

LAW OF THE AZERBAIJAN REPUBLIC

ON STATE PROTECTION OF PERSONS TAKING PART IN CRIMINAL PROCEDURE

CHAPTER 1. General Provisions

Article 1. Purpose of the Law

The present Law shall define a system of measures, that ensures security and social protection of victims, witnesses of the criminal case and other persons participating in the criminal procedure.

Security measures, determined by this Law, shall be implemented where it is impossible to ensure security of the above persons by other means.

Article 2. Legislation on Provision of State Protection to the Protected Persons

The legislation on provision of state protection to the protected persons shall consist of the Constitution of the Azerbaijan Republic, the present Law and other legislative acts of the Azerbaijan Republic.

Article 3. Persons Protected by State

The person, with regard to whom security measures are executed on the basis of a decision adopted by authorized bodies, shall be called a protected person.

Protected persons shall be the following:

1. the person, that informed the law-enforcement bodies on a crime, or took part in its revealing, prevention or solution;
2. the person, suffered from the criminal case, his/her representative and authorized representative, the special accuser and his/her representative;
3. the suspect or accused, their counsels and representatives;
4. the civil plaintiff, the civil defendant, their representatives and authorized representatives;
5. the witnesses;
6. the experts, specialists, translators and witnesses.

Security measures can also be implemented with respect to the immediate relatives of the protected persons, in case the immediate relatives are subjected to pressures in order to have an influence upon the protected persons.

Article 4. Ensuring of Security of the Protected Persons

Ensuring of security of the protected persons, stipulated in Article 3 of the present Law, shall cover implementation by the authorized bodies of judicial, technical-organizational and other measures to protect the lives, health and properties of the mentioned persons.

Article 5. Principles of Ensuring of Security of the Protected Persons

Ensuring of security of the protected persons shall be carried out on the basis of legality of the security measures, defined by this Law, respect to human rights and freedoms, responsibilities of the body implementing the security measures, and those of the protected persons.

Article 6. Bodies Ensuring Security of the Protected Persons

The bodies, that ensure security, shall be the following:

1. The bodies, that have adopted a decision on implementation of security measures;
2. The bodies, that implement security measures on the basis of such decisions.

Decision on implementation of security measures with respect to the protected persons shall be adopted by the body undertaking the criminal procedure in the order, determined by the criminal procedure legislation of the Azerbaijan Republic. By such decision, the process of execution of security measures with respect to the protected persons shall be assigned to relevant bodies of executive power (the Ministry of Internal Affairs of the Azerbaijan Republic and the Ministry of National Security of the Azerbaijan Republic, within their responsibilities).

CHAPTER II. Security Measures

Article 7. Types of Security Measures, Implemented with Respect to the Protected Persons

Security measures can be classified into:

1. Guarding of the protected person, his/her apartment and property;
2. Issuing the protected person with special personal protection equipment, and warning him/her on existing danger;
3. Temporary billeting of the protected person in a secure place;
4. Compliance with secrecy of information on the protected person;
5. Transferring of the protected person to another work, changing his place of work/study, moving him/her to another place of residence;
6. Changing of documents and appearance of the protected person;
7. Conducting of closed court sessions in the order defined by the legislation, provided the protected person participates there.

Rules of implementation of security measures shall be regulated by the present Law and other legislative acts of the Azerbaijan Republic.

Article 8. Guarding of the Protected Person, his/her Apartment and Property

When necessary, the bodies ensuring security shall implement security measures to ensure personal guarding of the protected persons and their apartment or property.

With consent of the protected persons, their apartments and properties can be equipped with fire safety and alarm systems, their phone numbers and state registration numbers of their vehicles be changed.

Article 9. Issuing the Protected Person with Special Personal Protection Equipment, and Warning Him/Her on Existing Danger

In case of real risk to lives and health of the protected persons, they can, in accordance with the legislation of the Azerbaijan Republic, be issued with service or personal weapons, and in addition, they should be warned about dangers.

Article 10. Temporary billeting of the protected person in a secure place

When necessary, the protected persons that have attained the age of majority, with their consent, and those being underage, with consent of their parents or authorized representatives, can be temporarily located in a secure place.

Article 11. Compliance with Secrecy of Information on the Protected Person

By decision of the bodies ensuring security, the enquiry service under the automatic telephone system, passport-visa registration service or other relevant referral services can be temporarily or fully prohibited to provide information on place of residence or other data about the protected persons.

In exceptional situations, in connection with undertaking of a criminal or civil case, such information can be provided to pre-trial bodies or court, in the manner provided for in the legislation of the Azerbaijan Republic.

Article 12. Transferring of the Protected Person to Another Work, Changing His Place of Work/Study, Moving Him/Her to Another Place of Residence

Upon request or with consent of the protected persons, such persons can be temporarily or permanently transferred to another work or moved to another place of residence, and their place of work or study be changed.

The aforementioned measures should be implemented without violating the rights to housing, work, pension, etc. of the protected persons.

The persons, temporarily moved to another place of residence, shall preserve the accommodation, which is their property or permanent residence.

Article 13. Changing of Documents and Appearance of the Protected Person

If security of the protected persons cannot be ensured by other means, upon their consent and in exclusive cases, they may be issued an ID with amended data and other documents, and their appearance be changed.

Article 14. Conducting of Closed Court Sessions in the Order Defined by the Legislation, Provided the Protected Person Participates There

Where it is required for security of the protected persons, conduct of a closed court session shall be allowed by decision of the judge (court), in the order provided for in the criminal procedure legislation of the Azerbaijan Republic. For questioning of these persons without participation of the accused, the judge (court) shall adopt a motivated decision on the matter. Under such motives, the accused can be questioned separately from each other.

Article 15. Ensuring of Security of Military Servants

Security of military servants shall be ensured in the order defined by this Law, considering the military service undertaken by such people. For ensuring security of military servants, the following measures can also be taken:

1. Seconding to another military unit or military institution;
2. Transferring to a new service place

Article 16. Ensuring of Security of the Protected Persons Kept in Investigation Jails or Prison Facilities

In connection with investigation of a criminal case, or a criminal case undergoing judicial proceedings, provisions of the present Law shall be applied for ensuring of security of the protected persons which are kept in investigation jails or prison facilities. For ensuring security of such persons, the following measures can also be taken:

- 1) Transferring from one investigation jail or prison facility to another;
- 2) Keeping them either separately or in a solitary cell;
- 3) Amending the specified preventive punishment in the manner provided for in the criminal procedure legislation of the Azerbaijan Republic.

CHAPTER III. Implementation and Cancellation of Security Measures Undertaken With Respect to the Protected Persons

Article 17. Implementation of Security Measures

Ascertained by the bodies ensuring security, the real information on existing risks of murderous assaults or violence carried out with regard to the persons protected for providing assistance to the judicial proceedings on the criminal case, as well as on destruction or damaging of property of such persons, shall serve as a basis for implementation of security measures.

Appeals and petitions on implementation of security measures for protection of the persons participating in the criminal procedure should without any delay be considered by the body undertaking the legal procedure, not later than 72 hours after the petitions are received. Results of consideration of the petition or appeal should immediately be communicated to the petitioner, and the body undertaking the criminal procedure, should send him/her a copy of the relevant decision.

The petitioner shall have a right to file a complaint with the court within 5 days after receiving a copy of decision on rejection of the petition or application on implementation of security measures for his/her protection, or apply to the court for implementation of security measures, if no copy of relevant decision of the body undertaking the criminal procedure is received upon expiration of a 7 day period.

The body undertaking security measures, shall provide the body undertaking the criminal procedure with information on implementation of such measures and results of the implementation, and when the cases exerting risk on security of the protected persons are prevented, petition for cancellation of the security measures.

Article 18. Cancellation of Security Measures

Security measures shall be cancelled in the following cases:

1. Upon expiration of the period for implementation of security measures;
2. Upon prevention of the existing risk;
3. Based on application of the person, with regard to whom the security measures were undertaken;
4. Upon continuous failing of the protected person to fulfill legal instructions of the bodies undertaking security measures, despite written warnings.

Where the above grounds exist, a motivated decision on cancellation of security measures shall be adopted and a written notice sent to the protected person.

The protected person can appeal against the decision to either the Public Prosecutor's Office or Court. The appeal should be considered without any delay.

The adopted decision shall be communicated to the appellant within 3 days.

CHAPTER IV. Rights and Responsibilities of the Protected Persons and the Bodies Ensuring Security

Article 19. Rights and Responsibilities of the Protected Persons

The protected persons shall have the right to:

1. receive information on security measures to be implemented with regard to him/her;
2. petition for implementation of security measures, or stopping their cancellation;
3. require the bodies undertaking the security measures, to implement also other measures (in addition to those in progress) stipulated in this Law, or to cancel one of the implemented measures;
4. file a complaint with the Public Prosecutor's Office or court (judge) on illegal decisions or actions of officials undertaking security measures.

The protected persons shall have the following responsibilities:

1. Undertaking of terms of security measures implementation and legal requirements of the bodies ensuring security;
2. Informing immediately the bodies ensuring security, on illegal actions directed against him/her or on any expected danger;
3. Using in the manner, defined in the legislation of the Azerbaijan Republic, the property provided to him/her by the bodies undertaking security measures, for ensuring own security;
4. Not distributing of information on the security measures undertaken with regard to him/her, without permission of the bodies ensuring his/her security.

Article 20. Rights and Responsibilities of the Bodies Ensuring Security

The bodies, decided on undertaking of security measures, shall have the right to:

1. require necessary materials and receive explanations, in order to establish grounds for implementation of security measures;
2. require the bodies, undertaking security measures, to implement additional measures, where necessary;
3. cancel fully or partially the security measures, coordinating with the bodies undertaking security measures.

The bodies undertaking security measures, shall have the following responsibilities:

1. Determination of security measures and their implementation tools, and where necessary, amendment of the implemented measures;
2. Requiring the protected persons to fulfill the terms of security measures implementation, and in connection with carrying out such measures, to undertake legal instructions of officials of the bodies ensuring security;
3. Submitting to the inquest body, investigator, public prosecutor or judge (court), involved in examination of the criminal case, a petition on implementation of security measures with regard to the protected person, or cancellation of the implemented security measures

The bodies ensuring security, shall have the following responsibilities:

1. Upon receipt of information on illegal actions against the protected person, taking immediate response measures to prevent such cases;

2. Ensuring of personal immunity and inviolability of the home and property of the protected person through taking security measures, provided for in this Law;
3. Informing timely the protected person on decisions, adopted with regard to amending or canceling of the security measures.

CHAPTER V. Final Provisions

Article 21. Obligation of Fulfillment of a Decision on Security Measures Implementation

Fulfillment of a decision forwarded by the bodies, ensuring security, to enterprises, institutions and organizations, shall be obligatory for officials of such bodies.

Article 22. Implementation of Social Protection Measures with regard to the Protected Person

Upon death of the protected person in the course of rendering assistance to conduct of investigation on the criminal case or judicial procedure, each member of his/her family, as well as the person being his/her dependant shall be paid from the state budget a lump-sum allowance amounting to one hundred times of the minimal salary rate, in compliance with decision of the body decided on undertaking of security measures.

If the protected person becomes handicapped due to bodily injuries caused in the course of rendering assistance to conduct of investigation on the criminal case or judicial procedure, he/she shall be paid from the state budget a lump-sum allowance amounting to fifty times of the minimal salary rate, in compliance with decision of the body decided on undertaking of security measures. Damage caused to property of the protected person due to above reasons, shall be indemnified in the order stipulated by the legislation of the Azerbaijan Republic.

Article 23. Funding of and Logistical Support to Security Measures

Funding of and logistical support to the security measures specified in this Law, shall be carried from the state budget, as well as from the personal funds of the protected person, where he/she provides his/her written consent.

Article 24. Liability for Violation of the Law

Both the legal entities and the individuals shall be kept liable for violation of the present Law, in the order provided for in the Legislation of the Azerbaijan Republic.

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President of the Azerbaijan Republic

Baku, December 11, 1998

№ 585-ІГ

Published in "Collection of Legislative Acts of the Azerbaijan Republic", 1999, № 2, Article 56 («VneshExpertService»).

With amendments № 333-ІІГД as of May 24, 2002, and № 598-ІІГД as of March 5, 2004 («VneshExpertService»).