

LAW OF THE REPUBLIC OF AZERBAIJAN ON DEFAMATION

I. GENERAL PROVISIONS

Article 1. Purpose of the Law

1.1. The purpose of this Law is to protect reputation (honor, dignity and business reputation) of natural and legal persons (hereinafter “persons”) from dissemination of defamatory information without restriction of freedom of expression.

1.2. No provision of this Law must be interpreted as one aimed at the restriction of freedom of expression.

Article 2. Scope of the Law

2.1. This Law shall govern relations arising in connection with dissemination of defamatory information not corresponding to the truth, and determine ways for protection of reputation of persons, rules for settlement of defamation disputes, and liability for defamation.

2.2. Provisions of this Law shall also apply to cases of bringing discredit on reputation of a person in result of deliberately incomplete dissemination of factual information corresponding to the truth.

2.3. Provisions of this Law shall not apply to relations arising in connection with dissemination of defamatory information not corresponding to the truth in official documents and applications to state authorities in respect of which a special way to lodge a complaint is stipulated by legislation of the Republic of Azerbaijan.

Article 3. Basic definitions

3.1. Definitions used in this Law reflect the following meanings:

3.1.1. **Reputation** – the public opinion (judgement) formed about persons based on personal, social, moral, business and professional characteristics of a natural person, and social, political, economic and other activities of a legal person;

3.1.2. **Defamation** – bringing discredit on reputation of a person by dissemination of defamatory information not corresponding to the truth, or by deliberately incomplete dissemination of factual information corresponding to the truth;

3.1.3. **Defamatory information** – data with factual contents which have an influence on reputation of persons by changing the public opinion (judge) about persons formed in the society in the direction unfavorable for them or by forming a negative opinion about them, lead to diminishing or losing of respect for them, are presented by their language styles as confirmed facts truthfulness of which can be affirmed or refuted;

3.1.4. **Information of public interest** – data related to political, economic, social, cultural, ecological and other fields of life of the state and society, to public security, health and morals as well as to the activities of state authorities and municipalities, their officials, public and municipal servants, political and public figures;

3.1.5. **Dissemination** – communicating information orally, in writing and by other means to another person, several persons or group of persons (excluding a person whom the information is related to);

3.1.6. **Moral damage** – moral or physical anguishes which a natural person suffers from in result of dissemination of defamatory information not corresponding to the truth;

3.1.7. **View** – an opinion (judgment) reflecting subjective thoughts, evaluations, assumptions and conjectures about events, facts, institutions, persons and their activities which has no factual

contents and is presented in the form, including satirical and humorous forms, which does not allow to interpret it as information on specific facts truthfulness of which can be affirmed or refuted by their language styles;

3.1.8. Conscientious interpretation – a situation in which editorial staff (a managing editor) or a journalist uses all possible means and/or makes an attempt to do so in order to determine truthfulness of information before disseminating it and/or fails to achieve this owing to causes not depending on him/her.

Article 4. The right to protect reputation

4.1. Except for cases referred to in Articles 12.4 and 12.5 of this Law any person has the right to protect himself/herself from dissemination of defamatory information not corresponding to the truth as well as from deliberately incomplete dissemination of factual information corresponding to the truth (hereinafter “dissemination of defamatory information”);

4.2. The right to protect reputation shall correspond to freedom of expression.

II. MEANS TO PROTECT REPUTATION

Article 5. Means for protection of reputation

5.1. Protection of reputation shall be carried out only by the following means of civil law:

5.1.1. a reply;

5.1.2. refutation;

5.1.3. an apology;

5.1.4. liability.

Article 6. A reply and refutation

6.1. A way to reply to and to refute defamation can be determined by a mutual agreement of parties or by a court.

6.2. In cases when defamatory information has been disseminated in mass media a way to publish (broadcast) a reply or refute the information shall be determined by the Law on Mass Media and other laws.

6.3. Defamatory information which has been included in an official document shall be refuted by making changes in that document (except for cases referred to in Article 2.3 of this Law).

6.4. In cases when determination of a person disseminated defamatory information is impossible that information can be considered as not corresponding to the truth by request of a person in respect of which such information was disseminated.

6.5. In cases of release from liability by reasons stipulated in Articles 11.1 and 11.3 of this Law by request of a person in respect of which defamatory information was disseminated a court can oblige a person disseminated that information to refute them.

Article 7. Apology

7.1. Apologizing for defamation can be used in cases when an agreement has been achieved between parties about application of non-judicial forms of dispute settlement.

7.2. In cases when defamatory information has been disseminated in mass media a way to apologize shall be determined by the Law on Mass Media and other laws.

7.3. In other cases of dissemination of defamatory information a way to apologize shall be determined in the agreement on peaceful settlement by a mutual consent of parties.

Article 8. General rules of liability

8.1. Persons shall bear only civil liability for defamation.

8.2. Damage caused in result of defamation shall be compensated in the manner provided by the Civil Code of the Republic of Azerbaijan and this Law.

Article 9. Subjects of liability

9.1. Subjects of liability for defamation shall be the following:

9.1.1. In cases when defamatory information has been disseminated in mass media – a journalist prepared that information; and when the information has been given as editorial material or anonymous – editorial staff or a managing editor of relevant mass media;

9.1.2. In cases when defamatory information has been disseminated through public speech – a person having made that speech;

9.1.3. In cases when defamatory information has been disseminated through works having been published, performed or demonstrated – an author of that work;

9.1.4. In cases when defamatory information has been disseminated in other forms designed to deliver it to an indefinite number of persons – a person having prepared that material;

9.1.5. In cases when defamatory information has been disseminated by state authorities, municipal bodies, offices, enterprises, organizations, political parties and non-governmental organizations or their press departments as well as information agencies – relevant institutions;

9.1.6. In cases when defamatory information has been disseminated in official documents – a body having made that document or a person having signed it;

9.1.7. In cases when defamatory information has been disseminated through Internet – a person who has given a special consent for downloading that information or has downloaded it as his/her own information;

9.1.8. In other cases of dissemination of defamatory information – a person having disseminated that information.

Article 10. Compensation for damage

10.1. A person about whom defamatory information has been disseminated has a right to claim compensation for material and moral damage caused him/her in result of dissemination of that information.

10.2. Material damage (real damages or lost profits) that a person incurs in result of dissemination of defamatory information shall be compensated fully, provided that a plaintiff proves damage has been caused in result of dissemination of relevant defamatory information.

10.3. Material damage that a natural person incurs in result of dissemination of defamatory information shall be compensated in the monetary form, provided that a plaintiff proves he/she has lost his/her respect in the society, provokes hatred, is in derision or causes others to avoid contacts with him in result of dissemination of defamatory information.

10.4. Monetary compensation for moral damage is independent of compensation for material damage.

10.5. Maximum amount of monetary compensation for moral damage shall not be more than 2500 times the amount of the conditional monetary unit.

Article 11. Release from liability

11.1. If information resulted in defamation dispute has been:

11.1.1. taken from data disseminated by state authorities, municipal bodies, offices, enterprises, organizations, political parties and non-governmental organizations or their press departments as well as information agencies, and has not been refuted;

11.1.2. taken from another mass media output including Internet and has not been refuted;

11.1.3. sounded at sittings of Milli Majlis, municipal boards and commissions, and judicial bodies;

11.1.4. repeated literally in speeches or interviews of various persons;

11.1.5. taken from official documents including those of international organizations or from judicial acts;

11.1.6. stated in speeches made during live broadcasting programs or in texts which need not to be edited according to Law on Mass Media,

– a person disseminated that information shall not be liable for this.

11.2. In cases when information resulted in defamation dispute is considered as a view, satire or humor their authors and spreaders shall not be liable.

11.3. The fact that information resulted in defamation dispute is considered as that of public interest or conscientious interpretation can be a reason for persons disseminated them to be released from liability.

11.4. Organizations a function of which is to provide technical access to Internet, delivery of information through Internet, or maintenance of Internet sites shall not be liable for dissemination of defamatory information in Internet sites, provided that they have not given a special consent for dissemination of that information or have not disseminated it as their own information.

III. DEFAMATION DISPUTES

Article 12. Bringing a defamation dispute

12.1. In order to protect his/her reputation a person about whom defamatory information has been disseminated can bring a defamation dispute by applying directly to a person disseminated such information or to a court, and in cases when that information has been disseminated in mass media to editorial staff of relevant mass media and to self-regulatory bodies of press.

12.2. For protection of reputation of minors and persons whose disability has been confirmed by a court their legal representatives (guardians) can bring a defamation dispute.

12.3. For protection of reputation of a natural person after his/her death his/her legal successors can bring a defamation dispute.

12.4. No one can bring a defamation dispute for protection of reputation of the state, its symbols, state bodies, enterprises, offices and organizations as well as municipalities.

12.5. In cases of dissemination of defamatory information about certain groups of persons a defamation dispute can be brought by members of that group having proved that disseminated data and opinions namely regard them.

Article 13. Ways for settlement of defamation disputes

13.1. Defamation disputes can be settled in non-judicial and judicial forms.

13.2. Using of a non-judicial form of dispute settlement can not be considered as a primary condition for bringing a defamation dispute before the court.

Article 14. Non-judicial settlement of defamation disputes

14.1. Until bringing a defamation dispute before the court or at any stage of trial until a court decision having been taken parties can reach an agreement to use a non-judicial form of dispute settlement.

14.2. Parties shall sign an agreement on peaceful settlement in the case of reaching an agreement to use a non-judicial form of dispute settlement provided that they observe requirements of this Law.

14.3. Judicial proceeding on the case shall be ceased if parties have reached an agreement to use a non-judicial form of dispute settlement after bringing a defamation dispute before the court.

14.4. A defamation case can be brought before the court newly if terms of an agreement on peaceful settlement are not observed, regard being given to requirements of Article 15 of this Law.

Article 15. Judicial settlement of defamation disputes

15.1. A person can bring a defamation dispute before the court by applying to it within 6 months from the day when defamatory information has been disseminated.

15.2. Settlement of defamation disputes in the court shall be carried out in accordance with civil procedural legislation, regard being given to provisions of this Law.

Article 16. Questions of presumption

16.1. Information having caused defamation dispute is considered as not corresponding to the truth unless a person disseminating it proves to the contrary except for cases when information of public interest is disseminated in mass media.

16.2. Information having caused defamation dispute is considered as not corresponding to the truth unless a person disseminating it proves to the contrary except for cases when information of public interest is disseminated in mass media. All doubts regarding to whether data are defamatory or constitute a view, satire or humor shall be solved in favor of the latter.

16.3. If doubts exist in connection with whether information having caused defamation dispute is information of public interest or no it shall be considered as that of public interest.

Article 17. Protection of a source of information

17.1. In defamation disputes a managing editor responsible for publication (broadcasting) of information in mass media output and/or journalist must not be compelled to disclose a source of information.

17.2. In defamation disputes an editor and/or journalist shall not be liable for non-disclosure of source of information.

Article 18. Entry of the Law into force

This Law shall enter into force from date of publication.