

**AZERBAIJAN'S PERSECUTION OF RFE/RL  
REPORTER KHADIJA ISMAYILOVA**

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**HEARING**

BEFORE THE

**COMMISSION ON SECURITY AND  
COOPERATION IN EUROPE**

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

DECEMBER 16, 2015

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## **AZERBAIJAN'S PERSECUTION OF RFE/RL REPORTER KHADIJA ISMAYILOVA**

**December 16, 2015**

COMMISSION ON SECURITY AND COOPERATION IN EUROPE  
WASHINGTON, DC

The hearing was held at 2 p.m. in room 2200, Rayburn House Office Building, Washington, DC, Hon. Christopher H. Smith, Chairman, Commission on Security and Cooperation in Europe, presiding.

*Commissioners present:* Hon. Christopher H. Smith, Chairman, Commission on Security and Cooperation in Europe; Hon. Benjamin L. Cardin, Ranking Member, Commission on Security and Cooperation in Europe; Hon. Robert B. Aderholt, Commissioner, Commission on Security and Cooperation in Europe; Hon. John Boozman, Commissioner, Commission on Security and Cooperation in Europe; and Hon. Randy Hultgren, Commissioner, Commission on Security and Cooperation in Europe.

*Witnesses present:* Nenad Pejic, Vice President/Editor-in-Chief of Programming, RFE/RL; Delphine Halgand, U.S. Director, Reporters Without Borders; T. Kumar, International Advocacy Director, Amnesty International USA; and Shelly Han, Policy Adviser, Commission on Security and Cooperation in Europe.

### **HON. CHRISTOPHER H. SMITH, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

Mr. SMITH. [Sounds gavel.] The Commission will come to order, and good afternoon to everybody. I want to thank you all for being here today to discuss the terrible plight of political prisoners in Azerbaijan, and in particular the imprisonment of journalist Khadija Ismayilova.

Khadija has done some very hard-hitting investigative reports on corruption at the highest levels in Azerbaijan. Khadija's reporting hit its mark, and the security services in Azerbaijan tried to intimidate Khadija from future reporting. They tried to blackmail her with compromising information. They threatened her with arrest. And she was always under watch. But Khadija stood firm and stayed focused on her important work. In December of 2014, however, she was arrested, and is now paying the price for her exemplary journalism with the loss of her freedom.

The government convicted her on spurious charges of embezzlement, illegal entrepreneurship, tax evasion, and abuse of power. She is now serving a seven-and-a-half-year sentence in a women's prison in Baku.

Much of Khadija's reporting was done as a journalist for the U.S.-funded Radio Free Europe/Radio Liberty. This means that the U.S. Government has a special obligation to do everything it can to secure Khadija's release. That means our government must take every opportunity, must leave no stone unturned, in the effort to secure her release. The State Department must make Khadija's release a true diplomatic priority, not a talking point on page two of issue briefers.

One of the questions we will pursue today is whether or not, and to what extent our witnesses believe our government is doing just that. At this point, I would say we did invite the State Department to present testimony today. Unfortunately, the appropriate witnesses are on official travel this week, so we will circle back and meet with them in the very near future.

Human rights organizations have documented Azerbaijan's crackdown on civil society over the last three years. Just yesterday the Committee to Protect Journalists released its annual report, and in the report they find that Azerbaijan now leads all of the countries in Eurasia in jailing journalists.

In 2015, Azerbaijan jailed eight journalists. Today we are focused on Khadija's case, but there are dozens of other political prisoners, including journalists, sitting in a jail cell in Azerbaijan.

Judicial processes against political prisoners are often farcical. In Khadija's case, the prosecutors charged her initially with, quote, "incitement to suicide." Their case completely collapsed when their witness retracted. The prosecutor also charged that she had illegally signed service agreements with Radio Free Europe/Radio Liberty employees. The prosecution never produced any of the 11 agreements they said she had signed, and the four witnesses called to testify for the government's case denied that they had signed such agreements with Khadija.

Today is the one-year anniversary of Anar Mammadli's sentencing. Anar is the courageous head of EMDS, the leading election monitoring organization in Azerbaijan. He spoke the truth about the fraudulent 2016 presidential election and is still paying the price. I met with Anar's father, a very gentle man, just a few months after Anar was arrested. And so many in his family are truly suffering from his incarceration.

I'd like to mention just a few of the political prisoners—and unfortunately, as I said, there are many.

Ilgar Mammadov. This opposition politician was severely beaten in jail on October 16th. Despite winning a European Court of Human Rights case that said his prosecution was politically motivated, the government of Azerbaijan will not set him free.

Intigam Aliyev. This leading human rights lawyer is now serving a seven-and-a-half-year prison sentence for his work seeking justice for political prisoners.

Rasul Jafarov. This human rights activist is serving six-and-a-half years because the government would not register his NGO.

There are many, many more, including those who have peacefully practiced their religion. In total, the Norwegian Helsinki Commission estimates that there are 80 political prisoners in Azerbaijan.

Over the years, the human rights situation has seriously deteriorated in Azerbaijan, causing damage to its relations with the United States and other countries, and damaged its own society by imprisoning or exiling some of the best and the bravest and the brightest of that country. The time has come to send a clear message.

Today, the Council of Europe is sending the same message to Azerbaijan. The secretary-general announced that he is investigating the human rights situation in Azerbaijan to determine whether or not Azerbaijan is meeting their Council of Europe commitments. This is a very rare step for the Council of Europe, and it's the first time that this secretary-general has launched this type of inquiry.

A few weeks ago, Azerbaijan gave medical parole to two of its most prominent political prisoners, Leyla and Arif Yunus. We should all welcome their release, even though it's just a first step. They are still under house arrest, and we have not seen such a step in other cases. I urge all of us to redouble our efforts to pass legislation, and I have introduced legislation called the Azerbaijan Democracy Act, a human rights act.

And with that, I would like to yield to my good friend and colleague, Ben Cardin, the Ranking Member, and to thank him for coming over from the Senate side.

**HON. BENJAMIN L. CARDIN, RANKING MEMBER, COMMISSION  
ON SECURITY AND COOPERATION IN EUROPE**

Mr. CARDIN. Well, thank you, Mr. Chairman.

First, I thank you for calling this hearing on Azerbaijan. As you will recall, we had our annual meeting of the Parliamentary Assembly there recently, and we used that opportunity to raise these issues.

The retrenchment in Azerbaijan is extremely concerning, and I thank you for calling this hearing so we can focus on one individual primarily. Because we have found in the Helsinki Commission, when you put a face on the issue, we can make progress. We've done that when with Sergei Magnitsky's tragic circumstance, we caused the world to react to Russia's human-rights violations.

And I think the tragedy that is taking place today in Azerbaijan—and we can mention so many of the individual cases. You mentioned the Yunuses, which has a connection to my State of Maryland. I know some family is here. That circumstance was outrageous, just outrageous—continues to be outrageous. So we need to put a face on the issue.

And clearly the persecution of Khadija is a clear example of the backtracking of Azerbaijan and something that we cannot allow to continue, the closure of Radio Free Europe/Radio Liberty. What is clearly happening in Azerbaijan is trying to cut off information. We know Khadija was a reporter, a journalist, and trying to do her job to root out corruption.

On November 19th of 2014, I chaired an Helsinki Commission hearing, and it was focused on the role of journalism in combating corruption. We invited Khadija to join us. The overall theme was corruption in the OSCE region. We invited her, expected her, that she would be able to testify. Shortly thereafter, she was denied the

opportunity to leave Azerbaijan. And then, a few weeks later, she was jailed. And we know the rest.

So I'm going to ask consent that her testimony that was submitted at that hearing be included in this hearing. And I do that because I think it's relevant, very relevant to today's hearing.

I'm going to quote one paragraph from that letter: "Azerbaijan is part of the Extractive Industry Transparency Initiative since 2004. As in many other global initiatives, the Azerbaijani Government uses the membership as an argument against criticisms of corruption. The country is currently under scrutiny by EITI, as one of the main parts of the Initiative's civil society is paralyzed and cannot serve as a watchdog. In non-oil extractive industries, government-linked monopolies have a huge stake. In 2007, the Government of Azerbaijan signed a contract to develop six gold and copper mines with a consortium that is co-owned by the president's daughters."

Clearly, we miss having her reporting in Azerbaijan so that we could have more transparency into what's happening in the country and to fight corruption in Azerbaijan.

The situation for civil society in Azerbaijan has only deteriorated further since her arrest. Azerbaijan's new regulations on NGO registration, and specifically NGOs' ability to receive funding from outside sources, are so restricted that almost all of the independent NGOs that have been working in Azerbaijan's multilateral stakeholder group for EITI can no longer operate. I don't see how Azerbaijan can maintain its status as a compliant country under these circumstances, something that we should be pushing hard for. We need to see much greater space for independent NGOs and journalists to operate for the EITI process to achieve its true value.

Democratic societies function best when there is a high level of trust in each other and the institutions that underpin democracies. Corruption undermines that trust, and thus undermines the very foundation of democracy. Corruption has corrosive and cumulative effects on society. Whenever corruption rears its head—and every country is vulnerable—we must use all of our tools to combat that scourge. A vibrant civil society and a free press is essential to that effort.

So, Mr. Chairman, combating corruption may be the most important task that we face today. Unfortunately, Azerbaijan has taken one of our great anticorruption warriors off the field of battle. We need to work to bring her back.

Mr. SMITH. Thank you very much, Ranking Member Cardin.

Randy Hultgren, Commissioner.

Mr. HULTGREN. I don't have a statement at this time.

Mr. SMITH. OK, thank you.

Mr. CARDIN. Mr. Chairman, I'm going to apologize to our witnesses—the Senate Foreign Relations Committee, where I'm Ranking Member, has a hearing scheduled at 2:30 today that I must be at when it starts. So I apologize for not being able to stay for the witnesses. My staff is here. I look forward to your testimony.

Mr. SMITH. Thank you, Ben. And thank you for your very eloquent statement.

I'd like to now introduce our witnesses. And without objection, your full bios will be made a part of the record.

But very briefly, we'll begin with Mr. Nenad Pejic, who is the vice president and editor-in-chief of programming at RFE/RL. Mr. Pejic was named vice president and acting chief executive by the Board of Directors on August 31st, 2015, and became editor-in-chief of programming in December of 2013. Mr. Pejic joined RFE/RL in 1993, when he was named the first director of the Balkan Service. Prior to joining the radios, Mr. Pejic held various positions with Sarajevo television, including head of the news department in Belgrade, correspondent, and program director.

We'll then hear from Ms. Delphine Halgand, who is the U.S. director of Reporters Without Borders, a position she has held since 2011. She runs U.S. activities for the organization and advocates for journalists, bloggers, and media rights worldwide. Acting as Reporters Without Borders spokesperson in the United States, she regularly appears on American and foreign media, and lectures at conferences in U.S. universities on press freedom violation issues.

We'll then hear from Mr. T. Kumar, who is the international advocacy director at Amnesty International USA. Mr. Kumar has served as a human rights monitor around the world and was a director of several refugee camps and refugee ships. He also served as a consultant to the Quaker United Nations Office and was a professor in Washington College of Law. He has monitored several elections around the world with President Carter and the Organization for Security and Cooperation in Europe. He's also served as a judge of elections in Philadelphia. And I would note he was also a political prisoner for approximately five years in Sri Lanka. And Amnesty advocated for him, and now he is an advocate for others who are similarly situated.

We'll then hear from Ms. Shelly Han, who is policy adviser at the Helsinki Commission and was there with Khadija in the actual courtroom during her sham trial. Shelly joined the Commission in 2006 as a policy adviser for economics, environment, technology and trade. She has also previously served as the chief of staff at Immigration and Customs Enforcement, or ICE. And before joining DHS, she was a senior international policy adviser at the Department of Commerce, working on sanctions policies and international security policy related to the export of sensitive goods and technology.

I'd like to now yield to Mr. Pejic.

**NENAD PEJIC, VICE PRESIDENT/EDITOR-IN-CHIEF OF  
PROGRAMMING, RFE/RL**

Mr. PEJIC. Thank you, Chairman Smith.

First of all, thank you for the opportunity to speak with you today. And of course, in the interest of time, I'll highlight just a few points from my written testimony, which you received yesterday.

Khadija Ismayilova is an internationally recognized investigative journalist and prominent contributor to Radio Free Europe/Radio Liberty Azeri Service. The Government of Azerbaijan began harassing Khadija in 2012, when she started publishing investigative reports that, among other things, documented extensive real estate holdings in Dubai belonging to President Aliyev's son, his daughter's control of major stakes in the country's telecom and airline industries, and the ruling family's ownership of extensive na-

tional resources, including gold mines. We believe that it is her reporting, actually, on the Aliyev family that brought her to arrest and the closure of our Baku Bureau.

The charges against Khadija relate directly to the work of Radio Free Liberty Baku Bureau, of course, during the period she was our Baku Bureau chief, and they are all false. RFE/RL submitted detailed refutation to the general prosecutor of Azerbaijan on August 18, 2015. We received no reply.

Khadija's trial was a sham. The proceedings were not transparent. Journalists, international observers, and members of her family were banned from the courtroom. No motions or letters supporting Khadija were accepted into evidence during the trial, including our letter refuting the charges against her, which I mentioned above.

During the trial, the prosecutor declared that testimony in her favor would create bias, and would therefore not be introduced. Not one witness testified against Khadija, and yet she was convicted and now she sits in prison. According to Khadija, when tax inspectors were questioned in court, they admitted that not a single document they saw had her signature on it. They also said they saw only documents shown to them by the prosecution, meaning no other documents—from us, for instance.

On December 26th, 2014, RFE Baku Bureau was raided by the police and investigators from the general prosecutor's office. Authorities seized our property and still have not returned it. RFE/RL's bank accounts were frozen. Our longtime lawyer was barred from the case. Twenty-six members of our staff were interrogated by the general prosecutor's office over the next several days. Some of them were literally dragged from their houses during the night, and most of them did not have legal representation. In April, their bank accounts were frozen.

The details of the charges against us were vague. The investigators have missed deadline after deadline for submitting their findings. Each time the next deadline arrives, they apply for and are granted another extension. The reason is obvious: they haven't found evidence of any wrongdoing by Radio Free Europe/Radio Liberty. In fact, some of the investigators have privately conceded to our lawyer that RFE/RL has not violated any laws, and that they are just pursuing the investigation because they have been ordered to. The investigation is just a pretense used to prevent RFE/RL from broadcasting. If charges are ever brought against Radio Free Europe/Radio Liberty, we will disprove them in the court. The next deadline for the investigators to present their findings is December 30th, 2015.

After the raid on our Baku Bureau, several members of our staff fled Azerbaijan and have applied for asylum abroad. Many others have stopped reporting and remain unemployed. Our former bureau chief, Babek Bakirov, remains under a travel ban and cannot leave the country.

And yet, the bureau might be closed, but the journalists continue their work. Thirty percent more people visited, for example, the Azerbaijani Service website last month than in December 2014. The last month, it was the last month when the bureau operated in Azerbaijan. Despite the efforts of the government to deny our jour-

nalists the ability to report the news in and from Azerbaijan, our freelancers continue to cover protests in Baku live for RFE/RL.

Today's hearing, I believe, is another evidence of the prominence of the Azeri Service, the importance of the journalism, and public awareness that the charges against Khadija are groundless. I am honored to be editor-in-chief and to be boss of this group of people. And I am honored by the courage and professionalism demonstrated by Azeri Service and its Baku Bureau.

Of course, our bureau remains closed. RFE/RL Azeri Service has continued to work from our headquarters in Prague. But Khadija is in prison, her crime being nothing more than doing her job as a journalist.

To ensure that her work continues, Radio Free Europe/Radio Liberty has partnered with Sarajevo-based Organized Crime and Corruption Reporting Project to launch a fellowship in her name. Our aim is to encourage more investigative journalism and to ensure that intimidation doesn't win.

With this testimony, I am very proud and proudly join international appeal for Khadija's immediate release. Thank you.

Mr. SMITH. Mr. Pejic, thank you very much for your very strong statement and rebuttal, and pointing out that the charges are groundless.

We will have to take a very short break—there are three votes on the floor of the House. We have a minute to go on the first one, so I will run out. But we'll stand in recess for about 15 minutes. Thank you. [Sounds gavel.]

[Recess.]

Mr. SMITH. The Commission will resume its sitting.

First of all, let me just welcome Dr. Boozman, a Member of the United States Senate and commissioner. Dr. Boozman, any comments at this point?

Dr. BOOZMAN. No, just we, as always, appreciate your leadership. And I had the opportunity to serve with Chairman Smith for many years in the House of Representatives on Foreign Affairs and Veterans Affairs, and nobody works harder, you know, in the effort to help those that need help. So we just appreciate your leadership very, very much.

Mr. SMITH. Thank you. And thank you for all your humanitarian work over on the Senate side. It's tremendous.

I'd like to now invite Ms. Halgand to provide her testimony.

**DELPHINE HALGAND, U.S. DIRECTOR, REPORTERS WITHOUT BORDERS**

Ms. HALGAND. Representative Smith, Members of the Commission, thank you for convening this very timely and important hearing. Thank you for inviting me to testify today. By your invitation, you honor the work Reporters Without Borders, Reporters Sans Frontieres, has done since 1985 to defend journalists and freedom of information all over the world.

Azerbaijan is ranked 162nd out of 180 countries in the 2015 Reporters Without Borders World Press Freedom Index. It means that Azerbaijan is ranked lower than Egypt or Pakistan.

In my remarks this afternoon, I will focus on three aspects of Azerbaijan crackdown on journalists and press freedom: suppres-

sion of media pluralism, imprisonment of critical journalists—like Khadija Ismayilova of course—and the violence towards journalists.

President İlham Aliyev has suppressed all media pluralism in Azerbaijan. He has orchestrated an unprecedented crackdown on the remaining critics for the past two years. The media regulation authority and manipulation of the advertising market have brought broadcast media under control. Corruption, blackmail and intimidation have systematically been used to chase journalists away from independent reporting.

I would like just to highlight a few examples. The Baku Bureau of Radio Free Europe/Radio Liberty was forcibly closed down after the police raid last December. The independent newspaper Zerkalo was financially strangled and closed down earlier this year. The main opposition newspaper, Azadliq, is on the verge of collapse due to astronomical fines.

So after successfully suppressing media pluralism at home, the Azerbaijani authorities have waged a war against foreign-based independent media created by prominent Azerbaijani journalists now in exile. The authority seems to be stopping at nothing in their determination to persecute independent journalists.

By example, Ganimat Zahid is the well-known editor of the opposition newspaper Azadliq. Ganimat fled to France in 2011 and has lived there ever since. Instead of being satisfied with forcing Zahid to flee the country, actually the authorities are now hunting members of his family who are still in Azerbaijan, like his 87-year-old mother, but also his nephew, his cousin, and so on.

Another worrying example of the Azerbaijan Government harassment of independent media in exile is Meydan TV, a Berlin-based online TV station and news website run by Emin Milli, an Azerbaijan journalist now living in Germany. So Milli fled to Germany in 2012 after 18 months of arbitrary imprisonment, and recently he has given an interview to the international media about the corruption surrounding the Baku European Games, and actually the Azerbaijan authority was enraged by the failure of their European Games media plan to conceal their massive human rights violation.

In addition, I want to highlight that all media support and press freedom NGOs were forcibly closed down in 2014. Among them, the most prominent one, the Institute for Reporters' Freedom and Safety, IRFS, which was actually a Reporters Without Borders local partner organization. Just to make you understand the violence of this attack, the chairman of this press freedom organization had to hide almost one year in the Swiss embassy before an agreement was made to let him leave the country, and he's now living in exile in Switzerland. His name is Emin Huseynov.

So independent journalists in Azerbaijan are left with the choice between arrest, exile, or silence.

Twelve journalists and bloggers are currently detained in connection with their work in Azerbaijan. The most famous of them is Khadija Ismayilova. As Nenad explained it to us earlier, she is a leading investigative reporter, and her arrest was a political case from the outset. She's in prison because of her journalistic work and her human rights activism.

I would like to highlight another case, the case of Rauf Mirgadirov. His trial began behind closed doors on November 4th.

And actually, the prosecutor requested today a seven-year jail sentence for high treason, and his next hearing is scheduled for December 23rd. He might end up in jail for seven years as well.

We cannot forget the other journalists: Nijat Aliyev, imprisoned since May 2012; Hilal Mamedov, since June 2012; Araz Guliyev, since September 2012; Tofiq Yaqublu, since February 2013; Shaig Agayev, since February 2013; Rashad Ramazanov, since May 2013; Abdul Abilov, since November 2013; Parviz Hashimli, since September 2013; Omar Mamedov, since January 2014; and Seymour Khazi, since August 2014.

Arrests most of the time take the form of a kidnapping by plain-clothes officer. Journalists are arrested under trumped-up charges such as drug trafficking or hooliganism, and trials are held in camera. The courtroom is often filled with paid state servants in order to not allow family members to attend. We bear witness to tragicomedies in Azerbaijan's courts with scripts written long ago by President Ilham Aliyev.

I would like to finish by giving you a few examples of the violence and physical violence targeting journalists in Azerbaijan.

Journalists are regularly threatened and even violently attacked. The freelance journalist Rasim Aliyev died on August 9 of this year in a Baku hospital from the injuries he received when he was lured into an ambush and beaten. Rasim Aliyev is the fourth journalist to be murdered in the past 10 years in Azerbaijan. The investigation into the death of Elmar Huseynov and Alim Kazimli in 2005, and Rafiq Tagi in 2011, have yet to yield any credible results. Impunity for violence against journalists is systematic in Azerbaijan.

So Reporters Without Borders would urge the Commission, the Obama administration, and Members of Congress to raise the issue of restriction on freedom of the press in meetings with senior Azerbaijani officials, to demand the immediate release of all Azerbaijani journalists, to put an end to these trumped-up prosecutions, to abandon the practice of collective punishment, and to investigate the murders of journalists. Azerbaijan independent media need your support, and sanction and visa denials should be considered.

And I'm glad to discover the Azerbaijan Democracy Act, and Reporters Without Borders definitely supports this Act, and will help to make it a reality. The United States must make clear to President Aliyev that it follows carefully the crimes committed against journalists, and that the United States won't accept such crimes.

Thank you again for holding this hearing and for giving me the opportunity to contribute on behalf of Reporters Without Borders. Thank you.

Mr. SMITH. Thank you so very much for your testimony and your recommendations.

I'd like to now yield the floor to Mr. Kumar.

**T. KUMAR, INTERNATIONAL ADVOCACY DIRECTOR, AMNESTY INTERNATIONAL USA**

Mr. KUMAR. Thank you very much, Chairman Smith and other Members of Congress.

Amnesty International is on one hand extremely pleased that you are organizing this hearing, on the other hand extremely worried by the developments in Azerbaijan. Azerbaijan stands out in

that part of the world as an example of how to silence peaceful critics in a most effective and brutal manner.

One example is the case that we are talking about, Khadija's case. We have been following this case and other cases, and one thing came very clearly to us: that any opposition—very peaceful, well-meaning opposition—will never be tolerated at any cost. They use every tactic under the sun to silence these people.

Khadija's case is a textbook example to how to silence a critic in a very effective and very brutal manner. In her case, she was targeted not only for reporting and media work she was doing; she was also investigating the president's corruption. His family was involved in alleged corruption. So she was investigating that. So the government machinery, every level of government machinery, started to move against her. They harassed her. They blocked her from going overseas, a travel ban. All this harassment was going on. She didn't budge.

Then—it could be intelligence officers; we don't know who did it—she was filmed in a very intimate manner in her own house, and that was used as blackmail tactics to silence her. She didn't—she said I can't—I will not stop. They threatened that they will make it public and she did not back off, so they put it online to humiliate her. Not only they humiliated her, they tried to humiliate her family as well. Even her own sister was called names. So it's an extended, collective punishment was there because of one individual who was trying to raise issues in a very, you know, internationally accepted norms of media freedom.

They played race card. They used that she has some connection—her relatives or someone have some connection who is Armenian, so they play race card. It did not work.

So blackmail using intimate pictures online did not work. Using race card did not work. Then they switched to using law as a weapon to silence her. First they tried to charge her, saying that someone tried to commit suicide because of her action. It did not go anywhere. Then they—suddenly they found that there is another way: let's charge her the same charge that she is going after the president, namely the fraud and corruption. So they went after her. Instead of, you know, she was going after the president, they went after her.

So what says this? It says that the government machinery in every level—intelligence, military, police, judiciary, lawyers, everyone—is working in tandem, working in one tune to silence critical voices—peaceful critical voices in that country.

Then they brought her to charge. They extended the detention just to harass her without giving any fair trial. Even when the trial started, her first charges failed, then they brought in the corruption charges. Then they went after the lawyers. Her one lawyer was forced to resign and other harassment was going on. So she did not have effective legal representation to represent her in the court.

The other one is, during the trials, they specifically selected a very small courtroom so that outsiders can't be there to observe the trial. Even though it's a show trial, they didn't want anyone else. So what happened was there were only 20 people who can sit in that courtroom; they filled the courtroom with plainclothes folks.

She was in a white, you know, glass cage sitting in the middle, surrounded by all these plainclothes folks. Even diplomats, others could not able to get in. There were—intimidation were waiting outside. So eventually she was convicted.

But one thing that—you know, we follow—Congressmen, you also know, you also follow a lot of cases. What amazes me in this case is her courage. Believe me, I was shocked by how strong she is, and she didn't budge. Even after putting her personal pictures online, she said go to hell, I'll do the work. That's what she stands out for.

So now let's see what the U.S. Government can do. We comment on your actions, including the Act you are bringing in. One thing I have to commend you, Chairman, is before we ask, you act. Usually, for—[laughs]—sometimes we have to go and ask. You are actually one step ahead of us.

But other recommendations is that—one is for the Congress, which is this Act, but also to the administration. For the Congress, we would strongly urge when Members of Congress visit Azerbaijan, CODELs, they should insist that they would like to visit her in prison. It's nothing unusual. You know, in Vietnam Father Ly, members of Congress have met. It's the will of the Members of Congress that matters. So if the Members of Congress can stand firm and say, here, 20 of us are coming, we want to see her in prison, that should be attempted. Let them say no. It should be attempted.

For the trial, any political prisoner trial now—this case is over—it's the ambassador who should be there, not the political officer, because the situation is so bad in Azerbaijan the level of scrutiny should be the highest. So ambassador should take time and go and give—it's a political message.

Third, the ambassador should frequently meet with political prisoner families. In this case, mother and sister are there.

Then, when it comes to the administration—you know, every administration, no matter which administration, they are known for making statements and not following through. Oh, we are concerned. It's not going to go anywhere with Azerbaijan. The only way that can—they have to ratchet up a little bit. So we would urge President Obama to meet with the family members of Khadija. When her mother visits here or when her sister comes here, President Obama should meet. He has done it with other political prisoners. Not consistently; with China he never wanted to meet, but there are other cases he met. We would strongly recommend that Khadija's mother be—if a community bring her or someone bring her, President Obama should meet her as a symbolic gesture that U.S. Government will not stay silent when you harass and abuse your own citizens who are peacefully raising issues of concern.

Thank you, Chairman, for inviting us.

Mr. SMITH. Mr. Kumar, thank you so very much for your defense and your recommendations.

I'd like to now yield to Ms. Han.

**SHELLY HEALD HAN, POLICY ADVISER, COMMISSION ON  
SECURITY AND COOPERATION IN EUROPE**

Ms. HAN. Thank you, Mr. Chairman, commissioners. As a staff member of the U.S. Helsinki Commission, I traveled to Azerbaijan in late October, and I met with government officials as well as the few remaining activists who were willing to meet with someone from the United States.

The mood was subdued among the independent activists, as many of their colleagues were in jail. And they and often their family members were facing harassment from the government and were also under threat of arrest.

But I cannot say that they were defeated. In fact, they were defiant in the face of the crackdown. And they're determined to continue to fight for human rights. And it's exactly the bravery and the incredible optimism that Khadija brings to this group and that she has shown during her trial and imprisonment that have played a big part in keeping the activists motivated. And Kumar mentioned that in his testimony.

On the afternoon of October 29th, I attended one of Khadija's appeal hearings at a courtroom in Baku. And as Kumar mentioned, the courtroom was packed. It was full of even more attendees, and everybody was searching for a seat in this small courtroom on the crowded benches.

And as we were taking our seats, there was a moment of confusion, and we were all told to move to a different courtroom. There was a mad scramble as we rushed into the new room, and you had to find a seat or else you had to leave, because you were not allowed to stand and watch the trial. Apparently this room-swapping technique is something that the court officials use so that nobody can have physical contact or be able to exchange words with Khadija as she's brought in to the prisoner glass cage.

So I could feel the tension in the courtroom but also the resignation. It was as if we were at a theater and we all knew the grim ending of the play, but we held out hope that audience participation might somehow change the outcome. There was no doubt that Khadija would be found guilty. And it was not because of the preponderance of evidence against her, because in fact the evidence didn't support the charges at all. But it was because the whole trial was being held to fit the government's desired conclusion, a guilty verdict. And the court was now merely the stage on which to act it out.

In reality, Khadija had already started serving her sentence on the day of her arrest. The only thing she did not know was how much longer that she would be in jail.

Since the guilty verdict is assumed, the punishment starts before the trial begins. Essentially every single political prisoner in Azerbaijan has spent the entirety of their pretrial period in pretrial detention despite the availability of a bail system. Khadija spent almost exactly one year in pretrial detention, from her December 5th, 2014 arrest to her November 25th final appeal.

The conditions in pretrial detention are often harsher than in the regular prison system. Khadija was not given consistent or sufficient time with her lawyers to prepare her case. Her family was obliged to provide her with food, clothing and other basic neces-

sities. Her family visits were restricted or denied. And communication with the outside was extremely limited. And Khadija was punished, often by being put in solitary confinement, for issuing statements or continuing to write letters from jail. One of her letters from jail was published in the Washington Post back in February of this year, and she was immediately punished for that.

When we arrived in the second courtroom, Khadija was already in the glass-enclosed witness cage, where she spends the entirety of the hearing process. She cannot speak unless the microphone in the glass cage has been turned on. And in other hearings over the last year, the judge would cut off Khadija's mic if Khadija started saying something that the court didn't like.

The court had another particularly cruel practice. As we filed into the courtroom, the tallest and most burly guards were standing shoulder to shoulder in front of the glass cage so that Khadija was not able to see or even wordlessly communicate with her elderly mother. So they were basically blocking her off from seeing her mother. So her mother was anxiously peering left and right around the guards, trying to catch a glimpse of her daughter; trying to find out did she look sick, was she in good spirits.

So we took our seats, and Khadija pressed a piece of paper to the glass with a message to her mother, but the guards quickly told her to put it down.

The judge filed in and read a short notice about the procedure of Khadija's appeal. And Khadija had one more month to file a certain petition, so the court would send her back to pretrial detention for that full month's time. The judge quickly turned and left.

As we were hustled out of the courtroom, I too leaned around the guards, searching to make eye contact with Khadija. I saw her, and we exchanged a quick wave, a big smile and the universal peace sign. And with that, I was pushed out the door, leaving Khadija behind.

Thank you.

Mr. SMITH. Thank you very much for your testimony and your work on Khadija's case.

Vice President of the Parliamentary Assembly Robert Aderholt, and also of course a member of our Commission. I yield as much time as you may consume.

**HON. ROBERT B. ADERHOLT, COMMISSIONER, COMMISSION  
ON SECURITY AND COOPERATION IN EUROPE**

Mr. ADERHOLT. Oh, thank you. Mr. Chairman, thank you for this hearing today. And let me just say, having had a chance to visit Azerbaijan on a couple of different occasions, I'm familiar with the area, have got to know some of the officials there. And generally speaking, Azerbaijan has worked with the United States in many ways, and there has been a working relationship between our two countries. But certainly it's situations like this and hearing more details about Khadija's situation that—it's very disconcerting. And certainly I think it's important, Mr. Chairman, to have this hearing to learn more about it because, like I said, there is a real desire, I think, from the United States to be in friendship with Azerbaijan, and we want to work with them.

But I think one of the things that's very difficult for most Americans is when they hear situations like this. It's very alarming. And I think that it's important that these things come to light and that we make sure there're no Khadijas out there that are being imprisoned.

Let me just—and I have got to slip out to another meeting here in a few minutes, so, Reporters Without Borders, let me ask you this question. How many journalists would you say are currently in prison in Azerbaijan?

Ms. HALGAND. There are at least 12 journalists and bloggers currently in jail in Azerbaijan. And what is important to highlight, that most of them were imprisoned since 2012. So there has been a really harsh crackdown these last years.

Mr. ADERHOLT. And you know, there seems to be a lot of newspapers there. Are there any independent voices out there in the media?

Ms. HALGAND. So what I tried to highlight was the fact that really President Aliyev has been quite successful to completely silence independent journalists at home but also the media in exile like Meydan TV or others, and by going after their family members who are still in Azerbaijan, by crushing the media financially and so on.

Mr. ADERHOLT. Thank you. Like I said, I apologize. I'm going to have to leave shortly. But like I said, I think there's a real desire for the United States to have a good working relationship with Azerbaijan. But you know, this is—certainly anytime you hear reports about this, the American people are—I can tell you from my constituency are—when they hear reports like this, it's very disconcerting.

And so I think that's why it's important; we need to learn from this hearing. And again, thank you, Mr. Chairman, for hosting this today. And I yield back.

Mr. SMITH. Thank you, Mr. Aderholt.

Dr. Boozman.

**HON. JOHN BOOZMAN, COMMISSIONER, COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

Dr. BOOZMAN. Let me just ask a couple questions in regard to the broadcasting. Are you able to continue broadcasting now?

Mr. PEJIC. We had an FM license in Azerbaijan, but we of course lost it several years ago. But even though we lost the FM license a long time ago, we were able to keep the bureau. We are now able to broadcast only via shortwave and through Internet.

Dr. BOOZMAN. OK. So do you have any idea of the size—

Mr. PEJIC. We do have some cooperation—sorry—with Turksat TV, trying to address Azerbaijan content in cooperation with Turksat TV.

Dr. BOOZMAN. Do you have any idea of the size of your audience?

Mr. PEJIC. Yes, I do. It depends what you want to compare it with. I think you were not here when I mentioned that today we have 30-percent larger audience on the Web compared to the time when we had bureau in Baku in December 2014. In November 2014 we have 1,138,000 visits on the Web, plus YouTube, plus social network, et cetera. So this is increase compared to, let's say, May for about 15 [percent], 30 percent.

Dr. BOOZMAN. So what can we do? What can Congress, what can the State Department—how can we support you?

Mr. PEJIC. I think my colleague laid out pretty good ideas of what should be done. We—at some point with the support from the State Department went to Baku. And our representatives and the representative from the Broadcasting Board of Governors—we tried to find out kind of three issues there. Number one, was there any misreporting that was done about Khadija? Because we have no idea about any single fact that represented in a wrong way. Nobody has ever said anything like this.

Point two, we wanted to find out, OK, what are the wrongdoings that RFE/RL office was done?

And point three, of course, we wanted to try to solve the problem. We got no—negative answer on all these issues.

Dr. BOOZMAN. For the panel—with the issues you brought up, what has the United Nations done, the U.N.? Have they played a role?

Mr. KUMAR. They have. U.N. Human Rights Council—there was a joint statement issued about six months ago, and U.S. did not take the lead, but they were party to that. That issue is important, that U.S. can take a lead. Now U.S. is not a member, but still they can play a role in passing a resolution next time, because when bilateral initiatives are not working, it's always better to go to multilateral, not only U.N. but also OSCE. You know, the ambassador has been doing a good job. But again, that should be—that avenue should be explored.

Dr. BOOZMAN. So are they more responsive to the United States' intervention or more so to the United Nations?

Mr. KUMAR. U.S.—they will react, but U.S. is not intervening in a meaningful manner. Making statements—they know that everyone makes statements. That's what I said. They have to go one step further by—you know, CODELs visiting, they should try to meet with Khadija. And also, most importantly, President Obama—I strongly feel a strong message should be given by meeting the family members. That will give the message that U.S. is serious about it.

They think U.S. is not serious. That's what's happening.

Dr. BOOZMAN. I see.

Mr. KUMAR. So the bilateral, but also at the same time multilateral, they should start with.

Dr. BOOZMAN. Very good.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you very much, Dr. Boozman.

What is a typical day like for Khadija? You mentioned that she's been in solitary confinement. How is she faring? Because obviously there's a corrosive effect. Every day that goes by, you know, life in a political jail becomes that much harder. And you would know it personally, Mr. Kumar.

Mr. KUMAR. I will say they are trying to break her.

Mr. SMITH. Trying to break her.

Mr. KUMAR. But I will admit I don't know about her, but given her background, especially when they threatened exposing her personal—when she said she doesn't care, I think she's a very strong lady.

So I don't know, but you may be able to—

Ms. HAN. I don't know if Mr. Pejic wants to chime in, but I think that Khadija—the attitude that she's taken toward serving time in prison is quite positive. I mean, she's decided that basically she's going to bloom wherever she's planted. She's been planted in prison right now by the Government of Azerbaijan.

And in one of the letters that she did write, she said: Prison is not the end of life. I'm strong, and I see it as a possibility to learn the system from the other side. Communicating with alleged criminals, who do or don't accept their guilt, I am learning the wrongdoings of the penitentiary and justice system.

She said: In fact it's an unparalleled opportunity. And she's going to use the time to translate and write books and to do what she can. So she's actually, I think, taken a really quite positive attitude. Obviously she doesn't want to be in prison, but she's decided that she's going to make the best of it.

Mr. PEJIC. Something to add—she's under strict rules. She has been prevented to write. She has been prevented to talk with her mother without control. But the message we got, she used the time to educate other inmates there on their own cases. She's helping them.

Ms. HALGAND. I just would like to highlight again the really difficult condition and detention in Azerbaijan and the difficult access to the lawyers, to the family members and to the health care system. So definitely that's a point that you should highlight in your own meeting with officials, the difficult condition of the detention.

Mr. SMITH. Mr. Pejic, the Radio Free Europe/Radio Liberty family—are they very, very concerned about this? I mean, is there a sense inside the building, so to speak, that, you know, one of our own has been unjustly accused and now incarcerated? And frankly—and you may not want to answer this, but maybe our other—Mr. Kumar has certainly answered it when he said that there—where was it—the U.S. has not intervened in a meaningful manner. Well, that can change, and we will appeal to the President again to try to get him to—and I think your idea is an excellent one—to invite the family, to make it clear that he's in solidarity with the unjustly imprisoned woman and not with the process that has exploited her.

But is there a sense among the radio and TV family that this is just an outrage?

Mr. PEJIC. Of course. Of course. She's one of us.

Mr. SMITH. Yes.

Mr. PEJIC. Even she was not legally employed by RFE/RL, she was one of our contributors.

Mr. SMITH. Right.

Mr. PEJIC. What I'm personally a little bit concerned about, to see how other colleagues in other bureaus will react, because, you know, we are all human natures. And we all need to think of our families, et cetera.

To the question about the U.S. Government, I—of course as a journalist I would like to see a more aggressive approach there. On the other hand, I have—as I just outlined a few minutes ago, we did get help, and we are going there, from the U.S. ambassador

from the State Department. And thanks to them I believe we did manage to meet pretty high officials in Baku.

Mr. SMITH. Has Secretary Kerry raised this issue personally with Aliyev or the foreign minister, as far as we know? Is that something we should ask him to do? I mean, really, when I held a hearing with Naghmeh Abedini on behalf of Saeed Abedini—and Frank Wolf held the first, I held two—at the first hearing, she said the State Department said, there was nothing we can do. And at least in response to the outrage on Capitol Hill that was bipartisan—of course he's being held in Iran—was at least we got some words out of the Secretary of State. But Iran is certainly not seen as a friend and ally the way Azerbaijan is.

So, you know, it seems to me that leverage needs to be ticked up real quick on her behalf and hopefully—you know, a rising tide raises all boats, to quote John F. Kennedy—there would be an effort—a more robust effort to counter all of these jailings of journalists, bloggers and other human rights activists. Again, the Norwegian group puts it at 80 people who are prisoners of conscience. That's a huge number of people for a relatively modest-size country.

So it's something I think we need to—and this Commission—you know, we met—and Robert will recall—we had a very robust exchange with Aliyev when we were in Baku. And we were there twice, back-to-back years. One was when the parliamentary assembly was there. The other was when Senator Wicker led the effort. We went there from Istanbul and raised these—not this issue obviously because it was not on the table then—and met with the families.

So we need to do more ourselves, and we will. That's why we're putting on this hearing and why we're introducing the legislation, which I think will get their attention. And we're very serious about getting it passed. Doris, I know, was sitting there, and Doris will remember with the Belarus Democracy Act, which had some similar attributes to it on visa bans and the like and holding individuals to account. That is law, and it has had an impact—has not had the full impact we had hoped, which is democracy. But my hope is that we can push this very, very aggressively.

Let me just ask you with regards to the U.N.—was asked by Dr. Boozman, and I think it was a good question—you have the periodic review coming up—2017 is the next one. A statement is important. Hopefully more statements will follow. And so if any of you want to comment on what other bodies ought to be doing besides Congress and the President, that would be helpful.

Yes, sir.

Mr. PEJIC. Just if I can say one sentence, and I would like to be excused because—

Mr. SMITH. I know you have to go.

Mr. PEJIC.—I have a really important meeting I have to attend. We are trying to get—and to prepare ourselves for this U.N. session in 2017. And there are attempts at—with us, I believe, with some other organizations to have this case there present on the human rights committee too—if possible to come up with a resolution or something like that. It's going to happen, of course, at some point.

Thank you, Chairman Smith.

Mr. SMITH. Thank you very much, Mr. Pejic.

Ms. HALGAND. I want to highlight the work that the German Parliament has done, especially around the European Games last June. The work of Reporters Without Borders office in Berlin and many very active members of parliament in Germany—I think there's a very important effort on that side, which is definitely very important. And we can also highlight, of course, the work of the Council of Europe, but much more is needed from the U.N. and from the U.S.

And I just want to highlight that because we know that President Aliyev cares tremendously about his image and especially in the U.S. So I really believe sincerely that there's been not enough pressure from the U.S. and that he would care if the U.S. acts strongly on these issues.

Mr. SMITH. Thank you. Does that also include the private sector? I mean, who does he listen to? Do we know?

Ms. HALGAND. So I asked this question to my colleagues, and they say actually because we didn't have so much real pressure, it's—in the past, it's hard to know for who he cares. But I think the example of the release of Leyla Yunus clearly shows that they care about the international pressure.

So it should just encourage us to raise the tone a little bit, because pressure works.

Ms. HAN. Yes, I think certainly today's Council of Europe announcement about the inquiry on human rights is really important and—because it now, in concert with the Azerbaijan Democracy Act, is—I think it's showing a united front, because I think that Azerbaijan has gotten somewhat of a pass from some of the European institutions from time to time. But I think that it's hard for not only the public but also for these groups to ignore the consistent crackdown that's been happening.

And in terms of the U.N., just this month there was a periodic review on Azerbaijan's adherence to the Convention Against Torture. And the report found that despite hundreds of allegations of torture within the security services, there wasn't even one prosecution. So they were pretty severely criticized and asked to do better on that part. So it's important to understand that from the U.N. side.

Mr. SMITH. Do we have a sense of what caused this most recent crackdown, which began on or about 2012? What was the proximate cause?

Ms. HALGAND. So one of the explanations we see is that actually with the Arab Spring revolution, there's been some demonstration at that time in Baku in very small size, if I could say. But it's one interpretation that we can have, that the regime got scared that this kind of civil movement could duplicate in Azerbaijan. And we saw that at that moment the crackdown really step to a new level.

So that's a potential explanation. But don't believe it was a paradise for a journalist or a human rights defender earlier.

Mr. SMITH. Yes.

Ms. HALGAND. But that could be an explanation, the fear of an Arab Spring in Azerbaijan.

Ms. HAN. Yes, I think that's correct and also the situation in Ukraine. The Maidan uprising and the upheaval that happened there, I think, was also disconcerting. And it happened right around the time of a presidential election in 2013. And I think that at first observers felt that the crackdown that was happening prior to the 2013 presidential election was related to just the election itself. But then it continued on after that. It never let up and in fact got worse.

So I think that it's perhaps a decision by the government that they just can't tolerate the independent voices.

Mr. SMITH. For those who do human rights reporting on the ground in Azerbaijan—and Mr. Kumar, you might want to especially speak to this—what are the risks to those people to report, particularly if their identity is known?

Mr. KUMAR. First of all, we were kicked out of the country and those other human rights organizations. We were deported. And OSCE, as you're aware, for the election's time, they themselves withdrew. Any local domestic Azerbaijanis who are trying to help, either direct or indirectly, if they get caught, they'll be in very bad shape. So be extremely careful in getting information and vetting the information to pretty much protect their identity and their protection.

Ms. HALGAND. Reporters Without Borders correspondent in Azerbaijan works unofficially for us. And we have an official local partner, as I said, the Institute for Reporters' Freedom and Safety. And he's German, as I say, had to hide nearly one year in the Swiss embassy before being able to leave and is now living in exile in Switzerland. So that's the life of the human rights defender in Azerbaijan.

Mr. SMITH. Is there anything else any of you would like to add? Because your testimonies were outstanding. I think Mr. Pejic did a wonderful job in just showing on the record how these are bogus charges, these are false charges, trumped up. And all of you have provided, I think, the Commission very, very important insights.

And in Shelly's case, she's provided insights to—and has been doing it—

Ms. HAN. Color commentary—

Mr. SMITH.—color—for all of us. And I deeply appreciate that.

You know, it was Thomas Jefferson who said, "Were it left to me to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate a moment to prefer the latter." None of us—even this politician sometimes doesn't like the press treatment that I get, and all of us feel that way, but would defend to the death their ability to publish, free speech, which is our constitutional right. And you know, we need to promote this. It is a universally recognized human right.

And I would just ask you—I would ask you one last question. That would be, our ambassador on the scene, our mission in Baku—how effective has our ambassador been on raising these cases, particularly for Khadija?

Ms. HAN. I think it's difficult to assess. Ambassador Cekuta is in a very difficult position. And I think that he also must follow whatever the State Department line is. And I think they're being

careful. I think they're trying to be careful, they're trying to thread the needle of maintaining relationships with Azerbaijan that we've had in the past but they are not quite sure how to react. And I think that direction from Congress is probably helpful to the State Department to change that.

Mr. KUMAR. He doesn't have to wait for this—either way, don't do it or do it, from State. He has a lot of authority, all the ambassadors. For example, he can visit family members of political prisoners. He can invite them and human rights—

Mr. SMITH. Does he?

Mr. KUMAR. I don't know. I'm just saying in general.

Mr. SMITH. Sure.

Mr. KUMAR. If he didn't do it, then he should explore doing those things and also having functions. Even in China they do that. So he should—if he didn't do it, I didn't follow his actions. But there are a lot of things they can do, which I don't know whether he's doing or not. Thanks.

And also, as I mentioned earlier, any trial political in nature of this level, he should be there. That's a political message.

Mr. SMITH. Your point was very well taken on that.

Mr. KUMAR. Sure.

Mr. SMITH. And I take it he was not there. OK.

Ms. HAN. As far as I know, the ambassador has not attended any of the hearings. And if he has met with family members, I'm not aware of it, but they—again, if they have, they may have kept it quiet as a strategy. But perhaps the strategy should be changed.

Mr. SMITH. You know, I would respectfully submit that as an ally increasingly careens in the path of human rights abuse and cruelty, that relationship becomes less valuable and less reliable. And frankly, I would also submit that friends don't let friends commit human rights abuses. If we are friends, we should be speaking—we should be the first and the foremost in bringing this to light, in trying to mitigate and end it.

So, you know, when we had our conversations, when I did and my colleagues, with Aliyev in Baku the second time, it was extended. People were leaving and we had to get back to the conference. And I said, let's press this individual, this man. He was very engaging, but we need honesty and truth and a record that is as impeccable as it could be.

So your testimonies have been tremendous. We thank you and look forward to working with you going forward not just on Khadija's case but the other cases as well.

The hearing is adjourned.

[Whereupon, at 3:43 p.m., the hearing was adjourned.]

# APPENDIX

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## PREPARED STATEMENTS

## PREPARED STATEMENT OF HON. CHRISTOPHER H. SMITH, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Good afternoon and I want to thank you all for being here today to discuss the terrible plight of political prisoners in Azerbaijan and in particular the imprisonment of journalist Khadija Ismayilova.

Khadija has done hard-hitting investigative reports on corruption at the highest levels in Azerbaijan. Khadija's reporting hit its mark and the security services in Azerbaijan tried to intimidate Khadija from future reporting. They tried to black-mail her with compromising information; they threatened her with arrest; she was always under watch.

But Khadija stood firm and stayed focused on her work. In December 2014 she was arrested and is now paying for her exemplary journalism with the loss of her freedom. The government convicted her on spurious charges of embezzlement, illegal entrepreneurship, tax evasion and abuse of power. She is now serving a seven-and-a-half year sentence in a women's prison in Baku.

Much of Khadija's reporting was done as a journalist for U.S.-funded Radio Free Europe/Radio Liberty. This means that the U.S. government has a special obligation to do everything it can to secure Khadija's release. That means our government must take every opportunity, must leave no stone unturned, in the effort to secure her release. The State Department must make Khadija's release a true diplomatic priority—not a talking point on page two of its issue briefers.

One of the questions we will pursue today is whether and to what extent our witnesses believe our government is doing that. At this point I would say that we did invite the State Department to present testimony today—unfortunately the appropriate witnesses are on official travel this week. I hope to be able to discuss this matter with them when they return.

Human rights organizations have documented Azerbaijan's crackdown on civil society over the last three years. Just yesterday the Committee to Protect Journalists released its annual report, and in the report they find that Azerbaijan now leads all of the countries in Eurasia in jailing journalists. In 2015 Azerbaijan jailed 8 journalists. Today we are focusing on Khadija's case, but there are dozens of other political prisoners, including journalists, sitting in a jail cell in Azerbaijan.

Judicial processes against political prisoners are often farcical. In Khadija's case the prosecutors charged her initially with "incitement to suicide"—their case collapsed when their witness retracted. The prosecutor also charged that she had illegally signed service agreements with some RFE/RL employees. The prosecution never produced any of the 11 agreements they said she signed, and the four witnesses called to testify for the government's case denied that they had signed such agreements with Khadija.

Today is the one-year anniversary of Anar Mammadli's sentencing. Anar is the courageous head of EMDS, the leading election monitoring organization in Azerbaijan. He spoke the truth about the fraudulent 2013 presidential election and is still paying the price. I met with Anar's father—a very gentle man—just a few months after Anar was arrested and so have seen how Anar's family is suffering from this injustice. I'd like to mention the names of a few more political prisoners in Azerbaijan.

- Ilgar Mammadov: this opposition politician was severely beaten in jail on October 16. Despite winning a European Court of Human Rights case that said his prosecution was politically motivated, the government of Azerbaijan will not free him.
- Intigam Aliyev: this leading human rights lawyer is serving 7.5 years for his work seeking justice for political prisoners;
- Rasul Jafarov: this human rights activist is serving a 6.5 year sentence because the government would not register his NGO.

There are many, many more—including many that are in prison for peacefully practicing their religion.

In total, the Norwegian Helsinki Committee estimates that there are 80 political prisoners in Azerbaijan.

That is why today I introduced the Azerbaijan Democracy Act of 2015 (H.R. 4264), a bill that will protect U.S. interests in the region by advancing human rights and

promoting democracy in Azerbaijan. The bill recognizes the key role that Azerbaijan's senior leadership has played in the decimation of independent voices like Khadija's. Therefore the bill will ban their travel to the United States. Our country should not set out the welcome mat for officials that imprison journalists and opposition politicians or religious believers who peacefully exercise their right to freedom of speech and freedom of assembly.

Over the last two years the human rights situation has seriously deteriorated in Azerbaijan causing damage to its relations with the United States and other countries, and has damaged its own society by imprisoning or exiling some of its best and brightest citizens. The time has come to send a clear message.

Today the Council of Europe is sending that same message to Azerbaijan. The Secretary General announced that he is investigating the human rights situation in Azerbaijan to determine whether or not Azerbaijan is meeting their Council of Europe commitments. This is a very rare step for the Council of Europe and the first time that this Secretary General has launched this type of inquiry.

A week ago Azerbaijan gave medical parole to two of its most prominent political prisoners, Leyla and Arif Yunus. We should all welcome their release—yet it is only a first step in their case. They are still under house arrest. And we have not seen even a first step in so many other cases. I urge you all to work with me to pass the Azerbaijan Democracy Act—which would put the United States government firmly and vigorously behind the patriotic and brave Azerbaijanis who are fighting for human rights, democracy, and just government. It is their fight—but they deserve our support.

PREPARED STATEMENT OF HON. BENJAMIN L. CARDIN, RANKING MEMBER,  
COMMISSION ON SECURITY AND COOPERATION IN EUROPE

I'm pleased to see that the Commission is holding this hearing today. A lot has happened in Azerbaijan over the past two years that has harmed our bilateral relationship, but the persecution and prosecution of Khadija Ismayilova and the closure of Radio Free Europe/Radio Liberty are among the most damaging. I'm glad that we are taking the time to highlight her case.

On November 19, 2014, I chaired a Commission hearing on combatting corruption in the OSCE region and the link between security and good governance. Khadija Ismayilova was an invited witness. We were looking forward to hearing her testimony on the role of journalism in combatting corruption. Unfortunately just a couple of days after we invited Khadija to testify she was banned from leaving the country. Just three weeks later she would be in jail.

Khadija was able to submit a written statement for our hearing and she provided quite a bit of information about the new laws on protection of information in Azerbaijan that would restrict her ability to find the detailed information on corrupt government connections that she has found in the past. I'd like to ask that Khadija's statement from the November 19, 2014, Commission hearing be submitted to the record for today's hearing as well.

In her statement she made reference to Azerbaijan's participation in the Extractive Industries Transparency Initiative (EITI), an important multilateral initiative that has the potential to help countries be more transparent about their mineral wealth through engagement with their own citizens. Khadija's assessment of Azerbaijan's participation was not positive:

*Azerbaijan is a part of the Extractive Industry Transparency Initiative since 2004. As in many other global initiatives, the Azerbaijani government uses the membership as an argument against criticisms of corruption. The country is currently under scrutiny by EITI, as one of the main parts of the Initiative—civil society—is paralyzed and cannot serve as a watchdog. In non-oil extractive industries government-linked monopolies have a huge stake. In 2007 the government of Azerbaijan signed a contract to develop six gold and copper mines with a consortium that is co-owned by President Aliyev's daughters.*

The situation for civil society in Azerbaijan has only deteriorated further since Khadija prepared her testimony. Azerbaijan's new regulations on NGO registration and specifically NGO's ability to receive funding from outside sources are so restrictive that almost all of the independent NGOs that have been working in Azerbaijan's Multilateral Stakeholder Group for EITI can no longer operate. I don't see how Azerbaijan can maintain its status as a compliant country under these circumstances. We need to see much greater space for independent NGOs and journalists to operate for the EITI process to achieve its true value.

Democratic societies function based on a high level of trust in each other and the institutions that underpin democracies. Corruption undermines that trust, and thus undermines the very foundation of democracies. Corruption has corrosive, and cumulative, effects on societies. Wherever corruption rears its head—and every country is vulnerable—we must use all our tools to combat this scourge. A vibrant civil society and a free press is essential for that effort.

In Ukraine, the corruption which has plagued that country for decades only intensified during the regime of Viktor Yanukovich. A major component of the Euro-Maidan protests—the “revolution for dignity”—was the people's disgust with pervasive governmental corruption. Ukraine has taken important steps addressing corruption but much more needs to be done. In Hungary the government distribution of tobacco concessions, secrecy around the Paks nuclear deal with Russia, and a new law on public procurement, allowing close relatives of decision-makers to compete in public tenders, all erode transparency, accountability, and good governance.

Combating corruption may be the most important task we face today. Unfortunately Azerbaijan has taken one of our great anti-corruption warriors off the field of battle. We need to work to bring her back.

## PREPARED STATEMENT OF NENAD PEJIC

The arrest and imprisonment of Khadija Ismayilova and the closure of RFE/RL's Baku bureau represent a targeted and coordinated effort by the country's most senior leadership to punish journalists who report on the government's corruption, silence independent journalism, and end RFE/RL's operations in Azerbaijan.

*1. The Arrest and Imprisonment of Khadija Ismayilova*

I will begin with the imprisonment of Khadija Ismayilova, an internationally recognized investigative journalist and prominent contributor to RFE/RL's Azerbaijani Service.

The government of Azerbaijan began harassing Khadija in 2012, when she started publishing investigative reports that, among other things, documented extensive real estate holdings in Dubai belonging to President Ilham Aliyev's son, his daughters' control of majority stakes in the country's telecom and airlines industries, and the ruling family's ownership of extensive national resources, including gold mines. (Examples of these reports will be submitted to the Commission for the record.) In March 2012, private video and photos of her, taken from a camera hidden in her apartment without her knowledge, were sent to her with a threatening note and posted to the Internet. This attempt to blackmail her has never been investigated.

On December 4, 2014, senior presidential advisor Rahmiz Mekhtyiev published a 60-page tirade in official media calling RFE/RL journalists traitors and spies. We believe that this functioned as a kind of "warrant" for Khadija's arrest, and as an instruction for the raid that effectively shut down our Baku bureau later that month.

On the very next day—December 5, 2014—Khadija was arrested on charges of encouraging an individual to attempt suicide. This ridiculous accusation was soon withdrawn by the accuser, who admitted to RFE/RL that he had been coerced by the prosecutor's office to level the charge. Azeri authorities brought new charges against Khadija in February 2015, this time for abuse of authority, working without accreditation, and tax evasion. RFE/RL has publicly and repeatedly rejected these charges as baseless.

Because the charges against Khadija relate directly to the work of RFE/RL's Baku bureau during the period she was our bureau chief (July 1, 2008 to October 1, 2010), RFE/RL submitted a detailed refutation to the Azeri prosecutor general on August 18, 2015. We received no reply. (A full copy of the letter will be submitted for the record.) Furthermore, every accusation of financial wrongdoing by the prosecutor's office ignores the findings of Azerbaijan's own tax and labor authorities, as documented in routine audits they conducted in 2010 and 2014.

- Abuse of authority

As records with the Azeri Ministry of Justice show, RFE/RL's Baku bureau was established by RFE/RL, Inc., a Delaware nonprofit corporation (the "Corporation"). The Corporation carries full responsibility for the bureau. Our Baku bureau is not a legal entity; it merely represents the interests of the Corporation in accordance with Azeri laws and regulations. Khadija Ismayilova therefore never had any responsibility for, or authority over, the bureau's finances. As Bureau Chief, she did not deal with issues like payroll and taxes—her job was to oversee the bureau's journalistic work.

- Working without accreditation

The authorities charge that Khadija was working without accreditation. But Azeri law does not require that journalists be accredited; only those seeking to participate in ministerial press conferences, for example, need accreditation for the event from the relevant government office.

- Tax evasion

Khadija is accused of arranging for Baku bureau employees to pay a simplified tax of 4 percent instead of the required income tax of 14 percent, and therefore depriving the government of 10 percent of owed tax revenues. But, as stated above, Khadija, as Bureau Chief, did not handle salary, payroll, or employment contracts. This was done by the Corporation itself, in accordance with Azeri law. Audits by Azerbaijan's tax and labor ministries in 2010 and 2014 confirm that all necessary tax obligations were met.

Another charge of tax evasion relates to a calculation of corporate income tax liability based on the Baku bureau's operational costs—a calculation appropriate for a commercial firm that generates revenues from its operation, not a nonprofit organization like ours. RFE/RL's corporate income tax-exempt status is protected by a

1979 US-USSR tax treaty that applies to CIS countries. The Azeri government's own audits show that all required taxes were paid.

Regarding due process and the trial itself, the Commissioner of the Council of Europe for Human Rights and the Special Representative of the OSCE on the Freedom of Mass Media noted in a joint statement after Khadija's sentencing that the charges against her and her trial were unfair. The New York-based Committee to Protect Journalists (CPJ) called the verdict "a mockery of justice."

For example, the proceedings lacked any transparency, as journalists, international observers, and members of her family were barred from the courtroom. No motions or letters supporting Khadija were accepted into evidence during the trial, including RFE/RL's letter refuting the charges against her, which I mentioned above. During the trial, the prosecutor declared that testimony in her favor would create bias and would therefore not be introduced. Of course, the trial showed egregious bias, but in favor of the prosecution: not one witness testified against Khadija, and yet she was convicted and now sits in prison.

In her final statement in court, Khadija testified that the statements made against her were made under pressure, signed without having actually been read by the person signing, or exchanged for a bribe. As I mentioned earlier, the man who supposedly accused her of inciting him to attempt suicide said his accusation was coerced, and he ultimately withdrew it. According to Khadija, when tax inspectors were questioned in court, they admitted that not a single document they saw had her signature on it. They also said they saw only the documents shown to them by the prosecution. They said they had made assumptions that were not based on actual documents, and in fact did not reflect the requirements of the law. Remember: not one witness testified against Khadija in court.

## *2. The Raid and Closure of RFE/RL's Baku Bureau*

On December 26, 2014, RFE/RL's Baku bureau was sealed following a raid by the police and investigators from the General Prosecutor's Office. During the raid, authorities seized our corporate seal, computers, hard drives, professional equipment, and documents belonging to our staff—none of which has been returned. Per court order, in December 2014 the bank accounts of RFE/RL were frozen for the period of investigation, and documents related to the bank accounts and financial operations were confiscated. Our longtime lawyer, whom we wanted to represent us in this matter, was barred from the case, ostensibly because he was a "witness" to the alleged crimes. Twenty-six members of our staff were interrogated by the General Prosecutor's Office over the next several days. Some of them were literally dragged from their homes during the night, and most of them did not have legal representation. On April 30, 2015, a court decision forced local banks to freeze the accounts of our Azeri staff. That same day, the landlord of our Baku bureau notified us that our lease had been terminated, effective immediately.

Although the investigation of RFE/RL is formally run by the Ministry of Taxes, it was ordered by, and is being controlled by, the General Prosecutor's Office. The details of the charges against us are vague. The investigators have missed deadline after deadline for submitting their findings; each time the next deadline arrives, they apply for, and are granted, another extension. The reason is obvious: they haven't found evidence of any wrongdoing by RFE/RL. In fact some of the investigators have privately conceded to our lawyer that RFE/RL has not violated any tax laws and that they're just pursuing this investigation because they've been ordered to. The vagueness of the charges and the drawn-out manner of the investigation make it clear that this is just another scheme to prevent RFE/RL from broadcasting. If charges are ever brought against RFE/RL, we will disprove them in court. The next deadline for the investigators to present their findings is December 30, 2015.

After the raid on our Baku bureau, several members of our staff fled Azerbaijan and have applied for asylum abroad. Many others have stopped reporting and remain unemployed. Our former bureau chief, Babek Bagirov, remains under a travel ban and cannot leave the country.

Although our bureau remains closed, RFE/RL's Azerbaijani Service is continuing to fulfill its mission and work from our Prague headquarters, and with an online audience, particularly on social networks, that is growing rapidly. The Service also broadcasts a satellite television program to Azerbaijan on TurkSat.

To provide context for my testimony, I will quickly refer to the findings of some of the world's leading media advocacy groups. In its latest report covering 2014, Freedom House rated Azerbaijan "Not Free," giving it a score of 84 out of 100, 100 being worst, which places it somewhere between China and Iran. It gave Azerbaijan's legal environment a score of 28, 30 being worst. Azerbaijan ranks fifth among the Committee to Protect Journalists' 10 most censored countries. It is

grouped by CPJ with Eritrea, Ethiopia, Vietnam, Iran, China, and Myanmar among the world's 10 worst jailers of journalists.

Today, Khadija is in prison, her crime being nothing more than doing her job as a journalist—reporting about important developments inside her country, including corruption. To ensure that her work continues, RFE/RL has partnered with the Sarajevo-based Organized Crime and Corruption Reporting Project to launch a fellowship in her name. Our aim is to encourage more investigative journalism, and to ensure that intimidation doesn't win. With this testimony I proudly join the international appeal for Khadija's immediate release from prison.

Nenad Pejic, who was named Vice President and Acting Chief Executive Officer of RFE/RL, Inc. by RFE/RL's Board of Directors on August 31, 2015, became Editor-in-Chief of Programming in December 2013. Pejic joined RFE/RL in 1993, when he was named the first Director of RFE/RL's Balkan Service. Prior to joining the Radios, Pejic held various positions with Sarajevo Television including head of the News Department, Belgrade correspondent, and Program Director. He also served briefly as the Head of Publications and Public Relations at the European Institute for the Media. Pejic lectures regularly at universities in Germany, Ukraine, Georgia and Montenegro; international events such as NATO summits and the Salzburg Seminar; and to a number of non-governmental organizations around Europe.

## PREPARED STATEMENT OF DELPHINE HALGAND

Commission Chair Rep. Chris Smith, Members of the Commission, thank you for convening this very timely and important hearing. Thank you for inviting me to testify today. By your invitation, you honor the work Reporters Without Borders/Reporters Sans Frontieres has done since 1985 to defend journalists and freedom of information all over the world.

Reporters Without Borders is the largest press freedom organization in the world with 30 years of experience. Thanks to its unique global network of 150 local correspondents investigating in 130 countries, 11 national offices (Austria, Belgium, Brazil, Finland, France, Germany, Spain, Sweden, Switzerland, Tunisia, USA) and a consultative status at the United Nations and UNESCO, Reporters Without Borders is able to have a global impact by gathering and providing on the ground intelligence, and defending and assisting news providers all around the world.

**Azerbaijan is ranked 162nd out of 180 countries in the 2015 Reporters Without Borders World Press Freedom index.** This index measures the level of freedom of information. It reflects the number of journalists jailed or killed, the degree of pluralism, media independence, self-censorship, and transparency in each country. Azerbaijan is ranked lower than Egypt or Pakistan.

In my remarks this afternoon, I will focus on three aspects of Azerbaijan's crackdown on journalists and press freedom:

- Suppression of media pluralism
- Imprisonment of critical journalists
- Violence towards journalists

#### I. Suppression of media pluralism

**President Ilham Aliyev has suppressed all media pluralism in Azerbaijan.** He has orchestrated an unprecedented crackdown on the remaining critics for the past two years.

A partial media regulation authority and manipulations of the advertising market have brought broadcast media under control. Corruption, blackmail and intimidation have systematically been used to chase journalists away from independent reporting.

I would like to highlight just a few examples: the Baku bureau of *RFE/RL* was forcibly closed down after a police raid in December 2014; the independent newspaper *Zerkalo* was financially strangled and closed down earlier this year; the main opposition newspaper, *Azadliq*, is on the verge of collapse due to astronomical fines and government-organized debts and it frequently stops printing its few thousand copies.

**After successfully suppressing media pluralism at home, the Azerbaijani authorities have waged a war against foreign-based independent media, created by prominent Azerbaijani journalists forced into exile.** The authorities seem to be stopping at nothing in their determination to persecute independent journalists.

Ganimat Zahid is the well-known editor of the opposition newspaper *Azadliq*. Ganimat Zahid fled to France in 2011 and has lived there ever since. Instead of being satisfied with forcing Zahid to flee the country, the authorities are now hounding members of his family who are still in Azerbaijan. The family name is Zahidov. After placing his 87-year-old mother's home in Meysari, a village in the central Shamakhi region, under close surveillance, the police began rounding up his other relatives. His nephew Tural Zahidov was arrested on July 18, 2015 for allegedly refusing to comply with instructions from the police and was quickly given an "administrative" sentence of 30 days in detention. His cousin Rovshan Zahidov and another nephew, Rufat Zahidov, were arrested separately two days later. Rovshan was sentenced to 25 days of "administrative" detention on a charge of refusing to comply with police instructions while Rufat is facing 5 to 12 years in prison on a charge of drug possession under article 234.4.1 of the criminal code. None of these relatives are involved in any journalistic or political activity.

Zahid, who was awarded the Reporters Without Borders Austrian section's press freedom prize in 2009, was himself arrested on trumped-up charges in November 2007 and was not released until March 2010. He fled the country with his wife and children the following year, after they were the targets of serious threats, and has continued to run *Azadliq* from exile in France.

In 2012, Zahid set about breaking down the wall of broadcast censorship by launching *Azerbaycan Saati*, a TV program transmitted by satellite to Azerbaijan from abroad for several hours every week. It was jammed and then ousted from the original satellite but new satellite space was quickly found.

Zahid plans to increase the length of the programs. Despite the harassment of his family, he told Reporters Without Borders that nothing would convince him to terminate his journalistic activities.

Another worrying example of the Azerbaijan government harassment of independent media in exile is *Meydan TV*, a Berlin-based online TV station and news website run by Emin Milli, an Azerbaijani journalist now living in Germany. Founded in 2013, *Meydan TV* quickly established itself as a leading independent source of information about this authoritarian country. It offers investigative reporting, news coverage and news analysis that contrast starkly with what the tightly controlled media based in Azerbaijan provide. In particular, it provides a great deal of coverage of corruption and human rights violations.

In October 2013, *Meydan TV* revealed that the results of the presidential election had been determined in advance by software developed by the Central Electoral Commission.

During the European Games in June 2015, *Meydan TV* repeatedly reported stories that were embarrassing for the government, including the serious injuries sustained by three Austrian athletes when hit by a bus, and state TV's use of a fake British tourist to sing Azerbaijan's praises in an interview.

**Azerbaijan authorities enraged by the failure of their European Games media plan to conceal their massive human rights violations.**

Milli, who fled to Germany in 2012 after 18 months of arbitrary imprisonment, has given many interviews to the international media about the corruption surrounding the Baku European games and the way the authorities have tried to use them to improve their international image and divert attention from the disastrous human rights situation inside Azerbaijan.

He reported on June 26, 2015 that an intermediary had passed him a message from the sports minister promising that "the state will punish you for this smear campaign against the state that you have organized."

Azerbaijani officials prevented four *Meydan TV* journalists—Natig Javadli, Elnur Mukhtarov, Ayten Alekperova and Shirin Abbasov—from crossing the border into neighboring Georgia on June 30, 2015, telling them they were banned from leaving the country.

Most of the journalists who were prevented from leaving the country in 2014 were subsequently arrested or placed under investigation.

Yafez Akramoglu, who used to work for the Prague-based Azerbaijani service of *Radio Free Europe/Radio Liberty*, said on June 29, 2015 he also had received repeated threatening calls from the provincial headquarters of the Ministry of National Security (MNS) in the autonomous province of Nakhchivan. He said his caller told him he was "under surveillance" and that he and his relatives who were still in Azerbaijan would soon be "punished" if he did not stop investigating the business activities of those close to the head of the provincial government.

**In addition, all media support and press freedom NGOs were forcibly closed down in 2014:** among the most prominent ones, the Institute for Reporters' Freedom and Safety (IRFS—Reporters Without Borders local partner organisation), Media Rights Institute, IREX Azerbaijan.

IRFS Chairman Emin Huseynov had to hide nearly one year in the Swiss embassy in Baku before an agreement was made to let him leave the country. He is living in exile in Switzerland.

**Independent journalists are left with the choice between arrest, exile (dozens have left in the past two years), or silence.**

## II. Imprisonment of critical journalists

**Twelve journalists and bloggers are currently detained in connection with their reporting in Azerbaijan.**

The most famous one is Khadija Ismayilova. She is Azerbaijan's leading investigative reporter. She covered corruption at the highest level. The authorities finally arrested her in December 2014 after their many attempts to intimidate her into silence failed. End of November 2015, a Baku appeal court's confirmed her seven-and-a-half-year jail sentence. The supreme court still has to examine the case but Ismayilova will now be transferred to a women's prison to begin serving the sentence she received on September 1, 2015 on trumped-up charges of tax evasion, abuse of authority, embezzlement and illegal commercial activity. Her arrest was a political case from the outset. She is in prison because of her journalistic work and her human rights activism.

I would like to highlight as well the case of Rauf Mirkadyrov, whose trial began behind closed doors on November 4, 2015, a year and a half after his arrest. The trial was quickly expedited and the prosecutor's request is expected for December 16, 2015.

We cannot forget Nijat Aliyev imprisoned since May 2012, Hilal Mammadov since June 2012, Araz Guliyev since September 2012, Tofiq Yagublu since February 2013, Shaig Agayev since February 2013, Rashad Ramazanov since May 2013, Abdul Abilov since November 2013, Parviz Hashimli since September 2013, Omar Mamedov since January 2014, and Seymour Khazi since August 2014.

Arrests often take the form of kidnappings by plain-clothed officers. Journalists are arrested under trumped-up charges, such as drug trafficking or hooliganism. Trials are held in camera. The courtroom is often filled with paid State servants in order not to allow family members to attend.

**We bear witness to tragicomedies in Azerbaijan's courts with scripts written long ago by President Ilham Aliyev.**

**We could add to this our concerns regarding draconian laws,** such as the amendments signed into law on February 3 2015, which make it even easier for the government to close news outlets. The justice ministry can now ask a court to close any news outlet if it gets foreign funding or if it is found guilty of defamation twice in the span of a year.

**The only surprise is its superfluous nature, in so much as the authorities usually do not hesitate to trample on their own laws in order to silence critics.** Presumably it is meant to send an additional threatening message to the few remaining sources of independently reported news and information.

Since its reappearance in Russian law in 2012, the term "foreign agent" has been widely used in the region—along with the accusation of "political activities"—as a label to discredit NGOs that receive foreign funding.

### **III. Violence against journalists**

**Journalists in Azerbaijan are regularly threatened and even violently attacked physically. The freelance journalist Rasim Aliyev died on August 9, 2015** in a Baku hospital from the injuries he received when he was lured into an ambush and beaten the day before.

**He is the fourth journalist to be murdered in the past ten years.** The investigations into the deaths of Elmar Huseynov and Alim Kazimli in 2005 and Rafiq Tagi in 2011 have yet to yield any credible results.

**Impunity for violence against journalists is systematic in Azerbaijan.**

**Reporters Without Borders urges the Commission, the Obama Administration, and Members of Congress to raise the issue of restrictions on freedom of the press in meetings with senior Azerbaijani officials, to demand the immediate release of all Azerbaijani journalists, to put an end to these trumped-up prosecutions, to abandon the practice of collective punishment and to investigate the murders of journalists.**

**The United States must make it clear to President Ilham Aliyev's regime that it follows the crimes committed against Azerbaijani journalists and media closely.**

Thank you again for holding this hearing and for giving me the opportunity to contribute on behalf of Reporters Without Borders to the discussion.

Delphine Halgand has been working as the Director of the Washington DC office for Reporters Without Borders since December 2011. She runs the US activities for the organization and advocates for journalists, bloggers and media rights worldwide. Acting as RWB's spokesperson in the US, Delphine regularly appears on American media (PBS, Democracy Now, Wall Street Journal), foreign media (BBC, Al Jazeera, NTN24) and lectures at conferences in US universities (Harvard University, UCLA, Yale) on press freedom violation issues.

She previously served as Press attaché in charge of outreach at the French Embassy to the US. Since graduating from Sciences Po Paris with an M.A. in Journalism, Delphine has worked as an economics correspondent for various French media (Le Monde, Les Echos, L'Express), focusing mainly on international politics and macro-economic issues.

## PREPARED STATEMENT OF SHELLY HEALD HAN

Thank you, Mr. Chairman. As staff of the U.S. Helsinki Commission, I traveled to Azerbaijan in late October and met with government officials as well as the few remaining activists, lawyers, and journalists who are not in jail or who are were not afraid to speak with someone from the United States. The mood was somber among the independent activists as many of their colleagues were in jail and they, and often their families, faced harassment from the government or were under threat of their own arrest. But I cannot say they were defeated—in fact they were defiant in the face of the crackdown and determined to continue the fight for human rights. The bravery and optimism that Khadija Ismayilova has shown during her trial and imprisonment has played a big part in keeping that determination going.

On the afternoon of October 29, I attended one of Khadija's appeal hearings. The courtroom was almost full and even more attendees were filing in, searching for the last few remaining spots on the crowded benches. There was a moment of confusion and then we were all told to move to a different courtroom. There was a scramble as the crowd rushed to the new courtroom. If you did not find a seat you would not be allowed to stay—no standing allowed—so there was a mad dash for seats and not everyone was able to attend. Apparently this room-swapping was a common technique used by the court to ensure that no one had any physical contact with Khadija or chance to exchange words.

I could feel the tension in the courtroom, but also the resignation. It was as if we were at a theater and we all knew the grim ending of the play, but held out hope that audience participation might somehow change the outcome. There was no doubt Khadija would be found guilty. It was not because of the preponderance of evidence against her. In fact, the evidence did not support the prosecution at all. But it was because the whole trial was being held to fit the government's desired conclusion—a guilty verdict—and the court was now merely the stage on which to act it out.

Khadija had started serving her sentence on the day of her arrest. The only thing she did not know was how much longer she would be in jail.

Since the guilty verdict is assumed, the punishment starts before the trial begins. Essentially every single political prisoner in Azerbaijan has spent the entirety of their trial period in pre-trial detention, despite the availability of a bail system. Khadija spent almost exactly one year in pre-trial detention, from her December 5, 2014, arrest to her November 25, 2015, final appeal.

The conditions in pre-trial detention are often harsher than in the regular prison. Khadija was not given consistent or sufficient time with her lawyers to prepare her case; her family was obliged to provide her with food, clothing and other basic necessities; her family visits were restricted or denied; and communication with the outside was extremely limited and Khadija was punished many times, including being placed in solitary confinement, for issuing statements or writing letters from jail.

When we arrived in the second courtroom Khadija was already in the glass-enclosed witness cage where she spends the entirety of the hearing process. She cannot speak unless the microphone in her cage has been turned on, and in other hearings over the last year the judge would cut off Khadija's microphone whenever she said something the court didn't want to hear.

The court had another particularly cruel practice: as we filed into the courtroom, the tallest and most burly guards were standing, shoulder-to-shoulder, in front of the glass cage so that Khadija was not able to see or even wordlessly communicate with her elderly mother. Her mother was anxiously peering left and right around the uniformed guards trying to catch a glimpse of her daughter—did she look sick? Was she in good spirits?

We took our seats. Khadija pressed a piece of paper to the glass with a message to her mother. She was quickly told by the guards to put it down. The judge filed in and read a short notice about the procedure of Khadija's appeal. Khadija had one more month to file a certain petition, so the court would send her back to pre-trial detention to wait that full period of time. The judge quickly turned and left. As we were hustled out of the courtroom I, too, leaned around the guards searching to make eye contact with Khadija. There she was. We exchanged a quick wave, a big smile, and the universal peace sign. With that, I was pushed out the door. Leaving Khadija behind.



**MATERIAL FOR  
THE RECORD**

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PREPARED STATEMENT OF KHADIJA ISMAYILOVA, SUBMITTED FOR THE HEARING “COM-BATTING CORRUPTION IN THE OSCE REGION: THE LINK BETWEEN SECURITY AND GOOD GOVERNANCE,” NOVEMBER 19, 2014

Dear Mr Chairman:

I am grateful to the U.S. Helsinki Commission for holding this very important hearing and for giving me the opportunity to speak about corruption in Azerbaijan.

I am a contributor to Radio Free Europe/Radio Liberty, which is a leading source for independent news for Azerbaijanis, despite being banned on local broadcast frequencies in Azerbaijan. The radio has the leading role in uncovering corruption in the country.

Azerbaijan has joined the Open Government Partnership, initiated by U.S. President Obama and Brazilian President Rousseff in 2012. In a letter of intent in October 2011, Azeri Foreign Minister Mammadyarov informed his American counterpart U.S. Secretary of State Hillary Clinton about Azerbaijan’s long history of combatting corruption. Azerbaijan has undertaken a number of commitments within the context of its participation in OGP, including access to information. However, in the very same 2012, Azerbaijan has changed its legislation to restrict access to information.

Since June 2012, when the laws “On state registration and state registry of legal entities” and “On commercial secrets” have been amended, information about the founders of commercial legal entities and their shares in the charter capital is considered confidential.

With the same legislative move the law “On the right to obtain information” had been changed. The new version of the law states that information deemed contrary to the purposes of the protection of political, economic, military, financial and credit and monetary interests of the Republic of Azerbaijan, to the protection of public order, health and morality, protection of rights and freedoms, commercial and other economic interests of other individuals, ensuring the prestige and impartiality of the court, shall not be released even following information requests.

These legislative actions were the government’s response to a series of journalistic investigations revealing high level corruption and conflicts of interest, including involving the president’s family.

The facts cited in those investigations show that the families of the Azerbaijani president and several ministers are beneficiaries of monopolies in most of the non-oil sector of the economy. Thus, the president’s daughters control more than 70 percent of mobile communications and one of two backbone internet providers, control assets in the three biggest holding companies (AzEnCo, Pasha Holding and Ata Holding) and several banks. The holdings and companies controlled or linked to the president’s family enjoy biggest public contracts. In most of the cases the ownership of the companies has been hidden behind a chain of offshore companies registered in Panama and British Virgin Islands.

Most high-profile visitors to Baku, including members and staffers of the U.S. Congress, stay in the Four Seasons Hotel, which is part of the president’s family’s company. Over 30 architectural sites, including part of the ancient city wall, were destroyed during the construction of the hotel. This and several other business endeavors of the president’s family have cost many ordinary Azerbaijanis their property. The citizens have failed to restore their property rights in the courts of Azerbaijan. Those whom the government has failed to intimidate have sought justice in the European Court of Human Rights.

Even the construction of the National Flag square, which was presented as a symbol of pride for Azerbaijanis, has become an unfortunate example of corrupt practices. The government allocated 30 million AZN (\$38,5 millions) to build “the highest flagpole in the world.” The 162 meter-high flagpole kept its supremacy only for several months, as Tajikistan, another OSCE member country also leading in corrupt listings, has built one that is higher by two meters. The contract for building the flag square was granted to AzEnCo, a company owned by President Aliyev’s daughters.

Azerbaijan is a part of the Extractive Industry Transparency Initiative since 2004. As in many other global initiatives, the Azerbaijani government uses the membership as an argument against criticisms of corruption. The country is currently under scrutiny by EITI, as one of the main parts of the Initiative—civil society—is paralyzed and cannot serve as a watchdog. In non-oil extractive industries government-linked monopolies have a huge stake. In 2007 the government of Azerbaijan signed a contract to develop six gold and copper mines with a consortium that is co-owned by President Aliyev’s daughters.

The oil-related extractive industry is partly under oligarchic control as well. Offshore companies, hiding Azerbaijani names and linked to the State Oil Company’s

management or the president's family's businesses, appear as partners in joint ventures, winning oil production and trade contracts.

Investigations also reveal that the transportation minister's son and his business partners enjoy exclusive opportunities in the public transportation sector of Azerbaijan. The money, the source of which is highly questionable, is being invested by Mr. Anar Mammadov in lobbying activities in the United States through the Azerbaijan-America Alliance. The lobbying events are attended by number of the U.S. Congress.

Unlike U.S. officials and members of Congress, Azerbaijani officials and members of parliament do not file asset declarations. The Azerbaijani president signed a decree requiring to do so, but none of the officials, including the president himself, has ever filed a declaration, referring to the fact that the Cabinet of Ministers has neglected to create a template for such a document.

The candidates for the presidency and parliament are required to fill in a form declaring their assets, however, this information is not provided. I sued the Central Election Commission for refusing to provide this information.

Investigations reveal that some members of the Azerbaijani parliament own businesses. A constitutional requirement to stop their mandate in case of a conflict of interest is neglected.

Corruption in Azerbaijan undermines not only the well-being of the country's citizens but also endangers the country's independence. Corruption in education and healthcare puts people's lives at risk, and as a solution, they seek remedy in neighboring countries.

You might have heard many times from Azerbaijani interlocutors that the country exists in very difficult geography: it is sandwiched between Russia and Iran. These are the two main destinations for people who fail to find healthcare and jobs in Azerbaijan. Monopolies and corruption in Azerbaijan have created a huge problem with the availability of basic services. According to WHO data, Azerbaijanis pay 70 percent of their healthcare expenses, even though the country claims to provide medical care for free.

The country has failed to establish an insurance system. The Soviet style healthcare management is corrupt, and the failure of the education system and drug monopolies make it impossible for Azerbaijanis to receive even basic medical services in the country. The solution is right there, next door, in Iran. Azerbaijani citizens enjoy healthcare services there at far more affordable prices than in their own country. Iranian government and private clinics attract more Azerbaijanis by providing special promotion packages. According to the Iranian embassy in Baku, every year 800,000 citizens out of a population of ten million Azerbaijanis travel to Iran for healthcare.

Millions of Azerbaijanis still depend on remittances coming from guest workers in Russia—those Azerbaijanis who could not find opportunities in their own oil-rich country and have left to earn their living on the territory of their northern neighbor.

Azerbaijanis will feel the full impact of corruption and mismanagement when the oil money runs out. A devastated economy and environment, in addition to the lack of savings for the future, may become a cause of societal unrest in foreseeable future. Seventy percent of Azerbaijan's budget comes from oil production. Oil is the main commodity of Azerbaijan, making up 92 percent of its exports.

Oil fuels corrupt construction projects, which create temporary employment. The so-called "white elephant" projects like the concert halls for Eurovision or stadiums for the Euro Olympics will hardly return investments and help Azerbaijanis earn a living in the post-oil period.

The state procurement system has become more transparent in the past two years, however it still fails to allow access to information enabling citizens to monitor procurement procedures. Even with minimum access to information, using public sources, journalists have revealed facts of corruption.

Azerbaijani journalists and NGOs combatting corruption pay a personal price for these efforts. The country's broadcast media is under state control, Azadliq newspaper, the only newspaper that publishes investigative reports about the president's family, is barred from nationwide distribution and faces financial difficulties, and RFE/RL, BBC and VOA are banned on local broadcast frequencies. Online penetration is not good enough for the internet to become a substitute for TV. Weekly satellite TV programs from abroad are being jammed. The individual journalists who investigate corruption are being punished by intrusion into their privacy and smear campaigns in pro-government and the ruling party's media, and they are labeled enemies of the state. In some cases the journalists are being subject to enormous libel fines, even in cases when their story was not libelous.

The latest wave of pressure on NGOs has targeted the remnants of the research centers and media support institutions. The bank accounts of those NGOs are frozen, and leaders have had to leave the country or hide.

With the downgrading of the OSCE's mandate inside the country, most of the projects related to media and combatting corruption have stopped. The government of Azerbaijan has not approved any of the media-related proposals of the Baku project coordinator's office.

Investigative journalists in Azerbaijan have done their best to show the government where the problems are. In fact, the system of corruption in Azerbaijan is managed from the top, and top government officials are the main beneficiaries of corruption. Recent reforms made the corruption even more centralized, leaving less room for low-level officials to participate in corruption schemes.

And here I want to mention a positive part of the story. I want to single out the partial reform of the public service, in particular the establishment of so-called ASAN (easy) services. ASAN is an agency of the Azerbaijani government which provides a variety of public services to citizens. Services are made available at public service halls throughout the country. Currently, ASAN endeavors to provide over 50 services at the main location in Baku.

These islands of good governance show that the Byzantine style of business is not a destiny for Azerbaijanis, and that public servants can be professional and effective when they wish. Although there are some open questions related to ASAN procurements, the agency has decreased petty corruption in many areas of service. However, the service is yet to become a nationwide provider of public services and lacks authority in key areas like custom clearances, NGO registration, etc.

Even these islands of good governance though cannot reduce all the risks. Does the Azerbaijani government understand the risks of corruption? It probably does, although the overall system is based on every citizen's contribution to corruption and lies. As Alexander Solzhenitsyn has described in his essay, "Live Not By Lies," the system, designed by the Soviet KGB, depends on everyone's participation. Azerbaijanis are tempted to pay bribes to ease their lives on many occasions every day. The country has failed to complete the land and property registry of the capital city, leaving up to 500,000 households outside the law. Doctors and teachers, who receive \$150 monthly salary, are forced to demand bribes. An analysis of cross-border trade statistics of neighboring countries shows that Azerbaijani customs have hid imported goods worth billions of dollars. The non-registered goods end up in the black market and create illegal businesses. Hundreds of thousands of Azerbaijanis have become forced accomplices of the corrupt system, thus becoming vulnerable and silent, making it easier for the government to suppress and rule.

Here I want to speak on how the global powers of the international community can help Azerbaijanis to stop living by lies.

#### CONCLUSIONS

International institutions must pay more attention to the development of investigative journalism. Bad guys know how important investigative journalism is, and they invest a lot of money in buying out the broadcasters and silencing journalists. Good guys should know its importance as well.

The Azerbaijani government had been successful in jamming hour-long satellite TV programs, but it will be impossible for them to jam 24/7 programming. Azerbaijanis should receive 24/7 TV broadcasts of independent content which will not only inform the citizens on what is going on inside the country, but also become an alternative source of news to what is coming from Russia.

Azerbaijan needs to be held accountable to the Open Government Partnership and fulfill its commitments by granting access to information and by stopping harassment of journalists.

*These remarks are submitted in my individual capacity, and do not necessarily represent the views of RFE/RL.*

\*Below are articles written from Radio Free Europe/ Radio Liberty

#### **Azerbaijani President's Family Benefits From Eurovision Hall Construction**

By Khadija Ismayilova  
May 09, 2012

Later this month, the eyes of the world will be focused on a shimmering glass-and-steel building newly erected on the shores of the Caspian Sea to welcome the pop stars and television crews from the more than 40 European countries that will broadcast the Eurovision Song Contest 2012 spectacle.

Azerbaijan won hosting rights to the popular extravaganza last year, when its pop duo of Ell and Nikki sang their way to victory in Eurovision 2011. The Azerbaijani government responded proudly with plans for a new \$134 million concert showplace called the Crystal Hall, which seats 23,000.

Finished only a few weeks ago, it was a tense race to get the venue ready in time. Its importance was signaled by the frequent visits made by President Ilham Aliyev and First Lady Mehriban Aliyeva to the bold geometric structure as it rose amid the construction site.

But their interest was not just ceremonial and patriotic. An investigation by the Organized Crime and Corruption Reporting Project (OCCRP) and RFE/RL has discovered that the first family is personally profiting from the massive construction project through its hidden ownership in the Azenco construction company.

The company contracted for the work has long been identified in all official announcements as Germany's Alpine Bau Deutschland AG. Yet some of the equipment at the construction site is stamped with the company name Azenco. Rolf Herr, a representative of Alpine Bau in Azerbaijan, described Azenco as a subcontractor.

He would give no other details of its involvement. The Alpine Bau press office in Germany did not respond to questions about how subcontractors and vendors had been chosen.

#### *Front Companies*

Azenco is owned through a series of front companies that mask the real owners. The official newspaper of the agency for privatization of state property in Azerbaijan announced in 2010 that Baku-based Interenerji MMC acquired 97.5 percent of the shares of Azenco.

According to privatization records from March 2010, ADOR MMC, another Baku-based company, controls 70 percent of the ownership of Interenerji. Company registration documents list ADOR's legal address as "7 Samed Vurgun Street." The registered occupants of that address at the time were Mehriban Aliyeva, Leyla Aliyeva, and Arzu Aliyeva, the wife and daughters of the president, respectively.

In 2010, RFE/RL investigated the privatization of the State Aviation Company's infrastructure, including Azalbank (currently Silkwaybank), which also has as a registered shareholder Arzu Aliyeva, residing at the same address. Presidential spokesman Azer Gasimov at the time confirmed that the shareholder was indeed the president's daughter.

Gasimov did not respond to repeated phone calls and a written inquiry about the presidential family's connection to Azenco and the appearance of a conflict of interest if Azenco is profiting from state-funded construction projects.

#### *Predating Eurovision?*

Eurovision 2012 event coordinator Sietse Bakker said it was not the proper organization to answer questions about the first lady or the Crystal Hall construction.

Bakker said the city of Baku commissioned the multifunctional indoor venue before Azerbaijan won Eurovision. "We have no involvement with the construction of the hall, so you should ask this question to the responsible authorities," he said.

Official records do not support Bakker's contention. Presidential Order 1620, from July 2011, to build the concert hall, came after the May Eurovision victory.

"I have not seen written records," Bakker said, "but it doesn't take much to realize that there is quite a lot of planning going into the construction of such [a] venue."

#### *Very Expensive Flag*

The Crystal Hall is the second project to raise conflict-of-interest questions about Azenco.

It also helped construct the grandiose \$38 million State Flag Square near the Crystal Hall, which briefly held the "Guinness Book of World Records" title for tallest flagpole in the world.

An enormous Azerbaijani flag flies above the construction site of the Crystal Hall on the Caspian shoreline in Baku earlier this year.

A few months after it was put up, Azerbaijan's 162-meter flagpole was surpassed by an even taller flagpole in Dushanbe, Tajikistan.

Two-thirds of the cost of the square in Baku came from the Reserve Fund of the head of state by presidential Decrees 532 (October 26, 2009) and 1052 (August 3, 2010). The other one-third came directly from the 2011 state budget in accordance with a decree by the Cabinet of Ministers 260 S (August 25, 2011).

A spokesman for the cabinet, Akif Ali, refused to respond to questions about how Azenco came to be chosen as a partner in the project.

*Looting State Coffers*

Azenco has been employed on numerous state-funded projects less showy but possibly no less profitable than the Baku work. State Procurement Agency records show that in 2010 alone the company was awarded contracts worth \$79 million. The company also recently gained control of Sumqayit Technology Park, a former state-funded enterprise started by Azerenerji, the government-owned energy producer.

Azer Mehtiyev, director of the Center for Assistance to Economic Initiatives, a politically independent think tank, says Azenco looks like a clear example of a scheme to “misappropriate” some of the country’s oil wealth.

“With the big oil money flowing into the budget, a parallel process of monopolization of spheres of economy, redivision of state property ... [made] way for the misappropriation of revenues,” Mehtiyev said.

“Big infrastructure projects financed by oil revenues are mainly distributed to companies which belong to high-ranking officials. The government keeps the information about owners of the companies secret. The state contracts are assigned to companies established in offshore zones with unknown owners making public control over the process impossible,” he added.

According to Mehtiyev, it is especially difficult to get information about the business interests of the president’s family.

*Anticorruption Talk, No Action*

Azerbaijan adopted an Anticorruption Law in 2004 that obliges officials to declare the income and property holdings of themselves and their relatives.

In August 2005 (order No. 278), the president ordered the Cabinet of Ministers to prepare a special form on which officials would give that information within two months. But the forms were never drafted and officials never provided the information. It is not clear if the president or the first lady, who is also a member of parliament, have submitted declarations in the past decade.

The presidential administration and the Central Election Commission will not respond to questions about their property. A written inquiry sent to the first lady’s website was not answered.

In January 2011, President Aliyev declared that the government would take serious measures against corrupt officials.

The 2012 Eurovision event will have one other tie to the first family besides the new showcase auditorium: The president’s son-in-law, singer Emin Agalarov, was chosen to entertain the crowd between acts.

\* \* \*

### **TeliaSonera’s Behind-The-Scenes Connection To Azerbaijani President’s Daughters**

By Khadija Ismayilova  
July 15, 2014

Through a trail of owners and offshore registrations, the two daughters of President Ilham Aliyev appear to be connected to Azerbaijan’s largest mobile phone business, Azercell.

Records indicate they are linked to two of the three largest providers, which means the government is potentially controlling nearly three-quarters of the mobile market.

This raises serious questions about Internet surveillance and communications security within Azerbaijan and may help to explain complaints about costly service.

It also indicates more unusual ties between Swedish telecom giant TeliaSonera and Eurasian political figures than the company has publicly acknowledged, according to documents reviewed by the Organized Crime and Corruption Reporting Project (OCCRP) and (RFE/RL).

It has been a difficult 18 months for TeliaSonera.

In late 2012, Swedish TV and OCCRP revealed that TeliaSonera was being investigated for bribery in connection with \$320 million paid to a company run by a close friend and business partner of Uzbekistan’s ruling family in order to obtain a 3G license in that country.

In Azerbaijan, the surreptitious links between the ruling family and the country’s mobile phone companies raise questions about how real the competition can be among the top companies.

The answers lie in a complex web of offshore and business records that connect Azercell, the company's largest mobile provider, to the Aliyev daughters. TeliaSonera owns nearly 40 percent of Azercell.

After the affair in Uzbekistan, TeliaSonera changed its management roster and vowed to overhaul business practices and ethical standards. Company officials, however, refuse to discuss any specific actions they have taken or are taking in Azerbaijan.

Today Azerbaijan's telecom market is split between Azercell, Bakcell, and Azerfon. And while the Aliyev daughters' ownership of Azerfon has been widely reported, newly examined documents reveal a close connection between the Aliyevs and Azercell as well.

Azercell, with nearly half of the market, was established in 1996 by the government of Azerbaijan and its parent company Azertel, which at that time was a subsidiary of Turkcell in Turkey.

Since then, TeliaSonera has bought shares in Azercell through an offshore subsidiary called Fintur Holdings. The Swedish firm also owns shares of Turkcell.

The second-largest provider is Bakcell, with about one-third of the market. It was established in 1994 by the government and GTIB 1996 LTD, registered in the British Virgin Islands, a well-known offshore tax haven. It is unclear who ultimately controls Bakcell.

The third-biggest provider is Azerfon, with about one-fourth of the market. As reported previously, 72 percent of Azerfon shares is owned by Leyla and Arzu Aliyev, daughters of the Azerbaijani president.

To understand the connections between the companies, follow the paper trail of a Swiss national named Olivier Mestelan, who has frequently served as secretary in companies owned by the Aliyev daughters and whose name keeps popping up in telecom records.

For example, Azertel is the parent company of Azercell. TeliaSonera's partner in Azertel—a company called Cenay Iletishim—is represented by Mestelan. Mestelan also shows up in records of Azerfon.

This means figures linked to the Aliyev family control nearly three-quarters of all mobile communication providers, including mobile Internet, and are capable of monitoring phone calls and website visits on a massive scale.

Media watchdogs say these hidden connections behind the ownership of mobile-phone operators raise serious questions about Internet freedom and the extent to which government officials may be listening to citizens.

Rashid Hajili is the director of the Media Rights Institute in Baku, which monitors media and protects journalists' rights. He says the Internet is heavily monitored by the Azerbaijani government, which has a history of blocking websites that criticize it.

Hajili says the Ministry of Communication requires all communication companies to provide equipment and special facilities to the Ministry of National Security for surveillance. But while the companies have cooperated with Azerbaijani law enforcement in cases involving journalists and bloggers, Hajili says media rights advocates haven't received information needed to defend those journalists.

Defense lawyer Elchin Sadigov says Azerbaijan's mobile companies don't even seek court approval to listen in, as required by law. "The court-order requirement was neglected in the case against journalist Avaz Zeynalli, when his colleagues—all of them journalists working for the 'Khural' newspaper—had been illegally monitored," he says.

"All of the phone operators, including Azercell, provided access to recorded phone conversations without due legalities. The same happened in the case of the journalist Parviz Hashimli. In this case the investigation was conducted by the Ministry of National Security and, according to the indictment, they had full access to phone conversations."

Amnesty International has declared Hashimli and Zeynalli "prisoners of conscience."

Recent cases show how dangerous it can be for a government to have this much power.

Agil Khalil, a reporter for the Azadliq newspaper, has sued Azerbaijani mobile operator Azercell in the European Court of Human Rights and is awaiting a verdict.

Khalil, who fled the country in 2008 after a series of attacks on him, has accused the Azerbaijani government and the mobile phone operator of plotting against him.

In 2008, Khalil was stabbed in the chest after publishing an article alleging that employees of the Ministry of National Security were involved in corrupt land deals in Baku. According to the Media Rights Institute, Azerbaijani law enforcement tried to present the attack as irrelevant to his work and to start a smear campaign

against him, alleging that the journalist was stabbed by a jealous homosexual lover, Sergey Strekalin. The rights institute has led Khalil's defense.

Khalil, who says he is not homosexual and has never met Strekalin, demanded that law enforcement investigate and punish the real attackers. Law enforcement ignored that and Strekalin, who testified on behalf of the prosecution, served less than half of a 1 1/2-year prison term.

The prosecutors' office alleged that they had SMS exchanges between Khalil and Strekalin, provided by Azercell. Azercell, however, refused to provide those messages to Khalil or his lawyers. Khalil maintains that the messages are fraudulent and that he never sent them.

Activists say it is not only journalists who are victims of illegal activities involving the telecommunications companies.

When Nigar Yagublu, a youth activist and daughter of opposition party member Tofiq Yagublu, was facing trial for a car accident, she learned that both her phone and that of her father were being tapped.

Investigators claimed that they obtained a court order permitting the wiretapping on the same day the investigation into the accident began. However, the indictment quoted conversations that took place immediately after the accident, proving that the listening had been underway before a court order could have been in place.

#### *Competing Companies, Same Signature*

When TeliaSonera's subsidiary Azercell entered the Azerbaijani market in 1996, it was a joint venture between the government and Azertel, a Turkish company whose owners were Fintur Holdings (79.8 percent) and two Turkish companies: Cenay Iletisim and Cenay Insaat (10.1 percent apiece). TeliaSonera is the majority owner of Fintur Holdings.

In November 2005, two Panamanian companies—Dilsan Investment SA and Colville Group SA—bought Cenay Iletisim for 8.85 million Turkish liras (US\$ 6.6 million). In Panama, it is easy to hide true ownership of a company behind proxy names; the incorporation documents were signed by Olivier Mestelan, while his name didn't appear as an officer.

That same year, a new communications company—Azerfon—entered the country's mobile phone market. The government bypassed tender procedure laws to grant Azerfon its license. Six years later—in 2011—journalists discovered that the Aliyev daughters owned 72 percent of Azerfon through three Panamanian companies.

Leyla and Arzu Aliyeva alternate in the role of either president or treasurer of all three Panamanian companies, while Mestelan is listed as secretary of all three. Mestelan is a well-known figure in Baku who owns a high-end art gallery. His perceived relationship with the Aliyev family earned him a spot on a short list of people "of particular interest" compiled by the US State Department.

Mestelan has been profiled by "Baku" magazine, published by Leyla Aliyeva in Moscow. She is also an editor in chief.

Mestelan also sits on the advisory board of Ata Holding, owned largely by a Panamanian company, Hughson Management, where Arzu Aliyeva is president, sister Leyla is treasurer, and Mestelan is secretary.

Mestelan is also connected to one of the companies that owns Azercell. His signature appears on the Panamanian incorporation for Dilsan Investment, but documents do not list any position he holds. A search in the Turkish Official Business Gazette finds Mestelan listed as a signatory for both Dilsan Investments and Colville Group, the two Panamanian companies that bought a 10.1 percent share of Azercell in 2005.

In 2008, the government of Azerbaijan sold its 35.7 percent share of Azercell to its Turkish-Swedish-Panamanian partner Azertel for \$180 million. After the Azertel partners each raised their investment stakes by varying amounts, Fintur Holding owned 51.3 percent, Cenay Iletisim owned 42.2 percent, and Cenay Insaat owned 6.5 percent.

It was a lucrative deal for the Cenay Iletisim owners. According to Azertel financial reports listed in the Turkish Official Business Gazette, from 2006 to 2012 Cenay Iletisim received dividends worth at least \$249 million while investing only \$95 million, for a profit of \$154 million.

Despite its indirect links with the ruling family, Azercell spent six years trying to get a license to provide 3G service to its mobile phone customers. Azerfon—the competing company controlled by the Aliyeva sisters—held the 3G monopoly until the end of 2011.

At about the same time that Azercell finally received a 3G license, a newly-formed company, FA Invest Malta Limited, took over the 6.5 percent shares from Cenay Inshaat. FA Invest was incorporated in Malta and its ownership structure is hidden.

But according to the Turkish Official Business Gazette, Azerbaijani citizen Hamzayev Rashad Firidunoglu was appointed to represent FA Invest Malta Limited at Azertel board meetings. A person by the same name is a major in the Special State Guard Service, responsible for the President's personal security. His names appears on a list of Guard Service employees who received special awards "For the service to motherland" from Aliyev in 2010.

Hamzayev did not respond to a request for comment.

In its 2013 annual report, TeliaSonera noted the formation of a new Sustainability and Ethics Committee and listed "anti-corruption" as a focus area.

When asked about the ownership of Azercell and whether the company had begun to take promised measures, including renegotiating or even terminating agreements with business partners, Salomon Berkele, head of external communication for TeliaSonera, said the company would go into no further detail beyond the goals stated in the annual report.

#### *The Appearance Of Competition*

The near-monopoly on mobile phone service may also be driving up prices.

Baku resident Jahangir Alibeyzade juggles daily with three phones. He says the only way to afford phone communication in Azerbaijan is to have simcards from three different operators. Calls between carriers are too expensive. Even with this trick, mobile communication tariffs are still too high, Alibeyzade says.

Azerbaijan charges one of the most expensive mobile call tariffs in the area:

Kamal Mahammadli, who also uses three SIM cards, says operators charge nearly the same rates because there is no real competition. Alibeyzade also thinks there is no free market. Ahmed Mahmudov, who lives in the town of Agdash and works in a shop selling construction materials, has his own explanation for why he couldn't choose among the three operators.

"They claim they have different campaigns and cheaper prices, but at the end of the month you see that you didn't pay less for using their services," he says.

Asked why the existence of three competitors doesn't reduce prices, Mahmudov says, "Your logic doesn't work here. We have our own logic in this country."

The Azerbaijani government and the three companies claim there is competition. A deeper look into incorporation documents tells a different story.

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### **Azerbaijani Government Awarded Gold-Field Rights To President's Family**

By Nushabe Fatullayeva and Khadija Ismayilova  
May 03, 2012

BAKU—Novruz Allahverdiyev, 40, lives in a mud house in the village of Chovdar, a small mining town in the mountainous region near the border with Armenia. He is one of 800,000 internally displaced persons from the war with Armenia that battered his native Nagorno-Karabakh region in the early 1990s.

Allahverdiyev and members of 60 other displaced families found shelter and a place to farm in the mountains around Chovdar. Like many in his predicament, Allahverdiyev is patriotic, and the walls of his poor home are plastered with pages from an aging calendar featuring portraits of President Ilham Aliyev and his late father, former President Heydar Aliyev.

Allahverdiyev's family now faces yet another problem. A British mining company has taken over some of his land and has blocked one of the two streams his village relies on for water. Allahverdiyev is sure President Aliyev will help him and his community.

But his faith may be misplaced. What Allahverdiyev doesn't know is that the president and his family own a stake in the new mine. The U.K. company is actually a front for the first family.

In two 2007 decrees, the state assigned the right to develop the Chovdar gold field and five other sites to a company called Azerbaijan International Mineral Resources Operating Company, Ltd. (AIMROC). AIMROC—which controls a 70 percent stake in the mines, while the Azerbaijan government controls 30 percent—has been building the infrastructure for the Chovdar mine and is expected to begin production this year.

### *Panamanian Trail*

But sorting out AIMROC's structure is a daunting task. While Chovdar locals blame the "ingilis" (English) for their woes, the truth is quite different. AIMROC is a joint venture of four companies: Londex Resources, S.A, Willy and Meyris S.A., Fargate Mining Corporation, and Globex International LLP. All four are shell companies that, according to Azerbaijani officials, were set up specifically for this deal. It is unclear if any of them have any mining experience or other mining projects.

A fifth company—Mitsui Mineral Development Engineering Co Ltd (MINDECO), a mining-engineering company owned by Japan's Mitsui Mining and Smelting Company—is listed as the official project supervisor, but has no ownership.

Of the four AIMROC owners, the only U.K.-based company is Globex International, which has an 11 percent stake, worth about \$200 million. But Globex is actually owned by three companies registered in Panama: Hising Management SA, Lynden Management Group, Inc., and Arblor Management Corporation. According to Panamanian registration records, all three firms list President Aliyev's two daughters—Leyla and Arzu Aliyeva—and Swiss businessman Olivier Mestelan as senior managers.

Mestelan has long had close ties to the Aliyev family. He has organized artistic events with them and, together with Leyla and Arzu, appears in the records of other Panamanian companies being used as fronts for businesses in Azerbaijan, including the Azerfon cellular-services provider. Mestelan declined to be interviewed for this story.

Aliyev's office refused to answer questions about his family's business interests in the gold fields. Presidential spokesman Azer Gasimov did not return phone calls and did not respond to questions submitted in writing.

### *Opaque Decisions*

AIMROC has been controversial from its beginning. The consortium was formed by a 2006 presidential decree that identified Globex as part of the consortium. In 2007, AIMROC was awarded 30-year leases on the mineral fields.

Chovdar alone is a lucrative parcel. According to the Azerbaijani Environment Ministry, it contains reserves of 44 tons of gold and 164 tons of silver, worth about \$2.5 billion at current prices.

The contracts were awarded to AIMROC hastily and over the objections expressed by many members of parliament during hearings held in June 2007. Lawmakers complained that the consortium's ownership was opaque; that the contract was awarded in violation of bidding procedures; that none of the companies had any history of mining; and that the deal was contrary to Azerbaijan's national interests. During the hearings, deputy Valeh Aleskerov, chairman of the parliamentary Natural Resources Committee, defended the deal. He said the creation of offshore companies was "a common practice around the world" and that no tender was issued because of the uncertainty about how much mineral wealth there was. Instead, he said, the government held talks directly with potential investors.

The Environment Ministry's chief geologist, Agamahmud Samedov, told RFE/RL that the estimates of the other five fields are classified. He also declined to comment on AIMROC's ownership or its lack of mining experience.

When asked last month about AIMROC's ownership, Aleskerov said, "Do you think the Azerbaijani government would contract with someone unknown, with just anyone from the street?" When asked if the Aliyev family has any financial interest in the project, Aleskerov said only "Shame on you!" and hung up.

### *Professional Proxies*

Parsing the rest of AIMROC's structure is more difficult. Londex Resources and Fargate Mining are registered in Panama, according to documents obtained from the Panama Registry of Companies.

The documents indicate that the companies are interrelated through a complicated chain of company directorships. All three are or were at one time owned by two companies registered at the same address on the tiny Caribbean island of Nevis: Casal Management and Tagiva Management.

Casal and Tagiva act or acted as the director for at least 20 companies in the United Kingdom, the United States, and Panama. It is likely that the companies are professional proxies used to hide actual ownership.

According to a document of the Tax Registry of Azerbaijan, Willy and Meyris S.A. (listed in some documents as Will & Meyris S.A.) is represented by a Czech geologist, Mirko Vanecek, the executive editor of "The Journal of Geosciences" in Prague.

*'The President Is A Good Person'*

Meanwhile, back in Chovdar, locals are looking forward to a rumored visit by President Aliyev to mark the opening of an ore refinery the consortium has built.

"We have heard that president will come to the opening ceremony of this factory," villager Paneh Huseynov says. "Please tell our president to come and visit us. Tell him we support his policies. We will not be allowed to approach him. Please, we ask him to come and ask about our living conditions. Then he'll see how we live and how we suffer."

Villagers had no idea that the president's family owns part of the mine operator. "How can the president be benefiting from this production? ... All of the companies here are foreign. Englishmen are running the business here," says one local who refuses to give his name.

Teacher Nureddin Ramazanov lost some land to AIMROC. With a salary of just \$130 per month, Ramazanov says his family is starving.

"The company destroyed our road," he says. "Geologists took our land. They paid us only 2,000 manats [\$2,500] per hectare. Now I don't know how we'll survive."

Meanwhile, Karabakh exile Allahverdiyev says he is hoping to get a job at the mine. Locals say mining jobs pay the equivalent of \$12 a day. So far, the mining site has hired very few locals.

Despite grinding poverty and the problems with the mine, most locals remain firm in their faith in Aliyev, whose omnipresent portrait gazes out over the people of Chovdar from the walls of shops and schools.

"The president knows nothing about this," says teacher Ramazanov. "Local officials say the president ordered that our land be taken, but I don't believe it. He is a good person."

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**Aliyev's Azerbaijani Empire Grows, As Daughter Joins The Game**

By Ulviyye Asadzade and Khadija Ismayilova

August 13, 2010

BAKU—On the drive between Baku's international airport and the capital center, travelers are met by a brigade of sleek roadside signs advertising a company called SW Holding.

But as innocuous as the posters may appear, they represent a company that enjoys a near-complete monopoly over every aspect of airline service.

Mid-flight meals? Served by Sky Catering, which is owned by SW Holding.

Taxi service? Run by Airport Gate, also owned by SW Holding.

Technical upkeep of the national carrier's planes and helicopters? Silkway Technics. It—and multiple other companies controlling everything from traveler assistance to ticket sales to duty-free stores—are all owned by SW Holding.

The holding company is so expansive it even includes its own Silk Way Bank. According to an investigation by RFE/RL's Azerbaijani Service using documents obtained by the State Committee on Financial Securities, the bank's owners include two women with close ties to the country's leadership. One is Zarifa Hamzayeva, the wife of the president of Azerbaijan's AZAL state airline company. And the other is Arzu Aliyeva, the 21-year-old daughter of the country's president, Ilham Aliyev. (The remaining owner and current majority stakeholder is Silkway Airlines LLC, which is registered abroad.)

The rise of SW Holding, which has seamlessly absorbed many of AZAL's former businesses, has raised questions about dubious privatization practices in Aliyev's Azerbaijan. It also serves to underscore how the political elite continues to use close friends and family members to preserve its hold on the country's most valuable assets—despite Azerbaijani laws that list nepotism by state officials as an offense punishable by up to 12 years in jail.

*The Kids Are Alright*

Ilham Aliyev likes to keep things in the family. It's a trend started by his father, Heydar, who ruled the country for 30 years before effectively handing the reins to his son before dying of a heart condition in 2003. Aliyev's wife, Mehriban Aliyeva, is a parliament deputy and a prominent political figure in her own right.

According to a report in "The Washington Post," the couple's preteen son, Heydar, last year became the legal owner of nine luxury mansions in Dubai purchased for some \$44 million. Their daughters, Arzu and Leyla, also have Dubai property reg-

istered under the names. In total, the children's property holdings are estimated at \$75 million.

As president, Aliyev earns an official salary of close to \$230,000 a year. But Aliyev, who prior to office served as vice president of SOCAR, Azerbaijan's state oil company, has kept a tight grip on the resources of his oil-rich country, and his holdings are believed to be in the tens of millions of dollars. Neither he nor his wife have declared their net worth, in defiance of Azerbaijani law.

The law also prohibits public officials from owning businesses. Family members, however, face no such restriction. It is unclear where Arzu Aliyeva—who until now was best known for her role in an Azerbaijani tourism ad aired on CNN—may have acquired the estimated 6.4 million manats (\$7.8 million) she used to acquire her initial stake of 29.08 percent—or how she would pull together the additional 4.5 million manats that she and Hamzayeva would both need to achieve matching blocking stakes.

Hamzayeva is the owner of Gazelly, a successful cosmetics business, but experts say it is unlikely her profits are large enough to allow multimillion-dollar bank investments.

In an interview with RFE/RL, presidential press secretary Azer Gasimov confirmed that Arzu Aliyeva was one of the owners of the Silk Way Bank. As an Azerbaijani citizen who had reached the age of majority, Aliyeva was fully within her rights to establish her own business, he said.

#### *Dodgy Privatization*

The rise of SW Holding and Silk Way Bank have raised questions about the privatization of AZAL, the state airline company, including its holdings, like AZAL Bank. The privatization process was launched in 2003 under a plan drafted by Azerbaijan's Ministry of Economic Development.

According to state law, the entire process was meant to be conducted by the State Committee on Privatization of State Property. But Gulu Khalilov, the committee's spokesman, told RFE/RL he had no information on who privatized AZAL Bank.

Anar Khanbeyli, a financial expert with Azerbaijan's Turan news agency, says the process was dodgy from the start.

"Normally, the state's share should be privatized through the State Committee on Privatizing State Property. And the privatization of the state's share in the bank was supposed to be conducted by the same committee," Khanbeyli says. "They're supposed to make an announcement, accept bids, announce conditions for participating in the tender, and then announce a winner. None of these procedures was followed. They bypassed them completely when they privatized the state's share."

#### *Million-Dollar Contracts*

In the meantime, SW Holding has slowly but steadily acquired nearly all of AZAL's former companies, including the insurance firm AZAL Sigorta, which is now co-owned by SW Holding and the two daughters of Jahangir Asgarov, the president of AZAL and the husband of Zarifa Hamzayeva, the current co-owner of Silk Way Bank.

SW Holdings has also been the sole contractor on a number of high-profile AZAL projects, including airport-construction deals in Lankaran, Ganja, and Zagatala worth a total of \$150 million.

Neither side is eager to clarify the connection between the two entities. SW Holding referred an RFE/RL request for information to the AZAL press services, which responded that SW Holding was a private company and should be able to answer questions on its own.

Khanbeyli says all the parties supervising the AZAL privatization were negligent, from the privatization committee to the Central Bank, the Tax Ministry, and AZAL itself.

"AZAL was supposed to cry foul when it was deprived of its bank," he says. "I guess they didn't because the shareholders are the AZAL president's wife and the daughter of the president of the country."

This is not the first case where the head of state-run agencies have used close relatives to privatize the most profitable parts of their businesses. RFE/RL has previously reported on ZGAN Holding—a private company run by Anar Mammadov, the son of Transport Minister Ziya Mammadov—which was awarded several multi-million-dollar construction contracts with the ministry after a murky bidding process.

Questions have also been raised about Tale and Nijat Heydarov, the sons of Kemaladdin Heydarov, the current minister for emergency situations and the former head of the state customs committee. The Heydarov brothers are the owners of United Enterprises International, a group of companies engaging in everything

from caviar sales to the ownership of the Gabala soccer club, which is peppered with foreign players recruited from abroad.

But their father, like Ilham Aliyev, has repeatedly refused to report his net worth, and the source of the Heydarovs' wealth has never been clarified.

\* \* \*

### **Azerbaijani President's Daughters Tied To Fast-Rising Telecoms Firm**

By Khadija Ismayilova  
June 27, 2011

BAKU—Azerfon, a Baku-based telecoms company that operates under the brand Nar, is one of the success stories of the new Azerbaijani economy. Founded in March 2007, the company already boasts nearly 1.7 million subscribers and covers 80 percent of the country's territory. Azerfon is Azerbaijan's only provider of 3G services.

In April, the Caspian-European Integration Business Club (whose honorary chairman is Azerbaijani President Ilham Aliyev) named Azerfon "mobile operator of the year." The honor was presented to Azerfon board chairman Cuneyt Turkkan by Azerbaijani Minister of Communications and Information Technologies Ali Abbasov.

But the company's ownership structure has been clouded in mystery since its creation. Now, RFE/RL's Azerbaijani Service has conducted an investigation linking Azerfon's main shareholders to the daughters of President Aliyev.

Aliyev's family has been tied to numerous suspicious business dealings in the past. His family controls a company called SW Holding that has privatized many lucrative elements of the state-owned AZAL airline. The "Washington Post" reported in March 2010 that Aliyev's three children are the registered owners of some \$75 million worth of real estate in Dubai. First lady Mehriban Aliyeva and her two daughters are believed to control several of the country's largest banks.

When the Communications Ministry announced the formation of Azerfon late in 2006, it said the company was owned by the German firm Siemens AG and a couple of British firms. The ministry has repeated the same information several times in the ensuing years.

But Siemens AG spokeswoman Monika Bruecklmeier-Langendorf told RFE/RL that her company has never owned any shares in Azerfon or any other mobile operator in Azerbaijan.

Likewise, the Finland-based Nokia Siemens Networks (NSN) denied owning a stake in Azerfon. "NSN has never owned shares of Azerfon. NSN is leading provider of solutions and services to the communications industry, and our policy is not to own shares of our customers," NSN spokeswoman Anna Lehtiranta said.

When RFE/RL informed the Communications Ministry of the information from Siemens, a ministry spokesperson simply repeated that Siemens is an Azerfon shareholder.

#### *Mum's The Word*

Azerfon's press office refused to provide information about its shareholders to RFE/RL. It also declined to provide information about its total revenues or the amount of taxes it pays, except to assert that it pays its taxes in a timely fashion.

However, according to documents obtained by RFE/RL from the Azerbaijani Tax Ministry (registration number 1105-T13-3906), Azerfon is owned by three Panama-registered companies, one company registered in the Caribbean tax haven of Nevis Island, and the state-owned Aztelekom. The latter owns 10 percent of Azerfon, while the Nevis Island firm Cellex Communications SA owns 18 percent. The three Panama-registered firms, each of which owns 24 percent of Azerfon, are Hughson Management, Inc.; Gladwin Management Inc.; and Grinnell Management Inc.

Vasif Movsumov, chairman of the Baku-based Anticorruption Foundation, says such a lack of transparency raises questions.

"If two government agencies give contradictory information about a company's ownership, and the company itself is not transparent on this issue, there is a high probability of corruption in its practices," Movsumov said.

International anticorruption campaigners have long noted that the use of offshore shell companies in tax havens is a common tactic for hiding the identity of a company's owners and covering illegal activities such as corruption and money laundering.

*Trans-Atlantic Trail*

The Panama State Registry provides basic information about the three companies registered there that are purportedly among Azerfon's owners. According to their records, Leyla Aliyeva, President Aliyev's 25-year-old eldest daughter, is registered as the president of Gladwin and Grinnell. In both cases, Arzu Aliyeva, Ilham Aliyev's 22-year-old second daughter, is registered as company treasurer.

In the case of Hughson, the roles are reversed, with Arzu listed as president and Leyla as treasurer.

All three companies list start-up capital of \$10,000.

All three Panama-based firms also list Olivier Mestelan, a Swiss businessman who reportedly has close ties to the Aliyev family, as treasurer. "Baku" magazine, which is published in Moscow by Leyla Aliyeva, profiled Mestelan as an art collector and patron. He owns the Kicik QalArt gallery in Baku and is founder of the Art ex East Foundation. According to the "Baku" profile, he is a lawyer by training who owns a home in Azerbaijan that he visits several times a year. RFE/RL was told at the Kicik QalArt gallery that Mestelan would not comment on the businesses he owns.

Likewise, the presidential administration refused to provide information relating to the Aliyev family's business holdings. According to an Azerbaijani law adopted in 2005, senior government officials, including the president, are required to provide asset declarations about themselves and their immediate families. President Aliyev has never made such an asset statement public and the Azerbaijan Central Election Commission rejected RFE/RL's request for copies of his statements.

*Perceived Irregularities*

There are other unanswered questions about Azerfon. Rovshan Agayev, director of the Center for Assistance to Economic Initiatives, claimed that Azerfon entered the Azerbaijani market in violation of a 2001 law requiring a license tender.

"In order to obtain the legal rights to operate in the country, communications companies need to demonstrate their technical and investment eligibility by participating in tenders," Agayev told RFE/RL. "None of the Azerbaijani mobile-phone operators has ever participated in such a tender. When Bakcell entered the market in 1995 and Azercell in 1997, the state procurement law had not yet been adopted. However, in 2006, when Azerfon appeared on the market, such procedures were already mandatory."

Agayev says the Communications Ministry violated the law by approving Azerfon without a tender.

In addition, the manner in which Azerfon acquired its current monopoly on 3G services raises questions. Competitor Azercell—which has more than twice as many subscribers as Azerfon—has applied for a 3G license repeatedly in recent years and been repeatedly rejected by the Communications Ministry. Azerfon was granted the license without a tender.

\* \* \*

Prior to her arrest on Dec. 5, 2014, Khadija Ismayilova hosted a popular program on Radio Free Europe/Radio Liberty's Azerbaijani service and worked as a senior investigator with the Organized Crime and Corruption Reporting Project. Her work has been recognized with the PEN America Press Freedom Award and the National Press Club John Aubuchon Press Freedom Award.

Khadija wrote these words in a letter from prison in February 2015:

*Prison is not frightening for those trying to right a twisted scale, or for those who are subject to threats for doing the right thing. We see clearly what we must fight for. Life is very complicated, but sometimes we get lucky and are offered a clear choice, between truth and lies. Choose truth and help us.*

On May 27, she celebrated her 39th birthday in Baku's Kurdukhani jail.

On September 1, 2015, Khadija Ismayilova was convicted on charges of embezzlement, illegal entrepreneurship, tax evasion, and abuse of power in a closed-door trial and sentenced to seven-and-a-half years in prison. On November 25, an Azerbaijani appellate court upheld the guilty verdict against Ismayilova, confirming her sentence.

[THE FOLLOWING IS NOT AN EXACT OR OFFICIAL TRANSLATION OF THE ORIGINAL DOCUMENT, WHICH WAS SENT IN THE AZERI LANGUAGE.]

[A SCAN OF THE ORIGINAL DOCUMENT IN AZERI ACCOMPANIES THIS UNOFFICIAL TRANSLATION.]

Prosecutor General of the Republic of Azerbaijan  
Mr. Zakir Qaralov  
and  
Judge of the Court of Grave Crimes  
Ms. Ramella Allahverdiyeva

Washington, DC  
18.08.2015

Dear Mr. Prosecutor General and Your Honor!

For the past eight months, the work of RFE/RL's (Radio Free Europe/Radio Liberty) Azerbaijan bureau has been paralyzed as a result of what we see as illegal intervention on behalf of General Prosecutor's Office and the Ministry of Taxes.

Before the tax inspection of the Radio Free Europe/Radio Liberty Baku bureau was finalized, a separate case was made out of the on-going criminal case against our former colleague Khadija Ismayilova. In order to strengthen the case against journalist Ismayilova [she was originally charged with inciting someone to suicide] she was also charged with abuse of authority, money laundering, illegal entrepreneurship, and tax evasion all of which were committed during her time of employment with Azadliq Radiosu.

Since the new charges are directly related with the work of Azadliq Radiosu we feel it is our duty to comment on them.

We consider the accusations brought against Khadija Ismayilova as accusations directly against our radio and hence we refuse to accept them.

1. According to the Regulations of the bureau registered by the Ministry of Justice of Azerbaijan, the bureau was established by "RFE/RL Inc." Company (3.1) and based on the legislation of the state of Delaware. The company hence carries full responsibility of the bureau (3.4).

According to the company Regulations, "the bureau isn't a legal entity. It protects and advocates for the Company's interests only in accordance with laws and regulations in force in the Republic of Azerbaijan" (5.1). The management is carried out by an individual appointed by the Company (7.1). The position, function and responsibilities of the manager of the bureau are determined by the Company's power of attorney (7.3).

**The head of the bureau was always responsible for the content, planning, organizing of the work flow, preparation of the shows, literary content and etc.**

Since June 22, 2005 until today, RFE/RL Inc. Azerbaijan bureau administration were carried out by Bureau Administrator in accordance with the company regulations and the power of attorney.

Having someone manage the radio's programming activities and its financial responsibilities based on a legal entity contract is completely out of the question.

Khadija Ismayilova was employed as Bureau Chief since July 1, 2008 until October 1, 2010 according to an employment contract. As of October 1, 2010 she resigned from this position based on her own decision. Since then, and until her arrest on December 5, 2014 she continued her work with the radio based on a civil contract. She was the host of the daily radio show, "After work".

**According to the RFE/RL Inc. Azerbaijan bureau regulations and the agreements signed with the directors of Azadliq Radiosu, neither Khadija Ismayilova, nor her predecessors or successors have had the responsibility or authorization for the bureau's finances, which includes planning of bureau's overall flow of expenses, presentation of financial reports to the tax authorities and so on.**

2. One of the charges against Khadija Ismayilova and consequently Azadliq Radiosu is illegal entrepreneurship based on the claim that between January 2008 and January 1 2009, Azadliq Radiosu broadcasted on 101.7FM radio wave without a license.

RFE/RL Inc. Company's broadcasts on Azerbaijan FM airwaves or any other airwave are managed by the Washington based International Broadcasting Bureau (IBB). IBB negotiated with National Television and Radio Broadcasting Council, the

Ministry of Communications and Information Technologies, including the Ministry-based Radio Television Broadcasting and the Satellite Communication Production Association paying all the necessary fees for broadcasting on local FM airwaves. The decision to stop broadcasting on FM airwaves and related correspondence was carried out with the Washington based IBB.

**The radio's FM broadcast lasted from January 1, 2007 until December 31, 2008. The National Television and Radio Broadcasting Council provided the Azadliq Radiosu with license TR 052 to broadcast on 101.7MHz. On September 7, 2008 when the original agreement ended, the two sides continued negotiations in the meantime with National Television and Radio Broadcasting Council permission to continue broadcasting on the same airwave. However, the second round of negotiations yielded no results and as of December 30, 2008, the radio's license was terminated.**

**The state administration of Radio Frequencies of the ministry of Communications and Information Technologies and the Ministry of Radio and Television Broadcasting and Satellite Communications Production Association and the IBB had agreements signed from 01.01.2007 until 01.01.2009. According to these agreements the costs of the above mentioned institutions were fully paid up to January 1, 2009.**

This information was provided in inquiries raised by the RFE/RL Inc. company legal representative and lawyer Adil Ismayilov.

3. According to another criminal charge brought against Khadija Ismayilova, she was engaged in tax evasion. It is said that Ismayilova arranged for radio employees to pay simplified tax (4%) instead of the required income tax of 14%. Therefore she is wrongfully accused of wasting the 10% difference, which amounts to 17,992.60AZN according to the Criminal Code Article 179.3.2—misappropriation or embezzlement when carried out in large quantities.

Even if the claims of the investigation were true, accusing someone in this particular case of embezzlement is nonsensical; at most this can be described as tax evasion.

But there is logic to the actual accusation. If Khadija was found guilty under article 213.1 of the Criminal Code—tax evasion—she would get maximum 3 years in jail. And once the outstanding debt is paid, she could be totally discharged of her crime. But such a possible outcome did not please the investigators. If found guilty of the current charge under article 179.3.2, Khadija could be locked up for 12 years.

We consider it crucial to highlight a very important clause once again, not at any time of her work as bureau chief was Khadija Ismayilova responsible for handling salary and employment contracts. It was directly done by the RFE/RL Corporation itself.

While it is clear this has nothing to do with Khadija, it also important to mention that the corporation itself never violated Azerbaijan's legal framework.

**Azadliq Radiosu hires people either on employment contract or on freelance contracts for services. The tax payments differed based on whether an employee was on an employment contract or service contract.**

In the first case, it is the company responsible for taxes, in the latter it is the person providing the service. In both cases however, all taxes were fully paid.

4. Another absurd charge brought against Khadija Ismayilova claims that Ismayilova avoided paying taxes. The accusation is based on an alleged sum of 1,354.368 AZN and Khadija's failure to pay the outstanding amount of 45,145.63AZN to be paid into state budget.

The investigator knows well that Azadliq Radiosu is not for-profit organization and according to its regulations, its goal isn't business ventures and generating revenues; but supporting democratic values and institutions by sharing news and ideas.

**The fact is that Azadliq Radiosu is a nonprofit organization and therefore is exempt from income taxes in US, and also according to US/USSR Tax Treaty from 1976, which applies to CIS countries.**

**RFE/RL is not a corporate income tax payer in Azerbaijan, therefore calculation of any income taxes by prosecutors based on operation costs transferred to Baku bureau is against bilateral treaties.**

This is why, "RFE/RL Inc." Company's Baku bureau could not be paying corporate income tax.

In addition, the investigators were fully aware that the money was coming in from the RFE/RL, Inc. Company itself to cover operational costs, to show this as the bureau's income is nothing more but a clear attempt to prejudice.

This financing did not bring the radio additional financial income, but covered the expenses of the rent, salaries, honorariums, buying of equipment for the radio and so on.

5. We also consider the following charge brought against Khadija Ismayilova biased and non-objective. She is accused of working without accreditation and hence being involved in illegal entrepreneurship appropriating large sums of money.

**It is the inability of investigators to see that no such criminal, administrative or even civil offense exists in Azerbaijani legislation that would punish someone for not getting an accreditation as a journalist.**

Sincerely,

Benjamin Herman  
RFE/RL, Inc. Corporate Secretary and General Counsel



Azərbaycan Respublikasının Baş Prokuroru  
Cənab Zakir Qaralova

və

Bakı Ağır Cinayətlər Məhkəməsinin Hakimi  
Xanım Ramella Allahverdiyevaya

**Vaşinqton, ABŞ**  
**18.08.2015**

Hörmətli cənab Baş prokuror və Hakim!

Artıq 8 aydır ki, Azərbaycan Respublikası Baş prokurorluğunun və Vergilər Nazirliyinin qanunsuz hesab etdiyimiz müdaxiləsi nəticəsində RFE/RL Inc. Şirkətinin (Azad Avropa /Azadlıq Radiosu) Azərbaycan nümayəndəliyinin fəaliyyəti iflic olub.

Azad Avropa/Azadlıq Radiosunun Azərbaycan nümayəndəliyində vergi yoxlaması başa çatmadan cinayət işindən sabiq həmkarımız Xədicə İsmayilova barəsində iş ayrılaraq məhkəməyə göndərilmişdir. Məlum olmuşdur ki, istintaq orqanı faktiki olaraq Xədicə İsmayilova barəsində onu həbs etmək üçün irəli sürdüyü başqasını özünü öldürməyə cəhd həddinə çatdırmaq ittihamını guya ki, möhkəmləndirmək üçün ona "Azadlıq" radiosundakı fəaliyyəti ilə bağlı qulluq səlahiyyətlərindən sui-istifadə edərək külli miqdarda özge əmlakını talama, qanunsuz sahibkarlıq, vergidən yayınma ittihamları irəli sürmüşdür.

Sonradan irəli sürülmüş ittihamlar bilavasitə "Azadlıq" radiosu və onun fəaliyyəti ilə əlaqəli olduğundan onlara münasibət bildirməyi özümüzə borc bilirik.

Xədicə İsmayilovanın radiodakı fəaliyyəti ilə əlaqədar ona qarşı irəli sürülmüş bu ittihamları radiomuza qarşı ittiham hesab edir, onları qəbul etmirik:



1. Nümayəndəliyin Azərbaycan Respublikası Ədliyyə Nazirliyində qeydiyyatdan keçmiş Əsasnaməsinə görə, Nümayəndəlik ABŞ-ın Delaver ştatının qanunvericiliyinə uyğun yaradılan və fəaliyyət göstərən "RFE/RL Inc." Şirkəti tərəfindən yaradılmışdır (3.1) və Şirkət nümayəndəliyin öhdəliklərinə görə tam məsuliyyət daşıyır (3.4).

Əsasnamədə göstərilir ki, "Nümayəndəlik hüquqi şəxs deyil, yalnız Azərbaycan Respublikasında və onun qüvvədə olan qanunlarına və bu əsasnaməyə zidd olmayan qaydada Şirkətin maraqlarının müvəkkilliyini və müdafiəsini həyata keçirir..."(5.1). Nümayəndəliyin idarə edilməsini Şirkət tərəfindən təyin edilmiş rəhbər həyata keçirir (7.1). Nümayəndəliyin rəhbərinin (başçısının) ...vəzifə, funksiya və səlahiyyətləri Şirkət tərəfindən verilən etibarnamələrdə müəyyən olunur (7.3).

**Büro rəhbəri ancaq Bürodə jurnalist işinin təşkili, planlaşdırılması, proqram və verilişlərin hazırlanması, bedii tərtibatına, bir sözlə, yaradıcılıq fəaliyyətinin koordinasiyasına cavabdeh olmuşdur.**

22 iyun 2005-ci ildən etibarən hal hazırda kimi RFE/RL Inc. Azərbaycan nümayəndəliyinin işinə rəhbərlik və maliyyə hesabatlılığı şirkətin etibarnaməsi və Əsasnamə əsasında Büro Administratorlarına aid olur.

Radio ilə mülki müqavilə əsasında əməkdaşlıq edən şəxsin Radionun fəaliyyətinə və vergi öhdəliklərinə görə hər hansı bir məsuliyyətdən ümumiyyətlə söhbət gedə bilməz.

Xədicə İsmayılova 1 iyul 2008-ci ildən 1 oktyabr 2010-cu ilə kimi əmək müqaviləsi əsasında "Azadlıq" radiosu Bakı Bürosunun müdiri vəzifəsində çalışmışdır. 2010-cu ilin 1 oktyabrında öz ərizəsi əsasında tutduğu vəzifədən azad olunub və 5 dekabr 2014-cü ildə həbs edilənə kimi radioda mülki müqavilə əsasında fəaliyyətini davam etdirərək „İşdən sonra“ verilişinin aparıcısı olmuşdur.

**RFE/RL Inc. Azərbaycan nümayəndəliyinin Əsasnaməsi və Azadlıq Radiosu Bakı Bürosunun müdirləri ilə bağlanmış müqavilələrdən göründüyü kimi, nə Xədicə İsmayılova, nə də ondan öncəki və sonrakı müdirlərin maliyyə məsuliyyəti - büronun xərclərinin planlaşdırılması, icrası, müvafiq qurumlara, o cümlədən vergi orqanlarına maliyyə və başqa hesabatların verilməsi sahəsində məsuliyyəti və səlahiyyətləri olmamışdır.**



2. Xədicə İsmayılova və dolayısı ilə „Azadlıq“ radiosuna qarşı irəli sürülmüş ittihamlardan biri radionun guya 2008-ci il yanvar ayının 1-dən 2009-cu ilin yanvar ayının 1-nə qanunsuz olaraq xüsusi razılıq lisenziya almadan 101.7 FM dalğasında radio yayım aparmaqla qanunsuz sahibkarlıq etməsi ilə bağlıdır.

RFE/RL İnc. şirkətinin (Azad Avropa Radiosu/ Azadlıq Radiosunun) Azərbaycanda FM və ya istənilən başqa tezliklərdə yayımı və ya hansısa radio kanallarda yayımlanması məsələləri ilə Vaşinqtondan xüsusi qurum olan İBB (Beynəlxalq Yayım Bürosu) məşğul olmuşdur.

Azərbaycanda FM və istənilən başqa tezliklərdə yayım İBB ilə Azərbaycan hökumətinin müvafiq qurumları, konkret olaraq Azərbaycan Respublikası Milli Televiziya və Radio Şurası (MRTŞ), Azərbaycan Respublikası Rabitə və Yüksək Texnologiyalar Nazirliyinin Dövlət Radiotezlikləri İdarəsi və həmin nazirliyin Radio Televiziya yayımı və Peyk Rabitəsi İstehsalat Birliyi ilə arasında aparılan danışıqlara əsasən təşkil olunub və haqqı ödənilib. Müvafiq yazışmalar və yayımın dayandırılması ilə bağlı məlumatlandırılma məktubları da məhz bu quruma ünvanlanıb və imzalanıb.

Radionun FM tezliyində yayımı 101.7 tezliyində 01 yanvar 2007-ci ildən 31 dekabr 2008-ci ilə kimi davam etmişdir. MRTŞ tərəfindən 07 sentyabr 2007-ci il tarixdə „Azadlıq“ radiosuna bir il müddətinə 101.7 MHz tezlikdə fəaliyyət üçün TR 052 sayılı lisenziya verilmişdir. Lisenziyanın müddəti 07 sentyabr 2008-ci ildə başa çatdıqdan sonra MRTŞ ilə İBB arasında müddətin artırılması barədə danışıqlar aparılmış, danışıqların getdiyi müddət ərzində yayım MRTŞ-nin razılığı əsasında davam etmişdir. Lakin danışıqlar müsbət nəticə verməmiş, MRTŞ-nin 30 dekabr 2008-ci il tarixli iclasında radionun lisenziyasına xitam verilmişdir və həmin tarixdən yayım dayandırılmışdır.

Azərbaycan Respublikası Rabitə və Yüksək Texnologiyalar Nazirliyinin Dövlət Radiotezlikləri İdarəsi və həmin nazirliyin Radio Televiziya yayımı və Peyk rabitəsi İstehsalat Birliyi ilə İBB arasında 101.7 tezliyində yayım barədə 01.01.2007-ci ildən 01.01.2009-cu ilə kimi müqavilələr olmuşdur. Bu müqavilələr əsasında həmin qurumların göstərdiyi xidmətlərin haqqı 1 yanvar 2009-cu ilə kimi tam ödənilmişdir.

Göstərilənlər həmin qurumların RFE/RL İnc. şirkətinin səlahiyyətli nümayəndəsi vəkil Adil İsmayılovun sorğularına verdikləri cavablarda və əlavə edilmiş sənədlərdə öz əksini tapmışdır.



3. Xədicə İsmayılova qarşı irəli sürülmüş növbəti ittihamın məzmununa görə, o, radionun xidmət müqaviləsi əsasında əməkdaşlıq etdiyi bir sıra şəxslərin gəlir vergisi (14 faiz) ödəyicisi kimi deyil, sadələşdirilmiş vergi ödəyicisi (4 faiz) kimi qeydiyyatda durmasını təşkil edib, bununla da gəlir vergisi ödəyicisi ilə sadələşdirilmiş vergi ödəyicisi arasındakı 10 faizlik fərq – yəni 17,992,60 manat məbləğini israf etməklə, talamaqla Azərbaycan Respublikası Cinayət Məcəlləsinin 179.3.2-ci maddəsində nəzərdə tutulan cinayəti törətmişdir.

Hətta istintaqın dedikləri həqiqət olsaydı belə, bu əmələ görə hər hansı şəxsi əmlakı talama cinayətində ittiham etmək məntiqsizdir, burada yalnız vergidən yayınmadan söhbət gedə bilərdi.

İstintaq orqanının əslində qanun çərçivəsindən kənara çıxmayan əməli talama kimi tövsüf etməsi səbəbsiz deyildir. Bu əməl vergidən yayınma kimi tövsüf ediləcəyi təqdirdə Xədicə İsmayılova CM-nin 213.1-ci maddəsi ilə maksimum 3 il müddətinə azadlıqdan məhrum etmə ilə cəzalandırılmalı idi. Görünür, bu cür nəticə istintaq orqanının planlarına uyğun gəlmədiyi üçün Xədicə İsmayılova qarşı sanksiyası 12 ilədək azadlıqdan məhrum etmə cəzası nəzərdə tutan 179.3.2-ci maddə ilə ittiham irəli sürülmüşdür.

Bir daha qeyd etməyi zəruri hesab edirik ki, Xədicə İsmayılovanın nə Bakı bürosuna rəhbərlik etdiyi dövrdə, nə də ondan əvvəlki və sonrakı dövrlərdə ödəmələr və işəgötürmələrlə bağlı səlahiyyəti olmamışdır. Bu məsələlər birbaşa "Azad Avropa/Azadlıq" Radiosu Korporasiyası tərəfindən tənzimlənib.

Belə olan halda Xədicə İsmayılovanın məsuliyyətindən ümumiyyətlə söhbət gedə bilməz. Şirkət özü isə heç bir zaman Azərbaycan Respublikasının qanunvericiliyini pozmamışdır.

**"Azadlıq" radiosu əməkdaşlarını görəcəyi işin həcmi və mahiyyətindən asılı olaraq ya əmək müqaviləsi, ya xidmət müqaviləsi əsasında işə götürür. Radio ilə onların arasında olan münasibətlər birinci halda əmək qanunvericiliyi, ikinci halda isə mülki qanunvericiliklə tənzimlənir.**

Əmək müqaviləsi ilə çalışanların statusu xidmət müqaviləsi üzrə çalışanların statusundan fərqli olduğundan vergi öhdəlikləri də buna uyğun olaraq fərqlənmişdir. Birinci halda



vergilərin ödənilməsi öhdəliyi şirkətə, ikinci halda isə xidmət göstərən şəxsə aid olmuşdur və hər iki halda vergilər tam həcmdə ödənilmişdir.

4. Xədicə İsmayılova qərsi irəli sürülmüş absurd ittihamlardan biri də onun guya 1.354.368 (bir milyon üç yüz əlli dörd min üç yüz altmış səkkiz) manat gəlirdən dövlət büdcəsinə ödənilməli olan 45.145 (qırx beş min yüz qırx beş) manat 63 (altmış üç) qəpik məbləğində xeyli miqdarda vəsaiti dövlət büdcəsinə vergi ödəməkdən yayındırması ilə bağlıdır.

İstintaq orqanı bunu gözəl başa düşür ki, "Azadlıq Radiosu"nun Azərbaycandakı nümayəndəliyi qeyri-kommersiya təşkilatıdır və Əsasnaməsində də qeyd edildiyi kimi hədəfi sahibkarlıq fəaliyyəti deyil, xəbərlər və ideyalar yaymaqla demokratik dəyərlər və institutları dəstəkləməkdir.

**ABŞ – SSRİ arasında 1976-cı ildən qüvvədə olan və hal-hazırda Azərbaycan da daxil olmaqla bütün MDB ölkələrinə şamil edilən dövlətlər arası vergi razılaşmasının tələblərinə görə, Azad Avropa / Azadlıq Radiosunun nə ABŞ-da, nə də Azərbaycanda mənfəət vergisi ödəyicisi deyil!**

**Bu üzəndən prokurorluğun Bakı bürosunun xərcləri üçün köçürülən maliyyə vəsaitlərini Nümayəndəliyin gəliri kimi təqdim etmək və gəlirdən mənfəət vergisi hesablaşmaq cəhdi dövlətlər arası sazişə ziddir.**

Bu səbəbdən "RFE/RL Inc." Şirkətinin Azərbaycan Respublikasındakı nümayəndəliyi qeyri-kommersiya təşkilatı kimi mənfəət vergisinin ödəyicisi ola bilməzdi.

Üstəlik, müstəntiqlər gözəl bilir ki, Nümayəndəliyə yalnız bir mənbədən "RFE/RL Inc." Şirkətindən maliyyə daxil olmuşdur və bunu nümayəndəliyin gəliri kimi təqdim etmək açıq-aşkar qərəzin nəticəsidir.

Çünki, bu maliyyə vəsaitləri heç bir maddi gəlir gətirməyib, radionun fəaliyyətinin təşkil edilməsinə (ofisin kirayə haqqı, işçilərə maaş və xidməti müqavilə üzrə çalışanlara qonoranın verilməsi, radionun maddi-texniki bazanın yenilənməsi və təmiri və nəhayət vergi öhdəliklərinin icra edilməsinə və s.) sərf edilmişdir.



5. Xədice İsmayılovanın akkreditasiyadan keçmədən fəaliyyət göstərməklə qanunsuz sahibkarlıqla məşğul olması və küllü miqdarda qanunsuz gelir əldə etməsi barədə ittiham da qərəzli və əsassızdır.

**"Kütləvi informasiya vasitələri haqqında" AR-nın 07 dekabr 1999-cu il tarixli Qanununun 50 və 53-cü maddələri və həmin qanunun tətbiq edilməsi haqqında prezidentin 08 fevral 2000-ci il tarixli Fərmanının məzmunu ilə tanış olanda görünür ki, akkreditasiyadan keçməməyə görə qanunvericilikdə nəinki cinayət məsuliyyəti, hətta inzibati və mülki məsuliyyət də nəzərdə tutulmayıb və istintaqın bunu bilməməsi heç də inandırıcı görünmür.**

Hörmətlə,

Benjamin Herman  
RFE/RL Inc. Şirkətinin Katibi və Hüquq Müşaviri

## ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE

## THE REPRESENTATIVE ON FREEDOM OF THE MEDIA

DUNJA MIJATOVIĆ

Vienna, 17 December 2015

U.S. Representative Christopher H. Smith  
 Chairman  
 The Commission on Security and Cooperation in Europe  
 U.S. Senator Roger F. Wicker  
 Co-Chairman  
 The Commission on Security and Cooperation in Europe

Your Excellency, Chairman Smith,  
 Your Excellency, Co-Chairman Wicker,

I am writing to express my support for the continuing efforts of the Commission on Security and Cooperation in Europe in addressing the unjust sentencing of Khadija Ismayilova, a prominent investigative journalist with Radio Free Europe/Radio Liberty in Azerbaijan. I followed with great interest yesterday's hearing "Azerbaijan's Persecution of RFE/RL Reporter Khadija Ismayilova" organized by the Commission.

As you may know, I have repeatedly spoken out on Ismayilova's conviction and addressed her case with the authorities on several occasions:

- On 5 December 2014 I issued a public statement condemning her arrest and saying that it was orchestrated intimidation and part of the campaign to silence her free and critical voice (<http://www.osce.org/fom/130076>);
- On 23 February 2015 I wrote to Minister of Foreign Affairs Elmar Mammadyarov conveying my concern about media freedom in Azerbaijan, particularly noting her case and that she was in custody while facing new charges of embezzlement, illegal business and abuse of power. In addition, in the meanwhile she was found liable on criminal libel charges and fined. In the letter, I also noted that Ismayilova has serious health issues and requires continuing professional medical care;
- On 27 August 2015 I wrote to the authorities requesting permission to attend Ismayilova's trial. I noted reports that members of the independent press and civil society had been denied access to the courtroom. No permission to attend the trial was granted;
- On 1 September 2015 together with Council of Europe Commissioner for Human Rights Nils Muižnieks, I issued a public statement condemning the sentence handed down on Ismayilova. I said that the charges and the trial were unjust and another clear signal that the authorities were silencing critical voices in the country. I reiterated my call to stop targeting journalists (<http://www.osce.org/fom/179391>).

Additionally, on 29 December 2014 I issued a public statement denouncing a raid on Radio Free Europe/Radio Liberty in Baku and again called on the authorities to stop the intimidation of free media. Reportedly, the radio's bureau was raided by investigators from the state prosecutor's office. Documents, files and equipment were confiscated and the premises were sealed. Employees were called in for questioning. I said the authorities must allow the radio to resume its work and safeguard the existence of critical voices in the country (<http://www.osce.org/fom/133046>).

Although my calls to release Ismayilova remain unaddressed, I sincerely believe that public activities involving wider international community, such as the 16 December hearing organized by the Commission to scrutinize Ismayilova's persecution, would contribute to securing her, as well as other media members, release in the country.

In addition to Ismayilova, there are more than 10 journalists, bloggers and social media activists in prison or pre-trial detention. They include:

- Rasul Jafarov, a free expression and free media advocate and human rights defender, on charges of embezzlement,
- Seymur Hazi, a columnist for the newspaper Azadliq, on a charge of hooliganism;
- Omar Mamedov and Abdul Abilov, bloggers, on charges of illegal storage and sale of drugs;

- Parviz Hashimli, a journalist with Bizim Yol newspaper, on charges of smuggling and illegal storage and sale of firearms;
- Nijat Aliyev, editor of the www.azadxeber.az news website, on various charges, including drug possession and incitement of hatred;
- Rashad Ramazanov, an independent blogger, on charges of illegal storage and sale of drugs;
- Hilal Mamedov, editor of “Tolishi Sado” newspaper, on charges of drug possession, high treason and incitement of hatred.

I hope the above information will be useful for your important work. My Office stands ready to provide further support to the Commission and I look forward to continuing our co-operation.

Availing myself of this opportunity, please accept, Excellency, the assurances of my highest consideration.

Dunja Mijatović

CC: H.E. Ambassador Daniel Baer  
Permanent Representative  
United States Mission to the OSCE



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