



June 4, 2012

## STATEMENT

### **The Institute for Reporters' Freedom and Safety calls on the Azerbaijani government to refrain from adopting draft amendments that will hinder freedom of expression and access to information**

The Institute for Reporters' Freedom and Safety strongly condemns the Azerbaijani government's plan to pass amendments to the laws "On the right to obtain information", "On commercial secrets" and "On state registration and state registry of legal entities." IRFS believes these amendments are an attack on the principles of freedom of expression and the right of society, and particularly the media, to access information, and calls on the Parliament to refuse to pass this regressive bill into law. IRFS states that these amendments will also increase the level of corruption.

On June 1<sup>st</sup>, the Azerbaijani Parliament (Milli Majlis) discussed the three proposed amendments put forth by the President. The final decision on whether to adopt them will be made at Parliament's extraordinary plenary meeting.

According to the proposed amendments, neither private citizens, nor journalists, nor civil society institutes working to improve transparency will be able to obtain information about the founders and financial resources of legal entities, the amount of their charter capital, and other similar information. This information will only be accessible to law-enforcement bodies.

IRFS believes that the primary reason behind these proposed amendments is the recent investigative work done by independent journalists, some of which have targeted large companies and enterprises owned by family members of high-ranking state officials. At the same time, recent reports by NGOs working to improve transparency have exposed corrupt dealings by businesses with ties to high-ranking state officials, especially in relation to state purchases. This pressure has motivated the government to impose further restrictions on access to information.

IRFS states that these initiatives on the part of the government cast doubt on its alleged commitment to combat organized crime and terrorism, and, as such, IRFS emphasizes that while other developed countries are implementing "open government" initiatives, Azerbaijan is doing the opposite. IRFS notes that in many countries, the registry information of legal entities, including offshore legal entities, is open to the public, and available online. Attempts by the Azerbaijani government to curb open reporting of this type of information would be a significant throwback to the Soviet past that the Azerbaijani people struggled for so long to eradicate.

IRFS considers that these amendments are contradictory to the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the UN Convention Against Corruption. IRFS calls upon the Azerbaijani government to refrain from adopting such restrictive amendments and to improve the existing legislation on freedom of information.

IRFS also calls upon the UN, the Council of Europe and the OSCE, all of which Azerbaijan is a member and before whom it has undertaken to uphold the freedoms of expression and information, to take appropriate measures, and specifically to make statements on the inadvisability and injustice of these amendments.

**\* NB. Brief summary of the proposed amendments to Azerbaijani legislation**

The June 1<sup>st</sup> meeting between the committees on legal policy and state building discussed draft amendments to two Azerbaijani laws: “On state registration and state registry of legal entities”, and “On commercial secrets”. According to the proposed amendments, information about the founders of commercial legal entities and their shares in the charter capital shall be considered confidential.

This information shall only be disclosed based on an inquiry to the courts and investigative bodies, to the subjects of operational-search activities in cases specified by law, and to financial monitoring bodies in the cases and manner specified by the Law of the Republic of Azerbaijan “On the struggle against legalization of funds or other property obtained through criminal ways and the financing of terrorism”.

According to the bill, this information can only be disclosed to relevant bodies, lawyers, and third parties following the consent of the information owner. According to the proposed amendments to the law “On commercial secrets”, this information shall be considered as a commercial secret.

Amendments to the Law of the Republic of Azerbaijan “On the right to obtain information” were also put forth for discussion. The draft amendment states that information deemed contrary to purposes of the protection of political, economical, 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.