## ON BEHALF OF THE REPUBLIC OF AZERBAIJAN

# DECISION

**OF THE CONSTITUTIONAL COURT**

**OF THE REPUBLIC OF AZERBAIJAN**

*On Interpretation of Article 3.3 of the Law of the Republic of Azerbaijan*

*“On Enterprises Limited”*

**8 September, 1999 Baku city**

The Constitutional Court of the Republic of Azerbaijan composed of Kh.Hajiyev (Chairman), Judges: F.Babayev, R.Gvaladze (Reporter Judge), E.Mamedov, S.Salmanova, A.Sul­tanov, B. Garibov;

joined in the proceedings by: the Court Clerk I.Ismayilov;

the legal representative of the subject interested in special constitutional proceedings: F. Mamedov, Head of the Department of state registration of legal entities of the Ministry of Justice of the Republic of Azerbaijan;

specialists: B. Asadov, Doctor of Law, Judge of the Supreme Court;

in accordance with Article 130.4 of the Constitution of the Republic of Azerbaijan has examined in open judicial session via procedure of special constitutional proceedings the case by the petition of the Cabinet of Ministers of the Republic of Azerbaijan of June 21, 1999, N 18/15-77 on interpretation of Article 3.3 of the Law of the Republic of Azerbaijan “On Enterprises Limited”.

Having heard and discussed the report of Judge R. Gvaladze, the statement of the legal representative of the subject interested in special constitutional proceedings, F. Mamedov, opinions of the specialist, B. Asadov, the Constitutional Court of the Republic of Azerbaijan

**DETERMINED AS FOLLOWS:**

In Article 3.3 of the Law of the Republic of Azerbaijan “On Enterprises Limited”, adopted on December 29, 1998, it is specified: “the name of the enterprise belongs only to enterprise. The state registration of the enterprise with the same name or enterprise with the name distinguishable by the figure in the beginning or at the end of name shall be inadmissible".

The Cabinet of Ministers of the Republic of Azerbaijan in its petition emphasizing the complexity in application of provisions of the mentioned Law asks for interpretation of Article 3.3 of this Law.

In connection with the petition, the official texts of Article 3 of the Law “On Enterprise Limited”, Articles 6 of the Law “On Banks and Banking Activity in Azerbaijan Republic”, Article 12 of the Law “On Mass Media”, Articles 7 of the Law “On Political Parties”, Article 11 of the Law “On Public Organizations”, certified by the Administration of Milli Majlis of the Republic of Azerbaijan are enclosed to the case.

In connection with petition the Constitutional Court notes that according to Article 94.1.10 of the Constitution of the Republic of Azerbaijan the Milli Majlis of the Republic of Azerbaijan shall determine the general rules as to the status of physical and legal persons.

Establishing these rules, the Milli Majlis of the Republic of Azerbaijan in some laws relating to issues of the status and powers of the legal persons provided for inadmissibility of state registration of separate categories of the persons having the same names.

Thus, Article 6.1 of the Law of the Republic of Azerbaijan “On Banks and Banking Activity in Azerbaijan Republic” states that “The using of the same name by different credit organizations shall be inadmissible ”.

According to Article 12.1.4 of the Law of the Republic of Azerbaijan “On the Mass Media”, mass media shall be refused in registration, if the given registration body had registered earlier the mass media unit with the same name and form of distribution.

The similar provisions found their reflection in the Law “On Political Parties” and “On Public Organizations”.

Thus, from above-stated it is seen, that the establishment of limitations connected with the name of the legal person relate to powers of the Milli Majlis of the Republic of Azerbaijan. The prohibition connected with the name of the enterprise stipulated in Article 3.3 of the Law of the Republic of Azerbaijan “On Enterprises Limited” do not limit legal capability, the circle of activity of the enterprise limited but only establishes the protection of consumers’ rights.

Taking into account all the above, the Constitutional Court of the Republic of Azerbaijan considers that while applying Article 3.3 of the Law of Azerbaijan Republic “On Enterprises Limited” it is necessary to take into account that the name of the enterprise limited should be different from the name of other enterprise which had been registered by the state earlier.

Being guided by Article 130.4 of the Constitution of the Republic of Azerbaijan and Articles 75, 76, 78, 80-83, 85 of the Law “On Constitutional Court”, the Constitutional Court of the Republic of Azerbaijan

### DECIDED:

1. While applying Article 3.3 of the Law of the Republic of Azerbaijan “On Enterprises Limited” it is necessary to take into account that the name of the enterprise limited should be different from the name of other enterprise which had been registered by the state earlier.

2. The decision comes into force from the date of its publication.

3. The decision is subject to publication in the “Azerbaijan” newspaper and “Bulletin of the Constitutional Court of the Republic of Azerbaijan”.

4. The decision is final and cannot be cancelled, changed or interpreted by any body or official.