Better Research, Better Policy, Better Reform

Final Report

On

Monitoring of Construction of Luxurious Office of Oil Fund in Azerbaijan

Prepared by CESD, Azerbaijan

Submitted to; PTF

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How is oil money spent in Azerbaijan?

The influx of petrodollars to the country in recent years has paved the way for considerable expenditures in the state budget and the State Oil Fund of the Azerbaijan Republic (SOFAZ). Azerbaijan’s oil revenues are mainly allocated to finance projects for road construction, transport, water supply, building of houses for refugees and IDPs. The major challenge now is to spend these revenues efficiently and transparently. In fact, all the problems stem from gaps in public procurements and lack of competitive environment whilst conducting tender procedures.

Revenue of State Oil Fund of Azerbaijan (SOFAZ) is forecasted at AZN 11,82 billion ($ 15,12 billion) since expenditure will be AZN 13, 59 billion ($ 17,32 billion) in 2013. SOFAZ will face budget deficit which will be AZN 1,78 billion ($ 2,22 billion) next year. Meanwhile Ministry of Finance reports SOFAZ will spend AZN 2,149 billion ($ 2,755 billion) on investment projects in 2013. SOFAZ transfers to the state budget will be AZN 11.350 billion ($ 14,512 billion). In comparison with 2012, SOFAZ transfers to the state budget will increase by AZN 1,445 billion ($ 1,865 billion). The transfers from SOFAZ to the State Budget have shot up from $ 686 million in 2007 to $ 12, 54 billion in 2011 and a decision has been taken to further raise the transfer to $ 12,538 billion in 2012. It means that amount of transfers from the fund to the state budget is 18 times higher than in 2011 compare with 2007 which is barely credible in the oil countries’ experience in the world.

Center for Economic and Social Development (CESD) experts mentioned that SOFAZ is not adequately meeting its central objective – preserving oil money for future generations. It seems difficult to protect the money from the consumption appetite. The transfers from SOFAZ to the State Budget have shot up from $ 686 million in 2007 to $ 11, 64 billion in 2011 and a decision has been taken to further raise the transfer to $ 12,538 billion in 2012. It means that amount of transfers from the fund to the state budget is 18 times higher than in 2011 compare with 2007 which is barely credible in the oil countries’ experience in the world.

In fact, Azerbaijan has been earning massive oil revenues from its burgeoning energy trade since 2005. However, the process of tracking expenditures from the Oil Fund is extremely complicated, thus necessitating monitoring of the projects and programs funded by SOFAZ. Since recent years have observed no quality changes against excessive spending being increased year by year. Besides, wasteful and ineffective use of oil revenues is becoming evident.

Another serious problem in the process in the use of oil revenues is that project assessment is exaggerated, and costs are often soared throughout the implementation period. Some projects, nothing else than, have been under implementation for years and their termination or completion still seem impossible. What is more is that the requirements for selection of contractors and for government procurement during the execution process are often violated; some projects even have not been through tendering process. Sometimes executing agencies divide the allocated funds into three parts in a year in order to avoid tender bidding process. However, the law prohibits division of the same operation into separate contracts.

In addition, projects are mostly implemented by private companies close to the higher echelon of authorized public bodies. In international practice, it is estimated that systemic corruption can add 20-25% to the costs of government procurement. The experience in Azerbaijan affords ground to higher percentage expectation.
Successful Cooperation between CESD and PTF

CESD has recorded some notable achievements with support of PTF in tracking public expenditure. The lack of transparency and accountability in the management of oil and gas revenues is particularly serious when account is taken of its overwhelming share in the economy and in total public revenues. In 2011 the Azeri oil and gas sector accounted for more than 90 per cent of the country’s exports and as much as 70 per cent of all budget revenues\(^1\). In all, the sector contributed some US$60 billion to SOFAZ between 2000 and 2011\(^2\). These revenues were not spread evenly over the period; they increased rapidly in the past three years and it is feared they may fall dramatically over the next decade\(^3\). Oil and gas revenues exceeded US$15 billion in 2011 alone. Since Azerbaijan was one of the first countries to sign up to the global Extractive Industries Transparency Initiative and was declared compliant in 2009. While knowing what revenues the Azeri government receives is an important step towards greater transparency, it is even more important for the public to know what happens to the funds once they have been paid in.

In the absence of deeply rooted institutions of accountability, Azerbaijan’s great oil wealth brings with it a high risk of corruption. SOFAZ is the biggest single investor in public projects and it is little surprise that allegations of misappropriation of public funds through poorly managed contracting are rife, with substantial sums alleged to vanish into the pockets of officials. These allegations are corroborated by the Corruption Perception Index published by Transparency International which has ranked Azerbaijan among the world’s most corrupt countries.

Acutely aware of the lack of transparency and accountability in SOFAZ’s financial management, in 2007 CESD prepared an initial study which provided the basis for its further investigations\(^4\). With PTF support, CESD decided to look into SOFAZ’s tendering processes for a small sample to SOFAZ investments. These revealed numerous irregularities in the contracting process, which lead to policy recommendations for an on-line procurement system, and the establishment of working groups to monitor tenders. Basing their advocacy on the hard evidence collected through case studies, SOFAZ found that considerable sums were unaccounted for. Tendering lacked transparency, with the winners apparently selected mainly on a discretionary basis, leading CESD to recommend that the SOFAZ adopt more transparent rules on how funds were to be spent. CESD campaigned for CSOs to be observers for all major tenders and for the State Procurement Agency to post detailed information on the processing of tenders on a dedicated website.

CESD used standard research methods—data collection, interviews with the principal stakeholders (public institutions, oil companies and other interested parties) followed by round table discussions of the study’s main findings at which a set of recommendations for reform were also debated.

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\(^2\) The Curse of Oil Wealth, CESD, Sept 2011
\(^4\) Strategy for State Oil Fund of Azerbaijan Republic, CESD, Baku 2007
From CESD’s case studies of investments made by SOFAZ it was obvious that the Fund had not followed Azeri law on public procurement, especially regarding tendering procedures. One project financed by SOFAZ focused on improving the social situation for refugees and displaced persons resulting from the Armenian-Azerbaijan Nagorno-Karabakh conflict. Implementing agency for this project was the Social Development Fund for Internally Displaced Persons. There was major misappropriation of funds linked to the overestimation of costs. CESD’s monitoring revealed that as much as $50 million had been misappropriated in one year alone. Problems included the price paid for houses constructed by the project which was derived from a comparison with a highly inflated ‘market price’. And sub-standard work during the construction process contributed to the scam. Pressured by adverse publicity, the Azeri parliament took up the case of the missing $50 million and the money was eventually ‘found’ and returned. In addition, the government felt obliged to undertake an audit which led to the number of irregularities being stopped.

CESD also investigated tenders for a state program for education of Azeri youth overseas in 2007-2015 managed by the Ministry of Education. The other two case studies were the construction of the Öğuz-Qabala-Baku water pipeline and the reconstruction of the Samur-Absheron irrigation system, both implemented by Azersu Open Joint Stock Company. CESD’s investigations have revealed numerous irregularities in the contracting process. A common feature has been a failure to follow the procurement law, especially in regard to the publication of tender documents, information about participating companies, and continued secrecy about contract conditions, which were argued to be ‘business secrets’. Selection of the contractors was mostly non-transparent, with the winners apparently chosen mainly on a discretionary basis. In some cases companies could not be identified. CESD estimated that public agencies’ failure to adhere to the official procurement regulations resulted in high cost overruns, up to 30-40 per cent. And considerable sums were unaccounted for.

Basing their advocacy on the hard evidence collected through the case studies, CESD’s media campaigns including TV presentations were successful in focusing public attention on its recommendations to government and parliament. This led to the adoption of on-line procurement, and the establishment of working groups to monitor tenders. In addition CESD has pressed SOFAZ to adopt more transparent rules on spending of its funds, for CSOs to be observers for all major tenders, and for the state procurement agency to post detailed information on the processing of tenders on a dedicated website. These proposals were still under consideration in mid-2012.

Perhaps more important than the recovery of the money in the case of the specific projects CESD investigated, CESD’s work has sparked a broad public debate on ways to enhance the public accountability of SOFAZ. CESD and allied CSOs have successfully campaigned for a law that requires SOFAZ to publish its audited financial statements and to make its budget information public. They have also won CSO representation on the board that selects SOFAZ’s external auditor. Significantly, the use and misuse of oil funds has become part of the public discourse—a common topic on TV talk shows and in newspaper editorials. In this way CESD and its civil society allies have effectively put in question the authorities’ presumption of secrecy in the management of the state’s oil revenues.
But the story does not end there. In 2011 CESD, with the assistance of likeminded organizations in Turkey and Georgia, started monitoring how oil money was being spent in the region's major railway project involving Azerbaijan, Georgia, and Turkey. The Baku-Tbilisi-Kars railway will turn Azerbaijan, Georgia and Turkey into one of Eurasia's largest transport hubs. The project was initially estimated at $400 million, but its cost has already tripled. SOFAZ is the main financer of the project. This escalation in costs has given rise to public concern that high level corruption lay behind the increasing costs and construction delays. Prior to 2011, no monitoring had been carried out by any civil society institutions.

CESD soon raised major questions about the transparency of the railway project. It found that the process of selecting contractors, establishing initial project costs, and the procedures in place for dealing with cost variations were ineffective. Like most other construction projects funded by SOFAZ, the railway project lacked effective fund management—amounts spent were not matched against documented money transfers. The poor management of the project is exemplified by the numerous delays in meeting projected completion milestones and the lack of cost control. In the absence of information on project expenditures, it has been very difficult to reach firm conclusions about what has been happening. Nonetheless, CESD was able to establish with reasonable certainty that $10.4 million was missing without adequate explanation. Moreover, CESD found numerous other factual conflicts between official spending among reports published by SOFAZ, the transport ministry, and financial statements from the government of Georgia, which is also a party to the project.

CESD submitted its monitoring finding to the three governments and campaigned to expose and put right the alleged misappropriation of public money. As a result, the Azeri government felt obliged to launch an investigation into a multi-million dollar disagreement between two state agencies over how much they had spent. This led to the ‘missing’ US$10.4 million being returned to the Azeri state budget.
EITI Monitoring Group: The First Experience in Azerbaijan

For the first time in Azerbaijan, EITI Azerbaijan Coalition has formed a special monitoring group in order to monitor spending of oil revenues. The main objective of this project isn’t only to monitor aforementioned issue, but at the same time to create tools for conducting monitoring in other countries.

In order to monitor construction of SOFAZ (State Oil Fund of the Republic of Azerbaijan) office, EITI group requested information on respective financial documents from the Oil Fund. For this purpose, a direct negotiation was held with Oil Fund, and then financial performance analysis has been carried out. Responding to requests, the State Oil Fund shared economic indicators related to the project with experts, and it led creating favorable condition for monitoring.

Creating special group, EITI Coalition has reached following positive results:

- Creating top-level monitoring group, which funded by PTF and admitting the result of its monitoring both by local and foreign stakeholders;
- Creating monitoring group make financial documents related to SOFAZ administrative office construction and specific information accessible;
- Creating special group results formation new era of monitoring of oil money in Azerbaijan. This lead to consolidation of the efforts of the existing monitoring program.
- Creating EITI group for monitoring state programs has resulted a stable source of information. Other CSOs can benefit from the opportunities of the experts monitoring group;
- The expert group has developed special monitoring tools, so that other CSOs in Azerbaijan can benefit from it. Alongside with strengthening the monitoring project, the expert group enable CSOs also use the opportunities of monitoring project;
- Establishing expert monitoring group has resulted formation special tradition on monitoring government programs;
- Increasing role of monitoring government programs by ETI Alliance has resulted the rising transparency in oil revenue spending in Azerbaijan, and it also has a positive result on strengthening the fight against corruption.
CESD Monitoring Findings

The CESD has several times reported to the media that, although the construction of the new administrative building has been done, there were many problems in transparency: "At the same time, the price for the project is too expensive. The construction of administrative building of the State Oil Fund has started last year, and the prime contractor for the execution of the project is Belgium "NV Besix SA "company. According to the initial assessment the total area that 23-storey building will cover is going to be 13 thousand square meters, and the expected cost is 88 million manat (84.916 million euros). This mean that for each square meters 6538 euros will be spent, while the construction at the most expensive district of Baku cost 1500 manat.”

According to the Center's research, the transparency problems in this project as well as other petroleum projects begin from tenders: "The tender for the execution of the project drag a lot of attention. The announcement of the tender doesn’t comply with the public procurement law. Interestingly enough, Oil Fund has admitted that the plan wasn’t approved point by point in accordance to the law, instead total amount was approved.

Although it is very important to exhibit costs for each clause point by point in order to maintain transparency in spending process. Another point relates to the number of tenderers. According to the information given by State Oil Fund, three companies such as - Arabtec Construction LLC(UAE), NV Besix SA (Belgium) and Adolf Lupp GmbH + Co KG (Germany) participated in tender. Obviously, the number of participants was minimal. According to the law on public procurement, the number of tender doesn’t have to be less than three. This means that either the companies weren’t interested in the construction of the building or in order to minimize competition very few tenders were allowed to participate in tender.”

State Oil Fund paid to İnter Art Etudes 26 million euro only for preparing construction financial documents which is several times higher than international standard costs. No explanations have been done by SOFAZ related to such huge amount payment. There is also discrepancy at SOFAZ reports. SOFAZ has early reported only 14,0 million manat ($ 18,0 million or 14,3 million Euro) paid for preparing financial assessment then later the fund announced that 26 million euro spent for this job.

The monitoring also revealed a number of breaches of tender regulations. Moreover, it was found that in 2010, when the contractor still had not been selected, 20 million manat ($ 26 million) was allocated, of which 7 million manat ($ 9 million) was spent on a purpose not clarified. In addition, CESD found that the remaining 13 million manat ($ 17 million) was simply “missed”.
Monitoring Group has reported to the Media

The monitoring group shared the result of the study with media. According to EITI Coalition, State Oil Fund has 110 employees in total doesn’t need to construct building with 117 floors. This was stated by Mohammed Talibli, a member of EITI Coalition Monitoring Group, while commenting on construction the new office building on 85 million euro.

“We tired not from the social programs, but the variety of investment programs,” said the member of monitoring group. He thinks that without knowing technical and financial indicators, it is hard to say something about the adequacy of spending of 85 million euro. At the same time, M. Talibli condemned the spending of 85 million euro on administrative building. At the same time Mr. Talibli highlighted that spending 85 million of euro is unreasonable for such project: “In order to implement such an expensive project every governmental agencies - the committee, the ministry and the funds should allocate particular amount of money on social investments. Current situation is unacceptable from the sense of efficient management of the public funds. It is obvious from the experience that such large administrative building emerges as a result of effective and good governance. At the same time the total assets of the Fund surplus less than 1% of dividends annually. How can we stimulate and reward such governance? It should be noted that in comparison with other state agencies Oil Fund leads in transparency and accountability; however, it needs improvements. Besides, according to my observation, Oil Fund’s personnel haven’t had a problem with functional and technical supplement. Then why such an expensive project has been implemented is difficult to understand.”

The question: "It was announced that the building will have 23 floors. Do you think that the State Oil Fund has a structure that will be able to cover all this floors?” was answered by the Coalition: “As part of the comparative analysis it should be noted that 85 million euros equal to 110 million US dollar. There are 110 employees in SOFAZ, this means that administrative cost for employee is 1$ dollar. If we divide it along 23 floors, it becomes obvious that approximately 5 employees will leave on each floor. What is the necessity of huge spending on such a limited number of employees? The fund spent 50 million manat on the renovation of its previous office in close to “Nizami” movie-theater. As the fund holds 33 billion US dollars, the previous spending seems insignificant. Total sum in Oil Fund was 491,5 million dollars in 2001.”

In summary, M. Talibli also noted that although the budget of the fund is counted with billions now, the Oil fund should rationally and efficiently use its resources.

Vugar Bayramov, a member of EITI Coalition, considered that there is no need for constructing new office for State Oil Fund for 85 million euro. It is planned to build 117 meter height building which will cover 13 thousand square meters area. Alongside with service offices, 23-storey building will include Heydar Aliyev Museum, 200-seat conference hall, with parking capacity of 150 cars. The building which will cost 110 million dollars for use of 17 thousand square meters; thus the spending for 1 square meters will be 5176 manat. This amount is much higher than spending of Norway Oil Fund for each square meter. The current office is quite enough for Fund. Taking into account the fact that there are only 110 employees working for SOFAZ, the government is going to spend 1 million dollar for each staff member. As the staff of SOFAZ is quite small, it could take a space in an any existed building. On the other hand, SOFAZ could occupy one of the floors of SOCAR’s constructing buildings.” Vugar Bayramov also noted that there is no structure that will be cover 23 floors. “The structure of oil fund encompasses executive director, fund management department and Finance and Operation Administration as well. There are two main structures in Finance and Operation Administration- Settlement Department and Accounting Department. Besides, the Fund has another departments such as
Investment Department, Risk Management Department, Budget Forecasting and Project Department, Oil Contracts Department, Administrative Department, Human Resources department, Legal Department as well as Security Department.” He also emphasized that SOFAZ can also move in Central Bank’s building, as the latter constructing a new building for itself.
Summary of Project Impacts

1. Monitoring Group has been established under framework of EITI NGO Coalition in order to monitor construction of SOFAZ building, the first time in Azerbaijan (reference; http://www.eiti-az.org/download/shura_iclas88.pdf)

2. Wiki.openoil has addressed corruption issues in construction of SOFAZ building where referenced PTF funded project (reference; http://wiki.openoil.net/index.php?title=State_Oil_Fund_of_Azerbaijan_%28SOFAZ%29)


4. Initial results of the monitoring were presented at the Oil, Gas and Media Conference taken place on Baku, Azerbaijan on September 17-20, 2012.

5. Ethic codes between local CSOs and State Oil Fund has been already drafted and negotiations are continued to sign the final version of the codes and multilateral group has been established with participation of SOFAZ and EITI Monitoring Group and group members were elected by EITI Board on January, 10, 2013. First meeting will be held late January, 2013.

6. Project results were discussed with Eric Rubin, Deputy Assistant Secretary in the Bureau of European and Eurasian Affairs at the State Department of the US and Ambassador Morningstar, the US Ambassador in Azerbaijan, while Mr. Rubin’s one day visit to Azerbaijan.

7. Final Monitoring Report developed and distributed among all relevant state agencies, international organizations and local NGOs.

According to the agreement between Partnership for Transparency (PTF) and Center for Economic and Social Development (CESD), Azerbaijan “Monitoring of Construction of Luxurious Office of Oil Fund in Azerbaijan” Project was started implementing from March 15, 2012. Following activities have been done according to the action plan;
Activity 01. Establishing of Monitoring Group of State Investment Programs under Leadership of Extractive Industry Transparency Initiative (EITI) NGO Coalition where CESD Chairman served as Board Member (http://www.eiti-az.org/en/);

Implementation: Monitoring Group was established at EITI NGO Coalition based on Center for Economic and Social Development (CESD) on March 30, 2012 in order to monitor construction of new luxurious building of State Oil Fund (http://www.eiti-az.org/download/shura_iclas88.pdf). EITI Press-release said that “NV Besix SA”, a Belgian construction company will implement the project at a price of EUR 84,916 million. The contract has already been signed between the parties, and the construction of the new administrative center (a 23-storey, 117-meter-high building with a total area of 13 thousand square meters) will be realized in Baku”. “The provisions of the State Procurement Law related to the public announcement of projects have been already violated, i.e., the project tender announcement has not been followed”- added in the statement: “Ensuring fair competition during tenders held on public procurement is one of the main responsibilities of the state agency. However, the call for participation in the tender tender, as well as the information about goods and services, haven’t been provided properly. Particularly, the NV Besix SA’s tender winners, names of the bidders who participated in the tender, and information about their proposals, haven’t been publicly disclosed”. “Although the project has been recently launched, certain CESD observations reflect that it has fallen short of exercising a proper level of transparency of expenditures, an enduring pattern also observed in the previous construction projects funded by the SOFAZ. To name a few, the construction of 1 square meter of the building will cost 5176,0 AZN ($ 6635,8). In contrast, current construction companies’ charge for 1 square meter of the newly constructed buildings in most expensive areas of Baku is much lower than 1500 AZN ($ 1923,1)”- concluded the statement.

Activity 02. Preparing and signing of an ethic code of with SOFAZ in order to have access to necessary information on SOFAZ funded projects including construction of luxury office of Oil Fund;

Implementation: CESD has started negotiations with SOFAZ to prepare and sign an ethic code. 3 (three) meetings (April 03, 2012; June 12, 2012; and August 8, 2012) have been held with SOFAZ officials to prepare an ethic code. Finally, multilateral group has been established with participation of SOFAZ and EITI Monitoring Group and group members were elected by EITI Board on January, 10, 2013. First meeting will be held late January, 2013.
Activity 03. Establishing of Multilateral Working Group (MWG) with participation of CSOs, SOFAZ and construction companies representatives in order to jointly monitor construction of Oil Fund office.

Implementation: Multilateral Working Group was stabled with initiative of CESD together with 10 major CSOs including Economic Research Center, Prognoz Social Research Center, Social-Economic Development Center, Anti-Corruption and Open Government NGO Coalition and others on April, 04, 2012.

Activity 04. Monitoring of construction of the luxury office of the Fund will be monitored and studied in Azerbaijan;

Implementation: Monitoring started after signing contract with PTF on March, 2012. Summary of monitoring findings has been shared with PTF and other international and local stakeholders. Enormous interest has been observed by both international and local stakeholders including mass-media institutions. Links are posted below.

Activity 05. Visiting advocacy companies’ headquarters in order to hold meetings with heads of those companies.

Implementation: Monitoring Group members visited SOFAZ headquarter, Baku branch of NV Besix SA and other implementing companies (visiting has been between April-October, 2012).

Activity 06. Roundtable discussions will be organized with participation of representatives of government bodies, oil companies, international organizations, NGOs, mass-media and independent experts. This will give chance to all representatives of the society to participate, contribute to the process;

Implementation: CESD, Azerbaijan organized Expert Discussions on how money is used to construct of office of Oil Fund of Azerbaijan. The meeting was held within the “Monitoring of
Construction of Luxurious Office of Oil Fund in Azerbaijan” Project supported by Partnership for Transparency Fund (PTF) on August, 08, 2012. Vugar Bayramov, chairman of CESD, presented initial findings of the monitoring. He mentioned that large amount of fund mismanagement found in the first stage of the monitoring. Media campaign has been taken place to address potential corruption facts. He presented all economic and financial figures of the construction and mentioned that monitoring show that some costs are overestimated. CESD chairman said that Monitoring Group was set up in EITI NGO Coalition with participation of well-known experts of the coalition. Experts shared their views on monitoring results. Monitoring report will be revised based on expert opinions.

Activity 07. Media-campaign will be organized through broadcasting to increase awareness on findings. Articles and bulletins will be published in CESD website and leading newspapers. Conference will be organized with a follow-up press-release distribution.

Implementation: Both local and international media campaign have been organized with the project. There are some links from media references;

- Wiki.openoil has addressed corruption issues in construction of SOFAZ building where referenced PTF funded project (reference; http://wiki.openoil.net/index.php?title=State_Oil_Fund_of_Azerbaijan_%28SOFAZ%29) where mentioned that “in May 2012 an investigation by the Center for Social and Economic Development (CESD) revealed that US$ 17 million had "gone missing" during the construction of SOFAZ's new office in Baku, where 1 metre squared of space was said to cost $9,000, making it the most expensive project in the city. The general contractor for the building project is Belgian company NV Besix and the preliminary estimated cost was 88 million manat (US$ 113million). The investigation also revealed a number of breaches of tender regulations. The Business Anti-Corruption Portal also claims that massive fraud and misappropriation of the fund's money by top politicians and officials has taken place, and that the government spent a large sum of money from SOFAZ to pay pensions and raise civil service salaries in a presidential election year are these two separata allegations? or is the paying of pensions the substantiation of the first allegation? if so that might be misuse but not fraud.”
The United Nations Convention Against Corruption (UNCAC) which is the legally binding international anti-corruption instrument referenced PTF-CESD monitoring.

(http://www.uncaccoalition.org/learn-more/articles-archive/111-csed-in-azerbaijan-17-million-oil-money-was-missed-in-the-sofaz-building-construction)

Number of local media institutions distributed CESD findings;


http://www.musavat.com/new/M%C9%99tbuat%20bug%C3%BCn%20bo%C4%B0NASININ_%C4%B0N%C5%9EASINDA_%C5%9E%C6%8FFFAFLIQ_PROBLEM%C4%B0


http://cesd.az/new/2012/06/azerbaijani-neft-fondun-yeni-inzibati-binasinin-umumisah%C9%99si-35-min-834-kvadratmetr-olacaq/?lang=az