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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
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DRAFT LAW

**ABOUT OBTAINING INFORMATION
ON ACTIVITIES OF THE COURTS**

OF AZERBAIJAN

About obtaining information on activities of the courts

Law of Republic of Azerbaijan

Chapter I General Provisions

Article 1. The basic concepts

1.0. In the present law the following basic concepts are meaning:

1.0.1. The information on an activity of the courts – prepared by courts, Judicial Legal Council Secretariat and proper executive body or information about courts activity, including same body.

1.0.2. The user the information – the physical person, the judicial person and local government body which carrying out information search about an activity of the courts;

1.0.3. Inquiry – with purpose providing information on activity of courts the user of information's oral or written (also send by e-mail) appeal to the courts, Judicial Legal Council Secretariat or proper government bodies.

1.0.4. Courts – the Constitutional Court of Azerbaijan Republic, Supreme Court of Azerbaijan Republic, Supreme Court of Nakhchivan Autonomous Republic, Appeal courts, region (city) courts and the other courts which including court system of Azerbaijan Republic.

1.0.5. The judicial certificate – Passed resolution, sentence, decision and order from the name of Azerbaijan Republic on considered affairs in courts.

Article 2. The Legislation of Azerbaijan Republic about obtaining information on activities of the courts

2.1. The legislation of Azerbaijan Republic about providing access to the information on activity of courts consisting from the Constitution of Azerbaijan Republic, "About providing information" Law of Azerbaijan Republic, from this Law, other normative legal acts and international contracts supported by Azerbaijan Republic.

2.2. If there will be define any different regulation between this law and international contracts supported by Azerbaijan Republic, the international contracts norm will employ.

Article 3. Main principles of obtaining information on activities of the courts

3.0. Main principles of providing of access to the information on an activity of the courts are:

3.0.1. Openness and availability of the information on an activity of the courts, except for the cases provided by the legislation;

3.0.2. Reliability of the information on an activity of the courts and timeliness of its granting;

3.0.3. Freedom of search, reception, transfer and distribution of the information on an activity of the courts in any lawful way;

3.0.4. Observance of the rights of citizens on inviolability of a private life, personal and family secret, protection of their honor and business reputation, observance of the rights

and legitimate interests of participants of litigation by granting of the information on an activity of the courts;

3.0.5. Non-interference to justice realization by granting of the information on an activity of the courts;

3.0.6. Another principles provided by "About providing information" Law of Republic of Azerbaijan

Article 4. The information on an activity of the courts, which is limited access

4.1. Access to the information on an activity of the courts is limited, if the specified information is carried in components the state or other secret protected by the law.

4.2. The lists of information of the limited access are established by the law.

Article 5. Ways of obtaining to the information on an activity of the courts

5.0. Access to the information on an activity of the courts is provided in the next ways:

5.0.1. Participation of physical persons, juridical persons and local self-governed organization in the judicial sessions.

5.0.2. Promulgation of the information on an activity of the courts in mass media;

5.0.3. Placing of the information on an activity of the courts in an Internet information network (further - Internet);

5.0.4. Placing the information on activity of courts in the buildings of Courts, Judicial Legal Council Secretariat and proper executive body.

5.0.5. Acquaintance of users by the information with the information on an activity of the courts which are in archival funds;

5.0.6. Granting to users the information by their inquiry of the information on an activity of the courts.

Article 6. The form of granting of the information on an activity of the courts

6.1. The information on an activity of the courts can be given in the oral form and in the form of the documentary information (including in the form of the e-mail).

6.2. Granting of the information on an activity of the courts is provided in demand form of inquiry. If it isn't possible to give information on demand form of inquiry, this information will be given in the form of Courts, Judicial Legal Council Secretariat and proper executive body have.

6.3. The oral information on an activity of the courts is given to physical persons, the representative of juridical persons, public authorities and local self-govern, during reception, also from corresponding structural divisions of courts, Judicial Legal Council Secretariat and proper executive body's by phone.

Article 7. The rights of users the information

7.0. The user the information of the activity of the courts has the following rights:

7.0.1. To receive a trustworthy information about an activity of the courts;

7.0.2. Not to prove necessity of reception of the required information on an activity of the courts access to which is not limited;

7.0.3. To appeal against in the mode of operation established by the law (inactivity) of the officials, breaking the right to access to the information on an activity of the courts and the established order of its realization;

7.0.4. To demand in the order of compensation of the harm caused by infringement of its right to access to the information on an activity of the courts established by the law.

Chapter II.

Organization of obtaining information about activities of the courts and the basic requirements at maintenance access to this information

Article 8. Organization of obtaining information on activities of the courts.

8.1. Courts, Judicial Legal Council Secretariat, and proper executive body define appropriate structure sections and its authoritative official persons in order to organize to get information about activities of the courts

8.2. The method of the organization of obtaining information on activities of the courts is defined by the Azerbaijan Republic Constitution Court, Azerbaijan Republic Supreme Court, Supreme Court of the Nakhichevan Autonomous Republic, and proper executive power institution by taking into consideration the requirements of this Law and within its own authorities.

8.3. Obtaining information in activities of the courts is provided by the courts within their authority, Court-Law Board Machinery, and by the proper executive power institution.

Article 9. Organization of obtaining information via the internet about activities of the courts.

9.1. Courts, Judicial Legal Council Secretariat, and proper executive body should create its own official internet information resources (after this- official internet sites) in order to place information on the activities of courts and to show e-mail addresses which receives information survey on these sites. First instance courts should place proper e-mail addresses which receive information on the activities of those courts and information surveys in official site of appropriate executive power institution while creating official internet sites.

9.2. Formation of the official sites by the courts, method of placing information there on the activities of courts, period of placing that information is defined by the Azerbaijan Republic Constitution Court, Azerbaijan Republic Supreme Court, Supreme Court of the Nakhichevan Autonomous Republic, and proper executive power institution by taking into consideration the requirements of this Law and within its own authorities.

Article 10. The basic requirements on obtaining the information on an activity of the courts

10.0. The basic requirements at providing of access to the information on an activity of the courts are following:

10.0.1. Reliability of the given information on an activity of the courts;

10.0.2. Observance of terms and order of granting of the information on an activity of the courts;

10.0.3. Withdrawal from the given information on an activity of the courts of data access to which is limited;

10.0.4. Creation of the organizational-technical and other conditions necessary for realization of the right to access to the information on an activity of the courts;

10.0.5. The account of the expenses connected with providing of access to the information on an activity of the courts, at planning of financing of the courts, Judicial Legal Council Secretariat and proper executive body.

Chapter III

Granting of the information on the activity of the courts

Article 11. Presence at judicial sessions

11.1. Physical persons, including representatives of legal bodies, public authorities and local governments, have the right to be present at open judicial sessions which are provided by the legislation of law, other statutory acts and supported international contracts of Republic of Azerbaijan.

11.2. Entry rule of persons shown in 11.1 article of this Law to the buildings of courts, sitting halls of the court is defined by acts which regulate internal activities of the courts.

Article 12. Publication of the information on an activity of the courts

12.1. Court acts that passed by the Azerbaijan Republic Constitution Court, cassation and appeal instance courts are published not later one month since the day it has been passed. With the resolutions of cassation and appeal instance courts, abolished and changed resolutions of lower instance courts should also be published.

12.2. Publication of information on activities of courts in mass media is being performed in correspondence with legislation on mass media of the Azerbaijan Republic, also with legislation that regulates activities of the courts.

Article 13. The information on an activity of the courts, placed in the Internet

13.1. Courts place following information on the activities of the courts in their internet sites:

13.1.1. The general information on court:

13.1.1.1. Name of the court, place that its jurisdiction directed, mail address, E-mail address, telephone number in order to obtain reference information;

13.1.1.2. Structure of the court

13.1.1.3. Authority of the court;

13.1.1.4. The list of legislative acts that regulate activities of courts

13.1.1.5. The instruction on office-work in court and acts related to regulation of internal activity of the court;

13.1.1.6. Name and surname and patronymic of court chairman, chairman deputy, judges and director of the secretariat (other information with their approval);

13.1.1.7. If any, lists of information bases and information systems of the court;

13.1.1.8. If any, the name of mass media that court created;

13.1.2. The information related to hearing cases in the court:

13.1.2.1. Form of documents required in order to appeal to the court (also claim application and complaint) and requirements on the content, their samples and method of presenting those documents to the court;

13.1.2.2. The amount of state dues on heard cases in the courts, way of their payment and cases when person is free from payment of state dues;

13.1.2.3. Data on affairs being in court: dates of entry of applications, numbers of cases, objects of disputes and information on the course of (cases defined to court hearing (time and place of court sitting is shown), cases has been heard, execution has been stopped on the cases, postponed, terminated, application has been remained not heard, (cases shown that base these decisions) and other information on the course of the cases)

13.1.2.4 Taking into consideration the requirements of 14th article of this Law, content of court acts, complaints for them, information on results from hearing of those complaints;

13.1.2.5. Order of the appeal of judicial certificates;

13.1.2.6. Information on mass media that acts is being published, in the case court acts are published in accordance with the legislation;

13.1.2.7. Generalization of court experience and information related to court statistics;

13.1.2.8. Order of acquaintance with materials of affairs of the persons participating in affair;

13.1.2.9. Phone numbers on which it is possible to receive the information of help character, including on passage of affairs being in court;

13.1.3. The information on personnel maintenance of court:

13.1.3.1. Information on vacancy to the post of judge and vacancies to the posts of state service at court apparatus;

13.1.3.2. Requirements for nominees to the post of judge, rule of their selection, and telephone number and address of official web-site of Judicial Legal Council Secretariat for receiving information on other related matters;

13.1.3.3. Rule of employment of citizens to state service at court secretariat;

13.1.3.4. Date, terms of vacancies and interviews for employment to vacancies to state service positions at court apparatus and information on their results;

13.1.3.5. Telephone numbers and addresses of official web-sites of appropriate executive branches for receiving information on issues of employment to vacancies to state service positions at court secretariat;

13.1.3.6. Reception rule and reception hours of state authorities, local municipalities, representatives of artificial persons and natural persons, rule to proceed appeals of those people related to organizing their court activity, irrespective of concerning the proceeding of specific cases at court, rules to proceed complaints on actions (inactions) of judges or employees of court apparatus, and telephone number for receiving information of reference nature about it.

13.2. Besides the information indicated in article No. 13.1 of this Law, Supreme Court of the Azerbaijan Republic places the information on court system of the Azerbaijan Republic and texts of law projects presented to Milli Majlis of the Azerbaijan Republic for discussion about legislative initiative in its official web-site.

13.3. The corresponding executive body of the Azerbaijan Republic places the following information in its web-site:

13.3.1. General information on corresponding executive body:

13.3.1.1. Authorities and structure of the corresponding executive body, postal address, e-mail, and telephone number for receiving information of reference nature;

13.3.1.2. The list of legislative acts regulating the activity of the corresponding executive body;

13.3.1.3. Names, surnames, and patronymic of leaders of corresponding executive bodies and their deputies, of structural sections and leaders of bodies under submission (other information about them in case of agreement of those people);

13.3.1.4. The list of information base and information systems of corresponding executive body;

13.3.1.5. Names of mass media means established by the corresponding executive body;

13.3.2. Information on courts and judges:

13.3.2.1. Generalizations concerning the formation of court activity, and statistic accounts on the activity of courts;

13.3.2.2. The instruction on office-work in court;

13.3.2.3. condition of execution of court statements (date of the adoption of court statements to be executed and of direction of execution document to fulfillment, number of executed (by noting the timely execution and execution within more than that time) and non-executed acts under those court statements, and reasons of non-execution of those acts, and other information on the conditions of the execution of court statements);

13.3.2.4. Implication of judges to discipline amenability, as well as appeals of corresponding executive body to Court-Law Council on the termination of their authorities (by indicating names, surnames, and patronymic, as well as the cases causing the appeal) and information on the results of the proceeding these appeals;

13.3.2.5. reception rule and reception hours of state authorities, local municipalities, representatives of artificial persons and natural persons, rule to proceed appeals of those people related to organizing their court activity, irrespective of concerning the proceeding of specific cases at court, rules to proceed complaints on actions (inactions) of judges or employees of court apparatus, and telephone number for receiving information of reference nature about it;

13.3.2.6. Information indicated in the article No. 13.1 of this Law on the activity of courts till the creation of official web-site adress by first instance courts.

13.4. Judicial Legal Council Secretariat places the following information in its official web-site:

13.4.1. General information about Judicial Legal Council Secretariat:

13.4.1.1. Authorities of Judicial Legal Council Secretariat, its postal adress, e-mail, and telephone number for receiving information of reference nature;

13.4.1.2. The list of legislative acts regulating the activity of Judicial Legal Council Secretariat;

13.4.1.3. Structure of Judicial Legal Council Secretariat, regulations of Judicial Legal Council Secretariat and Election Committee of Judges;

13.4.1.4. Names, surnames, and patronymic of chairmen and members of Judicial Legal Council Secretariat and Election Committee of Judges, as well as of leaders and deputies of Judicial Legal Council Secretariat, of leaders of structural sections of the apparatus (other information about them in case of agreement of those people);

13.4.1.5. The list of information base and information systems of Judicial Legal

Council Secretariat;

13.4.1.6. The names of mass media means established by Judicial Legal Council Secretariat;

13.4.2. Information on courts and judges:

13.4.2.1. requirements to the nominees to the post of judge, rules of written and oral examinations for their selection, appraisal of nominees as a result of long-term trainings, and rule of holding the final interview;

13.4.2.2. Information about vacant judge posts;

13.4.2.3. information on the date, location, and results of written and oral examinations for the selection nominees to the position of judges, appraisal of nominees as a result of long-term trainings, and of holding the final interview;

13.4.2.4. Telephone numbers for receiving the information on the selection of nominees to the positions of judges;

13.4.2.5. Ethical Behavior Code of Judges;

13.4.2.6. Rules and methodology of appraisal of the activities of judges;

13.4.2.7. result of appraisal of works concerning organizing the activity of judges and court chairmen, deputy chairmen and chairmen of court boards;

13.4.2.8. Information on rewarded, awarded judges, and judges implicated to criminal responsibility and those the authorities of which were terminated;

13.4.2.9. Reception rule and reception hours of state authorities, local municipalities, representatives of artificial persons and natural persons, rule to proceed appeals of those people related to organizing their court activity, irrespective of concerning the proceeding of specific cases at court, rules to proceed complaints on actions (inactions) of judges or employees of court apparatus, and telephone number for receiving information of reference nature about it.

13.5. The information intended in this article of Law should be placed on the internet within the period providing timely fulfillment and defense of the rights and lawfully protected interests of people making use of that information.

Article 14. Characteristics of placement of court statements on the Internet

14.1. The texts of verdicts and texts of other court statements are placed on the corresponding official site accordingly from the date of enforcement and within 3 days from the date of enforcement. In exceptional situations, resolutions on specially difficult cases are placed within ten days from the date of enforcement.

14.2. Except the cases intended in the article No. 14.4 of this Law, the texts of court statements are fully placed.

14.3. While placing the texts of court statements on the internet (except the decisions of Constitutional Court of the Azerbaijan Republic), except names, surnames, and patronomyc of the judge, procurator, and advocate, personal information about their personality (his or her name, surname, patronomyc, address, working place, and other such information) is removed from the text of the statement for the purpose of ensuring the security of the participants of the case. Instead of the removed information, initials, nicknames, and other signs are used enabling identification of the participants of the case.

14.4. While placing the texts of court statements containing information on state secrets and other secrets protected by law on the internet, the secret information is removed from the text.

14.5. The placement of the texts of the following court statements are not allowed on the Internet:

- 14.5.1. Mentioning safety of the state;
- 14.5.2. About crimes against sexual inviolability and a sexual personal freedom;
- 14.5.3. about the adoption of child;
- 14.5.4. about defining the incorrect register of statements of citizens' states.

Article 15. Placing of the information on an activity of the courts in building of courts, Judicial Legal Council Secretariat and proper executive body

15.1. In premises occupied with courts information stands and (or) means of similar appointment for acquaintance of users of information with the following information on activity of courts contains which should contain take places in accessible to all:

15.1.1. Court operating procedure, including an order of reception physical person, including representatives of legal bodies, public associations, public authorities and local governments, on the questions connected with disposal of legal proceeding in court, and other questions, concerning court activity;

15.1.2. Data on date, time and place of carrying out and a subject of judicial session on the affairs appointed to hearing;

15.1.3. Admission order in premises and judicial session, a presence order in judicial sessions and taken measures to its infringers.

15.1.4. Conditions and an order of reception of the information on court activity;

15.1.5. Other necessary information for operative informing the users of the information.

15.2. In occupied premises of Judicial Legal Council Secretariat and proper executive body the information stands and (or) means of similar appointment for acquaintance of users of the information with data on conditions and about an order of reception of the information on an activity of the courts, and also other data necessary for operative informing of users of the information take places in accessible to all.

Article 16. Acquaintance with the information on an activity of the courts which are in archival funds

Acquaintance of users by the information with the information on an activity of the courts which are in archival funds established by the legislation of the Republic of Azerbaijan about archival affair.

Article 17. Inquiry of the information on an activity of the courts

17.1. The user the information has the right to send inquiry to courts, Judicial Legal Councils Secretariat and proper executive body by them directly or by its representative.

17.2. In inquiry requesting the information on an activity of the courts are specified a surname, a name and a patronymic of the physical person or of the government authority, of the juridical person, of the local self-govern and also the post address, a phone number (fax) or an e-mail address for a direction of the answer to inquiry. Anonymous inquiries are not considered.

17.3. In Courts, Judicial Legal council secretariat and proper executive body the inquiry is registering by the rules of office-work regulation.

17.4. The term inquiry consideration, last extending limit of this term, accordingly sending of inquiry establishing by "About providing information" law of Azerbaijan Republic.

17.5. Courts, Judicial legal council secretariat, proper executive body have the right to specify the contents of inquiry with communication with the user of information.

17.6. Written inquiry and answer to this inquiry the established demands by this law also including inquiry sent by e-mail.

Article 18. An order of granting of the information on an activity of the courts on demand

18.1. The answer to inquiry should contain the required information or motivated refusal in granting of such information, in the answer to inquiry the name, the post address of court, Judicial legal council secretariat, name of proper executive body a post of the person who have signed the answer, and also requisites of the answer to inquiry (registration number and date) are specified.

18.2. At inquiry of the information on an activity of the courts published in the internet, in the answer court, judicial legal council secretariat, proper executive body can reply by showing the same information's web address.

18.3. In case the required information on an activity of the courts concerns the information of the limited access, in the answer to inquiry the kind, the name, number and date of acceptance of the certificate according to which access to this information is limited are specified. In case the part of the required information concerns the information of the limited access, and other information is popular, the required information, except for the information of the limited access is given.

18.4. Answers to inquiries are subject to obligatory registration in courts, Judicial Legal Council Secretariat and proper executive body.

18.5. The information on an activity of the courts is given free of charge if other is not established by the law.

Article 19. The bases excluding possibility of granting of the information on an activity of the courts

19.1. Inquiry of information on an activity of the courts is not given in following cases:

19.1.1. It wasn't shown on the inquiry the post address, an e-mail address or phone or fax number on which to have no possibility to contact;

19.1.2. The required information does not concern or they do not have the required information on activity of court, judicial legal council secretariat or proper executive body;

19.1.3. There was no possibility to specify which information the user of information need;

19.1.4. The required information concerns the information of the limited access;

19.1.5. Granting of the required information does not allow to provide safety of participants of proceeding;

19.1.6. The required information was given earlier to the user of information and in reinquiry it wasn't proved the necessity;

19.1.7. In inquiry is brought a task on interpretation of the rule of law;

19.2. Reply letter about the refusal on the presentation of information that is being interrogating about activities of the courts composed clearly and in grounded form, showing

also the appropriate articles of legislation of the Azerbaijan Republic is sent to information user during seven working days.

Chapter IV
The mutual relation the edition of mass media with courts, Judicial Legal Council Secretariat and proper executive body

Article 20. The forms of mutual relation the edition of mass media with courts, Judicial Legal Council Secretariat and proper executive body

20.1. Interaction of courts, Judicial Legal Council Secretariat and proper executive body with editions of mass media is carried out with a view of objective, authentic and operative informing of users by the information on an activity of the courts.

20.2. The forms of mutual relation the edition of mass media with courts, judicial legal council secretariat and proper executive body are followings:

20.2.1. Easy approach of representatives of editions of mass media in premises of courts and presence at open judicial sessions;

20.2.2. Granting of the information on an activity of the courts by inquiries of editions of mass media;

20.2.3. Promulgation information on activity of courts through the mass media;

20.2.4. Participation of representatives of editions of mass media in the meeting of the Judicial Legal Council, of the Judges Election Committee and in the examinations of candidates to the judge position;

20.2.5. Joint participation of representatives of courts, of Judicial Legal Council Secretariat and of proper executive body in press conferences and other measure with representatives of editions of mass media;

20.2.6. Accreditation representatives of editions of mass media in courts, Judicial Legal Council Secretariat, proper executive body;

20.2.7. Other forms of interaction providing informing of users by the information on an activity of the courts.

Article 21. Official representatives of courts, Judicial Legal Council Secretariat and proper executive body

21.1. The Official representative of the court that is in mutual relationship with editorial offices of mass media is its chairman or other responsible person that has been given authority by the chairman.

21.2. Official representatives of Judicial Legal Council Secretariat and proper executive body that is in mutual relationships with editorial offices of mass media are chiefs of those institutions or other responsible persons that has been given authority by them.

Chapter V

Protection of the right to access to the information about activities of the courts, and amenability breaking this right

Article 22. Protection of the right to access to the information on an activity of the courts

Decisions and the actions (inactivity) of officials breaking the right to access to the information on an activity of the courts can be appealed against in an order established by the legislation.

Article 23. The control over providing of access to the information on an activity of the courts

23.1. The control over providing of access to the information on an activity of the courts is established by the chairman of the courts, Chief of the Judicial Legal Council Secretariat and Chiefs of proper executive body.

23.2. The rule of the control over providing of access to the information on an activity of the courts is regulating by an internal regulation activity acts of the courts, of the Judicial Legal Council Secretariat and of the proper executive body.

Article 24. Responsibility breaking the demands of this law

The officials, breaking against the demands of this law, can be beard responsibility in an order established by the legislation of the Azerbaijan Republic.

Article 25. Law entering into force

The present law enters into force on 1st January 2010.