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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT AMENDMENTS TO THE LAW
ON POLITICAL PARTIES
OF THE REPUBLIC OF AZERBAIJAN

Law of the Republic of Azerbaijan
on Amendments to the Law of the Republic of
Azerbaijan “On Political Parties”

Under paragraph 10 of part I of Article 94 of the Constitution of the Republic of Azerbaijan, Milli Majlis of the Republic of Azerbaijan hereby enacts:

The following amendments shall be made to the Law of the Republic of Azerbaijan “On Political Parties” (Bulletin of Supreme Council of the Republic of Azerbaijan, 1992, № 11, Article 387, № 12, Article 454; Collection of Legislation of the Republic of Azerbaijan, 1997, № 3, Article 226; 2001, № 11, Article 683; 2002, № 8, Article 463; 2004, № 2, Article 57; № 5, Article 321, № 8, Article 598; 2005, № 4, Article 278, № 6, Article 464; 2006, № 3, Article 225; 2007, № 11, Articles 1049, 1053; 2010, № 4, Article 276):

1. The text of Article 1 shall be given in the following wording:

“Political party shall be a non-commercial legal person established in accordance with the present Law by citizens pursuing common political ideas and aims and participating in political life of the country and formation and expression of political will of citizens.”.

2. Article 2 shall be given in the following wording:

“Article 2. Legislation of the Republic of Azerbaijan on political parties

Legislation of the Republic of Azerbaijan shall consist of the Constitution of the Republic of Azerbaijan, international agreements which the Republic of Azerbaijan is a Party to, the present Law and other legislative acts of the Republic of Azerbaijan.”.

3. Second paragraph in the following wording shall be inserted to the Article 3:

“Activity of political parties may not be directed to restriction fundamental human and citizen’s rights and freedoms of their members enshrined in the Constitution of the Republic of Azerbaijan, international agreements which the Republic of Azerbaijan is a Party to and other legislative acts of the Republic of Azerbaijan.”.

4. In Article 4:

4.1. Second sentence of first paragraph shall be given in the following wording:

“Placement of organizations of political parties in the state and local self-government bodies shall not be allowed.”;

4.2. Second paragraph shall be given in the following wording:

“Membership in political party may not be restricted upon professional, racial, ethnic and religions criteria.”;

4.3. in third paragraph figure “1000” shall be replaced with figure “5000”;

4.4. Fourth paragraph shall be given in the following wording:

“Establishment and functioning of political parties which aim at changing of constitutional order and secular nature of the Republic of Azerbaijan, violation of territorial integrity, advocacy of war, violence and brutality, instigation of racial, national and religious hatred, perpetration of

other acts contradictory to the constitutional order of the Republic of Azerbaijan and inconsistent with its international legal obligations shall not be allowed.”.

5. In Article 5:

5.1. fourth indent shall be given in the following wording:

“to conduct legal enlightenment among citizens;”;

5.2. fifth and sixth indents shall be regarded as seventh and eighth indents and fifth and sixth indents shall be inserted in the following wording:

“to nominate candidates to elective state and local self-government bodies;

to inform state and local self-government bodies of opinion of citizens related to public issues;”.

6. Article 5-1 shall be inserted in the following wording:

“Article 5-1. Establishment of political party

5-1.1. Political party shall be established through the holding of constituent congress, adoption of charter and programme of political party at that congress, formation of governing and supervisory-revision bodies.

5-1.2. Preparation, convocation and holding of constituent congress of political party shall be carried out by organizational committee established by initiators of political party.

5-1.3. Information about place and date of constituent congress of political party shall be published in mass media by organizational committee at least one month prior to that date.

5-1.4. Holding of constituent congress of political party shall terminate the functioning of organizational committee.

5-1.5. Property and financial resources which are at the disposal of organizational committee shall be transmitted to newly established political party.

5-1.6. Following to the Law of the Republic of Azerbaijan “On State Registration and State Registry of Legal Persons”, political shall apply for its state registration with submission of additional document certifying number of party members within the period of one month from the date of establishment of political party.”.

7. In second paragraph of Article 6:

7.1. in second indent, words “abbreviated form of the name,” shall be inserted after the word “name”;

7.2. seventh indent shall be given in the following wording:

“mutual relations with territorial organizations;”

7.3. in eighth indent, words “powers and rules of organization” shall be replaced with words “rules of organization and powers”;

7.4. in ninth indent, words “, including decision on liquidation of political party” shall be inserted after the word “decisions”;

7.5. eleventh – thirteenth indents shall be regarded as fourteenth – sixteenth indents and eleventh – thirteenth indents shall be inserted in the following wording:

“procedure of nomination of candidatures from political party in the course of elections of Milli Majlis of the Republic of Azerbaijan, President of the Republic of Azerbaijan and local self-government bodies;

procedure of expression of will in the bodies of political party;

procedure of lodging of complaint by the members of political party with respect to decisions of governing bodies of political party;”.

8. Article 6-1 shall be inserted in the following wording:

“Article 6-1. Programme of political party

6-1.1. Political party should have programme reflecting aims and duties, operation principles and methods.

6-1.2. Political party shall submit its programme and information about amendments subsequently made to that programme to the relevant body of executive power for information.”.

9. In Article 7:

9.1. the word “party” in the name and first paragraph shall be replaced with the words “political party”;

9.2. in first paragraph, the word “abbreviator” shall be replaced with words “abbreviated form” and the word “registered” shall be replaced with words “passed state registration”;

9.3. second paragraph shall be given in the following wording:

“Amendments made to the name of political party shall pass state registration in accordance with the Law of the Republic of Azerbaijan “On State Registration and State Registry of Legal Persons.”.

10. In Article 8:

10.1. first and second paragraphs shall be given in the following wording:

“Citizens who accepted the charter and programme of political party, reached the full legal age and possess full legal capacity may be admitted to the membership of political party. Political parties shall carry out registration of their members.

No one may be forced to join to political party or remain in its membership.”;

10.2. in third paragraph, words “, emergency, migration” shall be inserted after words “courier communication service”.

11. In Article 9:

11.1. in first paragraph, words “international legal instruments on human rights and freedoms ratified by the Republic of Azerbaijan” shall be replaced with words “international agreements which it is a Party to”;

11.2. second and third paragraphs shall be regarded as third and fourth paragraphs and second paragraph shall be inserted in the following wording:

“Members of political party shall be entitled to elect or be elected to its leading bodies, obtain information about activities of political party and its leading bodies, lodge appeals against decisions of leading bodies as provided in the charter of political party and other rights provided in the charter of political party.”;

11.3. first sentence of third paragraph shall be inserted in the following wording:

“Participation of a citizen in the activity of a political party may not serve as a basis for the restriction of his/her rights and freedoms, or barring him/her from discharging of the duties defined by law, except for the cases referred to in Article 8 of this Law.”

12. Article 10 shall be given in the following wording:

“Article 10. Bodies of political party

10.1. Supreme leading body of political party shall be its Congress to be held at least once in five years.

10.2. Congress of political party shall form collegiate bodies of political party.

10.3. Other leading bodies of political party, rules for organization and powers of leading bodies shall be defined by the charter of political party.”.

13. In Article 11:

Words “public (non-governmental) associations” shall be replaced with words “non-governmental organizations”.

14. Article 12 shall be inserted in the following wording:

“Article 12. Rights of political party

12.1. Political party shall have the following rights:

12.1.1. to freely disseminate information about its aims and activities, to promote its ideas, aims and programmes;

12.1.2. to create political coalitions, unions, federations, associations through amalgamation on a voluntary basis;

12.1.3. to participate in elections of Milli Majlis of the Republic of Azerbaijan, President of the Republic of Azerbaijan and local self-government bodies as well as in nation-wide voting – referendum;

12.1.4. to submit proposals for elaboration of acts by state bodies;

12.1.5. to set up mass media outlets in accordance with the Law of the Republic of Azerbaijan “On mass media”;

12.1.6. to hold meeting, demonstration, street procession, picket and gathering in accordance with the Law of the Republic of Azerbaijan “On freedom of assembly”;

12.1.7. to accept donations in accordance with this Law;

12.1.8. to have emblems, flags, pennons and signs as a symbol;

12.2. Symbols of political party shall not serve to promotion of aims provided in fourth paragraph of Article 4 of this Law.”.

15. Article 12-1 shall be inserted in the following wording:

“Article 12-1. Duties of political party

12-1.1. Political party shall have the following duties:

12-1.1.1. to observe Constitution, laws and other acts of the Republic of Azerbaijan as well as its own charter;

12-1.1.2. to submit financial statements annually to the relevant body of executive power;

12-1.1.3. to submit relevant information to the relevant body of executive power, in case if legal address and contact phone numbers of the political party are changed;

12-1.1.4. not to interfere with the activity of state bodies and officials.

12-1.2. Headquarters of leading bodies of political party shall be located on the territory of the Republic of Azerbaijan.”.

16. In Article 13:

16.1. in first paragraph, words “set forth in their charters” and words “and, for this purpose, the establishment of a State guard service and the arrangement of its provision” shall be removed.

16.2. second paragraph shall be regarded as third paragraph and second paragraph shall be inserted in the following wording:

“The State shall render financial assistance to political parties through the allocation of funds from the state budget in accordance with Article 17-1 of this Law.”

17. The text of Article 14 shall be given in the following wording:

“14.1. A political party shall be subject to state registration at the relevant body of executive power of the Republic of Azerbaijan in accordance with the Law of the Republic of Azerbaijan “On State Registration and State Registry of Legal Persons”.

14.2. Political party which has not undergone state registration may not speak in public or act on behalf of political party which has undergone state registration.”

18. Article 15 shall be removed.**19. Article 16 shall be given in the following wording:****“Article 16. Liquidation or suspension of the activity of political party**

16.1. Political party shall be liquidated on the basis of decision of the congress of political party on liquidation of political party or court decision thereof.

16.2. Decision of the congress of political party on liquidation of political party shall be adopted as provided in the charter of political party.

16.3. Court decision on liquidation of political party shall be adopted on the basis of application lodged by the relevant body of executive power in accordance with the Code of Administrative Procedure of the Republic of Azerbaijan.

16.4. Where political party breaches requirements of legislation of the Republic of Azerbaijan, relevant body of executive power shall issue written substantiated warning for the political party.

16.5. Relevant body of executive power shall submit motion to the court for liquidation of political party in the following cases:

16.5.1. where a political party commits actions provided in fourth paragraph of Article 4 of this Law;

16.5.2. where a political party fails to comply with issues reflected in warning provided in Article 16.4 of this Law.

16.6. Activity of political party may be suspended on the basis of motion submitted by relevant body of executive power until the court decision on case related to liquidation of political party has been taken.

16.7. Where a political party is liquidated, claims of its creditors shall be paid as provided in the Civil Code of the Republic of Azerbaijan.

16.8. Speaking in public or acting on behalf of liquidated political party or participation in illegal organization of its activity or its functioning shall be prohibited.”

20. The text of Article 17 shall be given in the following wording:

“17.1. Activities of political parties shall be financed through the allocation of funds from the state budget and other funds in accordance with this Law.

17.2. Financing of political parties by the following persons and entities, including obtainment of donations therefrom shall be prohibited:

17.2.1. state bodies and other state entities, except for the cases referred to in Article 17-1 of this Law;

17.2.2. municipal bodies and their subordinate entities;

17.2.3. foreign states and foreign legal persons;

17.2.4. foreigners and stateless persons;

17.2.5. persons who reached full legal age;

17.2.6. military units;

17.2.7. public associations and foundations, religious entities;

17.2.8. natural persons failing to indicate their own surname, first name, patronymic, series and number of identity card or its replacing document;

17.2.10. legal persons.

21. Article 17-1 shall be inserted in the following wording:

“Article 17-1. Allocation of funds for political parties from the state budget

17-1.1. Funds shall be allocated annually from the state budget in order to finance activities of political parties. Those funds shall be indicated as a separate line in the state budget.

17-1.2. 10 percents of funds allocated from the state budget shall be divided, proportionally to number of earned votes, between political parties, nominated candidatures to the last elections of Milli Majlis of the Republic of Azerbaijan of which earned at least 3 percent of valid votes, but which are not represented in Milli Majlis of the Republic of Azerbaijan. 40 percents of funds shall be equally divided between those political parties represented in Milli Majlis of the Republic of Azerbaijan and 50 percents shall be divided proportionally to number of elected deputies.

17-1.3. Where political parties participate in last elections of Milli Majlis of the Republic of Azerbaijan within coalition of political parties, funds allocated from the state budget shall be transmitted to each party separately as provided in Article 17-1.2 of this Law.

17-1.4. Funds allocated from the state budget under Article 17-1.1 of this Law shall be transferred by the relevant body of executive power to the bank account of political party in equal parts on quarterly basis, taking into account requirements of Articles 17-1.2 and 17-1.3 of this Law.

17-1.5. Where political parties refuse to accept funds allocated from the state budget, those funds shall be returned to the state budget.

17-1.6. Those political parties failing to submit financial statements under the Law of the Republic of Azerbaijan “On Accounting” shall be brought to liability provided in the law.”

22. In Article 18:

22.1. in the name of the Article, words “Incomes and expenditures” shall be replaced with words “Profits and expenses”;

22.2. in first sentence of first paragraph, the word “income” shall be replaced with word “profit” and, in second sentence, the word “income” shall be replaced with word “profit”;

22.3. in second paragraph:

22.3.1. in first indent, the word “income” shall be replaced with word “profits”;

22.3.2. eighth indent shall be regarded as eleventh indent and eighth-tenth indents shall

be inserted in the following wording:

“funds allocated from the state budget;

amount obtained from debts and loans;

property obtained through succession and inheritance;”

22.4. in third paragraph:

22.4.1. in first indent, the word “expenditures” shall be replaced with words “expenses of political parties”;

22.4.2. in second indent, words “expenditures incurred” shall be replaced with words “funds spent”;

22.4.3. in third indent, words “activities of the departments of the political party and for the information” shall be replaced with words “maintenance and informational support of political parties”;

22.5. fourth paragraph shall be removed.

23. The text of Article 19 shall be given in the following wording:

“19.1. Political parties shall be entitled to accept donations.

19.2. Political parties may not provide person granting donations or any other person, directly or indirectly, with material or other boons, any privilege or advantage, make such proposal or give such promise in lieu of accepted or promised donation.

19.3. Person granting donations to political party may not demand or accept, directly or indirectly, material or other boons, any privilege or advantage, give consent to such proposal or promise in lieu of donation granted and to be granted.

19.4. Donated monetary funds shall be accepted in the form of transfer to the bank account of political party.

19.5. Value of donations submitted in kind shall be defined by the market value.

19.6. Amount of donations accepted by political parties and information about persons granting donations revealed by the relevant body of executive power shall be inserted into financial statement.”.

24. in the name and text of Article 20 the word “parties” shall be replaced with words “political parties”.

25. The text of Article 21 shall be given in the following wording:

“21.1. Political parties shall carry out accounting activity and draw up financial statements in accordance with the Law of the Republic of Azerbaijan “On Accounting”.

21.2. Political parties shall submit annual financial statement to the relevant body of executive power not later than 1 April of each year.

21.3. Number of members of political party paying membership dues shall be indicated in the financial statement.

21.4. Form, content and procedure of submission of financial statements of political parties shall be defined by the relevant body of executive power.

21.5. Political parties shall publish annual financial statements in mass media along with auditor's opinion.”.

26. Article 22 shall be inserted in the following wording:

“Article 22. Liability for breach of the Law

Persons breaching requirements of this Law shall be called to liability under the legislation of the Republic of Azerbaijan.”.

**Ilham Aliyev
President of the Republic of Azerbaijan**

Baku city, “_____” _____ 2011

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