



COUNCIL OF EUROPE  
CONSEIL DE L'EUROPE

Strasbourg, 6 December 2007

Opinion no. 437 / 2007

CDL(2007)113\*  
Engl. only

**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**THE LAW ON FREEDOM OF ASSEMBLY  
OF THE REPUBLIC OF AZERBAIJAN**

**with the amendments proposed  
by the Presidential Administration (November 2007)**

---

*\*This document has been classified restricted at the date of issue. Unless the Venice Commission decides otherwise, it will be declassified a year after its issue according to the rules set up in Resolution CM/Res(2001)6 on access to Council of Europe documents.*

## **CHAPTER I. GENERAL PROVISIONS**

### **Article 1. Freedom of assembly**

I. Everyone's freedom to assemble together with others is ensured by the Constitution of the Republic of Azerbaijan and international treaties to which the Republic of Azerbaijan is a party.

II. The state ensures the realization of the freedom of assembly and takes relevant measures for having assemblies, organized peacefully and without arms in accordance with the present Law.

### **Article 2. Basic definitions**

I. Freedom of assembly shall be applied in compliance with the international treaties to which the Republic of Azerbaijan is a party on the basis of the present Law.

II. The State shall ensure equality of persons during the realization of the freedom of assembly.

### **Article 3. Application of the freedom of assembly**

Notion of "assembly" in the present Law means temporary gathering of a number of persons in a public place, with intention to participate in such gathering. Such an assembly may be in the form of gathering, meeting, demonstration, street procession, and picket.

### **Article 4. Assemblies not regulated by the present Law**

I. Without prejudice to the right to hold assemblies on private property assemblies conducted in the following places shall not be regulated by the present Law:

- In places which are in private ownership of persons, are under rent or other type of lawful usage;
- In closed places especially designed for conducting public events.

II. The following forms of assemblies shall not be regulated by the present Law:

- Wedding and funerals ceremonies;
- Holiday and mourning events;
- Religious ceremonies.

Using wedding and funeral ceremonies, holiday and mourning events and religious ceremonies for organizing gatherings, meetings, demonstrations, street procession and pickets can be limited or suspended on the basis of the requirements stipulated in Articles 7 and 8 of the present Law.

III. Each participant of peaceful assemblies provided for in parts I and II of the present article has to follow general requirements of the legislation of the Republic of Azerbaijan.

## **CHAPTER II. RULES OF ORGANIZATION OF ASSEMBLIES**

### **Article 5. Notification on convening an assembly**

I. A person or persons organizing any assembly enumerated in Article 2 of the present Law have to notify in advance the relevant body of executive power in written. A notification has to be submitted, as a rule, 5 days prior to the day of convening the intended assembly for coordinating its time and venue, and the route of a street procession in order to allow the relevant body of executive power to make necessary arrangements. In cases of notification in lesser time prior to the assembly, this should be justified by the organisers.

II. A written notification shall include the following information for the aims stipulated in Article 7, paragraph I of the present Law:

- 1) form of an intended assembly;
- 2) general purpose of assembly;
- 3) place and time of convening an assembly;
- 4) approximate number of participants;
- 5) if it is a street procession, a proposed route (a place of beginning, distance and place of ending the procession);
- 6) name, surname, patronymic name and address of organizers of an assembly;
- 7) date of submission of a written notification;
- 8) contact phones or in case of their absence contact addresses.

Organisers can submit additional information prior to the decision taken by the relevant body of executive power.

III. All organizers of an assembly have to sign a written notification.

IV. For fortuitous assemblies submission of a written notification is not required. Fortuitous assemblies in accordance with the requirements specified in Article 7 and 8 of the present Law can be restricted or suspended.

### **Article 6. An organizer of an assembly**

I. Organizer of a gathering, meeting, demonstration, street procession or picket is a person who organized a peaceful assembly and whose name is mentioned in a written notification submitted to the relevant body of executive power.

II. Persons under 18 without consent of their parents or other legal representatives as well as persons whose capability is restricted by the court decision that entered into legal force, without consent of their custodians, may not be organizers of a peaceful assembly.

III. A political party, public unions, organizations of trade unions or an initiative group advancing a proposal on holding an assembly have to appoint an organizer of the mentioned event.

IV. Organizers of assemblies or their representatives have to participate in assemblies in person. If it is impossible then organizers or their representatives have to inform the relevant body of executive power no later than 3 hours prior to the beginning of the event that they can not come to an assembly, and at the same time they have to inform the participants about it. An assembly cannot be held if none of the organizers is present.

### **CHAPTER III. GROUNDS AND ORDER OF RESTRICTING OR BANNING A PEACEFUL ASSEMBLY**

#### **Article 7. Lawful restrictions of freedom of assembly**

I. No restrictions shall be placed on the exercise of the right to freedom of assembly other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

II. Restriction of the freedom of assembly provided for in part 1 of the present Article must be proportionate to pursued goals. To reach the goal such a restriction must not exceed necessary and sufficient limits.

III. Measures taken for restriction of the freedom of assembly provided for in part 1 of the present Article must be highly needed for reaching the goal which was the cause for making the restrictions.

IV. Freedom of assembly can be restricted in any forms including change of time, venue and route of an assembly, but only for the purposes prescribed by paragraph 1 of this Article.

#### **Article 8. Prohibition or suspension of an assembly**

I. Assemblies accompanied by calls to discrimination, hostility, violence, propagandizing national, racial or religious discord shall be prohibited.

II. Assemblies propagandizing war shall be prohibited.

III. Holding peaceful assembly with political goals shall be prohibited in the following cases:

1) 24 hours prior to the day of elections of a President of the Republic of Azerbaijan (on state territory), elections of deputies to Milli Mejlis (Parliament) of the Republic of Azerbaijan (on state territory), elections of deputies to Ali Mejlis (Parliament) of Nakhichevan Autonomous Republic (on the territory of Nakhichevan Autonomous Republic), municipal elections (on the territory of respective city and region) and till closure of constituencies on a day of elections;

2) 24 hours prior to the day of referenda and till closure of constituencies.

IV. Holding a peaceful assembly of political content can be prohibited by the decision of the relevant body of executive power during the period of carrying out international events of state importance on days and the territories of cities and regions where they are conducted, in accordance with the requirements of Article 7 of this Law.

V. An assembly can be prohibited by an order of the relevant body of executive power in important cases in a democratic society, in accordance with the requirements of Article 7 of this Law.

VI. If necessary an assembly can be suspended by an order of the relevant body of executive power, in accordance with the requirement of Article 7 of this Law.

VII. In accordance with paragraphs IV, V and VI of the present Article prohibition or suspension of an assembly shall be considered as a measure of last resort and shall be applied only when restrictions provided for in Article 7 of the present Law are not sufficient.

VIII. Holding of assemblies can be restricted or prohibited, in order provided by the Law of the Republic of Azerbaijan 'On State of Emergency', during the state of emergency on the territory of its application.

### **Article 9. Restriction or prohibition of place and time of conducting a peaceful assembly**

I. Any restriction of place of conducting a peaceful assembly shall be made in accordance with the criteria determined in Article 7 of the present Law.

II. In the case of holding counter-assembly police authorities shall undertake relevant measures in order to provide security for participants of both assembly and counter-assembly. If another event is arranged at the venue and time stipulated in a written notification of organizers of an assembly and there are sufficient grounds for assumption of a conflict between parties caused by counter-assembly, a relevant body of executive power shall propose the organizers of the counter-assembly to determine another venue and time. A written notification about the changed time and place shall be submitted to the relevant body of executive power no later than 3 days prior to a new date of an event.

III. Holding the gatherings, meetings, demonstrations and street processions in the following places can be prohibited:

1) in a radius of 200 meters around buildings of Milli Madjlis of the Republic of Azerbaijan, Ali Madjlis of the Nakhchivan Autonomous Republic; bodies of executive power, the list of which shall be defined by the relevant executive authority; and the Constitutional Court, the Supreme Court, Courts of Appeal of the Republic of Azerbaijan, and the Supreme Court of the Nakhchivan Autonomous Republic;

2) on bridges, in tunnels, at construction areas, and protection zones of trunk pipelines, electric wires of a tension more than 1000 V, airports, subway, railway constrictions, defence units, technical constrictions of water supply and sewerage systems, oil wells, water conservation zones;

3) in places allocated by relevant body of executive power for conducting special state events;

4) on the territory used for military purposes and in places located closer than 150 meters to the boundaries of these territories, or, where necessary, within the security distance;

5) at the territory of penitentiaries, pre-trial detention and psychiatric medical institutions as well as in places located closer than 150 meters to the boundaries of these territories.

IV. Holding of assemblies of political content can be restricted in places of worship, chapels and cemeteries.

V. The number of picketers shall not be more than 50 persons and they shall not be located closer than 10 meters to the entrance of a picketed object, shall not make obstacles for entry and exit into the picketed object and shall not use amplifiers above 10 watt.

VI. Relevant bodies of executive power shall provide a special area for conducting gatherings, meetings and demonstrations in each city and region. A list of places proposed for gatherings, meetings and demonstrations shall be published in a press and shall be brought to the population by other means. Organizers can choose one of the places proposed for gatherings, meetings and demonstrations. Upon petitions a relevant body of executive power can change the list of proposed venue of gatherings, meetings and demonstrations.

VII. The time of holding of an assembly can be restricted by the relevant body of executive power, in accordance with the requirements of Article 7 of this Law.

#### **Article 10. Bringing the decision of the relevant body of executive power on assembly to organizers of an assembly**

Decisions of the relevant executive authorities concerning the assemblies must be brought to organizers of the event in written no later than 3 working days prior to the intended date of the event and these decisions shall be clear and grounded.

#### **Article 11. The Right to Appeal**

Decisions provided for in Article 7-9 of the present Law can be appealed in a court. A complaint shall be considered by court within 2 days. Court decisions on these complaints can be appealed before superior courts.

### **CHAPTER IV. AN ORDER OF CONVENING ASSEMBLIES**

#### **Article 12. Rights and duties of organizers of a peaceful assembly**

I. Preparatory work on conducting peaceful assembly can not be restricted except cases stipulated in article 7 of the present Law.

II. During an assembly, organizers shall enjoy the right to freedom of speech in accordance with the Constitution of the Republic of Azerbaijan and the international treaties to which the Republic of Azerbaijan is a party. Realization of this freedom can be restricted in accordance with the Constitution of the Republic of Azerbaijan and international treaties to which the Republic of Azerbaijan is a party.

III. Organizers of an assembly shall use all available means for ensuring that an event is conducted peacefully and in accordance with the law, pursuant to conditions stipulated in a written notification and applicable to an assembly.

IV. Organizers of an assembly must have clearly visible signs distinguishing them, except for the case provided in Article 5 paragraph IV of this Law,.

V. It shall be prohibited for organizers of an assembly to carry on them spitfire and cold steel, pieces of stone, glass and wood, bludgeons that can create a danger for life and health of people or damage the property, as well as articles particularly designed for making body injury, explosives or pyrotechnic articles, potent, toxic, inflammable or corroding articles and radioactive materials.

VI. The organizer of an assembly which was banned under part V of Article 8 of the present Law must use all available means to inform its participants about prohibition of the assembly.

VII. The organizer of an assembly which was suspended by the order under part VI of Article 8 of the present Law must use all available means for the implementation of this order.

VIII. The State shall have the responsibility for ensuring the security of an assembly. However, with an aim to ensure the security of an assembly that went beyond security limits ensured by the State, organizers can request to attract additional police forces.

### **Article 13. Rights and duties of participants of a peaceful assembly**

I. Any person participating in a peaceful assembly must observe restrictions and conditions specified in accordance with Articles 7 – 9 of the present Law.

II. Persons shall participate in assemblies voluntarily. Those who force someone to participate in assemblies shall bear responsibility in accordance with the legislation of the Republic of Azerbaijan.

III. Participants shall enjoy the right of freedom of thought and speech orally and in writtenduring assemblies in accordance with the Constitution of the Republic of Azerbaijan. Realization of this freedom can be restricted in accordance with the Constitution of the Republic of Azerbaijan and international treaties to which the Republic of Azerbaijan is a party.

IV. During assemblies its participants must assist in protection of public order and use all available means for observing lawful requirements of organizers as well as representatives of the relevant bodies of executive power.

V. A participant of an assembly being held in compliance with this Law can not be later brought before responsibility for participation in such an assembly. Only the participants of a lawful assembly who violate the law can be brought before responsibility. If a peaceful assembly turned into violent assembly a participant of an assembly, who has not committed an offence, as well as who did not know beforehand about it not being peaceful, shall not be brought to responsibility only for his attendance at the assembly

VI. It shall be prohibited for participants of an assembly to carry on them spitfire and cold steel, pieces of stone, glass and wood, bludgeons that can create a danger for live and health of people or damage the property, as well as articles particularly designed for making body injury, explosives or pyrotechnic articles, potent, toxic, inflammable or corroding articles and radioactive materials.

VII. In cases provided for in part V of Article 8 and part II of Article 14 of the present Law participants of an assembly must disperse by the decision of the relevant body of executive power, organizers of an assembly or representatives of organizers on suspending an assembly.

### **Article 14. Powers of bodies of police in connection with convening an assembly**

I. taking into account the requirements of Article 7 of this Law, bodies of police shall have the following rights in connection with convening an assembly:

- 1) to check the place of convening an assembly a day before the gathering, meeting, demonstration, street procession or picket for security reasons;
- 2) to suspend an assembly which did not have a written notification except assemblies provided for in part IV of Article 5 of the present Law;
- 3) to suspend an assembly if venue or time of this assembly, route of a street procession (venue of starting and finishing of a street procession) stipulated in a written notification was changed without justified reason;
- 4) to detain individuals who came to an assembly with spitfire and cold steel, pieces of stone, glass and wood, bludgeons that can create a danger for life and health of people or damage the property, as well as articles particularly designed for making body injury, explosives or pyrotechnic articles, potent, toxic, inflammable or corroding articles and radioactive materials and to send them away from the place of holding an event;
- 5) to conduct personal examination of individuals who are seriously suspected in carrying articles or substances stipulated in item 4 of paragraph I of the present article.

II. Bodies of police shall have the following rights with regard to ensuring prohibitions provided for in parts I-III of Article 8 and Article 7 as well as orders provided for in parts V and VI of Article 8 of the present Law:

- 1) to inform organizers and participants about the suspension of an assembly and its dispersal;
- 2) to order organizers and participants of an assembly to use all available means for suspension of an assembly and for participants to disperse;
- 3) to warn organizer and participants that a physical force will be used against them in case of refusal to observe the order on suspension of an assembly and for participants to disperse;
- 4) to use physical force in compliance with the legislation of the Republic of Azerbaijan for the suspension of an assembly and dispersal of its participants;
- 5) to detain individuals who refuse to follow the order on the suspension of an assembly and dispersal.

III. The bodies of police in cases provided for in this article must use special means that are utterly necessary for the purpose of restoring legal order in compliance with the legislation of the Republic of Azerbaijan.

IV. Internal troops can be used for maintaining, restoring public order and ensuring security of people during assemblies.

V. During dispersal of an assembly with application of force in cases provided for in this article employees of police and internal troops can use handcuffs, shields, batons, water-jet, gases of special function, rubber bullets and other special means designed for these purposes.

VI. Physical force or specials means used by police officers shall be adequate to the danger occurred.

VII. Powers of bodies of police provided for in the legislation of the Republic of Azerbaijan are not limited to the present Law.

#### **Article 15. Cooperation between organizers of an assembly and bodies of police**

I. The bodies of police shall cooperate with organizers of an assembly. The bodies of police shall, as far as possible, assist organizers in realization of the right to freedom of assembly and at the same time organizers of an assembly shall assist bodies of police in protection of public order and follow their lawful demands.

II. Responsibility of police officers for unlawful offences committed by them during discharge of their duties with regard to holding assembly shall be regulated by the Law of the Republic of Azerbaijan "On police".

### **CHAPTER V. FINAL PROVISIONS**

#### **Article 16. Responsibility for the violation of the present Law**

I. Persons who violated parts I-III of Article 8, parts III, V, VI and VII of Article 12 and part VI of Article 13 of the present law shall bear responsibility in accordance with the legislation of the Republic of Azerbaijan.

II. Responsibility of police officers for unlawful offences committed by them during discharge of their duties with regard to holding assembly, shall be regulated by the Law of the Republic of Azerbaijan "On Police".

#### **Article 17. Entering of the present Law into force**

The present Law shall enter into force since the day of publishing.