## ON BEHALF OF THE REPUBLIC OF AZERBAIJAN

# DECISION

### OF THE CONSTITUTIONAL COURT

### OF THE REPUBLIC OF AZERBAIJAN

*On Interpretation of Provision of Article 29.1 of the Law of the Republic of Azerbaijan “On Elections to the Milli Majlis of the Republic of Azerbaijan”*

**28 August, 2000 Baku city**

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

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

the legal representatives of the subjects interested in special constitutional proceedings: Sh. Aliyev, Head of the Legislation and Legal Expertise Department of the President’s Administration of the Republic of Azerbaijan; S.Mirzoyev, Head of Administration of Milli Majlis of the Republic of Azerbaijan;

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 submitted by the petition of the President of the Republic of Azerbaijan of August 21, 2000, N 1/614 on interpretation of Article 29.1 of the Law of the Republic of Azerbaijan “On Elections to the Milli Majlis of the Republic of Azerbaijan” in connection with Article 149.7 of the Constitution of the Republic of Azerbaijan.

Having heard and discussed the report of Judge R. Gvaladze, the statements of the legal representatives of the subjects interested in special constitutional proceedings Sh. Aliyev and S. Mirzoyev and having considered the materials of the constitutional case, the Constitutional Court of the Republic of Azerbaijan

**DETERMINED AS FOLLOWS:**

According to Article 29.1 of the Law of the Republic of Azerbaijan “On Elections to the Milli Majlis of the Republic of Azerbaijan” the political party, established in accordance with the legislation of the Republic of Azerbaijan, which intends to take part in elections and had obtained registration certificate in relevant body of the Executive at latest 6 months prior the announced day of elections is to be registered in Central Election Commission. At the same time according to Article 149.7 of the Constitution of the Republic of Azerbaijan “Normative legal acts improving legal situation of physical persons and legal entities, eliminating or mitigating their legal responsibility have reverse power. Other normative legal acts have no reverse power”.

In this regard the President of the Republic of Azerbaijan submitted a petition to give interpretation whether Article 149 of the Constitution of the Republic of Azerbaijan covers Article 29.1 of the Law of the Republic of Azerbaijan “On Elections to the Milli Majlis”.

In connection with the petition, the official text of Article 29.1 of the Law “On Elections to the Milli Majlis of the Republic of Azerbaijan”, certified by the Administration of Milli Majlis of the Republic of Azerbaijan are enclosed to the case.

The Constitutional Court notes, that the development of society creates the need to adopt the new normative acts and laws as well as to amend the existing ones. According to the general rule, the adopted normative acts have no reverse (retroactive) power and they cover only relations which arose only after mentioned acts had entered into force. The mentioned rule creates belief in stability of relations between subjects of law and strengthening of legal order. However, the possibility for the law to have a reverse force is not excluded. The normative legal act which improves the legal situation of physical persons and legal entities, protects their rights and freedoms on higher level, might have reverse power. This provision is reflected in Article 149.7 of the Constitution of the Republic of Azerbaijan. According to the same Article, normative legal acts which aggravate (change for the worse) the legal situation of physical persons and legal entities have no reverse power.

The guarantee which is envisaged in the Constitution of the Republic of Azerbaijan of reverse force of the normative legal act improving the legal situation of persons, covers all the fields of law including the Law “On Elections to the Milli Majlis”. Article 29.1 of the same Law provides that the political party, established in accordance with the legislation of the Republic of Azerbaijan, which intends to take part in elections and had obtained registration certificate in relevant body of the Executive at latest 6 months prior to the announced day of elections is to be registered in Central Election Commission. According to Article 34 of the Law “On Elections to the Milli Majlis” adopted on August 12, 1995, the political parties (blocs of political parties) which had been registered via procedure, envisaged by law, not later than 70 days prior to the elections day can take part in elections.

As it is seen from the above stated, the same legal relations are regulated in different ways and this fact creates the need to interpret Article 29.1 of the Law of the Republic of Azerbaijan “On Elections to the Milli Majlis of the Republic of Azerbaijan” in connection with Article 149.7 of the Constitution of the Republic of Azerbaijan.

The question raised in the petition of the President of the Republic of Azerbaijan is aimed at regulation of rights and guarantees enshrined in the Constitution of the Republic of Azerbaijan during elections.

Being guided by Article 130.4 of the Constitution of the Republic of Azerbaijan and Articles 65, 66, 75, 76, 78, 81, 83, 85 of the Law “On Constitutional Court”, the Constitutional Court of the Republic of Azerbaijan

### DECIDED:

1. In accordance with Article 149.7 of the Constitution the provisions of Article 29.1 of the Law of the Republic of Azerbaijan “On Elections to the Milli Majlis” cover only the political parties which had been established in accordance with the legislation of the Republic of Azerbaijan and obtained the registration certificate in relevant body of the Executive after the mentioned Law had entered into force.

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.