

**AZƏRBAYCAN RESPUBLİKASININ
RABİTƏ VƏ YÜKSƏK
TEXNOLOGİYALAR NAZİRLİYİ**



**THE MINISTRY OF COMMUNICATIONS
AND HIGH TECHNOLOGIES
OF THE REPUBLIC OF AZERBAIJAN**

AZ 1000, Bakı şəhəri,
Zərifə Əliyeva küçəsi, 77
Tel.: 498-58-38; 598-11-38, Faks: 498-79-12
Elektron poçtu: us@mincom.gov.az
http://www.mincom.gov.az

77, Zarifa Aliyeva Str., AZ 1000
Baku, Azerbaijan,
Phone: +(994-12) 498-58-38; 598-11-38
Fax: +(994-12) 498-79-12
E-mail: us@mincom.gov.az
http://www.mincom.gov.az

" 17 " 10.2016

№ 2-09/11792

To: Mr. David Kaye
Special Rapporteur on the rights to freedom of opinion and expression
Office of the United Nations High Commissioner for Human Rights
Palais Des Nations, 1211 Geneva 10, Switzerland
Fax: +41 22 917 0123, e-mail: freedex@ohchr.org

CC: Ministry of Foreign Affairs of the Republic of Azerbaijan
Fax: (+994 12) 596 9001, e-mail: secretariat@mfa.gov.az

Subject: Submission to study on freedom of expression and the telecommunications and Internet access sector

Dear Mr. Kaye,

Your letter dated August 9, 2016 on submission of information about national norms regulating the telecommunications and Internet access sector with regard to freedom of opinion and expression has been reviewed by the Ministry of Communications and High Technologies of the Republic of Azerbaijan. We herein enclose the information upon your request.

Taking an opportunity, the Ministry of Communications and High Technologies expresses its compliments to the Office of the United Nations High Commissioner for Human Rights.

Attachment: in 2 pages

Sincerely,

First Deputy Minister

Ali Abdullayev

OHCHR REGISTRY

24 OCT 2016

Recipients: SPB
S. SENS
.....
.....

Submission to the study on freedom of expression and the telecommunications and internet access sector

Last decades the substantial rise of demand on Information and Communication Technologies (ICT) led to the rapid development of ICT. The daily use of ICT in all levels of societies, especially in developed countries – staying online and doing businesses online turned into ordinary lifestyle of people.

Today, Internet and ICT provides broader prospective for people to openly express their opinions. As a fundamental part of human rights, the significance granted to freedom of speech and expression has been also growing in the world. In the Republic of Azerbaijan, it is adhered by the Constitution, namely Article 3 of the Constitution.

The right to freely obtain information, without interference and on equal conditions for all; legal framework of data provision upon the canons of open society and democratic legal state; collection, usage, storage, searching and dissemination of data; information systems and technologies, formation and use of means of their provision; conflict resolutions with regards to data protection and definition of rights of subjects, participating in data processes are regulated by existing legislation of Azerbaijan, including, among others:

- Law 460-IQ “On information, informatization and protection of information” dated 03.04.1998
- Law 602-IIQ “On e-signature and e-document” dated 09.03.2004
- Law 927-IIQ “On telecommunications” dated 14.06.2005
- Law 1024-IIQ “On obtaining of information” dated 30.09.2005
- Law “On approval of Convention On Cybercrime” dated 30.09.2009
- Law 879-IIIQ “On protection of individuals with regard to automatic processing of personal data” dated 30.09.2005
- Law 998-IIIQ “On personal data” dated 11.05.2010

There are no norms within the Azerbaijani legislation, permitting to suspend or restrict access to websites or Internet and telecommunications networks. Nevertheless, civil rights are subject to restriction with the aim of protection public safety and public order, safeguard of health and morals of society, and defense of rights and freedom, dignity and pure name of other individuals, as it is clearly set out in Civil Code of Azerbaijan (Article 6.3). Following that, according to the Law “On personal data” (Article 13.2), transfer of personal data is permitted in following circumstances:

- Personal confidential data can be presented to competent state and local self-governing authorities for the implementation of particular tasks under the condition of compliance with the legal requirements related to information systems of personal data;
- Transfer of personal data is admissible with the purpose for protection of individual’s life and health, and when his or her timely and immediate consent is impossible.

In addition to that, pursuant to the Law "On telecommunications" (Articles 38.5 and 39.1), operators and providers have to provide conditions for taking actions within the confines of rules stipulated by the statute.

Arising from the law "On entrepreneurial activity", "except as otherwise provided by the law, the property of entrepreneur is inviolable" (Article 12.5) and "the government guarantees protection of rights and legal interests of entrepreneur, implementing its activity in accordance with the legislation of the Republic of Azerbaijan" (Article 12.1). These principles are reflected in the Laws "On regulation of inspections conducted in the field of entrepreneurship and protection of entrepreneurs' interests" and "On telecommunications", as well as Rules "On use of public communication network" with regards to the activities of operators and providers, functioning in telecom sector and network suppliers.

The Civil Code (Articles 21 and 23) and Code of Criminal Procedure (Article 259 – the lawful interception can be undertaken solely on the basis of court's decision) of the Republic of Azerbaijan lay down the primary legal regulation against undue restrictions on Internet and telecommunications access or undue access to customer data.

Recently, the ICT has widely spread in Azerbaijan. The country adopted the latest technology innovations targeted to future enhancement, the quality of Internet access has been improved. 75 percentage of population are internet users, while 65 percentages of them became broadband users. 4G mobile services have been provided since 2012. Broadband penetration has been increasing not only among population, but businesses and state governance, as well.

The State Program "On implementation of National Strategy on Development of Information Society for 2016-2020" has been adopted by the Presidential Decree №2345 dated 20.09.2016. The particular actions are defined related to "ICT infrastructure and services" under the Action Plan of the State Program:

- Application of advanced technologies taking into consideration the growing demand of population on ICT and resolution of "last mile" issue;
- Enhancement of optic-fiber network infrastructure;
- Provision of alternative and high quality connections to international backbones, and increasing of internet capacity;
- Monitoring of ICT service markets and promotion of competition environment;
- Inclusion of broadband services to the Universal Service list;
- Improvement of online media.