

114TH CONGRESS
1ST SESSION

H. R. 4264

To promote United States national security and foreign policy objectives through consolidation and strengthening of the rule of law and respect for human rights in the Republic of Azerbaijan.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2015

Mr. SMITH of New Jersey introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on the Judiciary and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To promote United States national security and foreign policy objectives through consolidation and strengthening of the rule of law and respect for human rights in the Republic of Azerbaijan.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Azerbaijan Democracy
5 Act of 2015”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) The United States and the Republic of
2 Azerbaijan have many areas of mutual interest and
3 cooperation, but the United States ability to more
4 fully cooperate with Azerbaijan has been severely
5 hindered by the Government of Azerbaijan’s gross
6 violations of human rights and fundamental free-
7 doms, including violations of basic principles of
8 democratic governance, standards to which Azer-
9 baijan has committed itself to adhere as a partici-
10 pating State in the Organization for Security and
11 Cooperation in Europe (OSCE) and other multilat-
12 eral institutions.

13 (2) On December 5, 2014, the Government of
14 Azerbaijan arrested investigative reporter Khadija
15 Ismayilova, who also was a radio host on Radio
16 Free/Radio Liberty (RFE/RL). The charge against
17 her was “incitement to suicide”, and she was held
18 in pretrial detention and not allowed out on bail. On
19 December 26, 2014, the Government of Azerbaijan
20 raided the Baku Office of RFE/RL and closed its
21 operations. Over the course of a year in pretrial de-
22 tention, the original charges against Ms. Ismayilova
23 were dropped after government-called witnesses re-
24 fused to cooperate with the case. However, Ms.
25 Ismayilova remained in detention and the Govern-

1 ment of Azerbaijan subsequently charged her with
2 embezzlement, illegal entrepreneurship, tax evasion,
3 and abuse of power. She was convicted and is now
4 serving a 7½-year sentence in prison. The RFE/RL
5 Baku Bureau has not been allowed to reopen.

6 (3) According to the United States State De-
7 partment report for 2014, the Government of Azer-
8 baidjan did not respect its own laws on freedom of
9 speech and press censorship. The report said, “The
10 government continued to limit freedom of speech
11 and media independence. Journalists faced intimidat-
12 ion and at times were beaten and imprisoned.”.

13 (4) The Committee to Protect Journalists stat-
14 ed that Azerbaijan is the leading jailer of journalists
15 in Europe and Central Asia, and is the fifth most
16 censored country in the world.

17 (5) As an OSCE participating State, the Gov-
18 ernment of Azerbaijan has committed itself to work
19 toward a standard of free and fair elections. Since
20 its independence in 1992, no election held in Azer-
21 baidjan has met the minimum requirements as out-
22 lined by the OSCE. Elections for President and for
23 the Parliament have shown a pattern of disregard
24 for the conduct of democratic elections and have
25 been marred by the arbitrary use of state power, dis-

1 regard for the basic rights of freedom of assembly,
2 association, and expression. The conduct of the elec-
3 tions demonstrates the unwillingness of authorities
4 in Azerbaijan to tolerate political competition.

5 (6) According to the United States Department
6 of State’s Country Reports on Human Rights Prac-
7 tices for 2014, Azerbaijan has used “. . . the judi-
8 cial system to punish peaceful dissent—including in-
9 creased reports of arbitrary arrest and detention, po-
10 litically motivated imprisonment, lack of due process,
11 and lengthy pretrial detention—by secular and reli-
12 gious individuals perceived as a threat by govern-
13 ment officials, while crimes against such individuals
14 or their family members went unpunished.”.

15 (7) According to the 2015 report on religious
16 freedom by the United States Commission on Inter-
17 national Religious Freedom (USCIRF), “Despite so-
18 cietal religious tolerance in Azerbaijan, governmental
19 respect for religious freedom continued to deteriorate
20 in 2014.”. The report details the Government’s use
21 of the 2009 religion law “to limit religious freedom
22 and to justify fines, police raids, detentions, and im-
23 prisonment.”. There are 44 names on the list of reli-
24 gious prisoners published by USCIRF.

1 (8) USCIRF cited poor conditions for religious
2 minorities in Azerbaijan, reporting that “most
3 Protestant denominations do not have legal status,
4 including Baptists, Seventh-day Adventists, and
5 Pentecostals, as well as Jehovah’s Witnesses.”.

6 (9) The Government of Azerbaijan has further
7 attempted to silence dissent through retribution
8 against the political opposition, journalists, inde-
9 pendent NGOs, and their family members, through
10 physical threats and beatings, dismissal from em-
11 ployment, travel restrictions and other forms of in-
12 timidation.

13 (10) Those jailed opposition candidates and ac-
14 tivists have been treated harshly in pretrial deten-
15 tion and in prison, including physical beatings, de-
16 nied access to family, defense counsel, medical treat-
17 ment, and open legal proceedings.

18 **SEC. 3. STATEMENT OF POLICY.**

19 It is the policy of the United States—

20 (1) to secure United States national security
21 and economic interests in the region through pro-
22 motion of a stable and democratic government in
23 Azerbaijan;

24 (2) to call for the immediate release without
25 preconditions of all political prisoners in Azerbaijan;

1 (3) to support the aspirations of the people of
2 Azerbaijan for democracy, internationally recognized
3 human rights, and the rule of law;

4 (4) to support the growth of the rule of law and
5 democratic institutions in Azerbaijan;

6 (5) to work closely with other countries and
7 international organizations, including the OSCE, to
8 bring Azerbaijan in compliance with its multilateral
9 commitments; and

10 (6) reassess United States policy toward the
11 Government of Azerbaijan reevaluating United
12 States policy toward Azerbaijan as warranted by de-
13 monstrable progress made by the Government of
14 Azerbaijan consistent with the policy of the United
15 States as stated in this section.

16 **SEC. 4. DENIAL OF ENTRY INTO THE UNITED STATES OF**
17 **SENIOR LEADERSHIP OF THE GOVERNMENT**
18 **OF AZERBAIJAN AND OTHERS.**

19 (a) DENIAL OF ENTRY.—Notwithstanding any other
20 provision of law, the Secretary of State may not issue any
21 visa to, and the Secretary of Homeland Security shall deny
22 entry to the United States of, any alien described in sub-
23 section (c).

24 (b) CURRENT VISAS REVOKED.—Notwithstanding
25 any other provision of law, the Secretary of State shall

1 revoke, in accordance with section 221(i) of the Immigra-
2 tion and Nationality Act (8 U.S.C. 1201(i)), the visa or
3 other documentation of any alien who would be ineligible
4 to receive such a visa or documentation under subsection
5 (a).

6 (c) ALIENS DESCRIBED.—An alien described in this
7 subsection is any alien who—

8 (1) holds a position in the senior leadership of
9 the Government of Azerbaijan;

10 (2) is an immediate family member of a person
11 described in paragraph (1);

12 (3) through his or her business dealings with
13 senior leadership of the Government of Azerbaijan
14 derives significant financial benefit from policies or
15 actions, including electoral fraud, human rights
16 abuses, or corruption, that undermine or injure
17 democratic institutions or impede the transition to
18 democracy in Azerbaijan; and

19 (4) is a member of any branch of the security,
20 judicial, or law enforcement services of Azerbaijan
21 and has participated in the persecution or harass-
22 ment of independent media or journalists, human
23 rights defenders, opposition groups, or religious
24 groups.

1 (d) EXCEPTION.—The requirements under sub-
2 sections (a) and (b) shall not apply with respect to an alien
3 who is an official of the Government of Azerbaijan and
4 who is seeking entry into the United States for the pur-
5 pose of participation in talks related to resolution of the
6 Nagorno Karabakh conflict under the auspices of the
7 OSCE Minsk Group.

8 **SEC. 5. SENSE OF CONGRESS ON SANCTIONS AGAINST THE**
9 **GOVERNMENT OF AZERBAIJAN AND SENIOR**
10 **LEADERSHIP OF THE GOVERNMENT OF AZER-**
11 **BAIJAN AND OTHERS.**

12 (a) PROHIBITION ON LOANS AND INVESTMENT.—

13 (1) UNITED STATES GOVERNMENT FINANC-
14 ING.—It is the sense of Congress that no loan, credit
15 guarantee, insurance, financing, or other similar fi-
16 nancial assistance be extended by any agency of the
17 Government of the United States (including the Ex-
18 port-Import Bank of the United States and the
19 Overseas Private Investment Corporation) to the
20 Government of Azerbaijan, except with respect to
21 the provision of humanitarian goods and agricultural
22 or medical products.

23 (2) TRADE AND DEVELOPMENT AGENCY.—It is
24 the sense of Congress that no funds available to the

1 Trade and Development Agency should be available
2 for activities of the Agency in or for Azerbaijan.

3 (b) MULTILATERAL FINANCIAL ASSISTANCE.—The
4 Secretary of the Treasury should instruct the United
5 States Executive Director at each international financial
6 institution of which the United States is a member to use
7 the voice and vote of the United States to oppose any ex-
8 tension by those institutions of any financial assistance
9 (including any technical assistance or grant) of any kind
10 to the Government of Azerbaijan, except for loans and as-
11 sistance that serve humanitarian needs.

12 (c) BLOCKING OF ASSETS AND OTHER PROHIBITED
13 ACTIVITIES.—

14 (1) BLOCKING OF ASSETS.—It is the sense of
15 Congress that the President should block all prop-
16 erty and interests in property, including all commer-
17 cial, industrial, or public utility undertakings or enti-
18 ties, that, on or after the date of the enactment of
19 this Act—

20 (A) are owned, in whole or in part, by any
21 member of the senior leadership of the Govern-
22 ment of Azerbaijan, or by any member or fam-
23 ily member closely linked to any member of the
24 senior leadership of the Government of Azer-
25 baidjan, or any person who through his or her

1 business dealings with the senior leadership of
2 the Government of Azerbaijan derives signifi-
3 cant financial benefit from policies or actions,
4 including electoral fraud, human rights abuses,
5 or corruption, that undermine or injure demo-
6 cratic institutions or impede the transition to
7 democracy in Azerbaijan; and

8 (B) are in the United States, that here-
9 after come within the United States, or that are
10 or hereafter come within the possession or con-
11 trol of any United States person.

12 (2) PROHIBITED ACTIVITIES.—Activities pro-
13 hibited by reason of the blocking of property and in-
14 terests in property under paragraph (1) should in-
15 clude payments or transfers of any property, or any
16 transactions involving the transfer of anything of
17 economic value by any United States person to any
18 person described in subparagraph (A) of such para-
19 graph.

20 (3) PAYMENT OF EXPENSES.—All expenses in-
21 cident to the blocking and maintenance of property
22 blocked under paragraph (1) should be charged to
23 the owners or operators of such property. Such ex-
24 penses may not be paid from blocked funds.

1 (4) **RULE OF CONSTRUCTION.**—Nothing in this
2 subsection should be construed to prohibit any con-
3 tract or other financial transaction with any private
4 or nongovernmental organization or business in
5 Azerbaijan.

6 (5) **EXCEPTIONS.**—Paragraphs (1) and (2)
7 should not apply with respect to the provision of
8 medicine, medical equipment or supplies, food, as
9 well as any other form of humanitarian assistance
10 provided to Azerbaijan as relief in response to a hu-
11 manitarian crisis.

12 (6) **PENALTIES.**—Any person who violates any
13 prohibition or restriction imposed under this sub-
14 section should be subject to the penalties under sec-
15 tion 206 of the International Emergency Economic
16 Powers Act (50 U.S.C. 1705) to the same extent as
17 for a violation under that Act.

18 **SEC. 6. TERMINATION OF SANCTIONS.**

19 The sanctions described in section 4 shall apply with
20 respect to an alien described in that section, and the sanc-
21 tions described in section 5 should apply with respect to
22 the Government of Azerbaijan, the senior leadership of the
23 Government of Azerbaijan, and any other person described
24 in section 5, until the President determines and certifies
25 to the appropriate congressional committees that the Gov-

1 ernment of Azerbaijan has made significant progress in
2 meeting the following conditions:

3 (1) The release of individuals in Azerbaijan who
4 have been jailed based on political or religious beliefs
5 or expression.

6 (2) The cessation of all forms of harassment
7 and repression against the independent media, non-
8 governmental organizations, youth groups, religious
9 organizations (including their leadership and mem-
10 bers), and the political opposition in Azerbaijan.

11 (3) Progress toward free, fair and transparent
12 elections and the rule of law consistent with OSCE
13 commitments.

14 **SEC. 7. MULTILATERAL COOPERATION.**

15 It is the sense of Congress that the President should
16 continue to seek the support of other countries, particu-
17 larly European countries, for a comprehensive, multilat-
18 eral strategy to further the purposes of this Act, including,
19 as appropriate, encouraging other countries to take meas-
20 ures with respect to the Republic of Azerbaijan that are
21 similar to measures described in this Act.

22 **SEC. 8. REPORT.**

23 (a) REPORT.—Not later than 90 days after the date
24 of the enactment of this Act, and annually thereafter, the
25 President shall submit to the appropriate congressional

1 committees a report that describes, with respect to the
2 preceding 12-month period and to the extent practicable,
3 the following:

4 (1) The cooperation of the Government of Azer-
5 bajjan with any foreign government or organization
6 for purposes related to the censorship or surveillance
7 of the Internet, or the purchase or receipt by the
8 Government of Azerbaijan of any technology or
9 training from any foreign government or organiza-
10 tion for purposes related to the censorship or sur-
11 veillance of the Internet.

12 (2) The personal assets and wealth of President
13 Ilham Aliyev and other senior leadership of the Gov-
14 ernment of Azerbaijan.

15 (b) FORM.—A report transmitted pursuant to sub-
16 section (a) shall be in unclassified form but may contain
17 a classified annex.

18 **SEC. 9. DEFINITIONS.**

19 In this Act:

20 (1) APPROPRIATE CONGRESSIONAL COMMIT-
21 TEES.—The term “appropriate congressional com-
22 mittees” means the Committee on Foreign Affairs of
23 the House of Representatives and the Committee on
24 Foreign Relations of the Senate.

1 (2) SENIOR LEADERSHIP OF THE GOVERNMENT
2 OF AZERBAIJAN.—The term “senior leadership of
3 the Government of Azerbaijan” includes—

4 (A) the President, Prime Minister, Deputy
5 Prime Ministers, government ministers, Chair-
6 men of State Committees, governors, heads of
7 state enterprises, and members of the Presi-
8 dential Administration of Azerbaijan;

9 (B) any official of the Government of Azer-
10 bajian who—

11 (i) is personally and substantially in-
12 volved in the suppression of freedom in
13 Azerbaijan, including judges, prosecutors,
14 and heads of professional associations and
15 educational institutions; or

16 (ii) is otherwise engaged in public cor-
17 ruption in Azerbaijan; and

18 (C) any other individual determined by the
19 Secretary of State (or the Secretary’s designee)
20 to be personally and substantially involved in
21 the formulation or execution of the policies of
22 the Government of Azerbaijan that are in con-
23 tradiction of internationally recognized human
24 rights standards.

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