

## Republic of Azerbaijan

(*Azərbaycan Respublikası*)

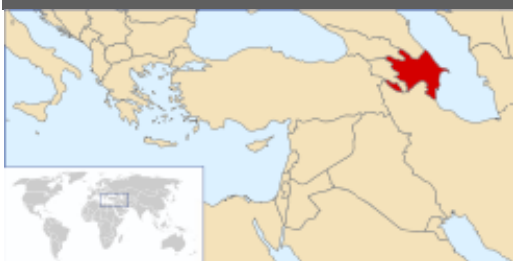


**Capital:** Baku

**Inhabitants:** 8.653.000 (2008)

**Area:** 86.600 km<sup>2</sup>

### 1. Introduction



Republic of Azerbaijan is a democratic, rule of law, secular and unitary state. Its territory is 86,6 thousand square km. Population exceeds 8 million. Azerbaijan includes Naxcivan Autonomous Republic and it is divided into 59 districts (rayons) and 7 cities. One of the regions, Nagorno-Karabakh, does not acknowledge the jurisdiction of Azerbaijan. The capital of the Republic is Baku.

Azerbaijan has a typical form of presidential government. The state power in the Republic is based on the principle of separation of powers. Legislative power is exercised by Milli Mejlis (National Assembly - Parliament). Executive power is vested in the President of the Republic. Judicial power is represented by courts.

The development of local self-government in its modern form started from the moment the Republic regained independence. Local self-government for the first time received legal recognition in the Constitution of the Republic of

Azerbaijan which was adopted at the general referendum conducted on November 12, 1995. In particular, the Constitution devoted to local self-government (municipalities) special chapter IV. Laying down legal framework for formation and activities of municipalities, the Constitution proceeds from the guaranteed right of citizens to govern society and state as one of fundamental principles of democracy in civilized states.

In 1999 laws "On the Status of Municipalities" and "On the Elections of Municipalities" were adopted. So was concluded the first stage in the development of municipalities which may be conventionally named as the stage of the formation of legal normative basis for organization and functioning of the system of local self-government.

The second stage of the development of local self-government was connected with institutional formation of municipal organs and started in 1999 when for the first time in the history of Azerbaijan elections to municipalities were held on a multi-party democratic basis. The elections took place in 2 667 municipalities, in 2 591 of them the voting was acknowledged as corresponding to legal requirements. The elections in 76 municipalities had been declared null and void and new elections



were held there. In the total, 20 456 members of municipalities were elected.

The third stage in the development of local self-government is the period of the creation of necessary economic preconditions for proper functioning of municipalities and organization of the system of municipal service, as provided by laws "On Transfer of Property to Municipal Property", "On Municipal Property", "On Fundamentals of Finances of Municipalities". These acts founded the system and fundamentals of activities of municipalities based on the constitutional principles of local self-government, independence of population in solving local matters, development of direct democracy. At the same time it would be appropriate to note that the aforesaid division into periods is conventional and that the process of the development of municipal system is permanent and embraces different segments of functioning of municipalities. The normative basis of local self-government is still in the process of further development and improvement. So in 2000 new laws were enacted "On the Status of Members of Municipalities", "On Joint Activities, Unification, Division and Liquidation of Municipalities", "On Management of Municipal Lands". In 2003 a Law "On Administrative Control over Activities of Municipalities" and many other acts were adopted. In the whole, presently there are 20 laws which regulate different aspects of local self-government.

In 2004 elections 21 613 members of 2731 municipalities were elected (in 2006 by-elections were held with the aim to fill 1941 vacancies in 604 municipalities).

Local self-government is one of the corner stones of the constitutional system of the Republic of Azerbaijan. Local self-government is regarded as a non-state system of organization of citizens, which provides them an opportunity to decide

independently and freely on local issues. It is one of the main elements of democratic state. Citizens directly participate in public affairs on local level. Municipalities entitled with real powers make possible such governance which is more efficient and more adjusted to the needs of population. The concept of local self-government requires certain degree of independence of municipalities. It is a precondition of successful implementation of their tasks. Their independence is in the main determined by such economic factors, as sufficiency of municipal property, the right to levy local taxes and payments, the power to adopt and implement local programs of economic development.

## 2. Territorial organization.

Local self-government in Azerbaijan is exercised by municipalities. Azerbaijan has a European model of organization of public power at the local level where organs of local self-government co-exist with organs of local state government. Heads of executive power in cities and districts (rayon) are appointed by, and responsible to, the President. They represent state government in local territorial units. Organs of local executive power and organs of local self-government are not subordinated to each other, their powers are not intermingled or overlapping. The Decree "On Local Executive Power" approved by the President on July 16, 1999 specifies the powers of heads of executive power in the fields of planning, budget, finances, agriculture, construction, transport and communications, residential (communal) economy, retail trade and public services, social protection of population, provision of legal order and protection of human rights and freedoms.

Baku, the capital of the Republic of Azerbaijan, does not have a special status. However, the city is divided into 11



districts. The President appoints the head of the city and the heads of all its 11 districts. In Baku there are 55 municipalities.

Azerbaijan does not have territories with a special status, with the exception of Naxcivan Autonomous Republic.

The last territorial reform was held in Naxcivan Autonomous Republic where a new fifth district was established. Formerly the Naxcivan Autonomous Republic was composed of the Naxcivan city (capital of the autonomous republic) and four districts. Currently, there are no other plans of territorial reforms in the Republic.

### 3. Institutions of local self-government

#### 3.1 Local political systems

Representatives of different political parties take part in municipal elections.

In Azerbaijan only national parties exist. There are no regional parties. Political parties take part in national elections (of the President and the Parliament) and in municipal elections.

A broad spectrum of political forces is represented on the local level. 26 political parties participated in the municipal elections of 1999.

Municipalities have their own executive organs. They are composed of chairmen of municipalities and heads of structural divisions (departments and services) subordinated to them. Chairmen of municipalities direct the activities of executive staffs.

Heads of structural divisions are appointed by chairmen of municipalities acting in accordance with decisions of municipal councils. Executive staffs include heads

and deputy heads of departments, heads and deputy heads of services, specialists, inspectors and other municipal employees.

Elections to municipalities are conducted on the basis of general, equal, direct suffrage and free, personal and secret ballot. In the elections majority election system is used. The number of members of municipalities is determined by law and differs depending on the number of population of municipalities. Members of municipalities are elected for 5 year term.

The attitude of population to local policy in comparison with national policy is different. Such distinction is natural, taking into account that population are much more interested in local matters which directly influence their everyday lives and activities. National problems are regarded as more global and even abstract in comparison with local issues. Of course, they also deeply influence on lives of citizens, though may be not so directly.

#### 3.2. Participation of citizens.

2 301 682 out of 4 021 135 electors ( 57,2 %) had taken part in the municipal elections of 1999. In 2004 the activity was lower: 2 019 267 out of 4 551 346 electors (46,34 %) participated in the elections of local organs of self-government.

Several institutions of direct democracy are used on local level. So, local referendums may be held on local issues. All citizens who reside in appropriate municipal territory and are entitled to vote may take part in local referendums.

Local referendums are held in the event of a merger or division of municipalities. The procedure of local referendums is regulated by Law "On Local Referendums" dated November 30, 1999. During 2004 - 2005 there were more than 70 referendums on merger and division of municipalities.



Various civic initiatives are also broadly used in the activities of local self-government. For instance, in municipalities with less than 500 people citizens may conduct meetings with the aim to express their attitude to local issues, to present proposals, to conduct collective debates and to enact decisions.

Citizens may propose municipal acts on issues pertaining to local needs using the mechanism of direct initiative.

Legislation of Azerbaijan provides for representation on lower, sub-municipal level. On May 8, 2001 A Law "On the Approval of Model Rules of City Quarter Committees of Municipalities" was enacted. City quarter committees of municipalities as voluntary associations are created by citizens on their own initiative at the place of their residence with the aim to assist in solution of issues referred to the province of municipalities.

City quarter committees are established on a territorial basis. The territory of a city quarter committee may include a tenement house or several tenement houses (city quarter). A city quarter committee is composed of 5 to 11 members elected at the meeting of citizens residing in the respective territory.

Electronic means of communication are broadly used during elections permitting to transfer without delay data on voting and counting of votes.

In Azerbaijan there are no traditional institutions.

### *3.3. Staff of local self-government.*

Legal status of municipal employees is regulated by Law "On Municipal Service" dated November 30, 1999. Presently, there are approximately 25 000 employees.

Municipal service is a permanent professional activity in organs of local self-government established for realization of their functions. Municipal employee is a person appointed to a post in organs of local self-government and working in such organs on a permanent and paid basis.

Chairmen of municipalities appoint heads of structural divisions (departments and services) on the decision of municipalities, other municipal employees are appointed by chairmen at their own discretion.

The legal status of municipal employees corresponds in the main to the legal status of state employees with appropriate distinctions as provided by law and reflecting peculiarities in municipal form of the government. For instance, salaries of municipal employees are paid out of municipal budgets according to schemes of wages approved by municipalities with account of their financial opportunities.

## **4. Relations between central and local bodies**

### *4.1 General issues.*

Local self-government in the Republic of Azerbaijan – is a non-state system for organizing activities of citizens and providing them an opportunity to decide freely and independently on local issues in the procedure, as provided by law.

Municipalities have their own property and budgets, they use them independent of any state bodies.

Municipalities establish municipal bodies which are responsible for implementation of their functions and which are separated from state bodies and may freely exercise their powers within the frames as provided by law.



In the Office of the President there is a specialized department responsible for the work with municipalities. Besides, the Ministry of Justice established the Centre for the Work with Municipalities. In the Parliament there is a standing committee on issues of regional policy. The office of the Parliament also has a specialised department of municipal legislation.

Constitutional guarantees of local self-government are laid down by Article 146 of the Constitution: "Judicial protection of municipalities, reimbursement of additional expenses incurred as a result of decisions of state organs are guaranteed". This constitutional norm provides that citizens and local self-government bodies may file suits in the case of violation of their right to local self-government and that organs of state power must reimburse expenses of local self-government in the event their acts cause expenditures of local budgets.

Milli Mejlis (Parliament) adopts laws, President issues decrees, Cabinet of Ministers enacts resolutions regulating local self-government. Besides, the Ministry of Justice issues instructions devoted to different aspects of the activities of municipalities. For instance, on April 12, 2004 it issued an Instruction "On Organization of Administrative Control Over Activities of Municipalities".

#### *4.2. Control over local self-government*

Control over activities of municipalities is exercised in accordance with the Law "On Administrative Control Over Activities of Municipalities" dated May 13, 2003. The Law defines fundamentals and procedure of administrative control over municipalities and the status of organs exercising such control. The aim of administrative control is to ensure that municipalities, municipal organs and officials observe the requirements of the Constitution and laws, acts of the President

and Cabinet of Ministers of the Republic of Azerbaijan (in Naxcivan Autonomous Republic, in addition, the requirements of the Constitution, laws and acts of the Cabinet of Ministers of the autonomous republic), prevention of violations of legislation by municipalities.

In accordance with the Decree of the President of the Republic of Azerbaijan "On Application of the Law "On Administrative Control Over Activities of Municipalities" dated September 27, 2003, the execution of administrative control is delegated to the Ministry of Justice.

Annually the Ministry of Justice presents to Milli Mejlis (Parliament) a report on execution of administrative control over municipalities.

Administrative control over activities of municipalities is exercised only in the cases and in the procedure, as provided by the Constitution and laws of the Republic of Azerbaijan. Administrative control is limited by one goal – to check the observance of laws. It may not restrict the right of municipalities to decide on local issues independently and freely. In the process of administrative control the interference into the activities of municipalities must correspond to the aforesaid goal.

The procedure of administrative control may be initiated in the event of:

- 1 sufficient doubts that normative acts of municipalities, decisions on the use of financial means received from the state budget and on the disposal and use of municipal property, acts imposing taxes and payments for special purposes, declarations of the results of local referendums, decisions providing for expenditures and financial liabilities of municipalities and other acts and decisions violate the Constitution and laws, acts of the President and Cabinet of Ministers of the Republic of Azerbaijan (in Naxcivan



Autonomous Republic, in addition, the Constitution, laws and acts of the Cabinet of Ministers of the autonomous republic);

2 application of citizens, corporate persons or state bodies on the ground that municipality has damaged their rights and interests.

If the Ministry of Justice reveals the violation of the Constitution, laws and normative acts of the President and the Cabinet of Ministers, it addresses municipality with a proposal to revoke or to change appropriate act within 15 days. In the event such requirement is not observed, the Ministry of Justice may file a suit in court within the next 15 days.

In 2005 in the process of administrative control 240 acts of municipalities were revoked and 70 acts were subjected to amendments.

Legislation does not provide for the dissolution of municipalities.

Dismissal of municipal employees is exercised on the grounds as provided by Labour Code of the Republic of Azerbaijan. There is no specific procedure for dismissal of municipal employees. Termination of the term of municipality may not serve as a ground for dismissal of municipal employees.

According to Article 53 of the Law "On the Status of Municipalities" decisions and actions (inaction) of municipalities may be disputed in courts.

The Decree of the President dated July 12, 2000 established within the Ministry of Justice a specialised organ – Centre on the Work with Municipalities. One of its main functions is to assist municipalities in the study of legislation, to organize their functioning in accordance with modern requirements, to provide methodical aid.

#### *4.3. Protection of the right to local self-government.*

According to Article 50 of the Law "On the Status of Municipalities" citizens residing in the territory of appropriate municipality may file a suit in court on the ground that their right to local self-government was infringed by acts of state bodies, state officials or by public associations or corporate persons created by municipalities.

Legislation contemplates that municipalities may establish associations of organs of local self-government with the aim to implement more efficiently their rights and interests. On May 3, 2005 the Parliament adopted a Law "On Model Charter of Regional Associations of Municipalities". In our days regional associations of municipalities are in the process of formation.

There are still no well developed pre-judicial procedures for resolution of conflicts. Judicial resolution of conflicts is applied very rarely.

### **5. Functions of organs of local self-government.**

Legislation vests municipalities with powers to:

- establish local taxes and charges;
- to approve local budgets and reports on their execution;
- to possess, use and to dispose of municipal property;
- to adopt and to execute local programs of social protection and social development;
- to adopt and to execute local programs of economic development;
- to adopt and to execute local ecological programs;
- urban planning;
- primary health care;
- water supply;
- public transport.



On the contrary, local self-government bodies have no responsibility for education and energy supply.

## 6. Local finances.

According to Article 144 of the Constitution municipalities have the right to impose local taxes and payments. Local taxes include tax on land of natural persons, property tax of natural persons, income tax of corporate persons attributed to municipal property, tax on construction materials of local significance.

The share of local taxes and duties in the budgets of municipalities is about 24,5 %.

The share of local taxes in the budgets of municipalities comprises about 22,6 %.

The share of state subsidies in the budgets of municipalities totals 10,4 %. The share of external revenues in the budgets of municipalities is 0,4 %.

Municipalities have the right to establish local duties. Local duties include duties for deployment and dissemination of outside advertisements, recreation duties, hotel duties and so on. The share of local duties in the budgets of municipalities totals 1,8 %.

### **Dr. Nizami Safarov**

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