

# AZERBAIJAN

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## Law of the Republic of Azerbaijan on state protection of persons participating in criminal proceedings

### Chapter 1 General

#### Article 1 Scope of the Law

This Law defined the system of measures stipulating the provision of security and social protection of victims, witnesses of the criminal case and other persons, participating in the criminal proceedings.

Security measures defined under the law hereof, are applied in cases, if provision of security of the above persons by other means is not possible.

#### Article 2 Legislation on provision of state security to protected persons

Legislation on provision of state security to protected persons consists of the Constitution of the Azerbaijan Republic, this law and other legislative acts of the Azerbaijan Republic.

#### Article 3 Persons protected by the state

Person towards whom the relevant executive authority has made the decision on application of security measures is considered the protected persons.

Following are considered as protected persons:

1. Person, who informed law enforcement agency on the crime, or participated in the revealing, prevention or detection of crime;
2. Persons, who considered a victim under the criminal case, his authorized representative, special prosecutor or his representative;
3. Suspected or accused persons, his attorneys and representatives;
4. Civil plaintiff, civil respondent;
5. Witnesses;
6. Expert, specialists, translator and witnesses

Security measures can also be applied toward close relatives of secured persons in the event of influence on close relatives in order to put pressure on protected persons.

#### Article 4. Provision of security of protected persons

Provision of security of persons, considered in Article 3 of this Code, comprised of implementation by their authorized representatives of legal, organizational and technical and other measures for provision of security to life, health and property of these individuals.



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## **Article 5. Principles of security provision for protected persons**

Security of protected persons is provided on the basis of legality of security measures, defined under the law hereof, respect to rights and freedoms of person and citizen, obligation of the authority applying the security measure and protected persons *обязательств органа*.

## **Article 6. Authorities providing the security of protected persons**

Authorities providing the security are the following:

1. Authorities, which adopted the decision on application of safety measures;
2. Authorities implemented safety measures on the basis of this decision.

The decision on application of safety measures towards protected persons is performed by the authority, *which conducted the criminal case in accordance with procedures stipulated by the criminal procedural legislation of the Azerbaijan Republic*. In accordance with this decision the implementation of security measures towards the protected persons is assigned to relevant executive authority.

## **Chapter II. Security measures**

### **Article 7. Types of security measures applied to protected persons**

There are following security measures provided:

1. Security of the protected person, his residence and property;
2. Issuance to protected person of special individual protection means, warning him on existing danger;
3. Temporary placement of protected person in safe location;
4. Maintenance of confidentiality of information on protected person;
5. Transfer of protected person to another work, change of his study or work place, his relocation to other residence;
6. Replacement of the protected person's document and change of appearance;
7. Implementation in order stipulated under the legislation of closed court hearings for the event of protected person's participation.

Rules for application of security measures are defined under this law and other legislative acts of the Azerbaijan Republic.

### **Article 8. Security of protected person, his residence and property**

When necessary, the authorities providing the security shall apply security measures for the personal security of protected individuals, security of their residence and property.

With the consent of protected persons, their flats and property can be provided with fire safety equipment and alarms, telephone and vehicle license plate numbers can be replaced.

### **Article 9. Issuance to protected person of special individual protection means, warning him on existing danger**

In the event of real threat to the life or health of protected persons, they shall be issued the service or civil weapons in accordance with legislation of the Azerbaijan Republic and besides they shall be warned of the danger.

### **Article 10. Temporary placement of protected person in safe location**

When necessary, protected persons of adult age, with their consent, and persons under age, with the consent of their parents or legal representatives may temporarily be place in safe location.

**Article 11. Maintenance of confidentiality of information on protected person**

By the decision of authorities providing the security, the telephone information desk, passport and visa service and other relevant entities may be restricted temporarily or permanently to issue information on location or other data on protected persons.

In exceptional cases due to execution of other criminal case or civil case such information can be submitted to preliminary investigation authorities or to the court in accordance with procedures stipulated under the legislation of the Azerbaijan Republic.

**Article 12. Transfer to another work, change of work or study place relocation to other residence**

In accordance with application or with the consent of protected persons, these persons can be temporarily or permanently transferred to another work or relocated to other residence, their work or study place can be changes.

The specified measures shall be conducted without violation of housing, pension, labor and other rights of protected persons.

For persons temporarily relocated to other place of residence, the owned property and place of permanent residence shall be preserved.

**Article 13. Replacement of protected person's documents and change of appearance**

When security can not be provided by other measures, on the basis of consent of protected person he may be issued the identification document with changed biographical particulars, as well as other documents, as well as their appearance may be changed.

Implementation in order stipulated under the legislation of closed court hearings for the event of protected person's participation.

**Article 14. Implementation of closed court hearings for the event of protected person's participation**

When required for the security of protected persons, by the decision of the court (judge) the implementation of closed court hearing is allowed in accordance with procedures stipulated under the criminal procedural legislation of the Azerbaijan Republic. For questioning of these persons without presence of defendant the motivated decision of the court (judge) shall be adopted. Based on these reasons the questioning of one defendant from another is allowed.

**Article 15. Provision of security of military servicemen**

Security of military servicemen is provided in order stipulated under this law with consideration of these persons' military service. Also following measures are applied for provision of security to military servicemen:

1. Assignment to other military unit or military entity;
2. Transfer to new service location.

**Article 16. Provision of security of persons kept in jails and sentence servicing facilities**

Provisions of this Law are applied to persons kept in jails and sentence servicing facilities to provide the security in relation with investigation of criminal case. Also following measures are applied for the provision of security of these persons:

1. Transfer from one jail or sentence servicing facility to another;
2. Keeping separately or in single sell;
3. Change of punishment mode in accordance with procedures stipulated by the criminal procedural legislation of the Azerbaijan Republic.

### **Chapter III. Application and cancellation of security measures towards protected persons**

#### **Article 17. Application of security measures**

Actual information detected by security authorities on existence of the implementation of death threat, violence acts towards persons protected due to their assistance to investigation or court proceedings on criminal case, as well as information on destruction or damaging the property of these persons, shall provide basis for application or security measures.

*Requests and application on use of security of persons, participating in the criminal process shall be reviewed by the criminal case implementation authority no later than within 72 hours upon the obtaining of these applications. Results of reviewed application or request shall be immediately communicated to the applicant and written copy of the relevant decision shall be sent to the applicant by the authority proceeding the case.*

*The Applicant has the right to file the claim within 5 days upon obtaining of the decision on refusal to satisfy the request within 5 days from the date of obtaining of the copy of decision on refusal to apply security measures, or he may apply to court for decision if 7 days have expired from the date of submission of request or application, and no decision of the authority performing the criminal case was provided.*

On application of security measures and results of their application shall be communicated by the authority, which performs the application to the authority proceeding the criminal case, and in the event of removal of factors compromising the security of protected persons, this authority shall apply for cancellation of security measures.

#### **Article 18. Cancellation of security measures**

Security measures are cancelled in following cases:

1. In the event of expiry of the term for security measures;
2. In the event of removal of existing threat;
3. In the event of application from the person, for whom security measures have been applied;
4. In the event of frequent non-compliance by the protected person, regardless of written warning of authorities providing the security.

In the event of occurrence of above basis the motivated decision is made on cancellation of security measures with issuance of written notification to the protected person.

The protected person may appeal the decision in the prosecution office or court. This appeal shall be proceeded immediately. The decision shall be communicated to the claimant within three days.

### **Chapter IV. Right and responsibilities of protected persons and authorities providing the security**

#### **Article 19. Rights and responsibilities of protected persons**

Protected persons have the following rights:

1. To receiver information on security measures, which will be applied towards him;
2. Apply on use of security measures or against their cancellation;
3. Require authorities providing the security to apply also other measures (in addition to those applied), stipulated under this law, or cancellation of any of the applied measures;
4. To fail the claim with prosecutor office or court (judge) against unlawful decisions or actions of authorized officers implementing security measures.

Protected persons have the following responsibilities:

1. Comply with security measures and legal requirements of authorities performing the security measures;
2. Immediately inform the authorities performing security measures, about illegal actions directed at him, or any expected threat.
3. In accordance with procedures stipulated under the legislation of the Azerbaijan Republic, dispose the property provided to him by security authorities for provision of own security.

4. Not to disclose without the permit of security authorities the information on applied measures of security.

#### **Article 20. Rights and responsibilities of authorities performing the security**

Authorities, which adopt the decision on application of security measures, have the following rights:

1. Require necessary materials and obtain explanations for detection of basis for application of security measures;
2. In necessary cases to require the authorities performing the security for application of additional measures;
3. By the decision of authorities performing the security measures, to cancel completely or partially security measures.

Authorities performing security measures have the following rights:

1. Define security measures and means of application, when necessary to change the adopted measures or introduce changes;
2. Require from protected persons to comply with provision of implementation of security measures, as well as with application of these measures to fulfill the legal instructions of authorities performing the security;
3. To solicit before the investigation authority, prosecutor, court (judge), proceeding the criminal case, on application of security measures towards protected persons or cancellation of applied security measures.

Authorities providing security shall have the following responsibilities:

1. In the event of information on every illegal action towards the protected persons to apply immediately responding actions for removal of such cases;
2. Provide the immunity to life, health, housing and property of the protected persons via application of security measures applied by this law;
3. In timely manner to inform the protected person on decision adopted in relation with change or cancellation of security measures.

### **Chapter V. Final provisions**

#### **Article 21. The Obligation for Execution of Security Measures**

The execution of decision sent by authorities providing the security to the enterprise, entities and organizations, for authorized officers is mandatory.

#### **Article 22. Application of social security measures towards the protected person**

In the event of death of the protected person due to his assistance to investigation of criminal case or court proceedings, each member of his family, as well his dependants by the decision of authority, which adopted the decision of authority on application of security measures, from the state budget is paid the lump sump account at the hundred times rate of minimum wage.

In the event of injuries incurred to the protected person or his disability as a result of assistance to investigation of criminal case or court proceedings, by the decision of the authority, which adopted the decision on application of security, shall be paid from the state budget the lump sump amount at fifty times volume of the minimum wage. Damage caused to the property of the protected person shall be compensated in accordance with procedures stipulated under the legislation of the Azerbaijan Republic.

#### **Article 23. Financing and procurement of security measures**

Financing and procurement of security measures, stipulated under this law, shall be provided from the state budget, and also in the event of written consent from own funds of the protected person.

#### **Article 24. Liability for violation of the law**

For violation of this law natural persons and legal entities shall bear liability in accordance with procedures stipulated under the legislation of the Azerbaijan Republic.

**President of the Azerbaijan Republic  
Heydar ALIYEV  
City of Baku, 11 December 1998  
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