

OUR LEGAL SYSTEM IS DEVELOPING TOGETHER WITH OUR INDEPENDENCE



Azeri nation has recently celebrated the 20th anniversary of the restoration of the national independence – one of the most remarkable celebrations that we have.

Our nation that has the ancient historical roots and traditions of statehood achieved back in 1918 the establishment of the first democratic republic in the Orient – the Azerbaijan People's Republic. Unfortunately, the People's Republic did not last long as it came against serious geopolitical problems; so, our young republic lost independence in less than two years.

Our nation embarked on another path to independence, consciousness and national reawakening in the 70s-80s last century thanks to the fact that the great leader Heydar Aliyev rose to power in Azerbaijan and because of his self-sacrificing work. It was precisely in that period that the solid foundation of our today's independence was laid and resolute steps were taken towards the nationalisation of the republic's human resources. The Azeri people were installed in important public offices and more and more education institutions were established to train the national human resources including the military personnel. Azerbaijan went through the period of dynamic ascent in those years as a result of the comprehensive building of the industry, the agriculture, the culture, the education and the other areas; the patriotic youth were formed that went on to represent our nation with dignity in administration, economy and sciences and proved able to govern Azerbaijan as an independent state thereafter. The national spirit and the national conscience were heightened in those years.

Azerbaijan once again became independent with the collapse of the Soviet Union in 1991. A new leaf was turned in the modern history of our nation and the period of independent progress began with the enactment of the constitutional act of national independence on 18 October that year.

After the declaration of the national independence the Azerbaijan Republic was facing such important tasks as the preservation of its independence, the development of the statehood and the implementation of democratic reforms.

However, the social and political developments in the country that set in during that period left Azerbaijan facing the threat of losing independence only shortly after it was regained and of repeating the sad fate of the Azerbaijan Democratic Republic.

Our lands were occupied as a result of the Armenian military intervention while the capital city was swept with the commotion very distant to the concerns about the future of the land; rather, every political organisation present in the city made an armed squad and joined the show of greed for power. The national economy was totally paralysed while the wrong foreign political course pursued by the then leaders resulted in the complete estrangement of Azerbaijan in the international arena.

When one remembers that period one cannot help also recall the wise words of the national leader Heydar Aliyev who said once, 'History has proven repeatedly that keeping independence as the irreplaceable national asset is much harder than gaining it.'

Our nation and public realised on coming face to face with the approaching disaster that only the genius of Heydar Aliyev, his wealth of state administration experience, his acute mind and acumen, agility and fidelity to the national interests could ever protect and preserve our national independence.

Saying the words 'I will dedicate the remainder of my life only and only to the cause of the Azerbaijan Republic's development as an independent state' that soon became a national slogan, standing at the national helm and, most importantly, taking up the mission of the saviour, Heydar Aliyev defined the ways to the elimination of the then political and governmental crisis. Heydar Aliyev also set the main vectors of the internal and foreign politics of the independent Azerbaijan Republic.

Thanks to his will power, the very special kind of robustness, the fine political flair and the unparalleled civil courage not to stop even at sacrificing one's life for the sake of the independence of the Azerbaijan Republic all the obstacles on the path to stronger national independence were removed skilfully and successfully. The national leader Heydar Aliyev signed the historic Decree against crime on 9 August 1994 in order to ensure the political and social stability in the country and to have the illegal armed groups rendered harmless and disarmed. The attempted coups of October 1994 and March 1995 were discouraged with resolve. The threats of the loss of independence and fragmentation of the country were averted and the situation that provided for and promoted the continued development of Azerbaijan was created in the end.

The successful foreign political course made it possible for our country not only to secure political support on the side but also to initiate economic co-operation and investments. The international reputation of Azerbaijan growing with each passing day and the presence of the solid, predictable and guaranteed-to-stay government bespoke the colossal investments by the world's top-notch companies that were not slow in flowing into various segments of our economy.

The well thought-through oil strategy as well as the political and economic reforms attracted the attention of the world's more important countries and, eventually, the large-scale international oil agreement known as the Contract of the Century was signed in Baku in 1994. It was then also agreed to build the Baku-Tbilisi-Ceyhan oil pipeline and the Baku-Tbilisi-Erzurum gas pipeline. Thus was laid the foundation for political stability in the whole region; also, thus the number of countries friendly to Azerbaijan grew sharply in a very short period.

The comprehensive economic reforms including the agrarian reform were carried out; the state property privatisation was initiated; the industrial and agricultural crises were lifted. The fortunate economic political course brought about the improvement of the population living standards. Azerbaijan created a strong national army perfectly capable of defending the country and protecting its territorial integrity.

One cannot help marvelling at the greatness of the human mind when looking back down over those years once more. What sensible, well-judged, purposeful and far-sighted decisions were made back then, indeed!

Today, we can quite safely say that though the people of Azerbaijan rid itself of the imperial domination chains by the constitutional act on the national independence that was passed on 18 October 1991, the preservation of the independence was possible specifically thanks and because of the return to power of the architect of our statehood and the national leader Heydar Aliyev. It is through his stalwart will and tenacity that the 18th of October – the Day of National Deliverance – was protected in the end.

The past period has seen radical reforms in many areas including in the legal system.

The first Constitution developed under the personal guidance of the national leader and adopted in 1995 set the firm foundation of democratic arrangement and a legal state to be built eventually. Various commissions and panels were set up to enforce the constitutional stipulations as well as to strengthen democracy institutes and ensure the supremacy of the law. The head of the state who attached the exceptional importance to the legal reforms assumed the direct guidance of the Commission for Legal Reforms and saw to it that the reforms were organised and carried into life quickly.

The new laws and codes that were passed in a short period of time were very necessary; they set the essence of the national legal system. They were checked and approved by the international experts.

The presidential decrees against unfounded inspections and artificial obstacles put in the business enterprising growth's way that were passed in 1996 and 1999 played an important role in fostering the national economic development.

Our republic has set the solid defence of the human rights as its priority and joined all the main international conventions concerned with the protection of the human rights and liberties. The capital punishment was vetoed in 1993; Azerbaijan abolished the capital punishment in 1998 and was the first country in the Orient to have done so; also, the amnesty and pardon mechanisms were introduced and fell into broad use eventually. The important enactments in defence of the human rights were passed in Azerbaijan; also, the dedicated State Programme was developed and then put into practice gradually. Also, the institute of the Human Rights Ombudsman was established eventually.

The idea of fair justice by the independent and impartial courts has for centuries been one of the fundamentals of a fair society. This is precisely why our national leader who has chosen for Azerbaijan the path of progress as a country opting to build a democratic, lawful and secular state was always paying the special attention to forming the independent judicial power in our country.

The Constitutional Court was established as a result of the judicial and legal reforms. The three-tier independent judicial system that became functional in 2000 is radically different from its predecessor and gives the surer guarantees of the protection of the human rights.

It can be safely said that Azerbaijan was the first formerly USSR republic to put the arrest and the other procedural restraints within the exclusive field of competence of the local courts of law. Also, even the slightest supervision of the courts by the prosecution authorities was eliminated; going further, Azerbaijan set up the democratic institute of court supervision.

The judges were selected using the transparent procedures including the tests in 2000 – for the first time in the history of our country. The judges' corps was removed by 60% as a result of that move.

Those steps, taken timely and efficiently, greatly increased the public confidence in the courts of law while also making the population discard the notion of the court of law as a penitentiary instrument – the notion that had been inherited from the USSR. More people were applying to the courts of law rather than to other offices seeking defence of their infringed rights. It is not for nothing that the number of lawsuits and claims was growing and has been growing to date – to be specific, sixfold in comparison with the period discussed here.

The public prosecution offices were deprived of all the powers characteristic of a totalitarian regime; instead, they were rearranged in accordance with the democratic society standards so as to play the main and most important role of prosecuting crimes and representing the state prosecution in court trials – all in accordance with the principle of competitiveness.

The other law and enforcement authorities went through progressive reformation as well. The human rights' protection was always kept in the eye as the goal central to those processes.

The absolutely new law On Lawyers and Advocacy was passed in 1999 in order to align with the new requirements and standards the practices and activities of the existing Bar that had – and has – the exceptional role in ensuring and supporting the fair judicature. The Bar was rebuilt on the democratic foundations in order to provide the citizens of the country with quality legal assistance.

At the same time, the perfect legal frameworks were created to shape up and support the stern struggle against corruption as a universal social evil. The Special Anti-Corruption Commission that consists of the representatives of each of the three branches of power was established duly. Also were established the Anti-Corruption Department under the auspices of the General Prosecutor of the Republic.

The further modernisation of the judicial system and its complete alignment with the relevant European standards were initiated in 2004 following the political will of the Head of the State Mr Ilham Aliyev who has paid special attention to making the fair judicature yet more efficient and independent from the very first days upon his election as the President of the Azerbaijan Republic.

The joint working groups of Azerbaijan and the Council of Europe consisting of the weightiest international experts were put together for this purpose. Also, the many-sided plan of action was elaborated.

The steps taken eventually resulted in the material update of the Law on Courts and Judges, the enactment of the new Law on the Judicial Legal Council, the Regulations of the Judge Election Committee, the Rules of Selecting Candidate Judges, the Ethical Code of the Judges and the other important documents, all connected with the transparent organisation of judicial procedures and all of which has been successfully used in practice to this day.

The Judicial Legal Council, the completely new body established as a result of the said reforms is the self-government authority of the judicial branch; its members are mainly judges while there are also the representatives of the Presidential Administration, the Parliament, the Prosecution Office and the Bar. The judge performance evaluations, the judge job changes, promotions, disciplinary penalties and all the other issues and situations related to the practice and service of the judges fall within the competence of the Judicial Legal Council.

The democratic foundation was laid for the termless – until the permissible age limit – service of the judges once appointed as well as of their performance evaluation and penalisation where necessary. This was done in consideration of the role of the judicial power's independence in making the judicature more efficient. The private audiences with the judges were banned, the court rulings were made publishable and the democratic procedural rules were adopted in order to prevent corruption. Approximately 20 new provincial courts including the courts of appeal, the courts for grave offences and the administrative-economic courts were created and began to function around the country in only the 4 years past. Considering the substantial increase of the work load on the courts in connection with the accelerated economic development of the country the number of the judges was double over the past few years; the administration personnel was increased by 75% and each judge was given an assistant.

Doubtless, the making of the judicial power as an authoritative and independent institute is in direct connection with the professionalism of the judges who realise this power – as well as with their moral standards. Therefore, there have been the purposeful activities to dismiss the judges who had committed serious breaches of law and thus caused the well-founded indignation and/or negative consequences; instead, the ranks of judges were filled with the well-trained and morally pure people. The benches were completely renovated.

The procedure for selecting candidate judges was established so as to ensure maximum transparency. This procedure consists of numerous examinations, contests, long-term training courses and in-practice learning and is governed by the Judge Selection Committee – the independent body that consists of judges in the main.

As many as 235 highly qualified lawyers selected from among the 2200 candidates in accordance with these selection rules that are held in esteem as the most progressive and transparent in Europe went on to be appointed to various judgeships.

The reputed international experts in general and the judges of the European Human Rights Court in particular are involved in the training of the candidate judges and the judges alike in recognition of the utmost importance of both processes. Ten judges of the European Human Rights Court including its Chairman Jean-Paul Costa have visited our country for the purpose over the past few years.

The selection of judges was resumed for want of more personnel at the end of last year. In accordance with the new rules, the approximately 420 candidates were tested one by one in one space at the Baku Sports Palace last month. It is noteworthy that each stage of the test including the selection of questions and the inspection of answers as well as their announcement was done right in the testing area, in the presence of the candidates as well as the representatives of more than 40 overseas organisations and the local NGOs as well as the TV and press people. For the first time in the personnel recruitment history, the employment tests were broadcast on the Internet in the real live mode.

It should be mentioned that the judges selected by that procedure represent the new generation that accounts for half of the whole judge corps already.

The improvement of the economic condition of the judges has also always been in the focus; the salaries of the judges have grown by 30 times on the average in comparison with 2000. Besides, dozens of new modern-standard courthouses have been built and commissioned.

The World Bank did not let out of sight the progressive nature of the reforms under way in Azerbaijan and so expressed the wish to provide us with financial and technical assistance. The softest loan followed towards the costs of the modernisation of Azerbaijan's system of justice. The project of building numerous modern-type courthouses has been developed together with the World Bank; the intensive construction work has been started already.

The legal amendments pertaining to the functions of the courts that were enacted on 22.06.2010 as well as the presidential decrees dated 15 July and 09 August last year and concerning the continue streamlining of the national judicial system played an important role in the further increase in the fair judicature's efficiency.

In line with the new legislation and in order to facilitate the public access to the courts of law it became necessary to establish the courts for grave offences in four more provinces of the country. Also, the administrative-economic courts were established in seven provinces of the country for the first time in its history with the purpose of making certain that the state authorities observed the human rights strictly. The system of martial courts was upgraded and the overall number of judges was increased by a further 25%.

The important organisational work was done in a short period of time to achieve the start-up of the provincial courts for grave offences, the administrative-economic courts and the material courts as soon as practicable. Twelve new provincial courts began judicial practice in January this year as a consequence.

In order to facilitate the public access to the courts of law and to set a new standard for the legal services the web portal covering all the courts was created that provides detailed information about the supreme, appeal and first instance courts as well as about their jurisdictions, the cases in process, the rulings, the documents that are required to accompany claims and suits, the reception days etc. It is also possible to obtain forms of applications and other judicial documents as well as to ask questions and get answers online thanks to this portal. The portal will be opened for the public use in a few days; it will contain the information about all the judges at all.

It is an inspiring fact that the European Commission for the Efficiency of Justice (CEPEJ) highly evaluated the attention paid to judicial reforms in our country in its report, and singled it out as an achievement among the European countries. At the same time, CEPEJ describes as positive the judge selection procedure in use in Azerbaijan and praises the efforts made to use the data and telecommunication technologies in the courts.

The reforms implemented to date have also accelerated the international legal integration: our country is now taking part in the work of many influential international organisations including the involvement with the governance of the International Association of Prosecutors (unites more than 100 countries) and the International Association of Anti-Corruption Authorities.

The large-scale legal reforms undertaken in our country resulted in the increase in the amount of work done in the justice field; the normative practical basics of the Ministry of justice were streamlined.

The new Regulations of the Ministry were passed and the Ministry was given the status of a law enforcement authority in 2006. The progress of the judiciary bodies became especially important. The decree on modernisation of the court system, the new Law on Service in the Judiciary Bodies and the standalone State Programme of Development of the Justice were issued.

Pursuant to the reforms the following new units were created within the Ministry: the investigation branch, the centre for interaction with the municipalities, the enforcement service, various registries and the regional departments of justice. The ministerial infrastructure is being

modernised. The highlights of the process included President Ilham Aliyev's honouring the inauguration of the modern-style offices of the State Registry of Population Service.

The Ministry of Justice checked about 13,000 legislative drafts and drafted up nearly 1,500 bills on various facets of the public life in the past few years. It should be mentioned that the legal system has had the increase in the number of notary acts by 4 times, in the number of the court rulings issued for execution by 3 times and in the number of criminal cases investigated by 4 times in comparison with 2000.

The recent innovations include the following: recruitment of personnel through open contests including receipt and handling of job applications via the ministerial website, which greatly facilitated the employment process. At the same time – and for the first time in our country – the specialised training institution was established to educate and issue into life and practice the qualified lawyers, prosecutors and other law specialists. This is now the responsibility of the Academy of Justice.

The workings of the enforcement service were streamlined in view of its exceptional role in the efficiency of the fair judicature. The failure to enforce court rulings was made an offence subject to the constitutional amendment. More mechanisms and facilities including the semi-annual reporting on the court ruling enforcement progress to the President of the Republic were introduced to ensure timely and full enforcement and to eliminate obstacles to the process. These innovations have been giving positive results since some time.

The Ministry of Justice constantly keeps in focus the task of the continued expansion of legal co-operation as well as the study and application of the positive international experience. Being the central liaison hub, the Ministry fulfils its obligations under the 13 multilateral and up to 30 bilateral agreements; the Ministry also co-operates with the counterparts in 25 countries under the relevant bilateral treaties. As a consequence, the number of international legal aid applications coming in from other countries has grown tenfold and reached 8,000 during the ten years past.

At the same time, the growing interest in legal co-operation with our country made certain that the ministers of justice of Norway, the Netherlands, Georgia and Morocco visited our country in approximately the past year, during which period Azerbaijan was also visited by the leaders of a number of influential international organisations. They all valued highly the achievements made in Azerbaijan and expressed the wish to use our positive experience.

The considerable enhancement of the role and weight of the Ministry of Justice in the society brought about the arrangement of the legal activities in accordance with the modern challenges and the international standards. The application of the modern information and telecommunication technologies was expanded and the new generation of lawyers was put forth.

The Ministry created the legislation database that was uploaded to the online hosts for the free public use eventually. There are four websites, four law magazines, the newspaper “Ədliyyə” and the other publications – all serving the mission of the legal enlightenment of the population and increasing the transparency of the system as a whole.

Also, the Ministry created the automatic registration data systems ‘e-Notary’ and the Acts of Civil Status, and put the state notary offices and registration bureaux on the one electronic network. These data systems that are only encountered in practice in a handful of countries made it possible to simplify the notary procedures while also permitting the collection, updating and safe storage of the civil status information kept littered across various offices since the beginning of last century.

The Ministry of Justice works on building the centralised databank; besides, modern data systems are installed at the provincial and local justice bodies and courts as well as in the Judicial Legal Council with the eventual amalgamation into one network in order to improve the legal services. The whole area was made more transparent and the contacting/interacting opportunities inclusive of email correspondence were expanded thanks to the application of the new digital technologies as well as the streamlining of the work methods and systems. The ministerial website now has a special e-service section under the presidential decree dated 23 May 2011 on the e-

services to be provided by the governmental authorities. That section can be used to obtain information about the working hours, locations and contacts of the judicial bodies as well as about the NGO registration procedures, the registration procedures for other legal entities, the notary acts and the documents required, the amounts of the duties payable and on the enforcement of court rulings. There is also an extensive Azeri name search system to help parents find names for their children; the system contains the description of the origins and meanings of names, the extent of their use among the population, etc. furthermore, the online booking of visits to the senior justice system officers will eventually be added to the already existent online application facility. The judiciary bodies have also started the use of the e-service bureaux whereby notary, civil status act and non-commercial legal entity registration information can be obtained instantly, all kinds of payments can be made and the Ministry can be contacted direct via the hotline and e-mail. Paying special attention to the protection of the rights of the convicts and the defendants who represent the most vulnerable section of the community, the Ministry is furthering the radical reforms in the penitentiary service and is using the public control model that is praised as positive in Europe and contains of the Public Committee made up of independent human rights activists. The relevant modern infrastructure is being created in the capital city as well as up country. In this sense, the new pre-trial detention facility built in Baku is quoted by our overseas colleagues as exemplary. This is far from accidental because the President personally visited the new facility, checked the situation and gave relevant instructions because of the special care he takes of the aforementioned vulnerable social group.

Furthermore, the constant attention paid to the medical services extended to the convicts, their food and medication provisions were improved radically and the complex operations were carried out to fend off various diseases including tuberculosis. The Ministry co-operated with the International Red Cross Committee in 1995; they built a specialised clinic and a laboratory furnished with the modern equipment never before seen in the whole region; both facilities and the effort put in the process made certain that the tuberculosis mortality rate dropped by 35 times. Having considered the achievements they had made, the IRCC announced that Azerbaijan no longer needed its help and decided to place the tuberculosis discouragement and treatment business wholly in the hands of the Ministry of Justice. The delegations of a number of countries including Georgia, Kirghizstan, Tajikistan and Moldova have visited Azerbaijan to learn this advance experience and benefit from it already.

At the same time, the purposeful action is under way to modernise the justice system of the Nakhchivan Autonomous Republic the authority field of the Ministry of Justice of which was expanded by the decree of the national leader Heydar Aliyev in 2002. The presidential decree dated 02 November 2006 on development of the judicial institutes in the Nakhchivan AR played a special role in increasing the efficiency of the human rights protection and ensuring the fair judicature in the autonomous republic. The first modern mixed-regime correction facility in the history of Azerbaijan was built and commissioned in Nakhchivan to let the convicts and the people detained pending trials serve their sentences near their native places to facilitate their social adaptation as part of the overall modernisation of the justice and judiciary infrastructure. Also, the new buildings of the local Ministry of Justice and many courts were built; the Forensic Examination Centre installed the Nakhchivani Branch to accelerate the local expert inquiries.

The progress of the justice and judicial system of Azerbaijan is the tangible result of the progressive reforms implemented upon the initiative and under the guidance of our esteemed President Ilham Aliyev; this progress is also the logical extension of the overall progress of our country.

We can say proudly now that the Azeri State built on the solid foundation lives through the epoch of accelerated development. Thanks to the well thought-through economic political course and the unparalleled work done under the guidance of President Ilham Aliyev Azerbaijan has become the leading country in the region. It is not for nothing that the economy of Azerbaijan currently accounts for 75% of the total economy of the South Caucasus. One could not even

imagine any regional project being undertaken let alone implemented without the involvement of our country.

Azerbaijan is among the world leaders in terms of economic growth. Azerbaijan's economic rise has been fourfold in the past ten years. In the same period, Azerbaijan's state budget has grown by fifteen times; the strategic foreign exchanges reserves have grown by 31 times, 1 million new jobs have been created, and the poverty levels have been reduced from 49% to 9%. \$16 bn was invested in our country last year alone; that included \$9.3 bn invested in the non-oil sector.

Azerbaijan continued the intensive social and economic growth even when the whole world was in the grip of the economic crisis during 2008-2010.

All this fills us with pride and joy and makes us very confident that our nation will move on to yet greater achievements under the leadership of our well-respected President Ilham Aliyev.

The judicial authorities, too, celebrated energetically and on a large scale the 20th anniversary of the restoration of the Azerbaijan Republic's national independence subject to the presidential decree dated 21 January 2011. That was a remarkable date in the social and political life of our country. The conferences and the summarisation meetings covering the twenty years of the independent growth and the reforms implemented in that period were organised in the connection with the anniversary.

I would like to take up this opportunity to congratulate our nation on the 20th anniversary of the restoration of our national independence – one of the most remarkable celebrations in the history of our state. I wish you further successes in the name of the comprehensive development and continued elevation of Azerbaijan, our independent country created by our great leader Heydar Aliyev and given the eternal life by him.

Fikrat MAMMADOV,

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