



**Permanent Mission
of the Republic of Azerbaijan
to the UN Office and other
International Organizations
GENEVA**

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The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and with reference to the Latter's request dated 17 December 2018, has the honour to transmit the information by the competent authorities of the Republic of Azerbaijan for the research on the regulation and use of private surveillance technologies, undertaken by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Enclosure: 3 pages



Geneva, 7 February 2019

Office of the United Nations
High Commissioner for Human Rights
GENEVA

On the questionnaire on "Private Control Technologies and Human Rights" of
UN Special Rapporteur on Freedom of Expression

(accordingly)

Concerning Paragraph "A".

About 1st Subparagraph:

According to the Law of the Republic of Azerbaijan No. 565-IQ dated 12.12.2003 "On the list of items that may belong to certain participants of civil turnover and whose inclusion in civil circulation is allowed by special permission (civil circulation is restricted)" the technical means provided for obtaining information secretly are defined as items that may belong to certain participants of civil turnover and whose inclusion in civil circulation is allowed by special permission (civil circulation is restricted). In accordance with paragraph 12 of the "List of central executive authorities issuing special permits for circulation the items that may belong to certain participants of civil turnover and whose inclusion in civil circulation is allowed by special permission (civil circulation is restricted)" approved by the Decree of the President of the Republic of Azerbaijan No. 292 dated 12.09.2005 special permission for technical means provided for obtaining information secretly is issued by the State Security Service. Procedure for issuing a special permission is carried out in accordance with "Special permission rules for circulation the items that may belong to certain participants of civil turnover and whose inclusion in civil circulation is allowed by special permission (civil circulation is restricted)" approved by the Decree of the President of the Republic of Azerbaijan No. 292 dated 12.09.2005 and "Additional conditions required for the circulation of items with limited civil circulation, depending on the characteristics of the types of activities" approved by the Decision of the Cabinet Of Ministers of the Republic of Azerbaijan No. 120 dated 08.05.2006.

About 2nd Subparagraph:

According to the Article 302.2 of the Criminal Code of the Republic of Azerbaijan criminal liability is envisaged for such actions with using the technical means provided for obtaining information secretly by persons who are not authorized to carry out operational-search activity and according to the Article 377 of the Administrative Offences Code of the Republic of Azerbaijan administrative liability is envisaged for illegal purchase of technical means provided for obtaining information secretly without the purpose of sale.

At the same time, in accordance with Article 215.3.1 of the Criminal Procedure Code of the Republic of Azerbaijan authorities for conducting preliminary investigation of Article 202-1 of the Criminal Code of the Republic of Azerbaijan is given to prosecutor's office, according to the paragraph 3 of the Decree of the President of the Republic of Azerbaijan No. 387 dated 25.08.2000 Article 206 (Smuggling), Article 224-1 (Violation of the rules of usage of dual-purpose goods (works, services and intellectual property) is given State Customs Committee of the Republic of Azerbaijan, State Security Service, State Border Service or internal affairs (police) bodies, Article 224-2 (violation of export regime) is given to State Customs Committee.

About 3rd Subparagraph:

In accordance with Article 10, paragraph 8, of the Law of the Republic of Azerbaijan "On Operative Search Activity" No. 728-IQ dated 28.10. 1999, the present Law bans implementation of the operative search activity by unauthorized individuals and legal entities, as well as, use of technical means (that is, equipment, devices, installations, accessories and other technical means, specially created, developed, manufactured, programmed, improved in order to obtain information secretly within the scope of operative search activities) for latent retrieval of information. According to Article 10, Part 3 of the Law monitoring buildings, including dwelling premises, as well as other closed building objects, constructions, land plots, transportation means and other objects with using technical means or by installing sound recording, video, photo, film and other imaging devices by the subjects of operational-search activities are carried out on the basis of a court (judge) decision.

"The list of technical means, envisaged for secretly obtaining information on operative search process" approved by the Decision of the Cabinet Of Ministers of the Republic of Azerbaijan No.139-6 dated 15.08.2000.

Concerning Paragraph "B".

About 1st Subparagraph:

In accordance with Article 9.2 of the Law of the Republic of Azerbaijan "On Licenses and Permits" by the Decree of the President of the Republic of Azerbaijan No. 1205 dated 21.01.2017 approved the Regulations on the "Licenses and Permits" portal. The Ministry of Economy of the Republic of Azerbaijan is defined as the operator of the "Licenses and Permits" portal. The Portal provides the submission of requests for the issuance, re-clearance, suspension, restoration and annulment of licenses or permits required for entrepreneurial activity, their duplication and attachment, reception, processing and repayment, electronically maintaining of uniform register of licenses and permits, free use of users and participants of the portal, obtaining information from the integrated information systems (except for restricted information) from the portal and other services (<https://lisenziya.gov.az>).

About 3rd Subparagraph:

In accordance with Article 10, paragraph 8, of the Law of the Republic of Azerbaijan "On Operative Search Activity" No. 728-IQ dated 28.10. 1999, the present Law bans implementation of the operative search activity by unauthorized individuals and legal entities, as well as, use of technical means (that is, equipment, devices, installations, accessories and other technical means, specially created, developed, manufactured, programmed, improved in order to obtain information secretly within the scope of operative search activities) for latent retrieval of information.

About 4th Subparagraph:

"Rules for the supervision of the circulation of items with limited civil circulation and the observance of its conditions" approved by the Decision of the Cabinet Of Ministers of the Republic of Azerbaijan No. 120 dated 08.05.2006 defines the organization and implementation mechanism of circulation of items with limited civil circulation and the observance of its conditions. The supervision of the circulation of items and the observance of its conditions by the owner of a special permit is carried out by an official (persons) of state

bodies by analyzing and checking reports of the owners of a special permit. Government bodies annually determine the plan for the next inspections. The plan reflects the period of verification, the list of owners of special permission for its implementation. The next inspection in business entities that own special permits is carried out on the basis of an annual plan drawn up by a government agency and included in a uniform information register of business inspections and on the dates specified in this plan. The annual inspection plan is prepared according to the risk assessment system and the periodicity of inspections established separately for each risk group. Unscheduled inspections from special permission holders who are not entrepreneurs are carried out on the basis of reasonable appeals from state and local governments, as well as legal entities and individuals related to violation of the legislation on the circulation of items with limited civil circulation and changes in turnover conditions. The decision on the results of the inspection or the execution of instructions is mandatory for all holders of a special permit. The owner of the special permit must inform about the elimination of the revealed violations within the period established by the state body. During supervising the circulation of items with limited civil circulation and observing its conditions liability to administrative and criminal responsibility is regulated in accordance with the legislation of the Republic of Azerbaijan.

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