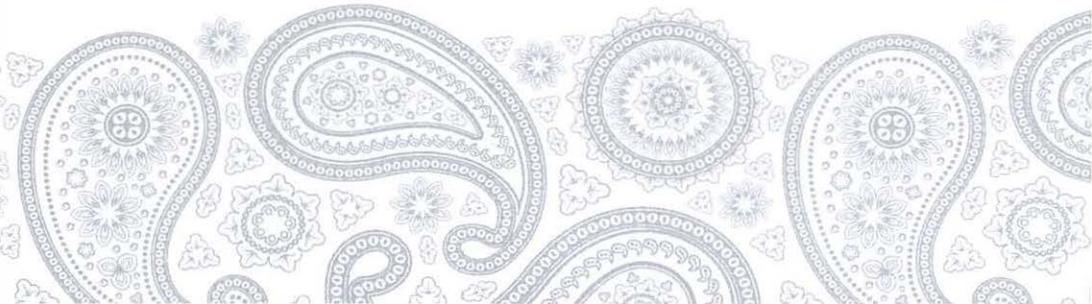




STATEMENT

**by Mr. Fikrat Mammadov,
Minister of Justice,
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“Judicial Reforms in Azerbaijan
Innovative Examples”**



Judicial Reforms in Azerbaijan – Innovative Examples

The issue of effective administration of justice alarms the wider world community, including that of in Europe. It has been three years now that ministers are convened for a conference to discuss this issue and find ways out.

Shortcomings of the domestic judicial systems are revealed by the European Court of Human Rights, which is overloaded with dozens of thousands of cases and needs about 20 years to consider only the pending ones.

I believe you would agree that implementation of a judicial reform is not a choice or a prerogative, but an imperative need of present realities. As the great French thinker Paul-Henri d'Holbach wisely noted that: "Justice is the foundation of all social virtues". Azerbaijan, which has 70 years background of the Soviet undemocratic totalitarian regime, knows it well.

In a historically very short period of time the national judicial and legal system has been reorganized subject to democratic principles. New laws and codes corresponding to the modern standards were drafted and adopted. In 2000 the judicial candidate had to pass test examination to become judges. Judicial and legal reforms which are now underway are one of the priorities of the state policy of Azerbaijan. After all, as George Washington said: "The administration of justice is the firmest pillar of Government".

The major goals objectives of the reform are:

- Increasing the efficiency of justice, including;
 - Strengthening the independence of judges;
 - Fully transparent and objective formation of judge corps;
 - Improving access to justice;
 - Creating users friendly judicial system;
- Expanding public confidence in the judiciary.

For faster and more effective achievement of the objectives, it is required to study and use of the latest achievements in science, as well as international best practices.

So we are working with reputable international organizations: Council of Europe, especially the Commission on the Efficiency of Justice (CEPEJ), the European Union, the World Bank. I would particularly like to underline our efficient cooperation within the joint project on modernization of the justice system which has been underway for 7 years now.

One of the most important lines of the reforms was to ensure the independence of the judiciary. And that was not easy, considering that in Soviet times such a notion, I would say, did not exist at all.

In this connection a solid legal framework was set up. Among the guarantees of the judicial independence one can distinguish their de-politicization, life tenure of judges, as previously judges were appointed for 5 or 10 years depending on the jurisdiction. The legislation also provides for the immunity of judges for the duration of their terms of office, the inadmissibility of restrictions on and interference with the judiciary, ensuring the personal security of judges, provision of

material and social guarantees as to their respective positions, prohibition for review of court decisions and abolition of the prosecutorial or any other supervision.

Creation of the Judicial Legal Council which is an independent body of judicial self-government holds a special place in ensuring the independence of the judiciary. The Council is formed entirely on the democratic basis of the representatives of the three branches of power, as well as both sides to the trial: advocate and prosecutor. Most of the members of the Council - 9 are judges that represent all the court instances. Today, the Council, which under the new law is the guarantor of the independence of the judiciary, deals with all issues related to the judicial system. As a member of the Council I have been honored to be elected by my colleagues as the chairman. Therefore, I would say, I bear greater responsibility for the ongoing judicial reform.

I am very delighted that we already have real results, which we are happy to share.

One of the factors that affect the quality of justice is the workload of judges. Given the fact that the new legislation significantly expanded the powers of courts, the workload has increased respectively. Also, carefully analyzing the statistics of the CEPEJ, which represents a kind of know-how, we have found out that Azerbaijan held one of the last places in Europe as to the number of judges per capita: 4 judges per 100,000 inhabitants. While in some countries the figure is 25 or even more. In this regard, we turned to the President for increasing

the number of judicial vacancies. And the President, who has always been attaching great importance to the improvement of the judicial system, supported our initiative and increased the number of judges by 2 times. Having got these vacancies we started to think how to fill them out with the best lawyers.

One of the great classics of world literature in his immortal poem "Woe from Wit" was wondering "Who are the judges?". Today, this thesis is highly relevant in terms of the independence of the judicial system and its effectiveness, expanding confidence in the judiciary and provision of high quality services to the public.

Attaching great importance to this very issue, we, in close cooperation with the Council of Europe developed the most transparent system of selection of judges, which has no analogues in the world.

An independent body was created especially for selection of judges - the Judges' Selection Committee. The majority of its members is judges. The selection procedure represents a multi-stage selection procedure that includes tests, written and oral examinations, long-term training and internships in courts. It should be noted that all of the candidates and there were up to a thousand at times, take the exam in a single audience. They are being watched by numerous local and international observers and media representatives. The selection of questions is carried out by a computer program randomly from the bank of questions. Checking up the answer sheets and announcement of the results takes place in the same audience, again in the presence of the candidates themselves.

In order to ensure maximum transparency, examinations are broadcasted online on the Internet, which is also a kind of innovation.

However, mere selecting judges, even on the most transparent and objective procedure, is not enough. Once they are selected the main priority turns to be training of judges. To quote famous American politician and orator Edward Everett: "Education is a better safeguard of liberty than a standing army."

I would like to note that, together with the best European experts in this field, we have developed a new concept of training which alternates training and internship in courts. Lectures are read by judges of higher courts, eminent scholars, and experts possessing deep knowledge and vast experience, as well as leading foreign experts.

Attaching great importance to studying and application by the judges of the case-law of the European Court of Human Rights, we have established a good working relationship with the European Court. Hence, in recent years 15 judges, including the chairman of this Court paid a visit to our country and carried out training activities for our judges

Training courses for candidates are also organized abroad. For example, twice a 2-week seminar at the Justice Academy of Turkey was organized for about 160 judicial candidates, which included not only theoretical lessons, but also participation in court proceedings of different instances. Study tours to Germany are being organized, too.

Thanks to this selection, we have brought up a new generation of judges who already make up 60% of the country's judge corps.

CEPEJ, having studied our experience, recognized it as an interesting model of best practice and EU experts have recommended it to other member states of the Eastern Partnership.

Alongside this, it is impossible to imagine judicial reform without improving the public's access to justice. This need first of all is dictated by the modern trends of social development. In order to realize this goal in the last 3-4 years, up to 20 regional courts, including five courts of appeal were established in the country. This is a lot, because the new courts make up about 1/5 of the entire judicial system of Azerbaijan.

Such a transformation of the court system has become an essential step in the process of modernization. Before there used to be a single Court of Appeal, located in the capital – Baku, that dealt with appeals from all cities and districts of the country, which among other things, used to put an extra financial burden on the parties and participants of the process. Such a transformation of the court system has become an essential step in the process of modernization. Before there used to be a single Court of Appeal, located in the capital – Baku, that dealt with appeals from all cities and districts of the country, which among other things, used to put an extra financial burden on the parties and participants of the process.

This problem was particularly acute in regard to the inhabitants of the Nakhichevan Autonomous Republic, which is under blockade and has no direct link with the mainland but the air due to the aggression of the neighboring Armenia against Azerbaijan and the occupation of 20% of our lands. Now there is no need to come to the capital.

Alongside this, the network of specialized courts has been improved, and from the beginning of 2011 for the first time in the history of the country the system of administrative justice has been launched. It should be noted that the administrative courts have jurisdiction over a region, but not a single district. That was done in order to avoid any interference by the local authorities. It has been 2 years that these courts are functioning and we already see positive results.

There are many other areas where the latest achievements of science and scientific approach are applied. Judicial infrastructure is one of these areas. Creating a large number of new courts, increasing the number of judges and that of court clerks, allocating a judge assistant to every judge stipulated implementation of the large-scale actions on infrastructure upgrade.

Another catalyst for the transformation of the infrastructure is the fact that in the past courts were accommodated in the buildings which had originally been constructed for other purposes. Therefore they were somehow adapted for the courts' needs. This, of course, could not provide the desired results. We are grateful to the World Bank, which got back to

our proposal and started to provide substantial support in this area, within the framework of our joint project.

As an example of new court infrastructure I would bring the new building of the Supreme Court of the country, which is equipped with the latest ICTs.

Let me now underline the main aspects of the infrastructure upgrade. First - we started to construct modern courthouses, which meet de the high status of the court. Second - a unique software was developed for the court design. It takes the necessary data (number of judges, caseload, etc.) and develops a project of the building itself, determines the number of floors, courtrooms. Third - these courts are divided into administrative and public areas, each of which has a separate entrance. The administrative area is provided for judges and court clerks, whereas the public one - for the citizens, bailiffs of the Ministry of Justice, public prosecutors and lawyers. Thus non-procedural relationships between judges and citizens are limited, and they meet only in courtrooms. Thereby risk of corruption is minimized.

Another innovation is the use of the most advanced information communication technologies in the courts.

By the way 2013 is announced in Azerbaijan as the ICT year, we launched our first satellite to space, and there is a widespread use of these technologies. Azerbaijan has already created its own brand in this area - the "ASAN Service", which was established in order to facilitate rendering legal services to citizens, to provide transparency, and eliminate corruption. Through the use of modern technology and the principle of

“one stop shop” - there are 9 employees of government agencies sitting at the same building operationally and rapidly providing 25 kinds of various services.

The latest integrated solutions in this field could not overlook the judicial system, especially given the impact of ICT on the efficiency of justice and improvement of the quality and efficiency of services.

As part of our joint project with the World Bank a special strategy has been developed. It will greatly facilitate the administrative work, since it would reflect all the data on the movement and status of cases (registration, procedural correspondence, statistics, and transfer to the archive), workload of judges, etc. As part of the implementation of this strategy it is planned to create the whole system of high-tech courts, rather than one showroom as in some countries. It would allow all courts to conduct electronic documentation, audio recording, videoconferencing, remote interviewing of witnesses, questioning witnesses with the change of voices in order to protect them. Such a system is already in place in the Constitutional and Supreme Courts as well as in some district courts of Azerbaijan.

Along with that, we have launched the practice of SMS notification of the parties to the court proceedings, which not only speeds up the procedure itself, but will considerably decrease the courts' postage fees up to 20 times.

Also, in order to improve legal services granted to the population, a single online portal of the judicial system is created (www.courts.az), which includes information on all

courts and judges, pending cases, provides samples of claims and other legal judicial documents, etc.

Among the main factors affecting the growth of public confidence in the courts and provision of high quality services is the fight against corruption. This is not surprising, because the risk of corruption is immense. Therefore, the Romans picked up the word for this social evil: «*corrumpere*», which means “to destroy”.

Today, there is a global fight against corruption underway all over the world, which undoubtedly affects the justice system as well, since a fair and effective judiciary is perhaps the most serious obstacle to corruption. Therefore, it is not surprising that the issue was discussed at the last conference of the Ministers of Justice of the Council of Europe, as well as at the conferences of the International Association of Anti-Corruption Authorities (IAACA), where I was honored to be one of the keynote speakers on the topic being the IAACA vice-president. In our country, there is also a strong political will to fight this evil: anticorruption laws were adopted; strategies and action plans are being implemented. A special place in these documents is given to judges and courts.

I have already informed you about some measures, such as a transparent selection of judges and division of courts into two zones, in order to avoid contacts with the judge. Here I can add that we have a legal ban which prevents judges from receiving citizens.

Along with this, as one wise saying goes, “without fair remuneration there is not much hope that the corruption can

be abolished in any area, including judiciary". Therefore, we are working in this direction. For example, in Azerbaijan within the last 10 years judges' salaries have increased 30-fold, while the budget for courts went up at 26 times.

From the point of view of the provision of services to the public, the correct behavior of judges plays an important role. For setting high standards in this area, we have carefully studied the UN standards, especially the Bangalore Principles, and documents of the Council of Europe, including the Charter on the Statute of Judges.

This analysis formed the basis of the Code of Ethics of Judicial Conduct adopted by the Judicial Legal Council. The author of the Bangalore Principles highly evaluated its implementation while in Azerbaijan. The essence of the ethical requirements that formed the basis of these documents is to ensure that a judge avoids actions that may lead to the use of his powers for personal gain, avoids giving preferences, and interfering with efficient functioning of the court, and avoids the negative impact on the public perception of the fairness of the judicial system. Cases in courts are distributed randomly, based on a specially developed Instruction. Along with that, decisions of the courts are published which is also new for us.

A special anti-corruption sector and hotline is established at the Judicial Legal Council, where citizens can call and report corruption. These calls are thoroughly investigated and if confirmed, the strictest measures are taken.

Thus, over the past few years, 18 judges were punished for creating the conditions for corruption; powers of 5 of them

have been prematurely terminated. And anticorruption measures are underway.

While providing information about the reforms I have to note that there are already tangible results that make us very proud:

- Efficiency of justice is growing;
- Stability of judicial decisions is at the level of 96-97%;
- 80% of the complaints of citizens are satisfied by the administrative courts;
- 15% of the appealed decisions are changed on appeal;
- Supreme Court receives 4-5% of the complaints.
- The confidence in courts has expanded, which resulted in an increase in the number of files lodged to courts by 7-8 times;
- By extending the network of courts the access to justice has been improved;
- Introduction of ICT made the justice system more "users friendly".

We do not intend to stop on the progress made and will continue our reforms. And we are open for further cooperation. It concerns the continuation of legal and institutional reforms to improve the efficiency of justice, upgrading infrastructure, increasing efficiency, widespread use of ICT, and improving access to justice.

In the words of Martin Luther King: "A right delayed is a right denied".