



**OPINION ON THE REVISED DRAFT LAW OF THE  
REPUBLIC OF ARMENIA ON THE PROCEDURE OF  
CONDUCTING GATHERINGS, MEETINGS, RALLIES  
AND DEMONSTRATIONS**

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## **OPINION ON THE REVISED DRAFT LAW OF THE REPUBLIC OF ARMENIA ON CONDUCTING MEETINGS, ASSEMBLIES, RALLIES AND DEMONSTRATIONS**

### **Introduction**

The revised draft is a significant improvement on its predecessor both in terms of the structural organisation and the removal of a number of problems that had been identified, either through the deletion or modification of the provisions concerned. It does appear as if comments made about the previous draft have been taken seriously. However, although the current draft is now much more acceptable, it continues to be problematic in the approach taken to authorisation/notification since there is still no room for spontaneous mass events and there is still no duty to try and overcome potential problems from matters such as traffic congestion and competing demonstrations through effective policing techniques. Although some difficulties regarding counter-protest may have been mitigated, there continues to be no sense that this is a legitimate activity subject only to concerns about the maintenance of public order. It would be desirable for the notification/authorisation requirement to be modified so that authorisation was only needed where the authorised body actually identified problems that required the organisation of the gathering to take account of specific policing needs and for prohibition to be used only if problems could not be addressed through policing. Other points noted below could also usefully be addressed.

### **Article 1**

Paragraph 1 now helpfully has the definition of ‘citizen’ in it so that the possibility of confusion as to those governed by the draft law should be avoided.

Paragraph 2 is more straightforward, even if still a little repetitive.

### **Article 2**

This meets the concern for an early and comprehensive definition section and its content is generally clearer but the ‘peaceful and equitable’ element of the definition of ‘public event’ is redundant in view of Article 1. The definition of ‘place of general use’ is now much clearer but the use of purposes to characterise ‘public events’ is retained. The definition of ‘participant’ meets concerns that were raised but the definition of ‘rallies’ still does not clarify the point about a clear starting point where transportation is involved (this is significant if the event is not authorised) and the conception of ‘celebrations’ etc is no clearer.

### **Articles 3 and 4**

These are much more straightforward provisions for ‘other events’ than before but concerns about the differential treatment of these and ‘public events’ remain.

## **Article 5**

The dropping of the provision about citizens hindering demonstrations means that a potential obstacle to counter-demonstrations is removed.

Paragraph 5 reduces the deadline for changes in organiser and so increases flexibility on this point.

Paragraph 6 still lacks clarification on the meaning of being ‘present’

## **Article 6**

The duty of ensuring observance of public ethics is happily deleted.

Paragraph 1(1) still does not use ‘propose’ rather than ‘choose’ in respect of the intended location for a gathering and the potential problem for counter-protest in the formulation of paragraph 1(3) remains. It is still not clear from paragraph 1(6) whether the organiser’s power of publicity is a bar on others publicising a gathering.

Paragraph 2(3) now embodies an appropriate relaxation of the duty to ensure compliance with the law.

Paragraph 3 appropriately mitigates the requirement for organisers to be present but there is still no reasonable excuse defence for absence.

## **Article 7**

Paragraph 2 helpfully clarifies the permissibility of using loudspeakers and paragraph 6 adopts a more measured approach to the circumstances in which they (and shouting and declaiming) may be prohibited and the use of ‘proximity’ is preferable to ‘surroundings’.

It remains uncertain whether a reasonable excuse defence is available for breach of the duties imposed on participants in paragraph 7.

## **Article 8**

The heading is appropriately refocused but I still have reservations about the location of this provision, although these are not serious given the other improvements. The deletion of the reference to the demonstration of ‘arms’ etc is welcome.

Paragraph 2(5) and Article 14(3) now give formal primacy to the police role in termination but given that the authorised representative continues to be present it remains to be seen whether this will be a change of form or substance.

## **Article 9**

The removal from paragraph 1 of the absolute bar on children organising mass public events is welcome but it ought to be clarified that they can also organise non-mass

ones. There is no clarification as to when the police and national security employees can organise/participate in public events.

The prohibited places are now more clearly defined in paragraph 3 and the degree of proximity is also more appropriate but the actual scope of special areas and areas of significance remains unclear (at least to me). The total bar on the use of bridges to which the Venice Commission objected is perhaps a little excessive but is likely to be found acceptable by the European Court if there are places nearby that are still available for a gathering in which the bridge is a material consideration.

### **Article 10**

The heading is now clearer as is the organisation of the provision but there is still no indication in it that authorisation is actually needed.

The exception from notification in paragraph 3 for election gatherings continues to show that public order is not the dominant consideration in the use of notification/authorisation.

Paragraph 4 does not meet the concern about the lack of scope for spontaneous mass gatherings in the notification requirement; this does not entail abandoning it but making it dependent upon it being reasonably practicable.

### **Article 11**

The relaxation of the notary requirement in paragraph 4 is welcome.

### **Article 12**

This continues to be structured in a way that presumes that a case needs to be made for holding a gathering rather than that there is a need to show why one cannot be held.

Paragraph 1 still has no duty to notify an organiser of concerns about a proposed gathering.

Paragraph 5 refers to paragraph 6 but may mean paragraph 8.

Paragraph 7 has a clearer system for giving notice of a decision.

Paragraph 8 has a more certain deadline for decision-making but does not meet my concerns (para 57 of the first opinion) about the ability to rely on the absence of a decision and there appears to be no deadline for decisions once consideration of a notification has been delayed.

### **Article 13**

Paragraph 1 continues to preclude two gatherings in the same place at the same time without first requiring consideration of whether it would be feasible to hold both of them. The insistence on all organisers having the right to organise is unnecessary if

there are some who can organise since there would have been no ground for refusal if only they had applied. The test for disruption of traffic is still too vague but, although that for danger to life is better, there is still no sense of scale to the confrontation that must be anticipated before refusal is allowed. The whole provision is flawed as it still assumes that prohibition is automatic instead of requiring consideration of whether potential problems can be met through policing.

The time-limit for a court verdict in paragraph 3 is now much clearer.

Paragraph 7 happily drops the need for fresh notification where the authorised body makes alternative proposals.

#### **Article 14**

The measures available for compulsory termination remain unclear.

Paragraph 4 introduces a welcome sense of proportionality to termination decisions.

#### **Article 15**

It remains unclear whether concerns about penalties have been addressed but those about civil liability for organisers and participants do appear to have been met by the dropping of the provision.

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