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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**DRAFT ADDITIONAL JOINT OPINION
OF THE VENICE COMMISSION AND OSCE/ODIHR**

**ON THE DRAFT LAW OF APRIL 2008
ON AMENDING AND SUPPLEMENTING
THE LAW ON CONDUCTING MEETINGS, ASSEMBLIES,
RALLIES AND DEMONSTRATIONS**

OF THE REPUBLIC OF ARMENIA

And proposals for amendment submitted on 9 June 2008

On the basis of comments by

**Ms Finola FLANAGAN (member, Ireland)
Mr Neil JARMAN (OSCE/ODIHR expert)**

I. Introduction

1. *The draft Law on amending and supplementing the law on conducting meetings, assemblies, rallies and demonstrations of the Republic of Armenia (CDL(2008)051, hereinafter “the draft law”) was adopted by the Armenian National Assembly in first reading in May 2008.*
2. *On 9 June, the Speaker of the National Assembly submitted certain proposals for amendment of the draft law (CDL(2008)078) in view of its discussion by the National Assembly and adoption in second reading, scheduled for 10 and 11 June 2008.*
3. *The present opinion relates to such proposed changes. It was conveyed to the Speaker of the National Assembly on 9 June and subsequently endorsed by the Venice Commission at its .. Plenary Session (Venice, ...).*

II. Analysis of the proposed amendments

Article 1 of the draft law

4. The addition of "public" in the definition of “spontaneous event” contained in Article 2 of the law on conducting meetings, assemblies, rallies and demonstrations (hereinafter “the law on rallies”) does not seem problematic.
5. The Venice Commission and OSCE/ODIHR have asked the Armenian parliament to clarify further the definition of “spontaneous event”. As a result, it is now suggested that this definition contain the sentence “which has not been announced before that phenomenon or happening”.
6. Indeed, the Venice Commission and ODIHR recall that, in order for an assembly to be genuinely a “spontaneous” one, there must be a close temporal relationship between the event (“phenomenon or happening”) which stimulates the assembly and the assembly itself.
7. This, however, does not preclude the possibility of people communicating, whether by phone or even over the radio, in order to mobilise protesters; indeed, any event requires there to be some level of communication among participants (friends, colleagues etc).
8. The new sentence clarifies that an assembly cannot be deemed to be spontaneous if it was “announced” prior to the phenomenon or happening which (allegedly) stimulated it. This is obvious: if, at the moment of the announcement of an assembly, a certain phenomenon or happening had not yet occurred, it cannot be claimed that it is that phenomenon or happening which stimulated the assembly. In such a case, the assembly cannot be alleged to be a spontaneous one, not requiring notification.
9. The new sentence does not affect the possibility of “announcing” the assembly after the phenomenon or happening. **It is therefore undisputed that it is possible under the law to “announce” the spontaneous assembly after the phenomenon or happening, in order to mobilise participants.**
10. Under these terms, this new sentence is therefore acceptable.

Article 2 of the draft law

11. The Venice Commission and OSCE/ODIHR also suggested modifying the words "or other crimes" in Article 9 of the law on rallies, in a manner which mirrors Article 14 § 1.v and § 3.2 of the law on rallies.

12. It is now proposed to add the words [real threat to ...] "life and health of persons" and [real threat to ...] "cause a substantial material harm to the state, community, physical or legal persons".

13. The Venice Commission and OSCE/ODIHR note that both these grounds for prohibition are indeed contained in Article 14 of the law on rallies. The new formulation of Article 9.4.iii of the law on rallies is therefore preferable to the one which was contained in the draft law of April 2008: these proposals are therefore to be welcomed.

Article 5

14. It is further suggested adding in paragraph 14 § 3.2 of the law on rallies, at the end of the penultimate sentence, the words: "by indicating the legal grounds for the request to terminate". In the opinion of the Venice Commission and OSCE/ODIHR, this addition is acceptable, in that it clarifies the responsibilities of the police.