protection of witnesses, experts, victims  Article 32  Article 33 (incorporation into domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with the Convention)	Yes  No	Law on State Protection of Persons Participating in Criminal Proceedings, Articles 3, 7  There are no direct provisions in Azeri legislation that would provide for protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning corruption offences outside the scope of criminal legislation.
	UNCAC Article 35— Compensation for damage	Yes	Criminal Procedure Code, Article 181§2

	UNCAC Article 37— Cooperation with law enforcement authorities (non-mandatory provision)	Partial	Criminal Code, Articles 59§1.9, 72  Giving oneself up [surrendering?], actively assisting in the exposure of a crime, exposure of other accomplices in a lie, or searching for property obtained through criminal acts constitute a circumstance mitigating punishment (Article 59§1.9 of the Criminal Code). The code also provides that in the presence of abovementioned mitigating circumstance, and in the absence of aggravating circumstances, the term and scope of punishment may not exceed three-fourths of the maximum term or scope of the strictest penalty envisaged by the relevant Article of the Special Part of the Code.
	UNCAC Article 40—Bank secrecy	Partial	Law on Banks; Criminal Procedure Code Article 177; Law on the Prevention of Legalisation of Criminally Obtained Funds or other Property and the Financing of Terrorism approved February 2009, Articles 11§1, 16§1. Financial Monitoring Unit and accompanying system not yet established.  It is crucial in this area how laws are being applied and whether there is proper cooperation established between different institutions. There seems no legal obstacle at the moment in the criminal legislation that would prevent competent authorities from acting in line with Article 31 of the UNCAC. However, one cannot conclude that application of the existing measures actually enables effective and efficient freezing, seizure and confiscation of proceeds of crime and their derivatives. An anti-money laundering system that is a constitutive segment of an effective identification and tracking of illegal finances has not yet been set up. Also, bank secrecy provisions are an actual and serious problem in the early stages of the proceedings as well as the cooperation between authorities in the area.
	UNCAC Article 41— Criminal record	Yes	A conviction record database exists at the Ministry of Internal Affairs, and exchange of information on corruption-related criminal offences between Azerbaijan and other states is possible.
	UNCAC Article 42— Jurisdiction	Yes	Criminal Code, Article 11§§1,3
	UNCAC Article 43—	Yes	Law on Extradition, Article 2§1

	International Cooperation		
	UNCAC Article 44— Extradition: mandatory requirements	Yes	Law on Extradition, Articles 2§1, 3§1.1, note to Article 3, Article 9§2; Constitution, Article 53; Criminal Code, Article 13§3; Criminal Procedure Code, Article 5  There is no information as far as bilateral agreements are concerned.
	UNCAC Article 44— Extradition: optional requirements		
	§2: Extradition w-out dual criminality	No	Criminal Code, Article 12; Law on Extradition, Article 2§1 specify the need for dual criminality as precondition for extradition
	§3: Extradition request for multiple offences	No	Law on Extradition, Article 2§ does not foresee length of imprisonment to provide sufficient ground for extradition
	§10: Custody for purposes of extradition	Yes	Criminal Procedure Code, Article 7§1; Law on Extradition, Articles 5§2.1, 5§2.2
	§12: Temporary surrender of fugitive for purpose of trial	No	Constitution, Article 53; Law on Extradition, Article 3§1.1 – no extradition of Azeri nationals
	§15: Refusal of extradition if suspicion that person be prosecuted on grounds of race, sex etc.	Yes	Law on Extradition, Article 3§2.3
	UNCAC Article 45— Transfer of Sentenced	Partial	Law on Extradition Article 2§2) foresees possibility of transfer if unserved term is longer than 6 months.

	Persons		
	UNCAC Article 47— Transfer of Criminal Proceedings	No	No direct provision exists in Azerbaijani legislation.
	UNCAC Article 50—Special investigative techniques	Partial	Law on Special Operative Search Activities; permission for operations has to be sought prior to conduct, and reporting mandatory 48 hours after operations to court.  Azeri legislation does not fully comply with the UNCAC standards especially in that part of the provision which obliges the states parties to allow for the admissibility of evidence derived from special investigative techniques before the court.
	UNCAC Article 52— Prevention and detection of transfers of proceeds of crime	Yes	Law on Banks, Articles 8§2.8, 13§1, 39§2, 42§1; methodological guide On Prevention of Legalization of Money Means or Other Properties Appropriated by Banks Illegally, Article 4§1.1-4§1.3
	UNCAC Article 53— Measures for direct recovery of property	Yes, but not explicitly	Code on the Execution of Punishments, Article 161§2; Civil Procedure Code Articles 5§2, 50§1  Any foreign state can be considered an injured party and in that capacity initiate civil litigation in Azerbaijan. It is not entirely clear whether any additional measures are needed to actually enable effective position of a foreign state in litigation, according to subparagraphs b and c of this Article.
	UNCAC Article 54— Mechanisms for recovery of property through international cooperation in confiscation	Yes	Civil Procedure Code, Article 458§1; Criminal Procedure Code 346; Law on Mutual Legal Assistance in Criminal Matters, Article 2§3  The existing legal framework is the normal legal framework in the area of international cooperation and mutual legal assistance. It still has to be determined to what extent this very specific UNCAC provision is actually implemented in Azeri legislation – it will be clear when Azeri court receives first confiscation order issued by a foreign court.
			Law on Mutual Legal Assistance in Criminal Matters, Article 2§3; relevant

	UNCAC Article 55— International cooperation for purposes of confiscation	Yes, but implicitly	provisions of the Criminal Code; Criminal Procedure Code, Article 346  In accordance with Article 2.3 of the Law on Mutual Legal Assistance in Criminal Matters, the list of actions to be afforded in the course of mutual legal assistance is not closed as it is completed by “implementation of other measures in accordance with the legislation of the Republic of Azerbaijan”.  Legal framework in Azerbaijan is comparable to other states in this area; methods of its application will show the level of actual implementation of this specific UNCAC provision.
	UNCAC Article 57—Return and disposal of assets  §1—disposal of confiscated assets  §2—return of confiscated assets on request of other State party	Yes  Yes, but implicitly	Code on the Execution of Punishments, Articles 160§1 and 162  Law on Mutual Legal Assistance in Criminal Matters, Article 2§3.  In accordance with Article 2.3 of the Law on Mutual Legal Assistance in Criminal Matters, the list of actions to be afforded in the course of mutual legal assistance is not closed as it is completed by “implementation of other measures in accordance with the legislation of the Republic of Azerbaijan”.  Legal framework in Azerbaijan is comparable to other states in this area; methods of its application will show the level of actual implementation of this specific UNCAC provision.
	UNCAC Article 58— Financial intelligence unit	Yes	No FIU established yet. Establishment precondition on adoption of Law on Combat against Legalization of Money Proceeds or Other Property Obtained through Criminal Acts and Financing Terrorism, on agenda for current parliamentary session, this, however, means that the issue is given serious attention. Level of actual cooperation can only be determined from practice and statistical data.

**Provision: Council of Europe Criminal Law Convention on Corruption (CoE CLC)**

	CoE CLC Article 2—Active bribery of domestic public officials	Partial	Criminal Code, Article 312  Article 312 in conjunction with Article 29 appears to <b>not</b> adequately address the requirements of Article 2 of Criminal Law Convention on Corruption, as the promise and offering of a bribe to a public official are not expressly prohibited. Authorities and some experts claim however that the general provision (Article 29) on attempting to commit a crime covers the offering and promising of a bribe.
	CoE CLC Article 3—Passive bribery of domestic public officials	Yes	Criminal Code, Article 311
	CoE CLC Article 4—Bribery of members of domestic public assemblies	Partial	Criminal Code, Note to Article 308; Law on Combating Corruption of the Republic of Azerbaijan, Article 2§1.1, 2§1.6  Limiting the capacity of official persons only to persons constantly, temporarily, or on special power carrying out functions of authority representative either carrying out organizational - administrative or administrative-economic functions, does not meet the substance of Article 4. Corresponding provision should prohibit bribing of any person who is a member of any domestic public assembly exercising legislative or administrative powers and not just those members who carry out organizational - administrative or administrative-economic functions.
	CoE CLC Article 5—Bribery of foreign public officials	No/unclear	Possibility exists under Criminal Code, Article 11; Law on Combating Corruption, Article 3  Possibility of prosecuting anyone on the territory of Azerbaijan for acts which are criminal offences in Azerbaijan is in Criminal Code Article 11. However, no explicit provision in Criminal Code on bribery of foreign public officials, but offence would be covered if the definition of officials subject to provisions on corruption offenses in Law on Combating Corruption Articles 3 are unambiguously applicable in Criminal Code – which is implied in Article 11, Commentary to Article 308 of Criminal Code.
			Possibility exists under Criminal Code, Article 11; Law on Combating

	CoE CLC Article 6 Bribery of members of foreign public assemblies	No/unclear	Corruption, Article 3  Possibility of prosecuting anyone on the territory of Azerbaijan for acts which are criminal offences in Azerbaijan is in Criminal Code Article 11. However, no explicit provision in Criminal Code on bribery of foreign public officials, but offence would be covered if the definition of officials subject to provisions on corruption offenses in Law on Combating Corruption Articles 3 are unambiguously applicable in Criminal Code – which is implied in Article 11, Commentary to Article 308 of Criminal Code.
	CoE CLC Article 7, 8— Active and passive bribery in the private sector	Partial	Criminal Code, Article 311, 312, note to Article 308  Limiting criminal liability only to persons who constantly, temporarily, or on special power carry out functions of authority either carrying out organizational - administrative or administrative-economic functions, does not meet the purpose of Articles 7 and 8 of the Criminal Law Convention on Corruption. The Azeri legislation covers some requirements of Article 7 and 8 but does not implement them fully and adequately as defined and recommended in the Criminal Law Convention on Corruption.
	CoE CLC Articles 9, 10, 11—Bribery of officials of international organizations, members of international parliamentary assemblies and judges and officials of international courts  Article 9	Partial	Criminal Code, Article 308 and its notes  Limiting criminal liability only to persons constantly, temporarily, or on special power carrying out functions of authority representative either carrying out organizational - administrative or administrative-economic functions in conjunction with representatives of international organizations, does not correspond to Article 9. Secondly, the Azeri legislation does not correspond to Article 9 because term

	Articles 10, 11	No	<p>"officials" from the Convention includes not only regular officials but also other contracted employees who, under the staff regulations, can be either permanent or temporary members of the staff, but irrespective of the duration of their employment by the organization, have identical duties and responsibilities, governed by contract, yet are not representatives of international organizations as stated in note to Article 308 of the Criminal code).</p> <p>Criminal Law Convention on Corruption in Articles 10 and 11 criminalizes the bribery of members of international parliamentary assemblies and judges and officials of international courts. These are two separate criminal offences and therefore can not be pursued through the bribery of officials of international organizations.</p> <p>The persons involved on the passive side are different: members of parliamentary assemblies of international (e.g. the Parliamentary Assembly of the Council of Europe) or supranational organizations (the European Parliament) - Article 10.</p> <p>In Article 11 the persons involved are: "any holders of judicial office or officials of any international court". These persons include not only "judges" in international courts (e.g. at the European Court of Human Rights) but also other officials (for example the Prosecutors of the UN Tribunal for former Yugoslavia) or members of the registrar's office. Arbitration courts are in principle not included in the notion of "international courts" because they do not perform judicial functions in respect of States. That means that neither members of international parliamentary assemblies and judges and officials of international courts cannot be regarded as members of international organizations.</p>
	CoE CLC Article 12— Trading in influence	Yes	Criminal Code, Article 312§1.2
	CoE CLC Article 13— Money laundering of		Criminal Code, Articles 25, 31, 32, 33§4, 33§5, 193§1.1;



	proceeds from corruption offences	No/unclear	The purpose of Article 13 is to criminalize all specific situations from Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Products from Crime. Azeri Criminal code covers these issues incompletely and fragmentarily.
	CoE CLC Article 14— Account offences	Yes	Criminal Code, Articles 213, 313, 320, 326  According to wording of Articles 320 and 326 and practice of their implementation documents mentioned in the Articles covers both official and business documentation.
	CoE CLC Article 15— Participatory acts	Yes	Criminal Code, Articles 32, 33
	CoE CLC Article 17— Jurisdiction	Yes	Criminal Code, Articles, 11§1, 11§3, 12§1  Concerns remain with regards to criminalization issues.
	CoE CLC Article 18— Corporate Liability	No	Draft law prepared
	CoE CLC Article 19— Sanctions and measures		
	§1 and 3	Yes	Law on Extradition, Article 2§1; Criminal Code, Article 51
	§2	No	Draft law on corporate liability prepared
	CoE CLC Article 21— Cooperation with and between national authorities	Yes	Law on Combating Corruption, Article 4; Criminal Procedure Code, Articles 84§5, 205§1, 207§6; Action Plan for the Implementation of the National Strategy on Increasing Transparency and Combating Corruption (2007-2011) foresees set of measures in section on 'Improving cooperation among the agencies conducting criminal investigation of the corruption related violations'.
	CoE CLC Article 22— Protection of collaborators	Yes	Law on State Protection of Persons Participating in Criminal Proceedings,

	of justices and witnesses		Articles 3,7
	CoE CLC Article 23— Measures to facilitate the gathering of evidence and the confiscation of proceeds	Partial	Criminal Procedure Code, Article 177; Law on Banks; Law on the Prevention of Legalisation of Criminally Obtained Funds or other Property and the Financing of Terrorism approved February 2009, Articles 11§1, 16§1. Financial Monitoring Unit and accompanying system not yet established.
	CoE CLC Article 26— Mutual assistance	Yes	Law on Mutual Legal Assistance in Criminal Matters, Articles 2§2, 2§3, 3§1.1  The legislation implicitly affords necessary measures. In accordance with Article 2.3 of the Law on Mutual Legal Assistance in Criminal Matters, the list of actions to be afforded in the course of mutual legal assistance is not closed as it is completed by “implementation of other measures in accordance with the legislation of the Republic of Azerbaijan”.
	CoE CLC Article 27— Extradition	Yes	Law on Extradition, Articles 2§1, 3; Constitution, Article 53; Criminal Code, Article 13§3
	CoE CLC Article 28— Spontaneous information	Yes	Constitution, Article 148 can provide grounds for this provision. However, this convention requirement should be promoted more explicitly in domestic law through positive legal language.
	CoE CLC Article 30— Direct communication	Yes	In theory, role assigned to PGO, but in practice, no such cases, yet. It would be advisable to find out why there have been no instances of communication on corruption-related crimes neither between central authorities nor between other authorities so far.
	CoE CLC Article 31— Information	Yes	Role assigned to Prosecutor-General’s Office
<b>Provision: Council of Europe Civil Law Convention on Corruption (CoE CivLC)</b>			
	CoE CivLC Article 2— Definition of Corruption	Not clear	Law on Combating Corruption, Article 1  Civil law convention on Corruption has a wide scope of application. The Law on Combating Corruption is a preventive law that has no direct impact on civil law legal regulation in Azerbaijan. Therefore the relevance of the above mentioned definition and its application in the area of civil law is at least questionable. As there is no other definition of corruption that would

			<p>correspond to the definition from the Convention in the Azeri legislation the conclusions whether individual acts and deeds can be defined as corruptive and fall within the scope of Article 2 can be based only on comparisons of individual cases directly with the Convention provision. This is also possible due to the rule that ratified international treaties are part of internal law order of Azerbaijan but needs more awareness and attention from participants in legal proceedings.</p>
	CoE CivLC Article 3— Compensation for damage	No	<p>Criminal Procedure Code, Article 12§2, 181. Civil Code, Articles 21, 1115</p> <p>The intention of the Civil law Convention is to provide for the possibility for every person who had suffered from corruption (as defined in Article 2) for full damage compensation proceedings outside the scope of criminal law – from the procedural as well as from the substantive point of view. The Convention requires parallel, additional to criminal, proceedings that are not necessarily related to findings and conclusions from criminal proceedings. Of course there is always Civil Procedure Code available for initiating of damage compensation claims. In spite of that the main issue in question here still remains: Is everybody who had been a victim of an act corresponding Article 2 of the Convention <i>de lege</i> entitled to claim compensation in the sphere of civil law without initiating criminal proceedings? In our view this is <b>not</b> the case in Azerbaijan yet.</p>
	CoE CivLC Article 4— Liability	Not clear	<p>Civil Code, Articles 1096, 1097§1</p> <p>Concerns are twofold: Firstly it is not clear if all acts of corruption falling within the scope of Article 2 can be defined as civil delicts according to the Civil Code of Azerbaijan. Secondly, criterion of »unlawfulness« from Article 1096 of the Civil Code implies that an act of corruption has to be strictly prohibited or determined as unlawful by a written law. If this is not the case, the substantive requirement for initiating the damage compensation proceedings is missing. We can only identify two instances where this requirement is met – corruption is unlawful in the criminal law context where it is included in number of criminal offences – but as we mentioned before, this Convention is aimed to deal with civil law aspects of corruption, outside or parallelly to criminal law. What remains is definition of corruption</p>

			and establishment of unlawfulness required by Article 1096 on the basis of the Law on Combating Corruption – since this is a preventive law of general character it is not certain that such interrelation exists.
	CoE CivLC Article 5— State responsibility	Yes	Criminal Code, Article 191; Civil Code, Article 1100; Civil Procedure Code, Article 4§1
	CoE CivLC Article 6— Contributory negligence	Yes	Civil Code, Article 458§1
	CoE CivLC Article 7— Limitation periods	Yes	Civil Code, Articles 372§2, 373, 377§1, 379§1, 380§1
	CoE CivLC Article 8— Validity of contracts	Partial	Civil Code, Article 337§1, 339  The problem is that Civil Code stipulates as invalid only contracts concluded with violations of conditions stipulated in the code itself. The concern is that not all instances of corruption are proscribed as violations of the Civil Code and as such fall outside the scope of Article 337§1 of the code. It would be in line with Article 8 if instead of referring to violations of the Civil Code, Article 337§1 referred to general rule that all contracts contaminated by corruption are null (and void).
	CoE CivLC Article 9— Protection of employees	No	Law on Civil Service, Article 33 could provide provision  Article 9 requires active attitude of the Parties for its fulfilment. States have to provide for protection for corruption-reporting employees. Special regulations dealing with this issue has to be not just passed but widely publicized and supported by all stake holders. Only then we can speak about appropriate protection system for whistle-blowers. At the moment Azeri legislation is not in line with the Convention.
	CoE CivLC Article 10— Accounts and audits	Yes	Law on Accounting, Articles 8, 9, 10; Chamber of Auditors has issued auditing standards in line with international standards
	CoE CivLC Article 11— Acquisition of evidence	Yes	Civil Procedure Code, Articles 85, 87
	CoE CivLC Article 12— Interim measures	Yes	Civil Procedure Code, Articles 157, 158
			Civil Procedure Code, Article 462, provides possibility of cooperation if

	CoE CivLC Article 13— International cooperation	Partial/No	treaties not contradicting Azerbaijani legislation  It is difficult to assess what this legal framework actually means in the sense of effective mutual cooperation and assistance between Azerbaijan and other Parties to the Convention. For the moment there is no reason to believe that legislation in this area is in line with the Convention.
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