

Nenad Pejic¹ Written Testimony
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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 This ridiculous accusation was soon withdrawn by the accuser, who admitted to RFE/RL that he had been coerced by the prosecutor's office to level the charge.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

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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.