

**APPLICATION OF THE INTERNATIONAL CONVENTION ON THE
ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION**

**ARMENIA
v.
AZERBAIJAN**

**WRITTEN STATEMENT OF OBSERVATIONS AND
SUBMISSIONS ON THE PRELIMINARY OBJECTIONS
OF THE REPUBLIC OF AZERBAIJAN**



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Annex 1

Committee on the Elimination of Racial Discrimination, *General Recommendation No. 31: Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System*, UN Doc. A/60/18 (2005)

from A/60/18, pp. 98-108

CERD

General recommendation XXXI on the prevention of racial discrimination in the administration and functioning of the criminal justice system

The Committee on the Elimination of Racial Discrimination,

Recalling the definition of racial discrimination set out in article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Recalling the provisions of article 5 (a) of the Convention, under which States parties have an obligation to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the right to equal treatment before the tribunals and all other organs administering justice,

Recalling that article 6 of the Convention requires States parties to assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination,

Referring to paragraph 25 of the declaration adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, in 2001, which expressed “profound repudiation of the racism, racial discrimination, xenophobia and related intolerance that persist in some States in the functioning of the penal system and in the application of the law, as well as in the actions and attitudes of institutions and individuals responsible for law enforcement, especially where this has contributed to certain groups being overrepresented among persons under detention or imprisoned”,

Referring to the work of the Commission on Human Rights and of the Sub-Commission on the Promotion and Protection of Human Rights (see E/CN.4/Sub.2/2005/7) concerning discrimination in the criminal justice system,

Bearing in mind the reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance,

Referring to the 1951 Convention relating to the Status of Refugees, in particular article 16, which stipulates that “[a] refugee shall have free access to the courts of law on the territory of all Contracting States”,

Bearing in mind the observations relating to the functioning of the system of justice made in the Committee's conclusions concerning reports submitted by States parties and in general recommendations XXVII (2000) on discrimination against Roma, XXIX (2002) on discrimination based on descent and XXX (2004) on discrimination against non-citizens,

Convinced that, even though the system of justice may be regarded as impartial and not affected by racism, racial discrimination or xenophobia, when racial or ethnic discrimination does exist in the administration and functioning of the system of justice, it constitutes a particularly serious violation of the rule of law, the principle of equality before the law, the principle of fair trial and the right to an independent and impartial tribunal, through its direct effect on persons belonging to groups which it is the very role of justice to protect,

Considering that no country is free from racial discrimination in the administration and functioning of the criminal justice system, regardless of the type of law applied or the judicial system in force, whether accusatorial, inquisitorial or mixed,

Considering that the risks of discrimination in the administration and functioning of the criminal justice system have increased in recent years, partly as a result of the rise in immigration and population movements, which have prompted prejudice and feelings of xenophobia or intolerance among certain sections of the population and certain law enforcement officials, and partly as a result of the security policies and anti-terrorism measures adopted by many States, which among other things have encouraged the emergence of anti-Arab or anti-Muslim feelings, or, as a reaction, anti-Semitic feelings, in a number of countries,

Determined to combat all forms of discrimination in the administration and functioning of the criminal justice system which may be suffered, in all countries of the world, by persons belonging to racial or ethnic groups, in particular non-citizens - including immigrants, refugees, asylum-seekers and stateless persons - Roma/Gypsies, indigenous peoples, displaced populations, persons discriminated against because of their descent, as well as other vulnerable groups which are particularly exposed to exclusion, marginalization and non-integration in society, paying particular attention to the situation of women and children belonging to the aforementioned groups, who are susceptible to multiple discrimination because of their race and because of their sex or their age,

Formulates the following recommendations addressed to States parties:

I. General steps

A. Steps to be taken in order to better gauge the existence and extent of racial discrimination in the administration and functioning of the criminal justice system; the search for indicators attesting to such discrimination

1. Factual indicators

1. States parties should pay the greatest attention to the following possible indicators of racial discrimination:

(a) The number and percentage of persons belonging to the groups referred to in the last paragraph of the preamble who are victims of aggression or other offences, especially when they are committed by police officers or other State officials;

(b) The absence or small number of complaints, prosecutions and convictions relating to acts of racial discrimination in the country. Such a statistic should not be viewed as necessarily positive, contrary to the belief of some States. It may also reveal either that victims have inadequate information concerning their rights, or that they fear social censure or reprisals, or that victims with limited resources fear the cost and complexity of the judicial process, or that there is a lack of trust in the police and judicial authorities, or that the authorities are insufficiently alert to or aware of offences involving racism;

(c) Insufficient or no information on the behaviour of law enforcement personnel vis-à-vis persons belonging to the groups referred to in the last paragraph of the preamble;

(d) The proportionately higher crime rates attributed to persons belonging to those groups, particularly as regards petty street crime and offences related to drugs and prostitution, as indicators of the exclusion or the non-integration of such persons into society;

(e) The number and percentage of persons belonging to those groups who are held in prison or preventive detention, including internment centres, penal establishments, psychiatric establishments or holding areas in airports;

(f) The handing down by the courts of harsher or inappropriate sentences against persons belonging to those groups;

(g) The insufficient representation of persons belonging to those groups among the ranks of the police, in the system of justice, including judges and jurors, and in other law enforcement departments.

2. In order for these factual indicators to be well known and used, States parties should embark on regular and public collection of information from police, judicial and prison authorities and immigration services, while respecting standards of confidentiality, anonymity and protection of personal data.

3. In particular, States parties should have access to comprehensive statistical or other information on complaints, prosecutions and convictions relating to acts of racism and xenophobia, as well as on compensation awarded to the victims of such acts, whether such compensation is paid by the perpetrators of the offences or under State compensation plans financed from public funds.

2. Legislative indicators

4. The following should be regarded as indicators of potential causes of racial discrimination:

(a) Any gaps in domestic legislation on racial discrimination. In this regard, States parties should fully comply with the requirements of article 4 of the Convention and criminalize all acts of racism as provided by that article, in particular the dissemination of ideas based on racial superiority or hatred, incitement to racial hatred, violence or

incitement to racial violence, but also racist propaganda activities and participation in racist organizations. States parties are also encouraged to incorporate a provision in their criminal legislation to the effect that committing offences for racial reasons generally constitutes an aggravating circumstance;

(b) The potential indirect discriminatory effects of certain domestic legislation, particularly legislation on terrorism, immigration, nationality, banning or deportation of non-citizens from a country, as well as legislation that has the effect of penalizing without legitimate grounds certain groups or membership of certain communities. States should seek to eliminate the discriminatory effects of such legislation and in any case to respect the principle of proportionality in its application to persons belonging to the groups referred to in the last paragraph of the preamble.

B. Strategies to be developed to prevent racial discrimination in the administration and functioning of the criminal justice system

5. States parties should pursue national strategies the objectives of which include the following:

(a) To eliminate laws that have an impact in terms of racial discrimination, particularly those which target certain groups indirectly by penalizing acts which can be committed only by persons belonging to such groups, or laws that apply only to non-nationals without legitimate grounds or which do not respect the principle of proportionality;

(b) To develop, through appropriate education programmes, training in respect for human rights, tolerance and friendship among racial or ethnic groups, as well as sensitization to intercultural relations, for law enforcement officials: police personnel, persons working in the system of justice, prison institutions, psychiatric establishments, social and medical services, etc.;

(c) To foster dialogue and cooperation between the police and judicial authorities and the representatives of the various groups referred to in the last paragraph of the preamble, in order to combat prejudice and create a relationship of trust;

(d) To promote proper representation of persons belonging to racial and ethnic groups in the police and the system of justice;

(e) To ensure respect for, and recognition of the traditional systems of justice of indigenous peoples, in conformity with international human rights law;

(f) To make the necessary changes to the prison regime for prisoners belonging to the groups referred to in the last paragraph of the preamble, so as to take into account their cultural and religious practices;

(g) To institute, in situations of mass population movements, the interim measures and arrangements necessary for the operation of the justice system in order to take account of the particularly vulnerable situation of displaced persons, in particular by setting up decentralized courts at the places where the displaced persons are staying or by organizing mobile courts;

(h) To set up, in post-conflict situations, plans for the reconstruction of the legal system and the re-establishment of the rule of law throughout the territory of the countries concerned, by availing themselves, in particular, of the international technical assistance provided by the relevant United Nations entities;

(i) To implement national strategies or plans of action aimed at the elimination of structural racial discrimination. These long-term strategies should include specific objectives and actions as well as indicators against which progress can be measured. They should include, in particular, guidelines for prevention, recording, investigation and prosecution of racist or xenophobic incidents, assessment of the level of satisfaction among all communities concerning their relations with the police and the system of justice, and recruitment and promotion in the judicial system of persons belonging to various racial or ethnic groups;

(j) To entrust an independent national institution with the task of tracking, monitoring and measuring progress made under the national plans of action and guidelines against racial discrimination, identifying undetected manifestations of racial discrimination and submitting recommendations and proposals for improvement.

II. Steps to be taken to prevent racial discrimination with regard to victims of racism

A. Access to the law and to justice

6. In accordance with article 6 of the Convention, States parties are obliged to guarantee the right of every person within their jurisdiction to an effective remedy against the perpetrators of acts of racial discrimination, without discrimination of any kind, whether such acts are committed by private individuals or State officials, as well as the right to seek just and adequate reparation for the damage suffered.

7. In order to facilitate access to justice for the victims of racism, States parties should strive to supply the requisite legal information to persons belonging to the most vulnerable social groups, who are often unaware of their rights.

8. In that regard, States parties should promote, in the areas where such persons live, institutions such as free legal help and advice centres, legal information centres and centres for conciliation and mediation.

9. States parties should also expand their cooperation with associations of lawyers, university institutions, legal advice centres and non-governmental organizations specializing in protecting the rights of marginalized communities and in the prevention of discrimination.

B. Reporting of incidents to the authorities competent for receiving complaints

10. States parties should take the necessary steps to ensure that the police services have an adequate and accessible presence in the neighbourhoods, regions, collective facilities, camps or centres where the persons belonging to the groups referred to

in the last paragraph of the preamble reside, so that complaints from such persons can be expeditiously received.

11. The competent services should be instructed to receive the victims of acts of racism in police stations in a satisfactory manner, so that complaints are recorded immediately, investigations are pursued without delay and in an effective, independent and impartial manner, and files relating to racist or xenophobic incidents are retained and incorporated into databases.

12. Any refusal by a police official to accept a complaint involving an act of racism should lead to disciplinary or penal sanctions, and those sanctions should be increased if corruption is involved.

13. Conversely, it should be the right and duty of any police official or State employee to refuse to obey orders or instructions that require him or her to commit violations of human rights, particularly those based on racial discrimination. States parties should guarantee the freedom of any official to invoke this right without fear of punishment.

14. In cases of allegations of torture, ill-treatment or executions, investigations should be conducted in accordance with the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executionsⁱ and the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.ⁱⁱ

C. Initiation of judicial proceedings

15. States parties should remind public prosecutors and members of the prosecution service of the general importance of prosecuting racist acts, including minor offences committed with racist motives, since any racially motivated offence undermines social cohesion and society as a whole.

16. In advance of the initiation of proceedings, States parties could also encourage, with a view to respecting the rights of the victims, the use of parajudicial procedures for conflict resolution, including customary procedures compatible with human rights, mediation or conciliation, which can serve as useful options for the victims of acts of racism and to which less stigma may be attached.

17. In order to make it easier for the victims of acts of racism to bring actions in the courts, the steps to be taken should include the following:

(a) Offering procedural status for the victims of racism and xenophobia and associations for the protection of the rights of such victims, such as an opportunity to associate themselves with the criminal proceedings, or other similar procedures that might enable them to assert their rights in the criminal proceedings, at no cost to themselves;

(b) Granting victims effective judicial cooperation and legal aid, including the assistance of counsel and an interpreter free of charge;

(c) Ensuring that victims have information about the progress of the proceedings;

(d) Guaranteeing protection for the victim or the victim's family against any form of intimidation or reprisals;

(e) Providing for the possibility of suspending the functions, for the duration of the investigation, of the agents of the State against whom the complaints were made.

18. In countries where there are assistance and compensation plans for victims, States parties should ensure that such plans are available to all victims without discrimination and regardless of their nationality or residential status.

D. Functioning of the system of justice

19. States parties should ensure that the system of justice:

(a) Grants a proper place to victims and their families, as well as witnesses, throughout the proceedings, by enabling complainants to be heard by the judges during the examination proceedings and the court hearing, to have access to information, to confront hostile witnesses, to challenge evidence and to be informed of the progress of proceedings;

(b) Treats the victims of racial discrimination without discrimination or prejudice, while respecting their dignity, through ensuring in particular that hearings, questioning or confrontations are carried out with the necessary sensitivity as far as racism is concerned;

(c) Guarantees the victim a court judgement within a reasonable period;

(d) Guarantees victims just and adequate reparation for the material and moral harm suffered as a result of racial discrimination.

III. Steps to be taken to prevent racial discrimination in regard to accused persons who are subject to judicial proceedings

A. Questioning, interrogation and arrest

20. States parties should take the necessary steps to prevent questioning, arrests and searches which are in reality based solely on the physical appearance of a person, that person's colour or features or membership of a racial or ethnic group, or any profiling which exposes him or her to greater suspicion.

21. States parties should prevent and most severely punish violence, acts of torture, cruel, inhuman or degrading treatment and all violations of human rights affecting persons belonging to the groups referred to in the last paragraph of the preamble which are committed by State officials, particularly police and army personnel, customs authorities, and persons working in airports, penal institutions and social, medical and psychiatric services.

22. States parties should ensure the observance of the general principle of proportionality and strict necessity in recourse to force against persons belonging to the groups referred to in the last paragraph of the preamble, in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.ⁱⁱⁱ

23. States parties should also guarantee to all arrested persons, whatever the racial, national or ethnic group to which they belong, enjoyment of the fundamental rights of the defence enshrined in the relevant international human rights instruments (especially the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights), in particular the right not to be arbitrarily arrested or detained, the right to be informed of the reasons for their arrest, the right to the assistance of an interpreter, the right to the assistance of counsel, the right to be brought promptly before a judge or an authority empowered by the law to perform judicial functions, the right to consular protection guaranteed by article 36 of the Vienna Convention on Consular Relations and, in the case of refugees, the right to contact the Office of the United Nations High Commissioner for Refugees.

24. As regards persons placed in administrative holding centres or in holding areas in airports, States parties should ensure that they enjoy sufficiently decent living conditions.

25. Lastly, as regards the questioning or arrest of persons belonging to the groups referred to in the last paragraph of the preamble, States parties should bear in mind the special precautions to be taken when dealing with women or minors, because of their particular vulnerability.

B. Pretrial detention

26. Bearing in mind statistics which show that persons held awaiting trial include an excessively high number of non-nationals and persons belonging to the groups referred to in the last paragraph of the preamble, States parties should ensure:

(a) That the mere fact of belonging to a racial or ethnic group or one of the aforementioned groups is not a sufficient reason, *de jure* or *de facto*, to place a person in pretrial detention. Such pretrial detention can be justified only on objective grounds stipulated in the law, such as the risk of flight, the risk that the person might destroy evidence or influence witnesses, or the risk of a serious disturbance of public order;

(b) That the requirement to deposit a guarantee or financial security in order to obtain release pending trial is applied in a manner appropriate to the situation of persons belonging to such groups, who are often in straitened economic circumstances, so as to prevent this requirement from leading to discrimination against such persons;

(c) That the guarantees often required of accused persons as a condition of their remaining at liberty pending trial (fixed address, declared employment, stable family ties) are weighed in the light of the insecure situation which may result from their membership of such groups, particularly in the case of women and minors;

(d) That persons belonging to such groups who are held pending trial enjoy all the rights to which prisoners are entitled under the relevant international norms, and particularly the rights specially adapted to their circumstances: the right to respect for their traditions as regards religion, culture and food, the right to relations with their families, the right to the assistance of an interpreter and, where appropriate, the right to consular assistance.

C. The trial and the court judgement

27. Prior to the trial, States parties may, where appropriate, give preference to non-judicial or parajudicial procedures for dealing with the offence, taking into account the cultural or customary background of the perpetrator, especially in the case of persons belonging to indigenous peoples.

28. In general, States parties must ensure that persons belonging to the groups referred to in the last paragraph of the preamble, like all other persons, enjoy all the guarantees of a fair trial and equality before the law, as enshrined in the relevant international human rights instruments, and specifically.

1. The right to the presumption of innocence

29. This right implies that the police authorities, the judicial authorities and other public authorities must be forbidden to express their opinions publicly concerning the guilt of the accused before the court reaches a decision, much less to cast suspicion in advance on the members of a specific racial or ethnic group. These authorities have an obligation to ensure that the mass media do not disseminate information which might stigmatize certain categories of persons, particularly those belonging to the groups referred to in the last paragraph of the preamble.

2. The right to the assistance of counsel and the right to an interpreter

30. Effectively guaranteeing these rights implies that States parties must set up a system under which counsel and interpreters will be assigned free of charge, together with legal help or advice and interpretation services for persons belonging to the groups referred to in the last paragraph of the preamble.

3. The right to an independent and impartial tribunal

31. States parties should strive firmly to ensure a lack of any racial or xenophobic prejudice on the part of judges, jury members and other judicial personnel.

32. They should prevent all direct influence by pressure groups, ideologies, religions and churches on the functioning of the system of justice and on the decisions of judges, which may have a discriminatory effect on certain groups.

33. States parties may, in this regard, take into account the Bangalore Principles of Judicial Conduct adopted in 2002 (E/CN.4/2003/65, annex), which recommend in particular that:

- Judges should be aware of the diversity of society and differences linked with background, in particular racial origins;
- They should not, by words or conduct, manifest any bias towards persons or groups on the grounds of their racial or other origin;

- They should carry out their duties with appropriate consideration for all persons, such as the parties, witnesses, lawyers, court staff and their colleagues, without unjustified differentiation; and
- They should oppose the manifestation of prejudice by the persons under their direction and by lawyers or their adoption of discriminatory behaviour towards a person or group on the basis of their colour, racial, national, religious or sexual origin, or on other irrelevant grounds.

D. Guarantee of fair punishment

34. In this regard, States should ensure that the courts do not apply harsher punishments solely because of an accused person's membership of a specific racial or ethnic group.

35. Special attention should be paid in this regard to the system of minimum punishments and obligatory detention applicable to certain offences and to capital punishment in countries which have not abolished it, bearing in mind reports that this punishment is imposed and carried out more frequently against persons belonging to specific racial or ethnic groups.

36. In the case of persons belonging to indigenous peoples, States parties should give preference to alternatives to imprisonment and to other forms of punishment that are better adapted to their legal system, bearing in mind in particular International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

37. Punishments targeted exclusively at non-nationals that are additional to punishments under ordinary law, such as deportation, expulsion or banning from the country concerned, should be imposed only in exceptional circumstances and in a proportionate manner, for serious reasons related to public order which are stipulated in the law, and should take into account the need to respect the private family life of those concerned and the international protection to which they are entitled.

E. Execution of sentences

38. When persons belonging to the groups referred to in the last paragraph of the preamble are serving prison terms, the States parties should:

(a) Guarantee such persons the enjoyment of all the rights to which prisoners are entitled under the relevant international norms, in particular rights specially adapted to their situation: the right to respect for their religious and cultural practices, the right to respect for their customs as regards food, the right to relations with their families, the right to the assistance of an interpreter, the right to basic welfare benefits and, where appropriate, the right to consular assistance. The medical, psychological or social services offered to prisoners should take their cultural background into account;

(b) Guarantee to all prisoners whose rights have been violated the right to an effective remedy before an independent and impartial authority;

(c) Comply, in this regard, with the United Nations norms in this field, and particularly the Standard Minimum Rules for the Treatment of Prisoners,^{iv} the Basic Principles for the Treatment of Prisoners^v and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;^{vi}

(d) Allow such persons to benefit, where appropriate, from the provisions of domestic legislation and international or bilateral conventions relating to the transfer of foreign prisoners, offering them an opportunity to serve the prison term in their countries of origin.

39. Further, the independent authorities in the States parties that are responsible for supervising prison institutions should include members who have expertise in the field of racial discrimination and sound knowledge of the problems of racial and ethnic groups and the other vulnerable groups referred to in the last paragraph of the preamble; when necessary, such supervisory authorities should have an effective visit and complaint mechanism.

40. When non-nationals are sentenced to deportation, expulsion or banning from their territory, States parties should comply fully with the obligation of non-refoulement arising out of the international norms concerning refugees and human rights, and ensure that such persons will not be sent back to a country or territory where they would run the risk of serious violations of their human rights.

41. Lastly, with regard to women and children belonging to the groups referred to in the last paragraph of the preamble, States parties should pay the greatest attention possible with a view to ensuring that such persons benefit from the special regime to which they are entitled in relation to the execution of sentences, bearing in mind the particular difficulties faced by mothers of families and women belonging to certain communities, particularly indigenous communities.

ⁱ Recommended by the Economic and Social Council in its resolution 1989/65 of 24 May 1989.

ⁱⁱ Recommended by the General Assembly in its resolution 55/89 of 4 December 2000.

ⁱⁱⁱ Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990.

^{iv} Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August-3 September 1955, and approved by the Economic and Social Council in its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

^v Adopted and proclaimed by the General Assembly in its resolution 45/111 of 14 December 1990.

^{vi} Adopted by the General Assembly in its resolution 43/173 of 9 December 1988.

Annex 2

Committee on the Elimination of Racial Discrimination, *General Recommendation No. 32: The meaning and scope of special measures in the International Convention on the Elimination of All Forms Racial Discrimination*, UN Doc. CERD/C/GC/32 (24 September 2009)

**UNITED
NATIONS****CERD****International Convention on
the Elimination
of all Forms of
Racial Discrimination**Distr.
GENERALCERD/C/GC/32
24 September 2009

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Seventy-fifth session
3 - 28 August 2009

General recommendation No. 32**The meaning and scope of special measures in the
International Convention on the Elimination of All Forms Racial Discrimination****I. INTRODUCTION****A. Background**

1. At its seventy-first session, the Committee on the Elimination of Racial Discrimination (“the Committee”) decided to embark upon the task of drafting a new general recommendation on special measures, in light of the difficulties observed in the understanding of such notion. At its seventy-second session, the Committee decided to hold at its next session a thematic discussion on the subject of special measures within the meaning of articles 1, paragraph 4, and 2, paragraph 2 of the International Convention on the Elimination of Racial Discrimination (“the Convention”). The thematic discussion was held on 4 and 5 August 2008 with the participation of States parties to the Convention, representatives of the Committee on the Elimination of Discrimination against Women, the International Labour Organisation (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and non-governmental organizations. Following the discussion, the Committee renewed its determination to work on a general recommendation on special measures, with the objective of providing overall interpretative guidance on the meaning of the above articles in light of the provisions of the Convention as a whole.

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B. Principal sources

2. The general recommendation is based on the Committee's extensive repertoire of practice referring to special measures under the Convention. Committee practice includes the concluding observations on the reports of States parties to the Convention, communications under article 14, and earlier general recommendations, in particular general recommendation No. 8 (1990) on article 1, paragraphs 1 and 4, of the Convention,¹ as well as general recommendation No. 27 (2000) on Discrimination against Roma and general recommendation No. 29 (2002) on article 1, paragraph 1, of the Convention (Descent), both of which make specific reference to special measures.²

3. In drafting the recommendation, the Committee has also taken account of work on special measures completed under the aegis of other United Nations human rights bodies, notably the report by the Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights³ and general recommendation No. 25 (2004) of the Committee on the Elimination of Discrimination against Women on temporary special measures.⁴

C. Purpose

4. The purpose of the general recommendation is to provide, in the light of the Committee's experience, practical guidance on the meaning of special measures under the Convention in order to assist States parties in the discharge of their obligations under the Convention, including reporting obligations. Such guidance may be regarded as consolidating the wealth of Committee recommendations to States parties regarding special measures.

D. Methodology

5. The Convention, as the Committee has observed on many occasions, is a living instrument that must be interpreted and applied taking into account the circumstances of contemporary society. This approach makes it imperative to read its text in a context-sensitive manner. The context for the present recommendation includes, in addition to the full text of the Convention including its title, preamble and operative articles, the range of universal human rights standards on the principles of non-discrimination and special measures. Context-sensitive interpretation also includes taking into account the particular circumstances of States parties without prejudice to the universal quality of the norms of the Convention. The nature of the Convention and the broad scope of its provisions imply that, while the conscientious application of Convention principles will produce variations in outcome among States parties, such variations must be fully justifiable in the light of the principles of the Convention.

¹ *Official Records of the General Assembly, Forty-fifth Session, Supplement No. 18 (A/45/18)*, chap. VII.

² *Ibid.*, *Fifty-fifth Session, Supplement No. 18 (A/55/18)*, annex V. sect. C.; and *Fifty-seventh Session, Supplement No. 18 (A/57/18)*, chap. XI, sect. F.

³ "The Concept and Practice of Affirmative Action", Final report submitted by Mr. Marc Bossuyt, Special Rapporteur, in accordance with Sub-Commission resolution 1998/5 (E/CN.4/Sub.2/2002/21).

⁴ *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 38 (A/59/38)*, annex I.

II. EQUALITY AND NON-DISCRIMINATION AS THE BASIS OF SPECIAL MEASURES

A. Formal and de facto equality

6. The Convention is based on the principles of the dignity and equality of all human beings. The principle of equality underpinned by the Convention combines formal equality before the law with equal protection of the law, with substantive or de facto equality in the enjoyment and exercise of human rights as the aim to be achieved by the faithful implementation of its principles.

B. Direct and indirect discrimination

7. The principle of enjoyment of human rights on an equal footing is integral to the Convention's prohibition of discrimination on grounds of race, colour, descent, and national or ethnic origin. The "grounds" of discrimination are extended in practice by the notion of "intersectionality" whereby the Committee addresses situations of double or multiple discrimination - such as discrimination on grounds of gender or religion - when discrimination on such a ground appears to exist in combination with a ground or grounds listed in article 1 of the Convention. Discrimination under the Convention includes purposive or intentional discrimination and discrimination in effect. Discrimination is constituted not simply by an unjustifiable "distinction, exclusion or restriction" but also by an unjustifiable "preference", making it especially important that States parties distinguish "special measures" from unjustifiable preferences.

8. On the core notion of discrimination, in its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee observed that differential treatment will "constitute discrimination if the criteria for such differentiation, judged in the light of the objectives and purposes of the Convention, are not applied pursuant to a legitimate aim, and are not proportional to the achievement of this aim".⁵ As a logical corollary of this principle, in its general recommendation No. 14 (1993) on article 1, paragraph 1, of the Convention, the Committee observes that "differentiation of treatment will not constitute discrimination if the criteria for such differentiation, judged against the objectives and purposes of the Convention, are legitimate".⁶ The term "non-discrimination" does not signify the necessity of uniform treatment when there are significant differences in situation between one person or group and another, or, in other words, if there is an objective and reasonable justification for differential treatment. To treat in an equal manner persons or groups whose situations are objectively different will constitute discrimination in effect, as will the unequal treatment of persons whose situations are objectively the same. The Committee has also observed that the application of the principle of non-discrimination requires that the characteristics of groups be taken into consideration.

⁵ Ibid., *Supplement No. 18 (A/59/18)*, chap. VII, para. 4.

⁶ Ibid., *Forty-eighth Session, Supplement No. 18 (A/48/18)*, chapter VIII, sect. B.

C. Scope of the principle of non-discrimination

9. The principle of non-discrimination, according to article 1, paragraph 1, of the Convention, protects the enjoyment on an equal footing of human rights and fundamental freedoms “in the political, economic, social, cultural or any other field of public life”. The list of human rights to which the principle applies under the Convention is not closed and extends to any field of human rights regulated by the public authorities in the State party. The reference to public life does not limit the scope of the non-discrimination principle to acts of the public administration but should be read in the light of the provisions in the Convention mandating measures by States parties to address racial discrimination “by any persons, group or organization”.⁷

10. The concepts of equality and non-discrimination in the Convention, and the obligation on States parties to achieve the objectives of the Convention, are further elaborated and developed through the provisions in articles 1, paragraph 4, and 2, paragraph 2, regarding special measures.

III. THE CONCEPT OF SPECIAL MEASURES

A. Objective of special measures: Advancing effective equality

11. The concept of special measures is based on the principle that laws, policies and practices adopted and implemented in order to fulfil obligations under the Convention require supplementing, when circumstances warrant, by the adoption of temporary special measures designed to secure to disadvantaged groups the full and equal enjoyment of human rights and fundamental freedoms. Special measures are one component in the ensemble of provisions in the Convention dedicated to the objective of eliminating racial discrimination, the successful achievement of which will require the faithful implementation of all Convention provisions.

B. Autonomous meaning of special measures

12. The terms “special measures” and “special and concrete measures” employed in the Convention may be regarded as functionally equivalent and have an autonomous meaning to be interpreted in the light of the Convention as a whole, which may differ from usage in particular States parties. The term “special measures” includes also measures that in some countries may be described as “affirmative measures”, “affirmative action” or “positive action” in cases where they correspond to the provisions of articles 1, paragraph 4, and 2, paragraph 2, of the Convention, as explained in the following paragraphs. In line with the Convention, the present recommendation employs the terms “special measures” or “special and concrete measures” and encourages States parties to employ terminology that clearly demonstrates the relationship of their laws and practice to these concepts in the Convention. The term “positive discrimination” is, in the context of international human rights standards, a *contradictio in terminis* and should be avoided.

⁷ Article 2, paragraph 1 (d); see also article 2, paragraph 1 (b).

13. “Measures” include the full span of legislative, executive, administrative, budgetary and regulatory instruments, at every level in the State apparatus, as well as plans, policies, programmes and preferential regimes in areas such as employment, housing, education, culture and participation in public life for disfavoured groups, devised and implemented on the basis of such instruments. States parties should include, as required in order to fulfil their obligations under the Convention, provisions on special measures in their legal systems, whether through general legislation or legislation directed to specific sectors in the light of the range of human rights referred to in article 5 of the Convention, and through plans, programmes and other policy initiatives referred to above at national, regional and local levels.

C. Special measures and other related notions

14. The obligation to take special measures is distinct from the general positive obligation of States parties to the Convention to secure human rights and fundamental freedoms on a non-discriminatory basis to persons and groups subject to their jurisdiction; this is a general obligation flowing from the provisions of the Convention as a whole and integral to all parts of the Convention.

15. Special measures should not be confused with specific rights pertaining to certain categories of person or community, such as, for example the rights of persons belonging to minorities to enjoy their own culture, profess and practise their own religion and use their own language, the rights of indigenous peoples, including rights to lands traditionally occupied by them, and rights of women to non-identical treatment with men, such as the provision of maternity leave, on account of biological differences from men.⁸ Such rights are permanent rights, recognized as such in human rights instruments, including those adopted in the context of the United Nations and its specialized agencies. States parties should carefully observe distinctions between special measures and permanent human rights in their law and practice. The distinction between special measures and permanent rights implies that those entitled to permanent rights may also enjoy the benefits of special measures.⁹

D. Conditions for the adoption and implementation of special measures

16. Special measures should be appropriate to the situation to be remedied, be legitimate, necessary in a democratic society, respect the principles of fairness and proportionality, and be temporary. The measures should be designed and implemented on the basis of need, grounded in a realistic appraisal of the current situation of the individuals and communities concerned.

17. Appraisals of the need for special measures should be carried out on the basis of accurate data, disaggregated by race, colour, descent and ethnic or national origin and incorporating a gender perspective, on the socio-economic and cultural¹⁰ status and conditions of the various

⁸ See Committee on the Elimination of Discrimination against Women, general recommendation 25 (note 4 above), paragraph 16.

⁹ See for example paragraph 19 of general recommendation 25 of the Committee on the Elimination of Discrimination against Women (note 4 above), and paragraph 12 of the Recommendations of the Forum on Minority Issues on rights to education (A/HRC/10/11/Add.1).

¹⁰ Article 2, paragraph 2, includes the term “cultural” as well as “social” and “economic”.

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groups in the population and their participation in the social and economic development of the country.

18. States parties should ensure that special measures are designed and implemented on the basis of prior consultation with affected communities and the active participation of such communities.

IV. CONVENTION PROVISIONS ON SPECIAL MEASURES

A. Article 1, paragraph 4

19. Article 1, paragraph 4, of the Convention stipulates that “special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved”.

20. By employing the phrase “**shall not be deemed racial discrimination**”, article 1, paragraph 4, of the Convention makes it clear that special measures taken by States parties under the terms of the Convention do not constitute discrimination, a clarification reinforced by the *travaux préparatoires* of the Convention which record the drafting change from “should not be deemed racial discrimination” to “shall not be deemed racial discrimination”. Accordingly, special measures are not an exception to the principle of non-discrimination but are integral to its meaning and essential to the Convention project of eliminating racial discrimination and advancing human dignity and effective equality.

21. In order to conform to the Convention, special measures do not amount to discrimination when taken for the “sole purpose” of ensuring equal enjoyment of human rights and fundamental freedoms. Such a motivation should be made apparent from the nature of the measures themselves, the arguments used by the authorities to justify the measures and the instruments designed to put the measures into effect. The reference to “sole purpose” limits the scope of acceptable motivations for special measures within the terms of the Convention.

22. The notion of “adequate advancement” in article 1, paragraph 4, implies goal-directed programmes which have the objective of alleviating and remedying disparities in the enjoyment of human rights and fundamental freedoms affecting particular groups and individuals, protecting them from discrimination. Such disparities include but are not confined to persistent or structural disparities and de facto inequalities resulting from the circumstances of history that continue to deny to vulnerable groups and individuals the advantages essential for the full development of the human personality. It is not necessary to prove “historic” discrimination in order to validate a programme of special measures; the emphasis should be placed on correcting present disparities and on preventing further imbalances from arising.

23. The term “protection” in the same paragraph signifies protection from violations of human rights emanating from any source, including discriminatory activities of private persons, in order to ensure the equal enjoyment of human rights and fundamental freedoms. The term “protection” also indicates that special measures may have preventive (of human rights violations) as well as corrective functions.

24. Although the Convention designates “racial or ethnic groups or individuals requiring ... protection” (article 1, paragraph 4), and “racial groups or individuals belonging to them” (article 2, paragraph 2), as the beneficiaries of special measures, the measures shall in principle be available to any group or person covered by article 1 of the Convention, as clearly indicated by the *travaux préparatoires* of the Convention, as well as by the practice of States parties and the relevant concluding observations of the Committee.¹¹

25. Article 1, paragraph 4, is expressed more broadly than article 2, paragraph 2, in that it refers to individuals “requiring ... protection” without reference to ethnic group membership. The span of potential beneficiaries or addressees of special measures should however be understood in the light of the overall objective of the Convention as dedicated to the elimination of all forms of racial discrimination, with special measures as an essential tool, where appropriate, for the achievement of this objective.

26. Article 1, paragraph 4, provides for limitations on the employment of special measures by States parties. The first limitation is that the measures “should not lead to the maintenance of separate rights for different racial groups”. This provision is narrowly drawn to refer to “racial groups” and calls to mind the practice of Apartheid referred to in article 3 of the Convention, which was imposed by the authorities of the State, and to practices of segregation referred to in that article and in the preamble to the Convention. The notion of inadmissible “separate rights” must be distinguished from rights accepted and recognized by the international community to secure the existence and identity of groups such as minorities, indigenous peoples and other categories of person whose rights are similarly accepted and recognized within the framework of universal human rights.

27. The second limitation on special measures is that “**they shall not be continued after the objectives for which they have been taken have been achieved**”. This limitation on the operation of special measures is essentially functional and goal-related: the measures should cease to be applied when the objectives for which they were employed – the equality goals – have been sustainably achieved.¹² The length of time permitted for the duration of the measures will vary in the light of their objectives, the means utilized to achieve them, and the results of their application. Special measures should, therefore, be carefully tailored to meet the particular needs of the groups or individuals concerned.

¹¹ See also paragraph 7 above.

¹² Committee on Economic, Social and Cultural Rights, general comment No. 20 (2009) on Non-Discrimination in Economic, Social and Cultural Rights, paragraph 9.

B. Article 2, paragraph 2

28. Article 2, paragraph 2, of the Convention stipulates that “States parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved”.

29. Article 1, paragraph 4, of the Convention is essentially a clarification of the meaning of discrimination when applied to special measures. Article 2, paragraph 2, carries forward the special measures concept into the realm of obligations of States parties, along with the text of article 2 as a whole. Nuances of difference in the use of terms in the two paragraphs do not disturb their essential unity of concept and purpose.

30. The use in the paragraph of the verb “shall” in relation to taking special measures clearly indicates the mandatory nature of the obligation to take such measures. The mandatory nature of the obligation is not weakened by the addition of the phrase “when the circumstances so warrant”, a phrase that should be read as providing context for the application of the measures. The phrase has, in principle, an objective meaning in relation to the disparate enjoyment of human rights by persons and groups in the State party and the ensuing need to correct such imbalances.

31. The internal structure of States parties, whether unitary, federal or decentralized, does not affect their responsibility under the Convention, when resorting to special measures, to secure their application throughout the territory of the State. In federal or decentralized States, the federal authorities shall be internationally responsible for designing a framework for the consistent application of special measures in all parts of the State where such measures are necessary.

32. Whereas article 1, paragraph 4, of the Convention uses the term “special measures”, article 2, paragraph 2, refers to “special and concrete measures”. The *travaux préparatoires* of the Convention do not highlight any distinction between the terms and the Committee has generally employed both terms as synonymous.¹³ Bearing in mind the context of article 2 as a broad statement of obligations under the Convention, the terminology employed in article 2, paragraph 2, is appropriate to its context in focusing on the obligation of States parties to adopt measures tailored to fit the situations to be remedied and capable of achieving their objectives.

33. The reference in article 2, paragraph 2, regarding the objective of special measures to ensure “adequate development and protection” of groups and individuals may be compared with the use of the term “advancement” in article 1, paragraph 4. The terms of the Convention signify that special measures should clearly benefit groups and individuals in their enjoyment of human rights. The naming of fields of action in the paragraph – “social, economic, cultural and other

¹³ The United Nations Declaration on the Elimination of All Forms of Racial Discrimination referred, in article 2, paragraph 3, to ‘special and concrete measures’ (General Assembly resolution 1904 (XVIII)). See also paragraph 12 above.

fields” – does not describe a closed list. In principle, special measures can reach into all fields of human rights deprivation, including deprivation of the enjoyment of any human rights expressly or impliedly protected by article 5 of the Convention. In all cases, it is clear that the reference to limitations of “development” relates only to the situation or condition in which groups or individuals find themselves and is not a reflection on any individual or group characteristic.

34. Beneficiaries of special measures under article 2, paragraph 2, may be groups or individuals belonging to such groups. The advancement and protection of communities through special measures is a legitimate objective to be pursued in tandem with respect for the rights and interests of individuals. The identification of an individual as belonging to a group should be based on self-identification by the individual concerned, unless a justification exists to the contrary.

35. Provisions on the limitations of special measures in article 2, paragraph 2, are in essence the same, *mutatis mutandis*, as those expressed in article 1, paragraph 4. The requirement to limit the period for which the measures are taken implies the need, as in the design and initiation of the measures, for a continuing, system of monitoring their application and results using, as appropriate, quantitative and qualitative methods of appraisal. States parties should also carefully determine whether negative human rights consequences would arise for beneficiary communities consequent upon an abrupt withdrawal of special measures, especially if such have been established for a lengthy period of time.

V. RECOMMENDATIONS FOR THE PREPARATION OF REPORTS BY STATES PARTIES

36. The present guidance on the content of reports confirms and amplifies the guidance provided to States parties in the Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (HRI/MC/2006/3) and the Guidelines for the CERD-specific document to be submitted by States parties under article 9, paragraph 1, of the Convention (CERD/C/2007/1).

37. Reports of States parties should describe special measures in relation to any articles of the Convention to which the measures are related. The reports of States parties should also provide information, as appropriate, on:

- The terminology applied to special measures as understood in the Convention
- The justifications for special measures, including relevant statistical and other data on the general situation of beneficiaries, a brief account of how the disparities to be remedied have arisen, and the results to be expected from the application of measures
- The intended beneficiaries of the measures
- The range of consultations undertaken towards the adoption of the measures including consultations with intended beneficiaries and with civil society generally
- The nature of the measures and how they promote the advancement, development and protection of groups and individuals concerned
- The fields of action or sectors where special measures have been adopted
- Where possible, the envisaged duration of the measures
- The institutions in the State responsible for implementing the measures

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- The available mechanisms for monitoring and evaluation of the measures
- Participation by targeted groups and individuals in the implementing institutions and in monitoring and evaluation processes
- The results, provisional or otherwise, of the application of the measures
- Plans for the adoption of new measures and the justifications thereof
- Information on reasons why, in the light of situations that appear to justify the adoption of measures, such measures have not been taken.

38. In cases where a reservation affecting Convention provisions on special measures is maintained, States parties are invited to provide information as to why such a reservation is considered necessary, the nature and scope of the reservation, its precise effects in terms of national law and policy, and any plans to limit or withdraw the reservation within a specified time frame. In cases where States parties have adopted special measures despite the reservation, they are invited to provide information on such measures in line with the recommendations in paragraph 37 above.

Annex 3

Committee on the Elimination of Racial Discrimination, *General recommendation No. 35: Combating racist hate speech*, UN Doc. CERD/C/GC/35 (26 September 2013)



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
26 September 2013

Original: English

Committee on the Elimination of Racial Discrimination

General recommendation No. 35

Combating racist hate speech*

I. Introduction

1. At its eightieth session, the Committee on the Elimination of Racial Discrimination (the Committee) decided to hold a thematic discussion on racist hate speech during its eighty-first session. The discussion took place on 28 August 2012 and focused on understanding the causes and consequences of racist hate speech, and how the resources of the International Convention on the Elimination of All Forms of Racial Discrimination (the Convention) may be mobilized to combat it. Participants in the discussion included, in addition to members of the Committee, representatives from permanent missions to the United Nations Office in Geneva, national human rights institutions, non-governmental organizations, academics and interested individuals.

2. Following the discussion, the Committee expressed its intention to work on drafting a general recommendation to provide guidance on the requirements of the Convention in the area of racist hate speech in order to assist States parties in discharging their obligations, including reporting obligations. The present general recommendation is of relevance to all stakeholders in the fight against racial discrimination, and seeks to contribute to the promotion of understanding, lasting peace and security among communities, peoples and States.

Approach adopted

3. In drafting the recommendation, the Committee has taken account of its extensive practice in combating racist hate speech, concern about which has engaged the full span of procedures under the Convention. The Committee has also underlined the role of racist hate speech in processes leading to mass violations of human rights and genocide, and in conflict situations. Key general recommendations of the Committee that address hate speech include general recommendations No. 7 (1985) relating to the implementation of article 4;¹ No. 15 (1993) on article 4, which stressed the compatibility between article 4 and

* Adopted by the Committee at its eighty-third session (12–30 August 2013).

¹ *Official Records of the General Assembly, Fortieth Session, Supplement No. 18 (A/40/18)*, chap. VII, sect. B.

the right to freedom of expression;² No. 25 (2000) on gender-related dimensions of racial discrimination;³ No. 27 (2000) on discrimination against Roma;⁴ No. 29 (2002) on descent;⁵ No. 30 (2004) on discrimination against non-citizens;⁶ No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system;⁷ and No. 34 (2011) on racial discrimination against people of African descent.⁸ Many general recommendations adopted by the Committee relate directly or indirectly to hate speech issues, bearing in mind that effectively combating racist hate speech involves the mobilization of the full normative and procedural resources of the Convention.

4. By virtue of its work in implementing the Convention as a living instrument, the Committee engages with the wider human rights environment, awareness of which suffuses the Convention. In gauging the scope of freedom of expression, it should be recalled that the right is integrated into the Convention and is not simply articulated outside it: the principles of the Convention contribute to a fuller understanding of the parameters of the right in contemporary international human rights law. The Committee has integrated this right to freedom of expression into its work on combating hate speech, commenting where appropriate on its lack of effective implementation and, where necessary, drawing upon its elaboration in sister human rights bodies.⁹

II. Racist hate speech

5. The drafters of the Convention were acutely aware of the contribution of speech to creating a climate of racial hatred and discrimination, and reflected at length on the dangers it posed. In the Convention, racism is referred to only in the context of “racist doctrines and practices” in the preamble, a phrase closely linked to the condemnation in article 4 of dissemination of ideas of racial superiority. While the term hate speech is not explicitly used in the Convention, this lack of explicit reference has not impeded the Committee from identifying and naming hate speech phenomena and exploring the relationship between speech practices and the standards of the Convention. The present recommendation focuses on the ensemble of Convention provisions that cumulatively enable the identification of expression that constitutes hate speech.

6. Racist hate speech addressed in Committee practice has included all the specific speech forms referred to in article 4 directed against groups recognized in article 1 of the Convention — which forbids discrimination on grounds of race, colour, descent, or national or ethnic origin — such as indigenous peoples, descent-based groups, and immigrants or non-citizens, including migrant domestic workers, refugees and asylum seekers, as well as speech directed against women members of these and other vulnerable groups. In the light of the principle of intersectionality, and bearing in mind that “criticism of religious leaders or commentary on religious doctrine or tenets of faith” should not be prohibited or punished,¹⁰ the Committee’s attention has also been engaged by hate speech targeting

² *Ibid.*, *Forty-eighth Session, Supplement No. 18 (A/48/18)*, chap. VIII, sect. B, para. 4.

³ *Ibid.*, *Fifty-fifth Session, Supplement No. 18 (A/55/18)*, annex V, sect. A.

⁴ *Ibid.*, annex V, sect. C.

⁵ *Ibid.*, *Fifty-seventh Session, Supplement No. 18 (A/57/18)*, chap. XI, sect. F.

⁶ *Ibid.*, *Fifty-ninth Session, Supplement No. 18 (A/59/18)*, chap. VIII.

⁷ *Ibid.*, *Sixtieth Session, Supplement No. 18 (A/60/18)*, chap. IX.

⁸ *Ibid.*, *Sixty-sixth Session, Supplement No. 18 (A/66/18)*, annex IX.

⁹ Notably Human Rights Committee general comment No. 34 (2011) on freedoms of opinion and expression (*Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 40*, vol. I (A/66/40 (Vol. I)), annex V).

¹⁰ *Ibid.*, para. 48.

persons belonging to certain ethnic groups who profess or practice a religion different from the majority, including expressions of Islamophobia, anti-Semitism and other similar manifestations of hatred against ethno-religious groups, as well as extreme manifestations of hatred such as incitement to genocide and to terrorism. Stereotyping and stigmatization of members of protected groups has also been the subject of expressions of concern and recommendations adopted by the Committee.

7. Racist hate speech can take many forms and is not confined to explicitly racial remarks. As is the case with discrimination under article 1, speech attacking particular racial or ethnic groups may employ indirect language in order to disguise its targets and objectives. In line with their obligations under the Convention, States parties should give due attention to all manifestations of racist hate speech and take effective measures to combat them. The principles articulated in the present recommendation apply to racist hate speech, whether emanating from individuals or groups, in whatever forms it manifests itself, orally or in print, or disseminated through electronic media, including the Internet and social networking sites, as well as non-verbal forms of expression such as the display of racist symbols, images and behaviour at public gatherings, including sporting events.

III. Resources of the Convention

8. The identification and combating of hate speech practices is integral to the achievement of the objectives of the Convention — which is dedicated to the elimination of racial discrimination in all its forms. While article 4 of the Convention has functioned as the principal vehicle for combating hate speech, other articles in the Convention make distinctive contributions to fulfilling its objectives. The due regard clause in article 4 explicitly links that article with article 5, which guarantees the right to equality before the law, without racial discrimination in the enjoyment of rights, including the right to freedom of opinion and expression. Article 7 highlights the role of “teaching, education, culture and information” in the promotion of interethnic understanding and tolerance. Article 2 incorporates the undertaking by States parties to eliminate racial discrimination, obligations that receive their widest expression in article 2, paragraph 1 (d). Article 6 focuses on securing effective protection and remedies for victims of racial discrimination and the right to seek “just and adequate reparation or satisfaction” for damage suffered. The present recommendation focuses principally on articles 4, 5 and 7 of the Convention.

9. As a minimum requirement, and without prejudice to further measures, comprehensive legislation against racial discrimination, including civil and administrative law as well as criminal law, is indispensable to combating racist hate speech effectively.

Article 4

10. The chapeau of article 4 incorporates the obligation to take “immediate and positive measures” to eradicate incitement and discrimination, a stipulation that complements and reinforces obligations under other articles of the Convention to dedicate the widest possible range of resources to the eradication of hate speech. In general recommendation No. 32 (2009) on the meaning and scope of special measures in the Convention, the Committee summarized “measures” as comprising “legislative, executive, administrative, budgetary and regulatory instruments...as well as plans, policies, programmes and...regimes”.¹¹ The Committee recalls the mandatory nature of article 4, and observes that during the adoption

¹¹ *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 18 (A/64/18)*, annex VIII, para. 13.

of the Convention, it “was regarded as central to the struggle against racial discrimination”,¹² an evaluation which has been maintained in Committee practice. Article 4 comprises elements relating to speech and the organizational context for the production of speech, serves the functions of prevention and deterrence, and provides for sanctions when deterrence fails. The article also has an expressive function in underlining the international community’s abhorrence of racist hate speech, understood as a form of other-directed speech which rejects the core human rights principles of human dignity and equality and seeks to degrade the standing of individuals and groups in the estimation of society.

11. In the chapeau and subparagraph (a), regarding “ideas or theories of superiority” or “racial superiority or hatred” respectively, the term “based on” is employed to characterize speech impugned by the Convention. The term is understood by the Committee in the context of article 1 as equivalent to “on the grounds of”¹³ and in principle holds the same meaning for article 4. The provisions on dissemination of ideas of racial superiority are a forthright expression of the preventive function of the Convention and are an important complement to the provisions on incitement.

12. The Committee recommends that the criminalization of forms of racist expression should be reserved for serious cases, to be proven beyond reasonable doubt, while less serious cases should be addressed by means other than criminal law, taking into account, inter alia, the nature and extent of the impact on targeted persons and groups. The application of criminal sanctions should be governed by principles of legality, proportionality and necessity.¹⁴

13. As article 4 is not self-executing, States parties are required by its terms to adopt legislation to combat racist hate speech that falls within its scope. In the light of the provisions of the Convention and the elaboration of its principles in general recommendation No. 15 and the present recommendation, the Committee recommends that the States parties declare and effectively sanction as offences punishable by law:

- (a) All dissemination of ideas based on racial or ethnic superiority or hatred, by whatever means;
- (b) Incitement to hatred, contempt or discrimination against members of a group on grounds of their race, colour, descent, or national or ethnic origin;
- (c) Threats or incitement to violence against persons or groups on the grounds in (b) above;
- (d) Expression of insults, ridicule or slander of persons or groups or justification of hatred, contempt or discrimination on the grounds in (b) above, when it clearly amounts to incitement to hatred or discrimination;
- (e) Participation in organizations and activities which promote and incite racial discrimination.

14. The Committee recommends that public denials or attempts to justify crimes of genocide and crimes against humanity, as defined by international law, should be declared as offences punishable by law, provided that they clearly constitute incitement to racial

¹² General recommendation No. 15, para. 1.

¹³ The latter phrase is employed in the seventh preambular paragraph of the Convention. See also paragraph 1 of general recommendation No. 14 (1993) on article 1, paragraph 1, of the Convention (*Official Records of the General Assembly, Forty-eighth Session, Supplement No. 18 (A/48/18)*, chap. VIII, sect. B).

¹⁴ Human Rights Committee general comment No. 34, paras. 22- 25; 33-35.

violence or hatred. The Committee also underlines that “the expression of opinions about historical facts” should not be prohibited or punished.¹⁵

15. While article 4 requires that certain forms of conduct be declared offences punishable by law, it does not supply detailed guidance for the qualification of forms of conduct as criminal offences. On the qualification of dissemination and incitement as offences punishable by law, the Committee considers that the following contextual factors should be taken into account:

- **The content and form of speech:** whether the speech is provocative and direct, in what form it is constructed and disseminated, and the style in which it is delivered.
- **The economic, social and political climate** prevalent at the time the speech was made and disseminated, including the existence of patterns of discrimination against ethnic and other groups, including indigenous peoples. Discourses which in one context are innocuous or neutral may take on a dangerous significance in another: in its indicators on genocide the Committee emphasized the relevance of locality in appraising the meaning and potential effects of racist hate speech.¹⁶
- **The position or status of the speaker** in society and the audience to which the speech is directed. The Committee consistently draws attention to the role of politicians and other public opinion-formers in contributing to the creation of a negative climate towards groups protected by the Convention, and has encouraged such persons and bodies to adopt positive approaches directed to the promotion of intercultural understanding and harmony. The Committee is aware of the special importance of freedom of speech in political matters and also that its exercise carries with it special duties and responsibilities.
- **The reach of the speech**, including the nature of the audience and the means of transmission: whether the speech was disseminated through mainstream media or the Internet, and the frequency and extent of the communication, in particular when repetition suggests the existence of a deliberate strategy to engender hostility towards ethnic and racial groups.
- **The objectives of the speech:** speech protecting or defending the human rights of individuals and groups should not be subject to criminal or other sanctions.¹⁷

16. Incitement characteristically seeks to influence others to engage in certain forms of conduct, including the commission of crime, through advocacy or threats. Incitement may be express or implied, through actions such as displays of racist symbols or distribution of materials as well as words. The notion of incitement as an inchoate crime does not require that the incitement has been acted upon, but in regulating the forms of incitement referred to in article 4, States parties should take into account, as important elements in the incitement offences, in addition to the considerations outlined in paragraph 14 above, the intention of the speaker, and the imminent risk or likelihood that the conduct desired or intended by the speaker will result from the speech in question, considerations which also apply to the other offences listed in paragraph 13.¹⁸

¹⁵ Ibid., para. 49.

¹⁶ Decision on follow-up to the declaration on the prevention of genocide: indicators of patterns of systematic and massive racial discrimination, *Official Records of the General Assembly, Sixtieth Session, Supplement No. 18 (A/60/18)*, chap. II, para. 20.

¹⁷ Adapted from the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, para. 22.

¹⁸ Human Rights Committee general comment No. 34, para. 35; Rabat Plan of Action, para. 22.

17. The Committee reiterates that it is not enough to declare the forms of conduct in article 4 as offences; the provisions of the article must also be effectively implemented. Effective implementation is characteristically achieved through investigations of offences set out in the Convention and, where appropriate, the prosecution of offenders. The Committee recognizes the principle of expediency in the prosecution of alleged offenders, and observes that it must in each case be applied in the light of the guarantees laid down in the Convention and in other instruments of international law. In this and other respects under the Convention, the Committee recalls that it is not its function to review the interpretation of facts and national law made by domestic authorities, unless the decisions are manifestly absurd or unreasonable.

18. Independent, impartial and informed judicial bodies are crucial to ensuring that the facts and legal qualifications of individual cases are assessed consistently with international standards of human rights. Judicial infrastructures should be complemented in this respect by national human rights institutions in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).¹⁹

19. Article 4 requires that measures to eliminate incitement and discrimination must be made with due regard to the principles of the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention. The phrase due regard implies that, in the creation and application of offences, as well as fulfilling the other requirements of article 4, the principles of the Universal Declaration of Human Rights and the rights in article 5 must be given appropriate weight in decision-making processes. The due regard clause has been interpreted by the Committee to apply to human rights and freedoms as a whole, and not simply to freedom of opinion and expression,²⁰ which should however be borne in mind as the most pertinent reference principle when calibrating the legitimacy of speech restrictions.

20. The Committee observes with concern that broad or vague restrictions on freedom of speech have been used to the detriment of groups protected by the Convention. States parties should formulate restrictions on speech with sufficient precision, according to the standards in the Convention as elaborated in the present recommendation. The Committee stresses that measures to monitor and combat racist speech should not be used as a pretext to curtail expressions of protest at injustice, social discontent or opposition.

21. The Committee underlines that article 4 (b) requires that racist organizations which promote and incite racial discrimination be declared illegal and prohibited. The Committee understands that the reference to “organized...propaganda activities” implicates improvised forms of organization or networks, and that “all other propaganda activities” may be taken to refer to unorganized or spontaneous promotion and incitement of racial discrimination.

22. Under the terms of article 4 (c) regarding public authorities or public institutions, racist expressions emanating from such authorities or institutions are regarded by the Committee as of particular concern, especially statements attributed to high-ranking officials. Without prejudice to the application of the offences in subparagraphs (a) and (b) of article 4, which apply to public officials as well as to all others, the “immediate and positive measures” referred to in the chapeau may additionally include measures of a disciplinary nature, such as removal from office, where appropriate, as well as effective remedies for victims.

¹⁹ General recommendation No. 31, para. 5 (j).

²⁰ Committee on the Elimination of Racial Discrimination, communication No. 30/2003, *The Jewish community of Oslo et al. v Norway*, opinion adopted on 15 August 2005, para. 10.5.

23. As part of its standard practice, the Committee recommends that States parties which have made reservations to the Convention withdraw them. In cases where a reservation affecting Convention provisions on racist speech is maintained, States parties are invited to provide information as to why such a reservation is considered necessary, the nature and scope of the reservation, its precise effects in terms of national law and policy, and any plans to limit or withdraw the reservation within a specified time frame.²¹

Article 5

24. Article 5 of the Convention enshrines the obligation of States parties to prohibit and eliminate racial discrimination and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of civil, political, economic, social and cultural rights, including the rights to freedom of thought, conscience and religion, freedom of opinion and expression, and freedom of peaceful assembly and association.

25. The Committee considers that the expression of ideas and opinions made in the context of academic debates, political engagement or similar activity, and without incitement to hatred, contempt, violence or discrimination, should be regarded as legitimate exercises of the right to freedom of expression, even when such ideas are controversial.

26. In addition to its inclusion in article 5, freedom of opinion and expression is recognized as a fundamental right in a broad range of international instruments, including the Universal Declaration of Human Rights, which affirm that everyone has the right to hold opinions and to seek, receive and impart information and ideas of all kinds through any media and regardless of frontiers.²² The right to freedom of expression is not unlimited but carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but only if they are provided by law and are necessary for protection of the rights or reputations of others and for the protection of national security or of public order, or of public health or morals.²³ Freedom of expression should not aim at the destruction of the rights and freedoms of others, including the right to equality and non-discrimination.²⁴

27. The Durban Declaration and Programme of Action and the outcome document of the Durban Review Conference affirm the positive role of the right to freedom of opinion and expression in combating racial hatred.²⁵

28. In addition to underpinning and safeguarding the exercise of other rights and freedoms, freedom of opinion and expression has particular salience in the context of the Convention. The protection of persons from racist hate speech is not simply one of opposition between the right to freedom of expression and its restriction for the benefit of protected groups; the persons and groups entitled to the protection of the Convention also enjoy the right to freedom of expression and freedom from racial discrimination in the exercise of that right. Racist hate speech potentially silences the free speech of its victims.

29. Freedom of expression, indispensable for the articulation of human rights and the dissemination of knowledge regarding the state of enjoyment of civil, political, economic, social and cultural rights, assists vulnerable groups in redressing the balance of power

²¹ Adapted from the Committee's general recommendation No. 32, para. 38.

²² Universal Declaration of Human Rights, art. 19.

²³ International Covenant on Civil and Political Rights, art. 19, para. 3.

²⁴ Universal Declaration of Human Rights, art. 30.

²⁵ Durban Declaration, para. 90; outcome document of the Durban Review Conference (A/CONF.211/8), paras. 54 and 58.

among the components of society, promotes intercultural understanding and tolerance, assists in the deconstruction of racial stereotypes, facilitates the free exchange of ideas, and offers alternative views and counterpoints. States parties should adopt policies empowering all groups within the purview of the Convention to exercise their right to freedom of expression.²⁶

Article 7

30. Whereas the provisions of article 4 on dissemination of ideas attempt to discourage the flow of racist ideas upstream, and the provisions on incitement address their downstream effects, article 7 addresses the root causes of hate speech, and represents a further illustration of the “appropriate means” to eliminate racial discrimination envisaged in article 2, paragraph 1 (d). The importance of article 7 has not diminished over time: its broadly educational approach to eliminating racial discrimination is an indispensable complement to other approaches to combating racial discrimination. Because racism can be the product of, *inter alia*, indoctrination or inadequate education, especially effective antidotes to racist hate speech include education for tolerance, and counter-speech.

31. Under article 7, States parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnic groups, as well as to propagating universal human rights principles, including those of the Convention. Article 7 is phrased in the same mandatory language as other articles in the Convention, and the fields of activity — “teaching, education, culture and information” — are not expressed as exhaustive of the undertakings required.

32. The school systems in States parties represent an important focus for the dissemination of human rights information and perspectives. School curricula, textbooks and teaching materials should be informed by and address human rights themes and seek to promote mutual respect and tolerance among nations and racial and ethnic groups.

33. Appropriate educational strategies in line with the requirements of article 7 include intercultural education, including intercultural bilingual education, based on equality of respect and esteem and genuine mutuality, supported by adequate human and financial resources. Programmes of intercultural education should represent a genuine balance of interests and should not function in intention or effect as vehicles of cultural assimilation.

34. Measures should be adopted in the field of education aimed at encouraging knowledge of the history, culture and traditions of “racial or ethnical”²⁷ groups present in the State party, including indigenous peoples and persons of African descent. Educational materials should, in the interests of promoting mutual respect and understanding, endeavour to highlight the contribution of all groups to the social, economic and cultural enrichment of the national identity and to national, economic and social progress.

35. In order to promote inter-ethnic understanding, balanced and objective representations of history are essential, and, where atrocities have been committed against groups of the population, days of remembrance and other public events should be held, where appropriate in context, to recall such human tragedies, as well as celebrations of successful resolution of conflicts. Truth and reconciliation commissions can also play a

²⁶ Adapted from the Rabat Plan of Action, para. 25.

²⁷ International Convention on the Elimination of All Forms of Racial Discrimination, art. 7.

vital role in countering the persistence of racial hatred and facilitating the development of a climate of inter-ethnic tolerance.²⁸

36. Information campaigns and educational policies calling attention to the harms produced by racist hate speech should engage the general public; civil society, including religious and community associations; parliamentarians and other politicians; educational professionals; public administration personnel; police and other bodies dealing with public order; and legal personnel, including the judiciary. The Committee draws the attention of States parties to general recommendation No. 13 (1993) on the training of law enforcement officials in the protection of human rights²⁹ and to general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system. In these and other cases, familiarization with international norms protecting freedom of opinion and expression and norms protecting against racist hate speech is essential.

37. Formal rejection of hate speech by high-level public officials and condemnation of the hateful ideas expressed play an important role in promoting a culture of tolerance and respect. The promotion of intercultural dialogue through a culture of public discourse and institutional instruments of dialogue, and the promotion of equal opportunities in all aspects of society are of equal value to educational methodologies and should be encouraged in a vigorous manner.

38. The Committee recommends that educational, cultural and informational strategies to combat racist hate speech should be underpinned by systematic data collection and analysis in order to assess the circumstances under which hate speech emerges, the audiences reached or targeted, the means by which they are reached, and media responses to hate messages. International cooperation in this area helps to increase not only the possibilities of comparability of data but also knowledge of and the means to combat hate speech that transcends national boundaries.

39. Informed, ethical and objective media, including social media and the Internet, have an essential role in promoting responsibility in the dissemination of ideas and opinions. In addition to putting in place appropriate legislation for the media in line with international standards, States parties should encourage the public and private media to adopt codes of professional ethics and press codes that incorporate respect for the principles of the Convention and other fundamental human rights standards.

40. Media representations of ethnic, indigenous and other groups within the purview of article 1 of the Convention should be based on principles of respect, fairness and the avoidance of stereotyping. Media should avoid referring unnecessarily to race, ethnicity, religion and other group characteristics in a manner that may promote intolerance.

41. The principles of the Convention are served by encouraging media pluralism, including facilitation of access to and ownership of media by minority, indigenous and other groups in the purview of the Convention, including media in their own languages. Local empowerment through media pluralism facilitates the emergence of speech capable of countering racist hate speech.

²⁸ Adapted from the Rabat Plan of Action, para. 27.

²⁹ *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 18 (A/48/18)*, chap. VIII, sect. B.

42. The Committee encourages self-regulation and compliance with codes of ethics by Internet service providers, as underlined in the Durban Declaration and Programme of Action.³⁰

43. The Committee encourages States parties to work with sports associations to eradicate racism in all sporting disciplines.

44. With particular reference to the Convention, States parties should disseminate knowledge of its standards and procedures, and provide associated training, particularly for those concerned with its implementation, including civil servants, the judiciary and law enforcement officials. The concluding observations of the Committee should be made widely available in the official and other commonly used languages at the conclusion of the examination of the report of the State party; opinions of the Committee under the article 14 communications procedure should similarly be made available.

IV. General

45. The relationship between proscription of racist hate speech and the flourishing of freedom of expression should be seen as complementary and not the expression of a zero sum game where the priority given to one necessitates the diminution of the other. The rights to equality and freedom from discrimination, and the right to freedom of expression, should be fully reflected in law, policy and practice as mutually supportive human rights.

46. The prevalence of racist hate speech in all regions of the world continues to represent a significant contemporary challenge for human rights. The faithful implementation of the Convention as a whole, integrated into wider global efforts to counter hate speech phenomena, represents the best hope of translating the vision of a society free from intolerance and hatred into a living reality and promoting a culture of respect for universal human rights.

47. The Committee regards the adoption by States parties of targets and monitoring procedures to support laws and policies combating racist hate speech to be of the utmost importance. States parties are urged to include measures against racist hate speech in national plans of action against racism, integration strategies and national human rights plans and programmes.

³⁰ Durban Programme of Action, para. 147.

Annex 4

Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined twelfth and thirteenth periodic reports of Bosnia and Herzegovina*, UN Doc. CERD/C/BIH/CO/12-13 (10 September 2018)



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
10 September 2018

Original: English

Committee on the Elimination of Racial Discrimination

Concluding observations on the combined twelfth and thirteenth periodic reports of Bosnia and Herzegovina*

1. The Committee considered the combined twelfth and thirteenth periodic reports of Bosnia and Herzegovina (CERD/C/BIH/12-13), submitted in one document, at its 2652nd and 2653rd meetings (CERD/C/SR.2652 and 2653), held on 9 and 10 August 2018. At its 2670th meeting, held on 23 August 2018, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the twelfth and thirteenth periodic reports of the State party.

3. The Committee expresses its appreciation for the frank and constructive dialogue with the State party's large delegation. The Committee wishes to thank the delegation for the information provided during the consideration of the report, and for the additional information submitted during the dialogue.

B. Positive aspects

4. The Committee welcomes the State party's expressed commitment to apply the basic principles of the International Convention on All Forms of Racial Discrimination and to protect human rights and fundamental freedoms enshrined in its Constitution and legislation, as well as its efforts to amend its policies, programmes and administrative measures to ensure further the protection of human rights and implementation of the Convention, including:

- (a) The new Law on Asylum, in 2016;
- (b) The amendments to the Law on Prohibition of Discrimination, in 2016;
- (c) The amendments to the Law on Citizenship, in 2016;
- (d) The amendments to the Law on the Ombudsman for Human Rights, in 2015;
- (e) The Law on Foreigners, in 2015;
- (f) The Revised Action Plan for Addressing Roma Issues in the Field of Employment, Housing and Health Care 2016–2020.

* Adopted by the Committee at its ninety-sixth session (6–30 August 2018).



C. Concerns and recommendations

Persisting ethnic tensions, ethno-religious divisions and need for reconciliation

5. The Committee is aware of the devastating effects of the war between 1992 and 1995 and the efforts made to reconstruct the society, but remains concerned that more than 20 years after the war ended and the conclusion of the Dayton Peace Agreement, the country remains divided along ethnic and ethno-religious lines; and such divisions have become common place, as illustrated by recurring ethnic tensions including at the political and administrative levels. The Committee is also concerned that such divisions permeate ethnic and national groups across the territory and pose obstacles to the decision-making process and efforts towards more confidence-building, through the adoption of laws, institutions and strategies that foster integration and reconciliation and, therefore, hinder the fight against racial discrimination (arts. 1, 2 and 7).

6. The Committee urges the State party to take all necessary measures, in consultation with all parties across the territory, to overcome ethnic tensions and divisions that hinder the legal, institutional and policy advancement towards a more integrated society and reconciliation, and perpetuate racial discrimination. The Committee recommends that the State party take concrete measures to find a solution to promote a more integrated society based on the values of equality and non-discrimination, and in which all citizens take part, irrespective of their ethnic, ethno-religious or national affiliations.

Statistics

7. The Committee welcomes the results of the 2013 census published in 2015, but regrets that the State party's report has not provided updated and disaggregated statistics on the ethnic composition of its population and has provided particularly insufficient socioeconomic indicators on the different ethnic and national groups residing in its territory, including Roma, returnees, refugees and asylum seekers. The Committee is concerned about the contradicting information it has received regarding the number of Roma and returnees living in Bosnia and Herzegovina. It is further concerned by the information provided by the State party's delegation that statistics on the number of Roma and returnees were not reliable and were difficult to collect.

8. The Committee recommends that the State party provide reliable, updated and disaggregated data on the ethnic composition of its population, as well as socioeconomic indicators on ethnic and national groups residing in its territory, including on Roma, returnees, refugees and asylum seekers, to allow the Committee to assess how these groups enjoy their rights under the Convention. The Committee also recommends that the State party develop efficient tools and procedures enabling it to collect reliable data on the number of Roma and returnees living in Bosnia and Herzegovina.

Compliance of legislation with article 1 of the Convention

9. While noting that the definition of racial discrimination enshrined in article 2 of the Law on Prohibition of Discrimination contains all the grounds enumerated in article 1 of the Convention, the Committee is concerned about the absence of the grounds of "ethnicity", "colour" and "descent" in article 145a (1) of the Criminal Code, which prohibits and criminalizes incitement to racial, ethnic and religious hatred (arts. 1, 2 and 4).

10. The Committee recommends that the State party include in article 145a (1) of its Criminal Code all the grounds for discrimination in full compliance with article 1 of the Convention and ensure that it is done likewise in the criminal codes.

Discrimination against citizens not belonging to the three constituent peoples

11. The Committee remains concerned that the State party's Constitution and electoral laws and those existing at entity levels still contain discriminatory provisions that bar "others" from standing as candidates for the Presidency and the House of Peoples, despite

the Committee's previous recommendations (CERD/C/BIH/CO/9-11, para. 5) and the judgment of the European Court of Human Rights in *Sedjić and Finci v. Bosnia and Herzegovina*. The Committee is also concerned at the persistence of discriminatory provisions in some local laws and regulations, which give constituent peoples special privileges over "others" in the Federation of Bosnia and Herzegovina and in the Republika Srpska (art. 2).

12. The Committee urges the State party to take concrete measures to overcome obstacles to the adoption of amendments to its Constitution and electoral laws at all levels. In that vein, the Committee recommends that the State party encourage all parties to reach a consensus and establish and implement a planned calendar for the implementation of the Committee's recommendations and the judgment of the European Court of Human Rights. The Committee also recommends that the State party ensure that local laws and regulations be amended to enable other ethnic and national groups and the constituent peoples to enjoy the same rights on an equal footing.

Ombudsman

13. The Committee welcomes the fact that the Institution of Human Rights Ombudsman of Bosnia and Herzegovina has been created and is fully operational but remains concerned: (a) about the limited independence of the Ombudsman; (b) that the special budget line foreseen for the work of the Department for the Elimination of All Forms of Discrimination has not been allocated; (c) about the insufficient financial resources for the Ombudsman; and (d) about the reportedly low level of compliance with the Ombudsman's recommendations (art. 2).

14. The Committee recommends that the State party expedite the adoption of the draft amendments to the Law on Prohibition of Discrimination and ensure the independence of the Institution of Human Rights Ombudsman, secure its financial autonomy and allocate the necessary financial and human resources for it to effectively carry out its mandate, including anti-discrimination activities, in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The Committee also recommends that the State party implement the recommendations issued by the Ombudsman, including those on private legal entities.

Racist motive as an aggravating circumstance

15. The Committee is concerned about the absence of a provision on racist motive as an aggravating circumstance in the State party's Criminal Code (art. 4).

16. The Committee recommends that the State party include in its Criminal Code a provision on racist motive as an aggravating circumstance.

Compliance of criminal legislation with article 4 of the Convention

17. The Committee is unclear whether the State party criminalizes the public dissemination of racist propaganda and the promotion of ideas of racial superiority. It is concerned that the State party's criminal legislation does not explicitly criminalize organizations promoting racial discrimination, the support or assistance provided to such organizations and participation in their activities (art. 4).

18. The Committee recommends that the State party amend its criminal legislation to fully comply with the provisions of article 4 of the Convention.

Racist hate speech and hate crimes

19. The Committee is concerned about reports of racist hate speech and discriminatory and disparaging statements in public discourse by public and political figures. The Committee is also concerned that racist hate speech has become common in the media, including on the Internet, and is also expressed in the forms of nationalistic and ethno-

religious rhetoric against the returnees. The Committee is further concerned at reports of anti-Semitic hate speech in sports and about incidences of hate crime against Roma (art. 4).

20. Recalling its general recommendation No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party:

(a) Take appropriate measures to strongly condemn and distance itself from racist hate speech and discriminatory statements in public discourse, including by public figures at the State and entity levels;

(b) Call upon those responsible to ensure that their public statements do not contribute to incitement of racial hatred;

(c) Effectively apply its legislation by registering, investigating, bringing to justice cases of hate speech and hate crime and sanctioning those responsible with appropriate penalties;

(d) Strengthen the resources of the Communications Regulatory Agency and the Press Council and intensify the sensitization of the media, including through the Plan of Action for human rights education for journalists and media professionals.

Situation of Roma

21. While noting efforts undertaken by the State party, the Committee is concerned about the persistent discrimination and marginalization of Roma in various areas of life, which impede their full integration into society. The Committee is particularly concerned about: (a) the low enrolment rate of Roma children in particular at the secondary and university levels; (b) the severe unemployment of Roma, in particular women, in public and private sectors; (c) the unhygienic housing units in which some Roma live and about the lack of completion of housing projects; (d) the lack of identification documents and the unfamiliarity of Roma with the health-care system, which hamper their access to health care. (art. 5).

22. The Committee recommends that the State party develop a comprehensive and integrated national strategy on Roma. It should:

(a) Strengthen its measures to increase the enrolment of Roma children, including by providing sufficient funding for the effective implementation of the Revised Action Plan on Roma Educational Needs;

(b) Consider taking special measures to foster the employment of Roma in the public and private sectors and enhance its measures aimed at developing the employability of Roma, in particular for Roma women;

(c) Accelerate the construction projects, provide sufficient funding for their completion and relocate Roma in more adequate housing units;

(d) Facilitate access by Roma to identification documents and birth certificates.

Representation of minority groups in political and public life

23. The Committee is concerned about the very limited representation of ethnic minority groups, in particular Roma, in decision-making bodies and in public office, at the entity and local levels (arts. 2 and 5).

24. In the light of its general recommendation No. 32 (2009) on the meaning and scope of special measures in the Convention, the Committee recommends that the State party take concrete measures to ensure that ethnic minority groups, in particular Roma, are adequately represented in decision-making bodies, public office and the civil service at State, entity and local levels.

Situation of returnees

25. The Committee takes note of the various measures under the Revised Strategy for the Implementation of Annex 7 of the Dayton Peace Agreement, such as the “Sustainable

return of refugees and displaced persons: reconstruction of housing units”. However, the Committee is concerned that returnees still face difficulties in their sustainable reintegration into society. In particular, they face certain obstacles in gaining full restitution of their property, and access to the labour market and social benefits in case they change their residence (arts. 2 and 5).

26. The Committee urges the State party to strengthen its measures aimed at favouring the sustainable return and reintegration of returnees. For that purpose, the Committee recommends that the State party provide sufficient funding for the full implementation of the Revised Strategy for the Implementation of Annex 7 of the Dayton Peace Agreement in different areas of life, such as housing, employment, and access to health care and social benefits. The Committee also recommends that the State party ensure that returnees are not disadvantaged with regard to access to their rights irrespective of where they reside in the territory of the State party.

Segregation in education

27. The Committee is concerned about the persistence of the “two schools under one roof” practice in some cantons of Central Bosnia and Herzegovina-Neretva as well as of mono-ethnic schools, despite the Committee’s previous recommendation (CERD/C/BIH/CO/9-11, para. 11) and the decisions of the Municipal Court of Mostar of 2012 and of the Supreme Court of Bosnia and Herzegovina of 2014 (arts. 2 and 5).

28. The Committee recommends that the State party strengthen its efforts to end all forms of segregation in the education system, including the practice of “two schools under one roof” and mono-ethnic schools and further develop a common basic curriculum and a more inclusive education system for all children, while respecting their own language.

Migrants, including asylum seekers, refugees and internally displaced persons

29. The Committee appreciates the efforts made by the State party to satisfy the needs of asylum seekers, refugees and internally displaced persons. However, the Committee remains concerned about the lack of capacity to accommodate all asylum seekers arriving in its territory and about the limited access to regular basic services, such as food, primary health care and psychological support for those residing outside the government-run facilities. The Committee is concerned about reported impediments in access to the asylum procedure, in particular: (a) the requirement of proof of a registered residence in order to apply for asylum, which many potential applicants are unable to secure; (b) the short duration/validity (14 days) of an attested intention to apply for asylum and the authorities’ reluctance to renew them; (c) the limited availability of interpretation services and legal aid for asylum seekers during the procedure; (d) the failure to always provide unaccompanied minors with a guardian; (e) that asylum seekers do not always receive information on their rights and obligations; (f) the reported detention of asylum seekers pending consideration of their applications for asylum; (g) that migrants and other minorities are at risk of statelessness (art. 5).

30. The Committee recommends that the State party:

(a) Increase its reception capacity in order to accommodate all asylum seekers and ensure that they have access to basic services;

(b) Address shortcomings of its asylum procedure to guarantee that all persons intending to apply for asylum are able to do so and benefit from procedural legal safeguards, including information on their rights, and the provision of free legal aid and interpretation services;

(c) Ensure that a decision to use the accelerated procedure is well evaluated, respects all legal safeguards and does not result in a violation of the principle of non-refoulement;

(d) Provide unaccompanied minors with guardians at all stages of the asylum procedure;

- (e) **Consider the detention of asylum seekers as a measure of last resort;**
- (f) **Pursue its efforts to implement the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.**

Complaints for acts of racial discrimination

31. The Committee is concerned at the very low number of cases of racial discrimination registered, investigated and brought before both the courts and the Ombudsman (arts. 2, 4 and 7).

32. **Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee reminds the State party that the absence of complaints or legal proceedings brought by victims of racial discrimination can be indicative of legislation that is insufficiently specific, a lack of awareness of available remedies, fear of social disapproval or reprisals, or an unwillingness on the part of the authorities to initiate proceedings. The Committee recommends that the State party take all the steps necessary to facilitate the access of its population to justice, in particular ethnic minority groups, to disseminate information on legislation relating to racial discrimination and to inform the population residing in its territory about all the legal remedies available to them and of the possibility of obtaining legal assistance.**

Trafficking in persons

33. The Committee is concerned about reports about the persistence of trafficking in persons for economic and sexual exploitation, including Roma children. The Committee regrets the absence of information on the assistance and support provided to victims of trafficking, as well as on the concrete results achieved through the 2016–2019 National Anti-Trafficking Action Plan on the reduction of trafficking in the State party (arts. 2 and 5).

34. **The Committee recommends that the State party firmly enforce its anti-trafficking legislation by facilitating complaints, investigating them, prosecuting and condemning those responsible. The Committee also recommends that the State party provide victims with reparation, including compensation, as well as with assistance and all forms of support, in particular access to shelters, rehabilitation and counselling services. The Committee further recommends that the State party effectively implement its 2016–2019 National Anti-Trafficking Action Plan and conduct an evaluation thereof.**

Prosecution of persons responsible for serious violations of international humanitarian law

35. While noting the information provided by the State party, the Committee is concerned that the prosecution of persons responsible for serious violations of international humanitarian law by domestic courts has not yet been completed (arts. 2 and 6).

36. **The Committee recommends that the State party accelerate the prosecution of the remaining persons responsible for serious violations of international humanitarian law. The Committee considers that justice for victims of wartime atrocities may foster reconciliation among different ethnic and ethno-religious groups in the State party.**

Training courses and awareness-raising campaigns on anti-discrimination legislation

37. While noting the information provided by the State party on training for judges and prosecutors, the Committee is concerned about the reports of the underdeveloped application of the Law on Prohibition of Discrimination by domestic courts (art. 7).

38. **The Committee recommends that the State party intensify and regularly conduct training courses for judges, prosecutors, lawyers and other law enforcement officials on the Law on Prohibition of Discrimination and other anti-discrimination laws and evaluate them regularly, so as to facilitate the application of such legislation by domestic courts.**

D. Other recommendations

Ratification of other treaties

39. Bearing in mind the indivisibility of all human rights, the Committee urges the State party to consider ratifying those international human rights instruments that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the Domestic Workers Convention, 2011 (No. 189) of the International Labour Organization.

Follow-up to the Durban Declaration and Programme of Action

40. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

41. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

42. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations concerned working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

Declaration under article 14 of the Convention

43. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the Committee's competence to receive and consider individual communications.

Amendment to article 8 of the Convention

44. The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

Common core document

45. The Committee encourages the State party to update its common core document, which dates to 2011, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In the light of

General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

Follow-up to the present concluding observations

46. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 8, 14 and 20 (a) and (b) above.

Paragraphs of particular importance

47. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 12, 18, 26 and 28 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Dissemination of information

48. The Committee recommends that the State party's reports be made readily available to and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, as appropriate.

Preparation of the next periodic report

49. The Committee recommends that the State party submit its combined fourteenth and fifteenth periodic reports, as a single document, by 16 July 2021, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.

Annex 5

Committee on the Elimination of Racial Discrimination, *General recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials*, UN Doc. CERD/C/GC/36 (17 December 2020) (excerpt)



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
17 December 2020

Original: English

Committee on the Elimination of Racial Discrimination

General recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials*

I. Introduction

1. At its ninety-second session, the Committee on the Elimination of Racial Discrimination decided to hold a discussion on the theme “Racial discrimination in today’s world: racial profiling, ethnic cleansing and current global issues and challenges”. The thematic discussion took place in Geneva on 29 November 2017 and was focused on analysing the experiences, challenges and lessons learned in working to combat racial profiling and ethnic cleansing to date and on how the Committee could strengthen its work against racial profiling and ethnic cleansing, for greater impact on the ground.

2. Following the discussion, the Committee expressed its intention to work on drafting a general recommendation to provide guidance on preventing and combating racial profiling in order to assist States parties in discharging their obligations, including reporting obligations. The present general recommendation is of relevance to all stakeholders in the fight against racial discrimination, and through its publication the Committee seeks to contribute to the strengthening of democracy, the rule of law, and peace and security among communities, peoples and States.

3. At its ninety-eighth session, the Committee began deliberations with a view to drafting a general recommendation on preventing and combating racial profiling, in consultation with all interested parties.¹ The Committee also held debates with academics from various fields, with an emphasis on the implications of artificial intelligence on racial profiling.

II. Established principles and practice

4. In drafting the present general recommendation, the Committee has taken account of its extensive practice in addressing racial profiling by law enforcement officials, primarily in the context of the review of State party reports and in key general recommendations. The Committee explicitly addressed the issue of racial profiling in its general recommendation No. 30 (2004) on discrimination against non-citizens, in which it recommended that States ensure that any measures taken in the fight against terrorism did not discriminate, in purpose or effect, on the grounds of race, colour, descent, or national or ethnic origin and that non-citizens were not subjected to racial or ethnic profiling or stereotyping (para. 10); in its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, in which the Committee recommended that States parties take the necessary steps to prevent questioning, arrests and searches which are in reality based solely on the physical appearance of a person, that

* Adopted by the Committee at its 102nd session (16–24 November 2020).

¹ The contributions for the draft general recommendation are available at: www.ohchr.org/EN/HRBodies/CERD/Pages/GC36.aspx.



of the obligation of States parties not to engage in acts of racial discrimination depends upon the conduct of public authorities and public institutions. It is therefore of paramount importance that national law enforcement officials in particular are properly informed of their obligations.¹⁶ Since racial profiling is often the result of well-established and unchallenged practices of public authorities and public institutions, States parties must ensure that national law enforcement officials are sufficiently aware of how to avoid engaging in practices of racial profiling. Raising such awareness can help to prevent the implementation of racial profiling practices and to overcome them where they are entrenched. Accordingly, States parties should ensure that the personnel of public authorities and institutions who engage in law enforcement are properly trained to ensure that they do not engage in practices of racial profiling.

VI. Consequences of racial profiling

26. Racial profiling has negative and cumulative effects on the attitudes and well-being of individuals and communities,¹⁷ given that a person may be regularly subjected to racial profiling in his or her daily life. Victims of racial profiling often understate and interiorize its impact in the face of a lack of effective remedies and restorative tools. In addition to being unlawful, racial profiling may also be ineffective and counterproductive as a general law enforcement tool. People who perceive that they have been subjected to discriminatory law enforcement actions tend to have less trust in law enforcement and, as a result, tend to be less willing to cooperate, thereby potentially limiting the effectiveness of law enforcement. Racial profiling practices influence daily routines of law enforcement and undermine, whether through conscious or unconscious actions, the capacity to support victims of crimes belonging to the affected communities. A sense of injustice and humiliation, the loss of trust in law enforcement, secondary victimization, fear of reprisals and limited access to information about legal rights or assistance may result in reduced reporting of crimes and reduced information for intelligence purposes.

27. Racial profiling and hate speech are closely interrelated, and the Committee has often addressed those two forms of discrimination simultaneously.¹⁸ The dissemination of ideas based on racial or ethnic hatred, the persistent use of hate speech in the media and the use of racist political discourse by public officials exacerbate discrimination and stereotyping by law enforcement officers. Ethnic groups that are subjected to hate speech will also become targets of racial profiling. Moreover, racial profiling by law enforcement portrays groups that face racial discrimination as more prone to commit crimes, which will influence the public discourse and increase the dissemination of racist hatred.

28. Racial profiling may also have a negative impact on people's enjoyment of civil and political rights, including the rights to life (article 6 of the International Covenant on Civil and Political Rights), liberty and security of person (art. 9), privacy (art. 17) and liberty of movement (art. 12), freedom of association (art. 22) and to an effective remedy (art. 2 (3)).

29. The full enjoyment of people's economic, social and cultural rights, such as the right to adequate housing (article 11 of the International Covenant on Economic, Social and Cultural Rights), health (art. 12), education (arts. 13–14) and work (art. 6), could also be affected by racial profiling.¹⁹

30. Racial profiling by law enforcement officials has far-reaching consequences at all levels of administration of the justice system, particularly in the criminal justice system. Racial profiling can lead to, among other things: (a) the overcriminalization of certain categories of persons protected under the Convention; (b) the reinforcement of misleading stereotypical associations between crime and ethnicity and the cultivation of abusive

¹⁶ See general recommendation No. 13 (1993).

¹⁷ See, for example, A/HRC/24/52/Add.2, para. 57.

¹⁸ CERD/C/RUS/CO/23-24, paras. 15–16; CERD/C/SVN/CO/8-11, paras. 8–9; and CERD/C/AUS/CO/18-20, para. 14.

¹⁹ See also article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination.

operational practices; (c) disproportionate incarceration rates for groups protected under the Convention; (d) the higher vulnerability of persons belonging to groups protected under the Convention to abuse of force or authority by law enforcement officials; (e) the underreporting of acts of racial discrimination and hate crimes; and (f) the handing down by courts of harsher sentences against members of targeted communities.

VII. Algorithmic profiling and racial bias and discrimination

31. Owing to rapid advances in technological development, the actions of law enforcement officials are increasingly determined or informed by algorithmic profiling,²⁰ which may include big data, automated decision-making and artificial intelligence tools and methods.²¹ While such advances have the potential to increase the accuracy, effectiveness and efficiency of the decisions and actions of law enforcement officials, there is a great risk that they may also reproduce and reinforce biases and aggravate or lead to discriminatory practices.²² Given the opacity of algorithmic analytics and decision-making, in particular when artificial intelligence methods are employed, discriminatory outcomes of algorithmic profiling can often be less obvious and more difficult to detect than those of human decisions and thus more difficult to contest.²³ In addition, human rights defenders generally are not adequately equipped technologically to identify such discriminatory methods.

32. There are various entry points through which bias could be ingrained into algorithmic profiling systems, including the way in which the systems are designed, decisions as to the origin and scope of the datasets on which the systems are trained, societal and cultural biases that developers may build into those datasets, the artificial intelligence models themselves and the way in which the outputs of the artificial intelligence model are implemented in practice.²⁴ In particular, the following data-related factors may contribute to negative outcomes: (a) the data used include information concerning protected characteristics; (b) so-called proxy information is included in the data, for example, postal codes linked to segregated areas in cities often indirectly indicate race or ethnic origin; (c) the data used are biased against a group;²⁵ and (d) the data used are of poor quality, including because they are poorly selected, incomplete, incorrect or outdated.²⁶

33. Particular risks emerge when algorithmic profiling is used for determining the likelihood of criminal activity either in certain localities, or by certain groups or even individuals. Predictive policing that relies on historical data for predicting possible future events can easily produce discriminatory outcomes, in particular when the datasets used suffer from one or more of the flaws described above.²⁷ For example, historical arrest data

²⁰ Algorithmic profiling includes any step-by-step computerized technique used for analysing data to identify trends, patterns or correlations. European Union Agency for Fundamental Rights, *Preventing Unlawful Profiling Today and in the Future: A Guide* (2018), p. 97.

²¹ Although widely used, the term “artificial intelligence” is not clearly defined. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has noted that artificial intelligence is often used as shorthand for the increasing independence, speed and scale connected to automated, computational decision-making. It is not one thing only, but rather refers to a “constellation” of processes and technologies enabling computers to complement or replace specific tasks otherwise performed by humans, such as making decisions and solving problems (A/73/348, para. 2).

²² See A/HRC/44/57.

²³ AI Now, “The AI Now report: the social and economic implications of artificial intelligence technologies in the near-term”, summary of the AI Now public symposium hosted by the White House and the Information Law Institute of New York University on 7 July 2016, p. 7.

²⁴ A/73/348, para. 38.

²⁵ For example, when past discriminatory practices, such as arrests disproportionately affecting members of one group, are reflected in the data used for profiling, it will affect the outcomes of algorithmic profiling.

²⁶ European Union Agency for Fundamental Rights, “#BigData: discrimination in data-supported decision making”, FRA Focus paper (2018), pp. 4–5.

²⁷ See Rashida Richardson, Jason M. Schultz and Kate Crawford, “Dirty data, bad predictions: how civil rights violations impact police data, predictive policing systems, and justice”, *New York University Law Review*, vol. 94 (May 2019).

Annex 6

Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined twenty-fifth and twenty-sixth periodic reports of the Russian Federation*, UN Doc. CERD/C/RUS/CO/25-26 (1 June 2023) (excerpt)



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
1 June 2023

Original: English

Committee on the Elimination of Racial Discrimination

Concluding observations on the combined twenty-fifth and twenty-sixth periodic reports of the Russian Federation*

1. The Committee considered the combined twenty-fifth and twenty-sixth periodic reports of the Russian Federation,¹ submitted in one document, at its 2959th and 2960th meetings,² held on 12 and 13 April 2023. At its 2975th meeting, held on 25 April 2023, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined twenty-fifth and twenty-sixth periodic reports of the State party, the dialogue with the State party's delegation and the information provided during and after the dialogue. However, the Committee regrets the refusal of the delegation to discuss and respond to questions posed by the Committee on issues related to the armed conflict and the situation in Crimea and the City of Sevastopol, which prevented the Committee from fully performing its function under article 9 of the Convention. The Committee highlights that the full engagement of States parties in the interactive dialogue with the human rights treaty bodies³ is a key component of the periodic review process, which provides a unique opportunity for the Committee and the State party to hold constructive and in-depth discussions in order to allow the Committee to assess the progress made and to indicate to the State party the areas where further efforts are needed.

B. Positive aspects

3. The Committee welcomes the following legislative and policy measures taken by the State party:

(a) The adoption of Law No. 22-FZ of 24 February 2021, which provides for the issuing of temporary identity documents to stateless persons;

(b) The adoption of government decision No. 16 of 19 January 2019, which expands social benefits to extended families of members of Indigenous Peoples;

(c) The adoption of the comprehensive plan of action for the socioeconomic and ethnocultural development of Roma in the Russian Federation, on 31 January 2018, and the amendment thereto, in 2019.

* Adopted by the Committee at its 109th session (11–28 April 2023).

¹ CERD/C/RUS/25-26.

² See CERD/C/SR.2959 and CERD/C/SR.2960.

³ See General Assembly resolution 68/268.



C. Concerns and recommendations

Application of the Convention in the context of armed conflict

4. In the light of the ongoing armed conflict in Ukraine initiated by the State party on 24 February 2022, the Committee recalls that, in situations of armed conflict and hostilities, the applicability of international humanitarian law does not preclude the application of international human rights law, including the Convention, which operates independently. Reiterating the principle of territorial integrity of all States Members of the United Nations, as guaranteed under the Charter of the United Nations and General Assembly resolutions 68/262 and ES-11/4 on the territorial integrity of Ukraine, the Committee recalls that the State party's obligations under the Convention apply not only on the territory of the State party, but also on all other territories over which the State party exercises effective control. Regretting the refusal of the delegation to provide, during the dialogue, any information concerning the ongoing armed conflict, the Committee is deeply concerned about:

(a) Reports of severe and grave human rights violations and abuses committed during the ongoing armed conflict by the military forces of the Russian Federation and private military companies against members of groups protected under the Convention, particularly ethnic Ukrainians, which include instances and practices of excessive use of force, killings, extrajudicial and summary execution, enforced disappearance, torture, rape and other forms of sexual violence, arbitrary detention, massive population displacement attributable to the State party, and the forcible transfer or deportation to the Russian Federation of inhabitants, in particular children, from areas where the State party exercises effective control;

(b) Incitement to racial hatred and propagation of racist stereotypes against ethnic Ukrainians, in particular on State-owned radio and television networks, on the Internet and in social media, as well as by public figures and government officials, and the lack of information on investigations, prosecutions, convictions and sanctions for such acts;

(c) Reports of forced mobilization and conscription, both within the territory of the State party and on other territories under its effective control, which disproportionately affect members of ethnic minorities and Indigenous Peoples;

(d) A lack of investigations into alleged violations of the Convention committed during other armed conflicts in which the State party has been involved;

(e) A lack of information on measures to provide redress and support for alleged victims of violations and abuses committed in the ongoing armed conflict in Ukraine and other armed conflicts in which the State party is involved (arts. 2, 4 and 6).

5. **The Committee recommends that the State party:**

(a) **Conduct effective, thorough and impartial investigations into allegations of violations and abuses of human rights committed during the ongoing armed conflict with Ukraine and other armed conflicts in which the State party is or has been involved, in particular against ethnic Ukrainians, and prosecute and punish perpetrators of violations with penalties commensurate to the offences;**

(b) **Adopt measures to provide medical, psychological, material and other support for victims, and adequate reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition;**

(c) **Adopt measures to monitor and combat racist hate speech, incitement to and promotion of racial hatred and discrimination, including on State-owned radio and television networks, on the Internet, in social media and by State officials and public figures, including politicians and religious leaders, targeted at ethnic Ukrainians, and ensure that such incidents are effectively, thoroughly and impartially investigated and that perpetrators are prosecuted and punished with penalties commensurate to the offences;**

(d) **End the practice of forced mobilization and conscription both within the territory of the State party and on other territories under its effective control, insofar**

as it disproportionately affects members of ethnic minority groups and Indigenous Peoples.

Statistics

6. The Committee takes note of the statistics provided by the delegation during the dialogue on the demographic composition of its population, which included results from the national population census conducted in 2021. Nevertheless, the Committee is concerned about the lack of information on the socioeconomic situation of ethnic minority groups, including Roma, of Indigenous Peoples and of non-citizens, such as migrants, refugees, asylum-seekers and stateless persons, which limits the Committee's ability to properly assess the situation of such groups, including their socioeconomic status and any progress achieved by implementing targeted policies and programmes (arts. 1 and 5).

7. **Recalling its guidelines for reporting under the Convention,⁴ the Committee recommends that the State party produce disaggregated statistics on the socioeconomic situation of different ethnic groups, including Roma, of Indigenous Peoples and of non-citizens, such as refugees, asylum-seekers, migrants and stateless persons, and on their access to education, employment, health care and housing and their representation in public and political life, where applicable, with a view to creating an empirical basis for assessing the equal enjoyment of the rights enshrined in the Convention.**

Convention in the domestic legal order

8. While noting that, pursuant to article 15 of the Constitution of the State party, ratified international treaties are part of the domestic legal order and take precedence over national legislation, the Committee regrets the lack of information on cases in which the provisions of the Convention were invoked before or applied by domestic courts (art. 2).

9. **Recalling its previous concluding observations,⁵ the Committee recommends that the State party conduct training programmes and awareness-raising campaigns, in particular for judges, prosecutors, lawyers and law enforcement officials, to ensure that the provisions of the Convention are invoked when relevant by and before domestic courts. It requests the State party to include in its next periodic report specific examples of the application of the Convention by domestic courts.**

Prohibition of racial discrimination

10. The Committee takes note of the information on provisions in which principle of non-discrimination is included in the domestic legal framework of the State party, including in the Constitution, the Housing Code, the Code of Criminal Procedure, the Criminal Code, the Civil Code and the Law on Education. Nevertheless, the Committee is concerned about:

(a) The absence of "colour" and "ethnic origin" as prohibited grounds for discrimination in the legal framework on non-discrimination, particularly under article 19 of the Constitution, article 136 of the Criminal Code and article 5.62 of the Code of Administrative Offences;

(b) The lack of measures taken to develop and adopt comprehensive anti-discrimination legislation containing an explicit definition of racial discrimination encompassing all grounds enumerated in article 1 of the Convention and prohibiting direct, indirect and intersecting forms of discrimination in the public and private sphere (arts. 1, 2 and 5).

11. **Reiterating its previous recommendations,⁶ the Committee recommends that the State party:**

⁴ CERD/C/2007/1, paras. 10–12.

⁵ CERD/C/RUS/CO/23-24, para. 6.

⁶ CERD/C/RUS/CO/23-24, para. 10, and CERD/C/RUS/CO/20-22, para. 7.

(a) **Review its legal framework, particularly provisions of the Constitution, the Criminal Code and the Code of Administrative Offences, with a view to bringing them into line with the Convention;**

(b) **Develop and adopt comprehensive anti-discrimination legislation that contains a clear definition of racial discrimination and encompasses direct, indirect and intersecting forms of discrimination in both the public and private spheres, in accordance with article 1 of the Convention.**

Complaints of racial discrimination

12. The Committee takes note of the information provided by the State party on convictions handed down between 2017 and 2022 under provisions of the Criminal Code and the Code of Administrative Offences for acts of racial discrimination. Nevertheless, the Committee is concerned about the lack of detailed and disaggregated statistics on complaints in relation to racial discrimination filed with national courts and other relevant institutions, as well as on investigations, prosecutions, convictions and sanctions relating to cases of discrimination, particularly on grounds of race or ethnic origin (art. 6).

13. **Reiterating its previous recommendation ⁷ and recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party:**

(a) **Collect detailed information and statistics on the number and type of complaints of racial discrimination, on the number of investigations, prosecutions and convictions, and on compensation provided to victims, disaggregated by age, gender and ethnic and national origin of the victims, and include those in its next periodic report;**

(b) **Conduct training programmes for police officers, prosecutors and other law enforcement officials on the identification and registration of incidents of racial discrimination;**

(c) **Undertake public education campaigns on the rights enshrined in the Convention and on how to file complaints of racial discrimination, particularly among Roma communities, Indigenous Peoples, stateless persons and migrant workers.**

Racist hate speech and hate crimes

14. The Committee notes the information provided on the domestic legal framework to combat incitement to racial hatred, particularly under article 282 of the Criminal Code, and that racist motives are considered an aggravating circumstance for specific crimes. However, the Committee is concerned about:

(a) The spread of hate crime and racist hate speech, and the dissemination of negative stereotypes, against Roma communities and other ethnic minorities, Indigenous Peoples and migrants, particularly those from Central Asia and the Caucasus, including on State-owned radio and television networks, in print media, on the Internet and in social media, and the lack of information on safe reporting channels available to victims;

(b) The lack of detailed information on complaints or cases involving hate crime and hate speech in the State party, prosecutions and convictions and sanctions imposed on perpetrators, in accordance with article 4 of the Convention and on the grounds of discrimination recognized under article 1 of the Convention;

(c) The use of racist hate speech by politicians, including members of the parliament, and public figures, including religious leaders, at the federal and local levels, and the lack of information on investigations, prosecutions and convictions of public figures and politicians for hate speech (art. 4).

⁷ CERD/C/RUS/CO/23-24, para. 14.

15. Recalling its general recommendations No. 7 (1985) relating to the implementation of article 4 of the Convention, No. 15 (1993) on article 4 of the Convention and No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party:

(a) Develop a system for filing complaints of incidents of hate crime and hate speech, and ensure the system's accessibility and availability to those who are vulnerable to racist hate crimes and hate speech, such as members of Roma communities and other ethnic minorities, Indigenous Peoples, migrants and people of African descent, and take effective measures, including through awareness-raising campaigns, to encourage the reporting of racist hate speech and hate crimes;

(b) Strengthen its efforts to combat the spread of racist hate speech in the media, on the Internet and in social media, in close cooperation with media outlets, Internet service providers and social media platforms, as well as with members of groups vulnerable to racist hate speech;

(c) Firmly condemn any form of hate speech and distance itself from racist hate speech expressed by politicians and public figures, including members of the parliament and religious leaders, and ensure that such acts are investigated and adequately punished;

(d) Assess and strengthen its system for collecting data on complaints of racist hate speech and racially motivated crimes, on prosecutions on convictions and on penalties imposed with regard to such acts pursuant to article 4 of the Convention, and include relevant statistics in its next periodic report.

Racially motivated police violence and racial profiling

16. The Committee takes note of the information provided by the delegation on the training provided to law enforcement officials, and also takes note of the internal monitoring mechanism on racial discrimination established under the Ministry of Internal Affairs. Nevertheless, the Committee is concerned about:

(a) Reports of the persistence of racially motivated police violence and racial profiling by law enforcement officers targeting members of groups vulnerable to racial discrimination, mainly Roma, migrants, particularly from Central Asia and the Caucasus, people of African descent, and those facing intersecting forms of discrimination, such as women and LGBTIQ+ persons;

(b) The lack of a clear prohibition of racial profiling in the legislative framework on law enforcement and the lack of detailed information on measures taken to combat racial profiling and racially motivated police violence;

(c) The lack of information on the mandate and activities of the internal monitoring mechanism on racial discrimination established under the Ministry of Internal Affairs, on the availability and accessibility of safe and independent reporting channels for victims of racial profiling and racially motivated police violence, and on investigations, prosecutions, convictions and sanctions imposed, as well as on reparation provided to victims (art. 4).

17. Recalling its general recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials, the Committee recommends that the State party:

(a) Develop and adopt legislation and other forms of regulation explicitly prohibiting law enforcement officials from engaging in racial profiling and racially motivated violence, with effective and meaningful participation of representatives of groups vulnerable to racial discrimination, mainly Roma, migrants, particularly from Central Asia and the Caucasus, people of African descent, and those facing intersecting forms of discrimination, such as women and LGBTIQ+ persons;

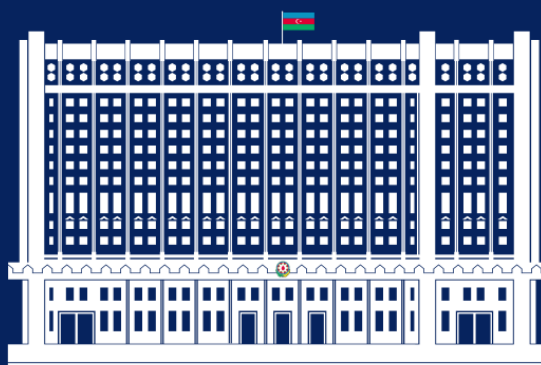
(b) Establish an independent monitoring body with the competence to receive complaints of racial profiling and racially motivated police violence, with safe and accessible reporting channels for victims, to conduct thorough and impartial

Annex 7

“Closing Speech by Ilham Aliyev at the conference on the results of the third year into the ‘State Program on the socioeconomic development of districts for 2009-2013’”, *The President of the Republic of Azerbaijan Ilham Aliyev* (28 February 2012)

president.az /en/articles/view/4423

Closing Speech by Ilham Aliyev at the conference on the results of the third year into the “State Program on the socioeconomic development of districts for 2009-2013”



AZƏRBAYCAN RESPUBLİKASI
PREZİDENTİNİN ADMINİSTRASIYASI

28 February 2012, 15:50



I am confident that all the issues provided in the state investment program for 2012 will be resolved. This year should also be successful for our country, in particular, we expect major development of the non-oil sector.

The projects started earlier and the ongoing ones are bearing fruit. In 2012 we will also open large enterprises and factories. So our non-oil capacity will be further enhanced. I want to repeat that there are all the possibilities for the development of private enterprise. Business people and heads of executive authorities have provided information about the processes taking place in the region.

I can say that we are witnessing an almost identical picture in each region and district. There is development, improvement, creation, social projects are implemented. In general, there is a lot of excitement. This pleases me a lot. I regularly travel to the districts, examine the situation and am always happy to see changes for the better. Our country has a great capacity and a great potential. This potential has been created due to the talent of the Azerbaijani people, and we need to make sure that all our tasks are met by government agencies and the private sector.

In recent years, the share of our private sector in the gross domestic product has been increasing. In general, our gross domestic product grows very rapidly. Over the past eight years it has tripled. No other country has ever achieved that. It is encouraging that the share of the private sector is also growing – it is now at the level of 83 per cent. This shows that Azerbaijan has long completed the transition to a market economy. Some time ago I said that we have already completed the transition period. Azerbaijan is no longer a country in transition. We are a country going through a period of rapid development, a developing country, and I want to reiterate that we will continue our policy to become a developed country.

As I mentioned in my opening remarks, a major public investment program will be realized. Seven

billion manats is a huge amount. We need to make sure that this amount is used efficiently and all the projects work. There should be no backlogs. We must eliminate all the red tape. At the same time, there should be even more rigorous control over these major public projects. Where there is control, there is quality of work.

This year, as in previous years, major funds will be allocated for infrastructure projects, road construction in particular. Work is underway on the main roads. This year, as in the past, major investment started to be made in rural roads. We paid serious attention to this area in previous periods too.

But even more funds will be invested in this area, especially in 2012 and 2013. The construction of rural roads has been entrusted to local executive authorities. They should do the job with great efficiency and quality. This is tremendous responsibility because earlier this work was carried out by central executive bodies. But central executive bodies have other projects. They should focus on highways and inter-city roads. As for rural roads, local executive bodies know this job better. Even last year each district received orders, prepared reports and plans. As you can see, from the beginning of this year funds are allocated from both the state budget and the President's contingency fund. The aim is to rebuild all rural roads. This, of course, is the ultimate goal.

At the same time, an actual goal has been set for the end of 2013, all calculations carried out and our financial and technical capabilities examined. Thus, 80 per cent of the rural population will be using beautiful roads by the end of 2013. This is what we can do now. If we can achieve further development, then we can amend this program this and next year. The goal is that 80 per cent of the rural population must use repaired and new roads. But the main goal, of course, is to bring all rural roads to order. We will achieve that goal.

The process of gasification is under way in the districts. The State Oil Company has received the necessary instructions. Although the State Oil Company is a large company, we provide it with all possible support. The public investment program provides for a large amount for the gasification of districts. There is another specific objective: to gasify 95 per cent of the population by the end of 2013. This is a realistic goal, and if we achieve it, I think we will resolve all the issues related to gasification. This issue requires major funds and technical capabilities. New lines are laid, the old ones are replaced. This process is under way both in the districts and in Baku. We need to move in two directions: restore the aging infrastructure established in previous years and in parallel with that create a new infrastructure. There are new technologies, new pipelines, there very durable lines, and we will use them.

I said in my opening remarks that among the infrastructure projects related to the implementation of the first program, we have paid more attention to energy supply. Although we are already self-sufficient in electricity, the issue is still relevant because the economy is growing, we have a strategic development plan, strategic views. We know that in 10 or 20 years from now, our economy will grow rapidly. The new enterprises, the new conditions for businesses are opening up

excellent opportunities. So our demand and domestic consumption will continue to grow. Our energy capacity must exceed domestic consumption by at least 10 per cent. Although we have provided for our own energy security and are exporting electricity to other countries, we are currently implementing major projects. The biggest of them is the “Janub” power station in the city of Shirvan. It will have a capacity of 780 megawatts. This station should be commissioned this year. The “Shimal-2” station located in Shuvalan will have a capacity of 400 megawatts. Its foundation was laid last year and the station is to be commissioned next year.

This year we should put into operation the Fizuli hydro power station with a capacity of 25 megawatts. Next year we must commission a hydro power plant with a capacity of 25 megawatts at the Takhtakorpu reservoir. Along with the projects we started last year and those ongoing this year, the construction of small hydropower plants continues on small rivers. We have embarked on the development of renewable energy. Last year I attended the opening of the first such station in Gobustan. This is a wonderful experience, such projects have a good future. An enterprise manufacturing solar panels is already being set up in Azerbaijan. We must make better use of solar and wind energy. The construction of a new power plant with a capacity of 300 megawatts is planned in Baku. Perhaps we should carry out engineering design this year. The investment program for this year also provides funds for the restoration of power lines. A lot needs to be done in this area. Some transmission lines are in disrepair. Transmission towers sometimes collapse in districts, leaving villages without electricity. Therefore, “Azerenergy” has been asked to pay special attention to this area, assistance will be provided from the state budget.

Water supply and sanitation projects are ongoing. These projects were spoken about here. I want to say again: these are major social projects that require a lot of money. These projects require hundreds of millions, perhaps billions of manats. Baku, its suburban settlements, all our cities and district centers must have sanitation and drinking water, and the steps taken in this direction are encouraging. Ambitious goals have been set. But, I repeat, these goals must be realistic.

Of course, I would love to see these projects completed in all our cities and districts by 2013. But it is probably impossible. So the realistic goal is that water supply and sanitation projects must be completed in most our cities and districts by the end of next year. I think we will achieve this 100 per cent. Again, we will see. If we have extra financial resources this or next year, we must spend them primarily on water and sanitation projects. Then we may be able to do even more.

Water and sanitation projects are either already under way or are about to start in all our regions, in every district. Also, as mentioned here, the construction of modular water treatment plants continues in the villages along the rivers. According to my information, such facilities have been built in 188 villages. People used to drink water from rivers and canals, now they drink clean water, and the number of such people exceeds 300,000. Now 340,000 villagers already have such an opportunity. An instruction has been given to take further measures this year and beyond – we need to provide the population of villages along the rivers with clean water.

Land reclamation issues will continue to be in the spotlight this and next year. This has already been mentioned. Two major projects are ongoing. These are the biggest projects in this area. Possibly, the biggest non-oil investment across the country is channeled into this area. We are creating two large water reservoirs. In essence, we are creating large lakes – the Takhtakorpu and Shamkirchay reservoirs. Tens of thousands of hectares of new land will be covered. This will give a powerful impetus to agriculture. These projects require major funds. This is an investment in the future. This investment will not pay off immediately, this is not our goal. This investment will return in the form of additional crops, it will first benefit the farmers and then the state. So this is also huge private sector support, because our agriculture is completely controlled by the private sector, is at its disposal. So we will make no mistake if we view these projects as steps towards private enterprise development.

We will take further measures to develop agriculture. Quite serious programs have been adopted. New initiatives are being pursued in the area of crop production. I told last year's meeting that we must start creating major crop production farms. A year has passed, but there are no results. I know that this is a big and serious issue. We need to identify new plots of land, implement infrastructure projects, resolve irrigation issues. But I think we should pay more attention to that. I think that at a meeting next year we should be able to talk about initial successes, otherwise those who are indifferent to my instructions will be punished. Be aware of that. This is necessary for food security in our country. This is an excellent and timely initiative. It must be fulfilled without delay. I have instructed all relevant agencies regarding this, because this work should be duly coordinated. This work should be dealt with by all relevant agencies. Overall control will be exercised by the Cabinet of Ministers.

Major effort is made to develop animal husbandry. A total of 10 million manats was recently allocated from the contingency fund of the President to the Ministry of Agriculture, so that it could import more purebred cattle. This process has been ongoing for years. We will thus significantly improve our thoroughbred cattle. The imported cattle is highly productive, and we must strive to gradually set up large livestock and dairy farms. An entrepreneur from Agjabadi has spoken about that here. It is indeed Azerbaijan's biggest dairy company. I am glad that it is already addressing livestock breeding issues. We need such businesses. After a while I will tell you to what extent our domestic production meets our needs. Special attention should be paid to dairy, livestock and crop production enterprises.

At the end of last year we adopted the State Program on the development of viticulture. This also demonstrates the government's intentions. Last year I spoke extensively on the development of viticulture. Why viticulture was once destroyed in Azerbaijan – I have spoken about that and there is no need for repetition. This program demonstrates the priorities of the state. Of course, the private sector has always been and will always be engaged in this work. New vineyards are emerging, and we welcome that.

The goal of the program is to assist the private sector as much as possible, so that viticulture could

develop and the wonderful tradition initiated by the great leader in the 1980s is revitalized. This is necessary both for the country's economy and, above all, for farmers. They know that the income earned in viticulture cannot be made in any other field. At the heart of this program is also private enterprise development and the desire to enable farmers and peasants to earn more and live even better.

We have initiated projects related to horticulture, particularly on the basis of modern technology. Last year I visited one farm in Guba District. It is an intensive gardening farm. Although Guba District is already noted for gardening and beautiful apple orchards, the new system may increase the yield several times. And this means additional revenue and more crops. So intensive gardening is also in the spotlight.

In general, we need to make broader use of modern technologies in agriculture. To this end, delegations were sent to countries that have achieved great development in agriculture in order to learn from their experience. We need to bring in the latest technology. Just as we import the latest technologies in construction, road construction, architecture and other fields, we must bring in modern technology in this field. Then the yield, even under the current land fund, will significantly increase. If we consider that, as I said, major land reclamation projects are implemented and tens of thousands, perhaps even hundreds of thousands of hectares of new land will be introduced, we can imagine the agricultural development conditions that will emerge.

Food security is important for each country. We have been dealing with that for several years. When we realized that we must rely on domestic production, our steps in this area became even more effective. The financial and economic crisis and the drought in some countries led to problems with grain a few years ago. Traditional suppliers banned exports. Despite signed contracts, grain imports were suspended. Then we thought that we should meet our needs not only in crop production, but also in every sphere through domestic production. And it is possible – we have great lands, hardworking people, government support. Therefore, food security, along with the energy and transportation security, is a very serious matter.

In the past we never provided ourselves with food. In Soviet times there was a common national economic complex and all major food commodities were delivered from other republics. Over a short time we managed to achieve a serious breakthrough. We haven't yet achieved food security completely, although there is major progress. Now I want to provide some figures. Of course, we always keep this in focus and these figures determine the provision of loans through the National Fund on Entrepreneurship Support. We first need to provide loans to the areas where production could meet domestic needs.

So at present grain production accounts for 65 per cent of our needs. As a result of the measures to be taken, this figure will reach 84 per cent by the end of 2013. If it is 84 per cent, it will be a good figure, but not the limit. We provide ourselves with meat by 88 per cent. The forecast for 2013 is 95 per cent. Poultry is at 81 per cent now. Recently we allocated more loans for poultry, so production

increased, and in two years, by the end of next year, should reach 92 per cent. Potato production is already at 102 per cent and will be 114. Fruit production is at 117 per cent, so there is an export potential. Melons are at 100 per cent, eggs at 77 per cent and should be 100 by the end of next year. Production of sugar is at 160 per cent. But it is also true that raw materials for sugar production are mainly imported. At the same time, local production is at 160 per cent and there is a huge export potential. Salt production in Azerbaijan is at 47 per cent and should reach 75 per cent.

Currently, the production of milk and dairy products accounts for 70 per cent of our needs, and by the end of next year this figure will be almost 80 per cent. Vegetable oil is at 65 per cent, butter at 50 per cent. This should also increase. These are basic food commodities. What do these figures show? First of all, they show that major progress has been made. The second conclusion is that the figures for the end of next year are based on reality. These are not just our intentions. This will be achieved through loans and as a result of new businesses to be put into operation. At the same time, the figures show that we still can't meet domestic needs for some items. Perhaps it will take four to five years. But we must do it. Butter, vegetable oil and grain – we must provide that. Of course, while discussing our investment plans, we must put this table in front of us and proceed from that in securing out agricultural development.

At the same time, as in any field, we must look forward and know what will happen in 10 or 20 years. I hope that in 2015 we will provide ourselves with basic food commodities by 100 per cent. Loans will be granted, more land introduced, etc. What next? Then we must find new markets, supply even more products to traditional markets. I have asked the Ministry of Economic Development to start exploring for new markets. Right now, so that we are ready. In 2015-2016, we will have huge volumes of agricultural products to be exported. If we don't export them, we can't ensure agricultural development – the domestic market will be flooded. True, the population and the needs grow, but not in such great volumes. Our annual population growth is 1.5-1.7 per cent. So if we don't access new markets, it will limit the development of agriculture. We must and do work on accessing new markets. Relevant agencies should work together to this end. We will replace imports and also access the markets of other countries with our exports. So the Ministries of Agriculture, of Economic Development and of Foreign Affairs should hold discussions on the subject. If necessary, a working group should be set up.

The number of our partners in the world is increasing. In my opening remarks I said that a growing number of states are interested in cooperating with Azerbaijan. We also want to expand our cooperation and take our products to traditional and new markets. In particular, we need to take our agricultural products to European markets. To do this, only a desire is not enough. For this, quality products must be grown. Our agricultural products, fruits and vegetables, are of high-quality and natural. There are no and shouldn't be any chemicals in them. This is also a very important issue. We shouldn't bend over backwards to increase the output, because this will compromise quality. We don't want our fruits and vegetables to have an artificial taste in a few years, as is the case some countries – you don't know what fruit or vegetable it is when you eat it. Therefore, we must preserve this naturalness, this quality, not increase output at the expense of quality. Now we

have very modern processing plants, especially those built in recent years. They must comply with all certificates and standards. To access EU markets, we must create enterprises that have such opportunities. So it is a very serious matter, a matter not for today, but for the future. But if we don't undertake it today, we will be late.

At the same time, we must and we will increase domestic production of construction materials. I would like to provide a few more figures. Currently, cement production in Azerbaijan meets 44 per cent of domestic needs, in 2013 it will be 75 and in 2014 a total of 125 per cent.

The new cement plants under construction in Azerbaijan will be commissioned and in two years we will have the capacity to export 25 per cent of cement. Where are we going to sell it? Now there is a struggle for cement markets. We know this ourselves. There are many companies trying to sell cement to us, asking us to buy from them. This is a reality. After addressing our domestic needs, we, of course, will not be buying cement abroad. When should we think about sales? Today! In 2014, this figure will be 125 per cent. We must build our work so that there are no problems in 2014.

In addition, we are commissioning large enterprises with government support. An aluminum plant producing 50,000 tons of high quality aluminum operates in Ganja. During the opening, I was told that this figure would reach 100,000 and 200,000 tons. Aluminum is in demand everywhere. There is no need to look for markets. But what should we do? We should create an industrial park under the Ganja aluminum plant. The private sector should join in this work. The government should allocate space, provide the infrastructure, while the private sector should produce finished goods. Of course, we can sell aluminum ingots, but it will be a half-hearted job. Why should we buy aluminum products abroad? We produce aluminum, so let's make finished products ourselves, sell them at home, stop imports and then start exports. Please take this issue seriously – both entrepreneurs and the Ministry of Economic Development. An aluminum-based industrial park should be established in Ganja.

The process of establishing an industrial park of the chemical industry has started. A large petrochemical complex will be built. "Azerkimya" has received the instructions and plots of land have been allocated in Sumgayit. We will succeed in manufacturing new finished products in the chemical industry too. The establishment of the chemical industrial park has already begun. In general, the process of establishing industrial parks is well under way. It is a positive process. The Sumgayit industrial park with about 10 enterprises is already in operation, thousands of jobs have been created, while finished products can be exported to any country. Another industrial park will be established under the waste disposal plant in Balakhani. Jobs will also be created there, and one branch will be covered by the Balakhani industrial park. So the process of industrialization I have repeatedly spoken about will receive a powerful impetus.

We need to take Azerbaijani companies to foreign markets. Currently, the State Oil Company is actively working abroad. We should try to help other public companies, the companies capable of operating in foreign markets. The opportunities of the State Oil Company are expanding. I believe

that our flag carrier AZAL should access foreign markets, maybe consider buying another airline and organize work in some other countries. This will also be possible with government support. "Azerenergy" is busy with domestic projects now, which is natural, but there will come a time when domestic projects are over and the company will need to access foreign markets. Our State Oil Company has been managing gas networks of some countries. "Azerenergy" can also take steps in this direction. The Caspian Shipping Company should step up its foreign operations. At home, using the funds provided by the state, ferries, tankers and ships are bought. We can create a similar system abroad. This is something worth considering.

At the same time, we must also help private companies access foreign markets. Again, the Ministries of Foreign Affairs and of Economic Development should work together and give me a specific proposal. This is not the first time I have talked about it, but I see no real results.

Give me specific proposals. We have inter-governmental commissions with other countries. This issue should be discussed by these commissions. Partner countries should provide our companies with preferential treatment. We think it will be fair. Thus, we need to take private companies to external markets. Our banks are doing that and should do it even more rapidly. Why shouldn't five or 10 of our banks work in other countries, not just one or two?! Why shouldn't they be in leading positions there? The government, for its part, will support them. If need be, we will provide political and other support.

We are creating a major transport and logistical center in Azerbaijan. We have five international airports, the most modern aircraft fleet. The Heydar Aliyev International Airport is under construction, the new terminal building will be a unique architectural monument. New runways, an international sea port in Alat are under construction. It will be the biggest port on the Caspian Sea. The Baku-Tbilisi-Kars railway is a project implemented on the initiative and with financial support of the Azerbaijani state. It is under construction and hopefully will be put into operation next year. Thus, the ongoing regional projects will make Azerbaijan a logistical and transport hub of global importance. This is our wish, we are trying to achieve this and we will.

We have a favorable geographical location. But without the infrastructure, geographical location doesn't change much. Our policy in this area is very correct. Roads, railways, air and sea transport. The Azerbaijani state allocates an enormous amount annually to buy ferries, tankers, aircraft, to implement the railway project, etc.

In general, when it comes to the future, I have already said this several times and want to say it again: of course, the second state program will be successfully implemented. I have no doubt that by 2013 all our tasks will be over-fulfilled. No-one should have doubts about that. We have defined our strategy and need to prepare a strategic development plan for the next decade – a strategic development plan covering 2013-2023.

Appropriate instructions have been given. I won't go into detail now, I just want to define the goal again. The goal is that over the next 10 years, in 2013-2023, Azerbaijan must become a country

with a high-income population. For the next decade we have to set the goal of doubling our GDP. This is a tall task, considering that our GDP has already tripled. Now we have to double the already tripled economy. We understand that it will be impossible to do that with oil and gas because we have reached a high level of oil production and it is unnecessary to further increase it. I think we need to maintain production at this level, so that our people could use it longer. But we can achieve this by means the non-oil sector. In 2013-2023, the joint activities of government and private entities will enter into a new phase. So a plan of joint activities of public and private entities must be developed.

Of course, we will adopt the state development program. A five-year program covering 2014-2018 will be adopted. At the same time, we need to elaborate the strategic directions of joint activities of public and private entities. We must bear in mind that our private sector is no longer what it was 10 years ago. Our private sector is sustainable and strong, and as a result of the measures to be taken in the future it will become even stronger. If the goals I have outlined are met – and they must be met – the private sector will become even stronger. So we need to double the GDP and turn Azerbaijan into an even more powerful country.

Our political influence and economic power are growing. This is seen by those who like us and those who don't. There are quite a lot of those who rejoice in our successes. But there are forces that don't like us, our detractors. They can be divided into several groups. First, our main enemies are Armenians of the world and the hypocritical and corrupt politicians under their control. The politicians who don't wish to see the truth and are engaged in denigrating Azerbaijan in different parts of the world. Members of some parliaments, certain political figures, etc. who live on the money of the Armenian lobby. We know them all. There is no need to name them. This is one group. Another group includes those who don't accept Azerbaijan's independent policies. In other words, they don't accept that Azerbaijan can pursue an independent policy. We do and we will pursue an independent policy. This policy, I want to repeat, serves the interests of the Azerbaijani people. It does not and never will serve the interests of anyone else. The interests of the Azerbaijani people are above anything else. We do and we will fight to protect these interests. The results and recent history show that we can succeed even alone.

The third group includes those who just envy us. The realities of Azerbaijan show that we are truly developing and achieving historic progress. Look what we have achieved in both political and economic spheres in recent years. I want to repeat that while the ratings of developed states are falling and some developed countries are on the verge of a default, Standard & Poor's has raised the credit rating of Azerbaijan.

The World Economic Forum in Davos, the world's most influential economic think tank, has placed Azerbaijan in 55th place in the world and in first place in the CIS for competitiveness. This is not an artificial nongovernmental organization that can say what it wants. The World Economic Forum is a renowned international organization, and this is its opinion.

Azerbaijan is a young and independent nation. Our independence is only 20 years old. But we are

already a member of the world's leading institution – the UN Security Council. We have won this right in a difficult fight because we didn't turn from our course, were fair and gained the sympathy of the world community.

A total of 155 countries supported Azerbaijan's candidacy. When referring to "public opinion" and the "international community", we need to remember this event. The international community is not a member of any organization. Any organization regardless of its significance or its members do not reflect the opinion of the international community. The international community means the United Nations where nearly 200 countries are represented. Of them, 155 supported Azerbaijan. This is our great political success, and we are already influencing global processes, having our say. On that historic day, the day we were elected a member of this structure, I said we would restore and uphold justice in the Security Council, and we will.

After that, Azerbaijan was invited to a meeting of G20 foreign ministers. What does this show? It shows that our country is very important for the world. G20 includes 20 countries, hence its name. Ten non-member countries were invited and Azerbaijan was one of them. Of the former Soviet Union countries, only Azerbaijan was invited. Can those who don't like us remain indifferent to this? Of course not.

Besides, we live in one of the most beautiful cities of the world. Baku is one of the most beautiful cities in the world. It has always been the case, and now we have put so much effort to make our city even more beautiful. Plus, the success of our talented young people in the Eurovision song contest is the success of all the Azerbaijani people and our state.

The UN Security Council, the invitation to attend the G20 meeting, the high assessment Azerbaijan has been receiving from powerful economic entities of the world, the evaluation of Standard & Poor's, the victory in Eurovision – all this, of course, is a thorn in the side of those who don't like us. Therefore, we should not be surprised when someone writes something somewhere or makes an acid look. We shouldn't pay attention to that. This is natural. The main thing is that our success is comprehensive and it will be continued in all areas. I have no doubt about that.

Azerbaijan will become even stronger, and the best answer to those who write about us, about our country, authors of those defamatory articles is our reality, our work and success. Azerbaijan is a dynamic country. Azerbaijan is a strong country. The number of our friends is increasing. But there will always be those who don't like us. But the fact that they are in our way can't make us abandon the chosen path. Our path is one of justice. Our path is one of righteousness, development and progress. We are and will be going along this path successfully. Thank you!



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Annex 8

“Speech by Ilham Aliyev at the opening of the Fuzuli Hydroelectric Power Station”,
The President of the Republic of Azerbaijan Ilham Aliyev (15 December 2012)

president.az /en/articles/view/6854

Speech by Ilham Aliyev at the opening of the Fuzuli Hydroelectric Power Station



AZƏRBAYCAN RESPUBLİKASI
PREZİDENTİNİN ADMINİSTRASIYASI

15 December 2012, 19:00



- Dear friends, dear residents of Fuzuli!

I am very pleased to be alongside you today. This is the fourth time I have come to Fuzuli as President. This time I have attended the opening of beautiful facilities. The biggest of these, of course, is the Fuzuli hydroelectric power station.

We laid the foundation of this station together four years ago. I am very glad that the station has already been commissioned. This is the biggest hydroelectric power station built in Azerbaijan in recent years. Its capacity is 25 megawatts and it will partly meet the electricity needs of Fuzuli District. The station is particularly important because it is a hydroelectric power station. The cost of electricity produced here is low. At the same time, this station has been built on a previously occupied territory. And this fact greatly enhances its importance. Armenian occupying forces had seized Fuzuli District. However, under the command of nationwide leader Heydar Aliyev, the Azerbaijani army liberated part of the district from occupation. Extensive creative work and landscaping are already under way on these territories, homes are built, buildings restored and industrial enterprises put in place.

Today, I have attended the opening of multiple facilities in Fuzuli. I have attended the opening of a Youth Center, the Heydar Aliyev Center, the Heydar Park, a school and other facilities. Earlier, a mugham center, an Olympic complex and a diagnostic center had been built as well. In other words, all necessary action is taken for the development of Fuzuli District. Five years ago the Horadiz settlement was given the status of a city, and today it is successfully developing.

In the coming years, additional measures will be taken for the development of Fuzuli District. There is also the issue of restoration of the houses destroyed by Armenian barbarians. This issue was raised today and will be resolved. Additional measures to accelerate the socioeconomic

development of the district will be taken.

The commissioning of the new plant is essentially a manifestation of the work done in Azerbaijan in this field. All the issues related to electricity have been resolved at a high level in our country in recent years. A total of 1,500 megawatts of new capacity has been created. Thus, Azerbaijan has fully resolved the issue of energy security.

Earlier, we used to import electricity. Now we export it to neighboring countries - Turkey, Georgia, Iran and Russia. So we have achieved a turnaround in this area. Today, no district has problems with electricity. The stations already built and under construction will enable us to further enhance progress in this area.

Currently, the construction of the "Janub" hydroelectric power station is ongoing in the south of the country. In Baku, the construction of the "Shimal-2" hydroelectric power station is continuing. The total capacity of the two stations exceeds 1,200 megawatts. We are building these plans so that Azerbaijan could always have a say in global energy security matters. The projects ongoing in Azerbaijan in this field are of great importance not only for our country and the region, but also for Europe. As in all other areas, the issues of energy security, important for the solution of economic and social problems, are dealt with at a high level. This station is an excellent example of that fact.

This station is also beneficial from an environmental point of view. As you know, all stations in Azerbaijan operate either on gas or water in recent years. We no longer use heating oil, thus we are improving the environmental situation in the country. But the economy is growing, the needs are growing, the population is growing. Thus, the demand for electricity will rise, and I want to repeat that we are building new stations. At present, the creation of renewable energy is in the foreground. In this area, we plan to build hydro-, wind and solar power stations.

Economic growth, of course, requires us to take extra measures to accelerate economic development. Because the progress made in Azerbaijan in recent years, i.e. the new enterprises, the implementation of infrastructure projects, of course, have significantly developed our country. The progress made in the economic sphere enables us to successfully resolve social problems because these two issues are interconnected.

All international rating agencies have been giving high assessments to Azerbaijan's economic indicators in the years of crisis, our economy is competitive and sustainable. In our economic policy we rely only on our internal resources. We differ from some countries in the fact that our foreign debt is at a very low level. We build our economic future by mobilizing internal resources only. The steps taken in this area, the steps towards diversification have made our economy less dependent on the energy sector. Year 2012 is coming to an end. The results of this year show that our non-oil economy grew by almost 10 per cent. This is a very high indicator worldwide, especially in the crisis years.

In the coming years, following the completion of ongoing projects and the implementation of new

ones, Azerbaijan will join the ranks of developed countries. I have expressed my thoughts on the matter quite broadly. To become an economically developed country, of course, we need to develop the regions. In recent years, as a result of the state program on the socioeconomic development of districts, we have made great strides in this direction. Unemployment has dropped. Poverty has reduced significantly, by five times. Today, a growing number of people come to Azerbaijan from abroad to work. We have created a migration service to have a functioning mechanism of effective regulation of labor resources.

Azerbaijan's successful development in the coming years is beyond doubt for our population and international financial institutions alike. Our economic outlook is very positive and impressive. Of course, we should all strive to make our country more developed and pretty. In particular, the improvement and creative work in the regions should progress even faster. We see this development in Fizuli District. I am very pleased that the district has undergone great change in the last two years. I want to repeat that this is my fourth visit to Fizuli as President. The period that has passed since my last visit has been very successful for Fuzuli District. A lot has been done in a short time, parks have been established and new enterprises commissioned. Landscaping work is ongoing, and this makes me very happy because Fuzuli represents great importance for our country. The people of Fuzuli have always contributed to the strengthening of Azerbaijan's independence. They showed great heroism during the war.

National leader Heydar Aliyev always paid great attention to Fuzuli – both in the years of his leadership in Azerbaijan in the 1970s and in the period of independence. It was under his leadership when 22 villages of Fuzuli District were freed from the invaders. Today, life on these territories is boiling and developing. The restoration of Fuzuli, the development of the lands liberated from occupation, the work carried out here – all this demonstrates the power of the Azerbaijani state. It shows that after Azerbaijan restores its territorial integrity, all the lands that are now occupied will become as beautiful and comfortable. After Azerbaijan restores its territorial integrity, all our villages and settlements, including Shusha and Khankandi, will be rebuilt, Azerbaijani citizens will live there. Each of us brings that day closer and closer. The growing power and international authority of our country, the positive developments ongoing in Azerbaijan increase our strength.

Today, Azerbaijan has a say in the word, enjoys great international respect. It is no coincidence that 155 countries supported the candidacy of Azerbaijan and today we are a member of the most authoritative global structure – the UN Security Council. We are actively and successfully engaged in the activities in this organization.

We recently became a member of the Non-Aligned Movement, and shortly afterwards the first summit of the organization adopted a very valuable resolution on the Armenian-Azerbaijani Nagorno-Karabakh conflict. It says that this issue should be resolved only within the territorial integrity of Azerbaijan. So our international reputation is growing, our economic strength is growing and our military capabilities are growing.

As for Armenia, its occupying policy has plunged them in a quagmire. According to their own official statistics, more than 100,000 people leave the country every year. Hopelessness, tyranny, poverty and economic decline – these are the features that distinguish Armenia from other countries. Meanwhile, Azerbaijan is developing, our development is long-term and sustainable. I want to reiterate that as a result of the measures taken, Azerbaijan has become the leading country in the region. Over the years, the gap between Armenia and Azerbaijan will further deepen – in the economic, military and demographic fields. Our population is growing, while Armenia's is shrinking.

I have no doubt that Azerbaijan will restore its territorial integrity. There are a number of key factors that allow us to say so – economic opportunities, our international position, international law and the power of the Azerbaijani army. I am sure and want to say again that after an end is put to occupation, all the lands that are currently captured will become more beautiful and landscaped, new enterprises will be established there. We will restore our historical and religious sites, eliminate the consequences of the crimes committed by Armenian fascists and vandals. Our country will successfully develop and Azerbaijan will restore its territorial integrity. To achieve this, we need to be even more active in all areas. First of all, the processes in the country should develop in a positive direction and they do.

I would like to sincerely congratulate you on this wonderful event again. I want to congratulate you on the work done in Fuzuli in recent years. I want to assure you that, as President, I will continue to make efforts for the development of Fuzuli. This issue will always be in the spotlight. We will meet many more times because a lot more will be done in Fuzuli in the future, there will be many more opening ceremonies. Once again I congratulate you and wish you good health and happiness.



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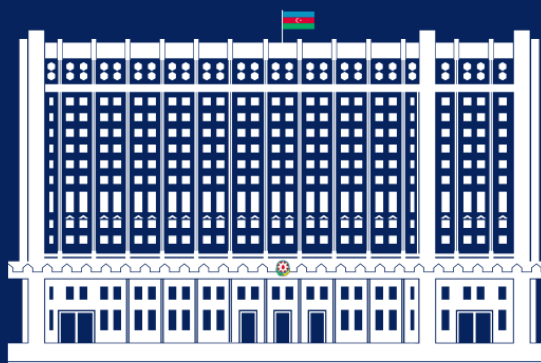
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Annex 9

“Speech by Ilham Aliyev at the opening of a new block for 1440 IDP families in Mushfigabad”, *The President of the Republic of Azerbaijan Ilham Aliyev* (27 December 2012)

president.az /en/articles/view/7026

Speech by Ilham Aliyev at the opening of a new block for 1440 IDP families in Mushfigabad



AZƏRBAYCAN RESPUBLİKASI
PREZİDENTİNİN ADMİNİSTRASIYASI

27 December 2012, 18:45



- Dear friends, I cordially salute all of you, sincerely wish you a Happy New Year and the Day of Solidarity of World Azerbaijanis. I also congratulate you on the opening of this beautiful settlement.

The construction of this settlement reflects the power and policy of the Azerbaijani state. The foundation of this policy was laid by great leader Heydar Aliyev. We are following his course and, as you know, first allocations from the State Oil Fund were aimed at improving the plight of the IDPs. From that time to the present day, the State Oil Fund has done a lot to provide the IDPs with comfortable houses and apartments. This year alone 20,000 IDPs have been provided with new apartments and private houses, similar settlements are under construction elsewhere. This settlement, these beautiful buildings and apartments will accommodate 7,000 IDPs. And this school is the biggest school built in Azerbaijan in the years of independence. Designed for 1,300 pupils, it is the biggest, the most beautiful and spacious school built in the last 20 years.

Everything necessary is available here – a kindergarten, beautiful buildings and a school. In order to improve the livelihoods of the IDPs such beautiful settlements and private homes are built in different parts of the country. As you know, we have consistently pursued this work. At the first stage, we, of course, had to improve the plight of those who lived in the poorest conditions. To this end, a lot was done until 2007 to get rid of the tent camps. At the next stage we have improved the conditions of those living in dorms, Finnish settlements, military units, and we are doing that now. Most of the people living in this settlement have lived in difficult condition in dorms for years. Today, the Azerbaijani is state successfully pursuing its policy in this regard. In general, billions have been allocated for this purpose over the last few years. This year, 20,000 IDPs are moving into new homes. Next year, more than 20,000 people will receive new apartments and houses. This year, the State Oil Fund has allocated the largest amount in our history – 300 million manats. At least 300 million mantas will be allocated next year. So we are consistently resolving this issue, and I am sure that in a few years, the key housing problems of the IDPs will be resolved.

As you know, the state program is being implemented. We are successfully implementing the State Program on improving the living conditions and employment opportunities for refugees and internally displaced persons. Our work is not limited to the construction of houses and settlements. We are also addressing employment issues. According to official statistics, the level of poverty among IDPs has sharply declined in recent years. In general, poverty in the country is at a very low level. Last year it was 7.6 per cent and by the end of this year it will be even lower. Poverty among the IDPs is also declining and employment rising.

In general, the process of job creation is well under way in our country. Over the last 10 years we have created 1.1 million jobs, and the IDPs can use these opportunities.

Overall, our economic reforms and policies have enabled us to build such fine settlements and buildings. If great leader Heydar Aliyev had not initiated the new oil strategy and if we hadn't succeeded in implementing it, we could not build such settlements now. There are still IDPs living in difficult conditions, we know that. Again, we are consistently resolving the issue. Tent camps, Finnish settlements are already gone. There are those living in dorms and kindergartens, and we will resolve their housing problems too.

So this shows that the living conditions of the IDPs are at the heart of our public policy. This has always been the case. But at this stage our country has more resources. We have more financial opportunities. But I remember the time when the State Oil Fund was set up and great leader Heydar Aliyev channeled its first revenue into improving the livelihoods of the IDPs. So this issue was defined as a priority back then. It remains a priority today because the IDPs are the people living in the poorest conditions. The Armenians have carried out a policy of genocide against the Azerbaijanis. The Khojaly genocide is already recognized in the world as an act of genocide. Three countries have officially recognized the Khojaly genocide as an act of genocide, and this process will be continued.

Fundamental human rights of the Azerbaijanis are trampled. The basic and fundamental rights of over a million people are grossly violated. International organizations have passed decisions and resolutions, and thanks to the efforts of Azerbaijani diplomacy our just cause has the upper hand in all international organizations. The Armenian propaganda is already helpless. Unfortunately, the resolutions of international organizations are not being fulfilled. The international community, namely the countries that have taken on the mediatory mission, the Minsk Group, should be more active. They must show the aggressor its place, categorically demand that the conflict must end. One can't come to terms with the occupation, it must end. We, the state of Azerbaijan, are strengthening our country, carrying out economic and political reforms, reinforcing our army and approaching victory day.

I have no doubt that Azerbaijan will restore its territorial integrity. I am confident that the people of Azerbaijan have no doubt about that either. We are simply trying to achieve this as soon as possible, so that our citizens could return to the lands that are now under occupation and we could

rebuild and restore these cities soon. As you know, everything on the occupied lands is destroyed. All our historical monuments have been destroyed by Armenian bandits and vandals. The exhibits displayed in the school gym are our historical heritage. But most of our material heritage items kept in museums there have been looted, destroyed and burnt by the Armenians. Our mosques and cemeteries are in ruins. This was done by the Armenians, Armenian fascists. The international community, which is still putting up with this situation, should, I believe, make serious conclusions. The possibilities of Azerbaijan, the strength of our army are growing. The Azerbaijani people will never accept this situation. Using all the possibilities, we will restore our territorial integrity. The earlier an end is put to the conflict, the better for everyone.

We will continue our policy. We will not retreat a single step from our position of principle. Both international law and historical justice are in our favor. Nagorno-Karabakh is ancient Azerbaijani land and will remain as such. The international community does not and never will recognize the self-styled Nagorno-Karabakh as an independent entity. All the rigged elections held in Nagorno-Karabakh are condemned by the international community. The results of their trumped up elections are not recognized.

We must and will restore our territorial integrity. The Azerbaijani state will use all the possibilities to do that. I want to say again that we have to be even stronger in political and diplomatic areas, in the economic sector and, of course, in army building. One day we will restore our territorial integrity and then rebuild the destroyed cities. The Azerbaijanis must and will live in their own land. I believe in this, am sure of this and I am sure all the Azerbaijani people believe in this. We will see the day of victory.

At the same time, we are temporarily building such beautiful buildings for our compatriots. Both you and we know that this is a temporary place of residence. You should have good conditions wherever you live, even temporarily. The conditions created here meet the highest standards. The rooms are very spacious and bright, the settlement is perfectly planned, there is a school, a kindergarten and all communications, electricity and gas lines, water supply – everything has been taken into account so that you could live here comfortably, albeit temporarily.

I would like to sincerely wish you happy holidays. I want to convey my greetings and respect to all the compatriots affected by the occupation. Thank you.



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Annex 10

Committee on the Elimination of Racial Discrimination, *Combined tenth to twelfth periodic reports submitted by Azerbaijan under article 9 of the Convention, due in 2019*, UN Doc. CERD/C/AZE/10-12 (10 October 2019)

United Nations

CERD/C/AZE/10-12



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

Distr.: General
10 October 2019
English
Original: Russian
English, French, Russian and
Spanish only

Committee on the Elimination of Racial Discrimination

**Combined tenth to twelfth periodic reports
submitted by Azerbaijan under article 9 of the
Convention, due in 2019*, ****

[Date received: 18 July 2019]

* The present document is being issued without formal editing.

** The annex to the present report may be accessed from the web page of the Committee.

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Introduction

1. The efforts made to combat racial and religious discrimination in the Republic of Azerbaijan are governed by the international treaties to which the country is a party and national legislation. The implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly of the United Nations on 21 December 1965, is an ongoing priority of the Government of Azerbaijan.
2. Azerbaijan became a party to the Convention in accordance with Act No. 95-1C of 31 May 1996.
3. On 3 and 4 May 2016, the Committee on the Elimination of Racial Discrimination considered the combined seventh to ninth periodic reports of Azerbaijan on the implementation of the Convention (CERD/C/AZE/7-9). On 12 May 2016, following its consideration of the document, the Committee adopted its concluding observations (CERD/C/AZE/CO/7-9).
4. The combined tenth to twelfth periodic reports of Azerbaijan were drafted in accordance with the general guidelines regarding the form and content of reports to be submitted by States parties under article 9 (1) of the Convention. This report covers the period following the Government's submission of the country's combined seventh to ninth periodic reports, namely the period 2015–2019. It contains information concerning the recommendations made in the Committee's concluding observations.
5. This report is based on information provided by the working group established in accordance with presidential order of 20 September 2018 on increasing the effectiveness of cooperation with the United Nations human rights treaty bodies. The working group prepares reports for submission to the human rights treaty bodies and the universal periodic review mechanism of the Human Rights Council and monitors the implementation of any recommendations received. In accordance with this order, representatives of the Office of the Procurator General and the Office of the Commissioner for Human Rights (Ombudsman) also took part in the activities of the task force. The Ministry of Foreign Affairs, which was tasked with overseeing the activities of the working group, coordinated the preparation of the national report.
6. It should also be noted that the common core document submitted by Azerbaijan to the Office of the United Nations High Commissioner for Human Rights (OHCHR) (2017) and the updated addendum thereto (2019) set out the legal framework for the protection and promotion of human rights at the national level, including the measures in place to ensure total equality for all citizens, regardless of their ethnic, religious and racial origin.

Concluding observations, paragraph 3 (Factors and difficulties impeding the implementation of the Convention)

7. As noted in previous reports, Azerbaijan is not currently in a position to implement the provisions of the international human rights treaties to which it is a party in its territories occupied by Armenia. The Government of Azerbaijan cannot take responsibility for violations of human rights and freedoms in those occupied territories until such time as they are liberated and the consequences of the occupation are fully dealt with.
8. In this context, it is important to note the judgment adopted by the Grand Chamber of the European Court of Human Rights on 16 June 2015 in the case of *Chiragov and others v. Armenia*. The case, dating from 6 April 2005, was based on a claim by six citizens of Azerbaijan against Armenia; they were unable to return to their homes and had been deprived of their property in the Lachin district of Azerbaijan, having been expelled in 1992 by the Armenian armed forces as a result of the Armenia-Azerbaijan Nagorno-Karabakh conflict. In its judgment, the Court found continuing violations of the right to property, the right to respect for private and family life and the right to an effective remedy. The Court affirmed the right of forcibly displaced persons to property and to return to their homes. The Court concluded that Armenia, through its military presence and the provision of

military equipment and expertise, had been involved in the Nagorno-Karabakh conflict from an early date, has effective control over the Nagorno-Karabakh region and neighbouring areas of Azerbaijan and exercises jurisdiction there, which makes it responsible for violations of the rights of Azerbaijani displaced persons.

9. The legal and political components for a settlement of the Armenia-Azerbaijan Nagorno-Karabakh conflict are based on the rules and principles of international law, namely the principles of territorial integrity, sovereignty and the inviolability of internationally recognized borders, as set out in United Nations Security Council resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993) and General Assembly resolution 62/243 (2008), together with the relevant documents and decisions of international organizations.

10. We again wish to draw the Committee's attention to the fact that, as a result of military aggression by Armenia, 20 per cent of the territory of Azerbaijan remains occupied by the Armenian armed forces. Azerbaijanis have been expelled from their lawful places of residence and native lands en masse and by force. They have been subjected to large-scale and systematic armed attacks aimed at annihilating the Azerbaijani civilian population as an ethnic group. More than 20,000 people have been killed and more than 50,000 have been injured or acquired disabilities. As a result of the occupation, there are more than 1 million people who have been living as refugees and forcibly displaced persons for around 30 years; they are victims of the policy of ethnic cleansing and genocide pursued by Armenia against Azerbaijanis and have been deprived of their basic human rights.

11. During its aggression against Azerbaijan, the Armenian side has committed gross violations of the rules of international humanitarian law; there have been numerous incidents of extrajudicial executions and mass shootings, torture and other cruel and inhuman treatment and punishment of peaceful Azerbaijani civilians, hostages and prisoners of war.

12. According to the State Commission on Prisoners of War, Hostages and Missing Persons (www.human.gov.az), as at 1 January 2019, the number of persons missing as a result of Armenian military aggression against Azerbaijan stood at 3,888. Of these, 3,170 were members of the military and 718 civilians. The fate of two Azerbaijanis, Dilgam Askerov and Shahbaz Guliyev, who were taken hostage by the Armenian side in July 2014, continues to be a matter of serious concern for the Government of Azerbaijan.

13. The war crimes committed by Armenia, which violate article 53 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 and article 4 of the Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954, resulted in the looting, setting on fire and destruction of more than 900 settlements along with the destruction of 6,000 industrial and agricultural enterprises and other facilities, 150,000 residential buildings, with a total surface area of more than 9 million km², and 4,366 cultural and community centres, including 695 medical clinics. In the occupied territories, farmland, water management and hydropower installations and all transport infrastructure are completely unusable, and all lines of communication are down. The damage caused in the occupied territories has cost the economy of Azerbaijan more than US\$ 60 billion (www.economy.gov.az). As a result of the armed aggression in the captured territories of Azerbaijan, over 927 libraries, 464 historic monuments and museums, over 100 archaeological sites and 6 State theatres and concert halls have been destroyed. More than 40,000 valuable objects and rare exhibits have been looted from museums.

14. Between 2 and 5 April 2016, there was intense bombing of positions of the armed forces of Azerbaijan and the civilian population residing in the areas adjacent to the line of contact. As a result of the heavy shelling, a large number of soldiers and civilians were killed or injured and homes, schools and other public buildings were destroyed.

15. These criminal actions of Armenia have shattered the foundations of international humanitarian law and were aimed at creating a new spiral of social and humanitarian crisis by disrupting the normal life of the civilian population in areas close to the line of contact. The main aim of Armenia is to consolidate its occupation of this territory and maintain the status quo, which is unacceptable to the international community.

16. As a result of retaliatory measures by the armed forces of Azerbaijan, more than 2,000 ha of strategically important Azerbaijani territory were liberated. Immediately after the April events, the President of Azerbaijan signed an order on the reconstruction of the village of Jojug Marjanly in the Jabrayil district of Azerbaijan. Over the reporting period, 150 residential buildings were built in the village and used to house 139 resettled forcibly displaced families (496 persons). The buildings were connected to electricity, gas and water. A secondary school for 96 pupils, a kindergarten for 50 children, a medical clinic, shopping facilities, a mosque, a club, a mini football pitch and various administrative buildings were also built. A main road of over 9 km in length was laid and opened between Horadiz and Jojug Marjanly, as were 2 km of village roads. In order to provide employment for the displaced persons, each family was allocated a smallholding of 1,000 m². In addition, 15 greenhouse farms and 15 honey farms were set up, and 50 families were given 40 heads of cattle and 315 sheep and goats. A feed processing plant began operating in order to meet livestock production needs. A souvenir factory is being built, and a mobile workshop is being set up to produce, portion and package honey for sale.

17. With regard to the efforts made to improve the provision of housing and utilities for forcibly displaced persons, it is important to note the measures taken by the State Committee on Refugees and Forcibly Displaced Persons, which resulted in 6,183 newly built apartments from special-purpose housing stock being made ready for use and allocated to forcibly displaced persons between 2017 and 2018 alone. The Committee also plans to allocate a further 5,010 apartments to forcibly displaced persons by the end of 2019. As part of its humanitarian activities, the Committee routinely provides the poorest displaced families with warm clothing, essential household utensils, school supplies and so forth. Many meetings have been held with high-level foreign delegations. For example, since 2018, the Committee has held 46 meetings with ambassadors, diplomatic personnel and representatives of foreign countries and international organizations, including the United Nations, the International Committee of the Red Cross and the International Organization for Migration. Over the reporting period, 9 foreign delegations visited Jojug Marjanly, and there were 10 visits to areas with large populations of forcibly displaced persons.

18. On 4 July 2017, a targeted and deliberate attack by the Armenian armed forces on the village of Alkhanly in Fizuli district of Azerbaijan killed a 2-year-old girl and her grandmother and injured another woman.

19. Azerbaijan once again calls on the international community to take preventive measures against Armenia and oblige it to restore peace and withdraw its armed forces from all the occupied territories of Azerbaijan, including the Nagorno-Karabakh region.

Concluding observations, paragraphs 5 and 6 (Definition of racial discrimination)

20. As international treaties form an integral part of the system of national legislation of Azerbaijan, the definition of racial discrimination set out in article 1 of the Convention is directly applicable under national law.

21. Following a referendum held on 26 September 2016, the Constitution was amended to provide more robust protection for human rights and fundamental freedoms, to establish effective and flexible governance mechanisms and to ensure the effectiveness of the economic reforms implemented.

22. For example, article 25 (3) of the Constitution provides as follows: “The State guarantees equality of rights and freedoms for all, irrespective of race, ethnicity, religion, language, sex, origin, property or official status, beliefs or membership of political parties, trade unions or other voluntary associations. No restrictions may be imposed on human rights and freedoms based on race, ethnicity, religion, language, sex, origin, beliefs or political or social affiliation.”

23. Article 47 (3) of the Constitution, as amended, prohibits not only agitation and propaganda that incites racial, ethnic, religious or social enmity or hatred, but also agitation and propaganda that incites enmity and hatred based on any other characteristic.

24. Racial discrimination is thus prohibited in the country's basic law, namely articles 25 and 47 of the Constitution. As required under the Convention, these constitutional provisions prohibit any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and freedoms in the political, economic, social, cultural or any other field of public life.

25. Legislative amendments have also been introduced, including to the Civil Service Act and the Electoral Code, and drafts of relevant laws and regulations have been prepared with a view to bringing existing legislative acts into line with the Constitution.

26. It is incorrectly noted in paragraph 5 of the concluding observations that only those acts of racial discrimination described in the restrictive provisions of articles 109, on discrimination, and 154, on infringement of citizens' equality, of the Criminal Code are explicitly prohibited and carry fines. In fact, in addition to articles 109 and 154, both the general and special parts of the Criminal Code contain other articles relating to racial discrimination:

Article 6. The principle of equality before the law

6.1. Persons who have committed offences are equal before the law and may be held criminally responsible irrespective of their race, ethnicity, attitude to religion, language, sex, origin, property or official status, beliefs, membership of political parties, trade unions or other voluntary associations, and other circumstances.

Article 61. Aggravating circumstances

61.1.6. The commission of an offence motivated by ethnic, racial or religious hatred or fanaticism, or in revenge for lawful actions by other persons, or with the aim of concealing or facilitating the commission of another offence.

Article 103. Genocide

Acts aimed at the total or partial destruction of a national, ethnic, racial or religious group by murdering members of the group, causing grave damage to their health or serious harm to their mental capacities, creating living conditions aimed at the total or partial physical destruction of members of the group, implementing measures designed to impair the group's birth rate, or transferring children belonging to one group to a different group shall be punishable by imprisonment for 14 to 20 years or life imprisonment.

Article 111. Racial discrimination (apartheid)

111.0.1. Denial of the right of members of a racial group or groups to life and freedom, that is, by murdering members of a racial group or groups, causing grave damage to their health or serious harm to their mental capacities, or subjecting them to torture or cruel, inhuman or degrading treatment or punishment, or to arbitrary arrest or unlawful deprivation of liberty;

111.0.2. Deliberate creation of living conditions for a racial group or groups with a view to bringing about their complete or partial physical extermination;

111.0.3. Implementation of any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country, as well as the full development of such a group or groups by denying to its or their members basic human rights, including the right to work, the right to form trade unions, the right to education, the right to leave and to return to their country, the right to a nationality, the right to freedom of movement and residence, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association;

111.0.4. Implementation of any measures, including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos, the prohibition of mixed marriages among members of various racial groups, the expropriation of parcels of land belonging to a racial group or groups or to members thereof;

111.0.5. Exploitation of the labour of the members of a racial group or groups;

111.0.6. And persecution of organizations and persons who oppose apartheid by depriving them of their fundamental rights and freedoms; are punishable by imprisonment for 12 to 20 years or life imprisonment.

Article 120. Intentional homicide

120.2.12. Where motivated by ethnic, racial, or religious hatred or enmity, shall be punishable by imprisonment for 14 to 20 years or by life imprisonment.

Article 154. Violations of citizens' equality of rights

Article 154.1 prohibits discrimination on various grounds, including race, ethnicity, language and religion.

Article 167 prohibits the unlawful obstruction of the performance of religious ceremonies.

Article 283. Incitement to ethnic, racial, social or religious hatred or enmity.

283.1. Acts that inflame ethnic, racial, social or religious hatred or enmity or that offend ethnic pride, and acts that restrict the rights of citizens or accord superior status to them on the grounds of their ethnic or racial origin, social affiliation, or attitude to religion shall, where performed in public, including through the media, be punishable by fines of between 1,000 and 2,000 manats, or by punitive work for up to 2 years, or by imprisonment for 2 to 4 years.

283.1-1 The acts covered by article 283.1 of the present Code shall, where motivated by religious hatred, religious radicalism or religious extremism, be punishable by imprisonment for 3 to 5 years.

283.2. The same acts committed:

283.2.1. With the use or threat of force;

283.2.2. By a person in abuse of his or her official position;

283.2.3. Or by an organized group; shall be punishable by imprisonment for 3 to 5 years.

283.3. Financing of the acts covered by article 283.1 of the present Code shall, where motivated by religious hatred, religious radicalism or religious extremism, be punishable by imprisonment for 3 to 5 years.

27. The Administrative Offences Code contains articles aimed at preventing racial discrimination:

Article 7. The principle of equality before the law

7.1. Persons who have committed administrative offences are equal before the law, regardless of race or ethnicity, language, sex, social origin, property or official status, beliefs and other circumstances. An administrative penalty may not be imposed or waived on the grounds set out in this article.

28. Despite the fact that civil, labour, family or other legislation does not explicitly refer to toleration of racial discrimination, the overall thrust of the articles of these laws and the obligations, purposes and principles set forth in them provide that racial, religious and other discrimination will not be tolerated.

29. With regard to labour relations, there is an absolute ban on all forms of discrimination against workers on the grounds of nationality, sex, race, faith, ethnicity, language, place of residence, property status, social origin, age, marital status, religion,

political opinion, membership of trade unions or other voluntary associations, official status, beliefs and other factors unconnected with their professional qualities, work performance or professional skills. The ban also covers the granting of privileges and benefits and the direct or indirect restriction of rights based on these factors. An employer or other natural person who practises discrimination in employment is held to account in accordance with the law. A worker who has been subjected to discrimination may apply to a court for the restoration of his or her violated rights.

30. Article 8.0.4 of the Employment Act stipulates that one of the State's obligations in the field of employment is to ensure that all persons enjoy equal opportunities in the exercise of their right to free choice of labour and employment, irrespective of their race, ethnicity, religion, language, sex, disability (save cases in which the fulfilment of this obligation is unfeasible), marital status, social origin, place of residence, property status, beliefs and membership of political parties, trade unions or other voluntary associations.

31. The procedures for the social protection of children at State preschools was approved by Cabinet of Ministers decision on 29 December 2017. Pursuant to paragraph 1.2, preschools may not discriminate on the basis of race, ethnicity, religion, language, sex or origin.

32. Any form of discrimination against aliens and stateless persons working in Azerbaijan is prohibited. Pursuant to article 13 of the Labour Code, aliens and stateless persons may, unless the law or international agreements to which Azerbaijan is a party otherwise provide, enjoy all labour rights equally with citizens of Azerbaijan and have obligations in keeping with those rights. Except in the cases provided for by law, restriction of the labour rights recognized to aliens and stateless persons pursuant to the Labour Code and other laws and regulations is prohibited.

33. The rights of aliens and stateless persons are also enshrined in the Migration Code, which entered into force on 1 August 2013. Pursuant to article 74, unless the law or international agreements to which Azerbaijan is a party otherwise provide, aliens and stateless persons in Azerbaijan enjoy all rights on an equal footing with citizens of Azerbaijan.

Concluding observations, paragraphs 7 and 8 (Special measures)

34. In accordance with the constitutional guarantee of the equality of rights and freedoms without distinction as to race, ethnicity, religion, language, sex, origin, property or official status, beliefs or membership of political parties, trade unions or other voluntary associations, the legislative acts adopted to protect the rights and freedoms of the ethnic minorities living in the country are fully in compliance with the international treaties for the protection of human rights and freedoms to which Azerbaijan is a party and with the principles set out in and the obligations assumed under the Framework Convention for the Protection of National Minorities. These legislative acts encompass the system of legal and organizational measures required to regulate international relations, the development of language and culture and the preservation of ethnic and cultural identities.

35. Chapter II of the National Programme of Action to Enhance the Effectiveness of the Protection of Human Rights and Freedoms in Azerbaijan, which was approved by presidential order on 27 December 2011, sets out measures to protect the rights of various segments of the population. In this connection, the task of ensuring the ongoing preservation and development of the cultural heritage of ethnic minorities has been assigned to the appropriate State bodies.

Concluding observations, paragraphs 9, 10 and 38 (Civil society organizations and consultations with them)

36. The Government of Azerbaijan provides ongoing and comprehensive support for the creation and activities of non-governmental organizations (NGOs) that represent the

interests of ethnic minorities and protect their cultural and historical values. It also provides ongoing support for the development of ethnic languages and identities.

37. The financing of NGOs and legal entities working on national minority issues by national and foreign donors is governed by the following: the Grants Act of 17 April 1998, which was amended as part of a law-making process aimed at improving relevant legislation; the rules on the registration of agreements or decisions concerning the receipt or award of grants, which were approved by Cabinet of Ministers decision on 5 June 2015; the list of institutions financed from the State budget that have the power to award grants to legal and natural persons in accordance with their areas of activity, which was approved by presidential decree on 21 October 2015; the procedures for submission for approval to the Presidential Council for State Support of Non-Governmental Organizations of grants from public bodies to NGOs, which was approved by presidential decree on 21 October 2015; and the procedure by which foreign donors acquire the right to award grants in Azerbaijan, which was approved by Cabinet of Ministers decision on 22 October 2015.

38. As noted in previous reports, the Presidential Council for State Support of Non-Governmental Organizations was established by presidential decree on 13 December 2007. Its aim is to grant NGOs a more prominent role in public life and foster cooperation between State bodies and NGOs with a view to facilitating State support for NGOs, their efforts to tackle social problems and the financing of programmes and projects important for the development of the State and society.

39. The Council takes the measures necessary to implement the Convention.

40. In the preparation of the present report, the Council consulted NGOs working on issues relevant to the Convention and canvassed the opinions of these civil society organizations.

41. The Presidential Council for State Support of Non-Governmental Organizations holds consultations with NGOs, including those working to protect the interests of ethnic minorities, migrants, refugees and internally displaced persons, in order to determine the themes for the grant competitions to be held over the coming year. Various competitions are organized on themes relating to the protection of the interests of ethnic minorities, cultural diversity and multiculturalism. Cultural centres and NGOs for ethnic minorities enter both specialized and general grant competitions. The Presidential Council for State Support of Non-Governmental Organizations provides financial support to specialized NGOs to develop the culture and language of ethnic minorities, gather examples of folklore and produce films about ethnicity.

42. In accordance with article 4 of the Convention, States parties undertake to ensure the rights set forth in article 5 of the Convention. In Azerbaijan, voluntary associations play an important role in meeting these obligations. In the period 2015–2018, with Council funding, NGOs carried out various projects on the following themes:

- 16 projects on the themes of cultural and religious diversity, tolerance, family planning, multiculturalism and property rights in 2015, at a cost of 148,500 manats (approximately US\$ 114,230).
- 48 projects on the themes of cultural and religious diversity, tolerance, multiculturalism, freedom of thought, social participation, social security, family planning and equal participation in employment and cultural activities in 2016, at a cost of 439,000 manats (approximately US\$ 248,022).
- 9 projects on the themes of cultural and religious diversity, community participation, tolerance, multiculturalism, family planning and labour rights in 2017, at a cost of 53,000 manats (approximately US\$ 31,176).
- 18 projects on the themes of religious diversity, labour and property rights, freedom of thought, community participation, multiculturalism, tolerance and family planning in 2018, at a cost of 116,400 manats (approximately US\$ 68,470).
- The themes for the fourth grant competition announced by the Council in 2019 concerned the future development of ethnic and religious tolerance. Initiatives to promote the cultural heritage of the ethnic minorities living in Azerbaijan were a key

focus of the fourth grant competition. Specialized NGOs working in country and local NGOs active in protecting the interests of ethnic minorities in areas with large ethnic minority populations entered the competition and won grants. Initiatives to support the integration into Azerbaijani society of aliens and stateless persons living in the country were an important focus of the Council's fourth grant competition in 2019.

43. Over the reporting period, and specifically during the second half of 2016 and 2017, the Council sponsored grant competitions on the theme of preserving the cultural heritage of Azerbaijan and ethnic minorities. In addition to general grant competitions, meaningful community service projects were funded.

44. The Council continues to provide financial and technical support for the production of programmes, films and publications in ethnic minority languages. It will expand these activities in the coming years.

45. Over the reporting period, the Ministry of Youth and Sport financed 10 youth voluntary association projects on the themes of multiculturalism, religious diversity, intercultural dialogue and the promotion of youth employment in ethnic minority and internally displaced communities. This amounted to 151,885 manats (around US\$ 89,344).

46. On 8 June 2015, a public council was established under the State Migration Service to facilitate public participation in its activities. It consists of five NGOs. On 30 June 2017, regular elections were held for positions on the public council, as its term of office as set by law had expired. The composition of the council was then determined. In order to enhance cooperation with the Service, the membership of the council was increased from five to seven for its next term.

47. Over the reporting period, the State Migration Service worked in close cooperation with the public council, and productive discussions were held with senior representatives of the Service at the council's meetings. The State Migration Service took note of a number of innovative proposals made by the public council to expand the rights of aliens and stateless persons in the country, protect their legitimate interests and regulate and improve migration processes.

48. The public council of the State Migration Service organized Azeri language courses for refugees and asylum seekers and provided humanitarian and medical assistance to refugee families.

49. The public council of the State Migration Service serves as a "bridge" between the State body and civil society. It is for this reason that the public council holds regular meetings with migrants, organizes their reception, considers their proposals and problems and handles complaints received in coordination with the Service. The council supports the work done by the State Migration Service in keeping migrants informed about existing immigration legislation and any relevant legislative amendments and rules.

50. Information on the public council's activities is regularly posted in Azerbaijani, Russian and English on a dedicated section of the Service's official website. In addition, it was made possible for members of the public council and NGOs to carry out visits to the Service's centres for irregular migrants. Draft legal acts undergo a process of public consultation in the form of meetings with NGO representatives.

Concluding observations, paragraphs 11 and 12 (Compliance of the State party's legislation with the requirements of article 4 of the Convention)

51. As noted above, the Criminal Code criminalizes genocide (art. 103), discrimination (art. 109), racial discrimination (apartheid) (art. 111), violation of citizens' equality of rights (art. 154) and intentional homicide motivated by ethnic, racial or religious hatred or enmity (art. 120.2.12). Under article 61.1.6 of the Code, the commission of an offence motivated by ethnic, racial or religious hatred or fanaticism is an aggravating circumstance.

52. At the same time, article 283.1 provides for liability for actions aimed at inciting ethnic, racial, social or religious hatred or enmity, humiliating national dignity, restricting citizens' rights or according superior status to citizens on the basis of their ethnic, racial or social affiliation or attitude to religion, if these acts are performed in public, including through the media.

53. Article 283 of the Criminal Code has been amended and the penalties for ethnic, racial, social or religious enmity or hatred have been toughened. Under articles 283.1-1 and 283.3, added to the Code by the Law of 28 October 2016, committing the above-mentioned actions on the grounds of religious enmity, religious radicalism or religious fanaticism, as well as financing such actions, are also subject to criminal liability.

54. Under the Political Parties Act, the Trade Unions Act and the Non-Governmental Organizations (Voluntary Associations and Foundations) Act, it is prohibited to establish and operate political parties, trade unions or non-governmental organizations whose purpose or activities are aimed at violently changing the constitutional order and secular character of the Republic of Azerbaijan, violating the territorial integrity of the country, advocating war, violence and cruelty, or fomenting racial, ethnic or religious strife.

55. As mentioned above, the Constitution of the Republic of Azerbaijan implies that everyone has the right to create any association, including a political party, trade union or other voluntary association, or to join an existing association, and it also guarantees the unrestricted activity of all associations.

56. According to the Trade Unions Act, any person may voluntarily and without any discrimination form trade unions without prior authorization, join trade unions and participate in trade union activities for the protection of his or her legitimate interests and labour, social and economic rights, and bring together not less than seven persons to form a trade union.

57. Under the Non-Governmental Organizations (Voluntary Associations and Foundations) Act, it is prohibited to establish non-governmental organizations whose purpose or activities are aimed at violently changing the constitutional order and secular character of the Republic of Azerbaijan, violating the territorial integrity of the country, advocating war, violence and cruelty, or fomenting racial, ethnic or religious strife.

58. The Non-Governmental Organizations (Voluntary Associations and Foundations) Act and the Political Parties Act do not contain provisions promoting ethnic, racial or racist activities. The Criminal Code treats such cases as serious and particularly serious offences. The activities of voluntary associations that promote the interests of national minorities and ethnic groups are encouraged in the country. Cultural centres are in operation that foster the social unity of all nations living in the country.

59. Article 13 (2) of the Information, Informatization and Protection of Information Act prohibits the dissemination of information advocating violence and religious extremism and open calls aimed at inciting ethnic, racial or religious hatred or enmity on the Internet.

60. Subparagraph 5.1.6 of the Action Plan for implementation of the State Programme "Azerbaijani Youth 2017–2021", approved by Presidential Order of 15 September 2017, provides for activities related to projects that mobilize young people against appeals to religious extremism or discrimination and promote the values of ethnic tolerance, peacemaking and humanism.

Concluding observations, paragraphs 13 and 14 (Enforcement of hate crime law)

61. According to statistics, between 2014 and 2017, only one person was convicted under article 283 of the Criminal Code ("Incitement to ethnic, racial, social or religious hatred or enmity").

62. It should be noted that the training programmes for staff of the judicial authorities and the Office of the Procurator, as well as for lawyers, judges and candidates for judges participating in the training at the Academy of Justice, included the delivery of lectures on

topics such as “Specific features of protection of the rights of persons belonging to certain groups”, “Prohibition of discrimination in the European Convention on Human Rights and national legislation”, “Prohibition of discrimination in accordance with the European Convention on Human Rights (Article 14)” and “Specific features of the imprisonment of prisoners requiring a special approach (minors, women, disabled persons, aliens and elderly persons)”.

63. Particular attention was paid to Article 14 of the European Convention on Human Rights in professional development courses for judges, lawyers and other legal experts.

64. The Ministry of Education, together with the Baku International Centre for Multiculturalism, prepared curricula and textbooks for teaching, in higher education institutions, an undergraduate course on “An introduction to multiculturalism” and a master’s degree course on “The multiculturalism of Azerbaijan”. The subject of “The multiculturalism of Azerbaijan” is also taught in vocational schools and specialized educational institutions; some higher education institutions have opened departments of “Azerbaijani multiculturalism”.

65. Representatives of the Baku International Centre for Multiculturalism and of Baku Slavic University, together with prominent scholars and intellectuals, organized mass lectures on “Multiculturalism in Azerbaijan” in 85 schools and 10 specialized secondary schools, while seminars on intercultural communication skills and knowledge were held in some educational institutions.

66. The Baku International Centre for Multiculturalism organized an international summer and winter school on multiculturalism under the slogan “Multiculturalism as a way of life in Azerbaijan: learn, research, share”, which was attended by students from Azerbaijan and around the world.

Concluding observations, paragraphs 15 and 16 (European Court of Human Rights)

67. Azerbaijan is cooperating with member States of the Council of Europe on the basis of the 1983 European Convention on the Transfer of Sentenced Persons. The extradition of Ramil Safarov to Azerbaijan was carried out in full compliance with the Convention, providing the other party with the necessary documents and legal information. As a result, Hungary found it possible to extradite him to Azerbaijan.

68. With regard to the pardon of this person, it should be noted that, in accordance with article 12 of the Convention, each party (extraditing and receiving) may decide to grant pardon of the sentence. Azerbaijan has not violated any bilateral or multilateral international obligations in the course of resolving this issue.

69. With regard to his act being viewed as one of heroism, Ramil Safarov’s action was not officially approved, there was no positive reaction to him and he was not accepted by any high-ranking official.

70. The process before the European Court of Human Rights on the application referred to in paragraph 16 of the concluding observations is ongoing. The Government of Azerbaijan is cooperating with the European Court of Human Rights on all the applications pending before it. The European Convention on Human Rights and the Rules of Procedure of the European Court of Human Rights provide for an obligation on the Parties to cooperate fully with the Court in all proceedings. Azerbaijan considers that the Committee should have refrained from making direct reference to specific cases of the Court that are at the stage of communication, in order not to influence the Court’s future decision in any way. It is regrettable that, in its recommendations, the Committee made selective reference to proceedings before the European Court of Human Rights.

Concluding observations, paragraphs 17 to 20 (Status of the Convention in the domestic legal order and Complaints of racial discrimination)

71. All core and further training course curricula at the Academy of Justice attached to the Ministry of Justice include lectures on various articles of the European Convention on Human Rights, such as article 6 (Right to a fair trial), article 2 (Right to life), article 3 (Prohibition of torture), articles 8 and 9 (Right to respect for private and family life and Freedom of thought, conscience and religion, respectively) and article 10 (Freedom of expression); the lectures also cover topics such as the European Convention on Human Rights, the structure of the European Court of Human Rights, implementation of the judgments of the European Court and Protocol No. 1 to the European Convention. Some 252 justice officials have taken part in training on the European Convention.

72. A round table on national and international human rights protection mechanisms was also organized in 2018 as part of the Human Rights Protection Month, traditionally led every year by the Office of the Ombudsman on the occasion of Human Rights Protection Day in Azerbaijan, on 18 June. Twelve officials from the Academy of Justice and 12 young lawyers attended this event within the framework of the Academy's Legal Clinic programme, which is a part of the Council of Europe project on the application of the European Convention on Human Rights and the case law of the European Court of Human Rights in Azerbaijan.

73. The Appeals Board under the Office of the President, established pursuant to a Presidential Decree of 3 February 2016, ensures transparency and objectivity in the consideration of complaints from natural and legal persons conducting a business, protects the rights and interests of persons in this area and brings further appeals against the decisions and actions or omissions of the central executive authorities to higher authorities.

74. It should be noted that, between 2016 and 2018, the courts of first instance and courts of appeal did not refer to the provisions of the Convention.

75. In accordance with the legislation of Azerbaijan, any citizen may appeal directly to the courts or higher-ranking central and local authorities, enterprises, institutions and organizations, voluntary associations and public officials in connection with decisions and actions (or omissions) that violate his or her rights and freedoms.

76. Foreign nationals and stateless persons have the right to apply to the courts of Azerbaijan to defend their rights and legally protected interests that have been infringed or contested. Foreign persons have the same procedural rights and obligations as Azerbaijani citizens and legal entities.

77. It should be noted that significant measures have been taken during the reporting period to enhance the effectiveness of the justice system and citizens' confidence in the courts and to improve judicial performance. For example, a presidential decree was issued on 3 April 2019 introducing further reforms to the judicial system.

78. In recent years, the powers of the Judicial Council have been expanded every year, taking into account international practice with respect to measures taken to strengthen the judiciary, and the issue of ensuring the independence of the judiciary has been included in its mandate. As well as all judges, the Council have been vested with the power to make proposals on the appointment of court presidents, to determine the territorial jurisdiction of the courts, to give opinions on the budgets of the courts of first instance and courts of appeal and to prevent outside interference in the work of judges. The Council's role in dismissing judges has also been enhanced.

79. As noted in the previous reports, 20 new regional courts, including courts of appeal and serious crimes courts, have been established to facilitate public access to the courts, including members of ethnic minorities, and the military court system has been improved. Since 2011, new administrative courts have been operating in seven of the country's districts to prevent human rights violations on the part of the State authorities. The fact that 85 per cent of citizens' claims in administrative disputes are settled is a striking example of the objectivity and efficiency of administrative justice in Azerbaijan.

80. Modernization of the judicial infrastructure is also important for ensuring an effective system of justice. In recent years, new, modern buildings and complexes equipped with modern technology have been constructed and put into operation for 16 courts, as part of projects implemented with the World Bank and also paid out of the State budget. In accordance with the Convention on the Rights of Persons with Disabilities, the new court buildings also provide an appropriate environment for the free movement of persons with disabilities.

81. The World Bank considered the justice sector projects in Azerbaijan to be highly successful and, in 2017, declared Azerbaijan as a winner in the category public sector performance through innovation.

82. The Presidential Decree of 13 February 2014 on the establishment of the “Electronic Court” information system, issued as part of reforms aimed at modernizing the judicial system and setting strategic priorities in this area, has laid the basis for the revolutionary development of this sphere. This system opens up opportunities for bringing cases to court, dealing with red tape and abuse, achieving transparency and efficiency and facilitating the use of electronic records and documents management. At present, individual components of this system are already being used, such as electronic documents management, electronic documents distribution, electronic governance, electronic information sharing and electronic registration of proceedings.

83. In 2017, Azerbaijan participated in the Council of Europe competition on justice with a project called “Court Pulse: The Management Revolution” and won the “Crystal Scales of Justice” prize for its achievements in the justice system.

84. It should be noted that, since 2005, the procedure for selecting judges has been identified as among the most progressive and transparent in Europe. Currently, more than 70 per cent of the judiciary is composed of judges selected under the new progressive rules.

85. International interest in progressive reforms has led the European Commission for the Efficiency of Justice to view Azerbaijan as a leading country when it comes to the development of the judicial system. For the first time in the history of the Council of Europe, the representative of Azerbaijan was elected President of the Commission, in 2018.

86. As part of the measures taken on a regular basis to improve the efficiency of justice, based on a legislative proposal of the Head of State, new laws were passed on 28 December 2018 providing for significant changes to the Code of Civil Procedure and the Judges and Courts Act.

87. Taking into account that, since 2003, 25 October has been celebrated as European Civil Justice Day, all courts in the country held an open day on 25 October 2018. At this event, citizens became better acquainted with the system of administration of justice and were informed about the judicial reforms taking place in the country and provided with explanations of the mechanisms to defend their rights.

88. One of the main guarantees of access to justice is public education and the provision of legal assistance. The establishment of regional justice institutions in this area has helped to coordinate the activities of local justice institutions, raise legal awareness, facilitate public access and provide high-quality legal assistance. During the reporting period, these institutions have conducted regular awareness-raising and legal aid activities to increase the legal knowledge of the population living in the regions, including ethnic minorities. In addition, within the framework of the implementation of the State programme on poverty reduction and sustainable development in Azerbaijan for 2008–2015, the Ministry of Justice has established 10 regional legal counselling centres, which have provided free legal assistance to more than 6,000 persons, especially internally displaced persons.

89. At the same time, the Law Clinic at the Academy of Justice has been operating since 2013 in order to teach lawyers practical skills and provide low-income groups with free legal assistance. The Clinic has provided legal assistance to 1,737 citizens in appealing to the courts, filing claims, petitions and protests and drafting applications to various government agencies and has offered legal advice.

90. By Presidential Decree of 13 July 2012, the State Agency for Public Services and Social Innovations under the Office of the President was established. The main objective of the Agency is to centrally manage the Azerbaijan Service and Assessment Network (ASAN) centres, which will provide services directly to citizens, and to expedite the process of organizing e-services in the country. ASAN provides over 250 services to 10 government agencies and a number of private companies. There are currently 12 ASAN service centres in operation. Of these, five are located in Baku and seven in the regions of the country. Since the start of operations, the centres have received more than 20 million applications. Buses fitted with the necessary modern technological equipment offer public mobile services to populations in the regions where there are no ASAN service centres so that they may use the services without having to travel to the centres. The mobile ASAN service was established to reduce time lost in providing assistance to people who could not apply to the ASAN service centres owing to time constraints. In 2015, the ASAN service received a United Nations Public Service Award, coming in first place in the category improving public service provision.

91. In order to simplify the procedure for issuing visas to foreigners and stateless persons wishing to visit Azerbaijan, accelerate the process and ensure transparency, this State agency's ASAN Visa portal was put into operation in 2016. Foreigners from 94 countries can obtain a standard visa through the ASAN Visa portal within 3 days, including non-working days and holidays, or an emergency visa within 3 hours.

92. With a view to supporting the active participation of citizens in the country's social and economic development, the growth of small and medium-sized enterprises, the increase in employment and the creation of competitive family farms, basic family business support centres known as ABAD centres were established in 2016 to implement social projects. A new system for social innovation, the ABAD centres seek to provide production facilities and equipment to help families engaged in small and medium-sized businesses and offer various advisory services in areas such as branding, product design, marketing and standardization throughout the entire business process.

93. In accordance with the instructions of the Head of State, members of the Government of Azerbaijan in the regions regularly receive representatives of various population groups, including members of ethnic minority communities. During such receptions, each citizen is carefully heard out, a number of appeals are dealt with immediately on the spot, and others are referred to the competent officials from the various ministries participating in the receptions. Online receptions are also used.

94. In order to advance the legal knowledge of the population and provide it with free and easy access to the texts of legislative acts, the Ministry of Justice provides support for the website of the State register of legal acts (www.huquqiaktlar.gov.az) and the electronic database of national legislation (www.e-qanun.az). In 2018 alone, the number of visits to these websites exceeded 1.3 million.

95. In order to ensure the sustainability of the justice sector reforms, the State programme for the development of the Azerbaijani justice system, 2019–2023, was approved by the order of the Head of State of 18 December 2018. The State programme, as a road map for the further development of the Azerbaijani justice system, helps bring the organization of the work of the justice system and the courts into line with modern requirements, provides high-quality legal services to the population, facilitates access to these institutions and affords more reliable protection of citizens' rights.

96. For information, it should be noted that, in order to implement the right of citizens to legal assistance of high quality, a series of measures are being taken to develop the legal profession under the Decree of the Head of State of 22 February 2018.

97. According to statistics, no one was convicted in the period 2014–2017 under the following articles of the Criminal Code: 103 (Genocide); 105 (Extermination); 109 (Persecution); 111 (Racial discrimination (apartheid)); and 154 (Violation of citizens' equality). During this period, only one person was convicted under article 283 of the Criminal Code (Incitement to ethnic, racial, social or religious hatred or enmity).

98. The State Security Service did not turn up information concerning the infringement of the rights of ethnic minorities or their lawyers or human rights defenders as a result of their investigations or information on the deliberate infringement on the part of the public authorities of the rights of any ethnic group and their representatives residing in Azerbaijan. Nor was there evidence of any violation of their rights and freedoms in the course of court proceedings, prosecutions, arrests and deprivations of liberty.

99. A concern was expressed in the concluding observations that the State party has not taken measures to examine why there have been very few complaints of racial discrimination, as recommended by the Committee. In this regard, it should be born in mind that, Azerbaijan is situated in an area along the historical Silk Road, in which various civilizations have come together over the centuries to form an environment of ethnic cultural diversity and where members of various nations and faiths have lived in conditions of peace, tranquillity, mutual understanding and dialogue. Multiculturalism in Azerbaijan has already become a way of life to which there is no alternative. The low number of complaints about discrimination can be explained by the fact that such cases are not typical for such a tolerant country as Azerbaijan.

100. For information, it should be noted that, pursuant to the Committee's recommendation in paragraph 18 of the concluding observations, the text of the Convention has been translated into Talysh and Lezgi.

Concluding observations, paragraphs 21 and 22 (Legal protection on the rights of groups vulnerable to racial discrimination)

101. Discrimination and the restrictions of citizens' rights, regardless of ethnicity, religion or language, are prohibited under the relevant articles of the Constitution, the Criminal Code, the Family Code, the Electoral Code, the Labour Code, the Code of Civil Procedure, the Code of Administrative Offences, the Citizens' Appeals Act and the Rights of the Child Act.

102. The following laws and regulations also provide for the protection of the rights of ethnic minorities.

103. Under article 6.3 of the Culture Act, the State safeguards the equality of cultures, the rights and freedoms of peoples and ethnic minorities living in the country and the equality of peoples and ethnic minorities living in the country with respect to the protection of their cultures, the determination of their cultural identity and the promotion of cultural values. In accordance with article 27.3 of the Act, public monitoring in the sphere of culture consists in supervision of the use and current state of cultural values, the state of the cultural industry, the quantity and quality of cultural goods and benefits, the state of tangible and intangible cultural heritage and compliance with the rules on their use, the staffing levels and material and technical resources of cultural industries and the educational process and training programmes in the sphere of culture in academic and educational establishments. Under article 30.5 of the Act, the cultures of the ethnic minorities living in the country are an integral part of the national cultural values of Azerbaijan. Under article 30.6 of the Act, the cultural property of ethnic minorities living in Azerbaijan is protected by the State.

104. Pursuant to article 12.3 of the Public Television and Radio Broadcasting Act, public broadcasting programmes include programmes in the languages of the ethnic minorities living in Azerbaijan.

105. Under article 7.2 of the Education Act, taking into account the wishes of citizens and founders of educational institutions, in accordance with international treaties to which Azerbaijan is a party or in coordination with the body (organization) determined by the relevant executive authority, educational establishments may provide instruction in languages other than Azerbaijani according to the relevant State educational standards.

106. Pursuant to article 11.2 of the Code of Criminal Procedure, the authorities conducting criminal proceedings do not accord any participant in the criminal process any advantage for reasons of citizenship, social status, sex, race, ethnicity, political or religious affiliation, language, origin, wealth or official status, beliefs, place of residence, location or

other considerations not founded in law. According to article 26 of the Code of Criminal Procedure, criminal proceedings in the courts of Azerbaijan are to be conducted in the official language of Azerbaijan or in the language of the majority of the population in the relevant area.

107. The authorities conducting criminal proceedings must ensure that participants in criminal proceedings who are not proficient in the language in which the proceedings are conducted have the following rights:

- To be explained their right to use their mother tongue
- To avail themselves of the assistance of an interpreter during the preliminary inquiry and trial for free, to have full access, following the completion of the preliminary inquiry, to the criminal case file and other materials relating to the criminal prosecution and to speak in court in their own language

108. The above-mentioned rights of the participants in criminal proceedings who do not speak the language in which the proceedings are conducted are to be provided for by public funds. The documents to be put at the disposal of the relevant persons who do not know the language used in the criminal proceedings are to be made available to them in their mother tongue or in another language in which they are fluent.

109. According to article 11.1 of the Act on the Rules of Ethical Conduct of Public Servants, a public servant must be impartial in the performance of his or her official duties or in decision-making and must not give any person or group of persons an advantage on the basis of their race, ethnicity, religion, language, sex, social origin, property or official status, beliefs, membership of a voluntary or any other association, or create conditions for such advantage.

110. Under article 27 of the Civil Service Act and article 4 of the Act on Conditions of Service in Judicial Bodies, citizens of Azerbaijan with the necessary credentials and a command of the official language have the right to be recruited to the civil service, regardless of race, ethnic background, religion, language, sex, social origin, property status, place of residence, beliefs or membership of voluntary or other associations.

111. With regard to the representation of members of ethnic groups in the judicial system, it should be noted that, regardless of race, ethnicity, religion, language or other grounds, citizens of Azerbaijan with higher legal education and at least five years of work experience in the legal profession are eligible to become judges. Currently, about 20 members of ethnic minority communities are judges of the courts of various instances of Azerbaijan, including the Constitutional Court and the Supreme Court, and participate in the administration of justice.

112. At present, of the 9 members of the Judicial Council who are judges, 1 comes from an ethnic minority background. The Council has exclusive powers to assess the performance of judges, reassign them to another workplace, promote them in office, instigate administrative proceedings against them and deal with other matters relating to the courts and judges.

113. More than 240 members of various ethnic minority communities work in the judiciary and are represented in the Ministry's administration and other bodies, including in decision-making positions.

114. The criminal procedure legislation of Azerbaijan applies equally throughout Azerbaijan to citizens of Azerbaijan, foreign national residing in the country and stateless persons. Members of all ethnic minority communities residing in the country, including ethnic Armenians, are citizens of Azerbaijan, and any differences between them or privileges are prohibited by law.

115. A concern was expressed in the concluding observations that the State party has not adopted a law aimed at guaranteeing the non-discriminatory enjoyment of rights and freedoms by the groups affected by the Convention. As noted above, State policy to combat racial discrimination is based on the Constitution and other laws and regulations, the principles and rules of international law and the international treaties to which Azerbaijan is a party, and there is no need at this stage to adopt such a law.

Concluding observations, paragraphs 23 and 24 (Information on the situation of members of ethnic minorities)

116. Annex 1 to the report contains data on the ethnic composition of the population from the 2009 census.

117. The Education Act guarantees the right of every citizen to education and non-discrimination, regardless of sex, race, language, religion, political beliefs, ethnicity, social status, origin or state of health. Under articles 3.1.1 and 3.1.3 of the Vocational Education Act of 24 April 2018, the voluntary nature and accessibility of vocational education are basic principles underlying the State. Equal educational opportunities are also provided for in the State programme for the development of inclusive education for persons with disabilities.

118. In order to increase access to education for ethnic minorities, instruction at the general secondary level is available in Russian and Georgian together with Azeri. In regions in which numerically small minority populations are concentrated, preschools operate free of charge in general education establishments in order to enable children from such populations to learn the language of instruction. At the same time, members of numerically small peoples are taught in their native languages at the general education level for at least 2 hours a week, including in Talysh, Lezgi, Avar, Tsahur, Udi, Kurdish and Khinalug.

119. Currently, there are 1,785 preschool facilities in the country, with 6,780 preschool groups. In 521 of these groups, 8,945 children are cared for and lessons are taught in Russian; in 17 others, 320 children are cared for and lessons are taught in Georgian; and, in 35, 417 children are cared for and lessons are taught in English (annex 2).

120. There are 5,206 pupils in 16 schools where instruction is provided in Russian only, and 652 pupils in 6 schools (Qakh district) where instruction is provided in Georgian only. In 304 Russian-Azerbaijani schools, 112,337 pupils are taught in Russian and, in 3 Georgian-Azerbaijani schools (Zaqatala and Beylagan districts), 354 pupils are taught in Georgian. In one school (Qakh district), where education is conducted in three languages (Azeri, Russian and Georgian), 141 pupils are taught in Russian and 104 in Georgian.

121. On the basis of the current curriculum, learning kits (textbooks and teaching aids) are put together in the mother tongue of ethnic minorities for language classes in the ethnic minority language taught in public general education schools operating in areas with large concentrations of ethnic minority communities.

122. Various events are held to preserve and develop the cultural heritage of ethnic minorities. For example, general education schools hold exhibitions to reflect the history and culture of ethnic minorities and round tables and debates are held on themes such as protecting the rights of ethnic minorities, defending citizens' rights in the country, human rights and multiculturalism, and multiculturalism and tolerance. Awareness-raising activities are also conducted throughout the year in general education schools with a view to instilling democratic principles in schoolchildren, raising children's awareness of their rights and the rights of others and promoting the values of multiculturalism, which are based on equality before the law.

123. Textbooks for general education schools are evaluated on various criteria before publication, including whether issues of gender, race, ethnicity and religion have been treated with sensitivity.

124. Medical care in State medical institutions is free of charge and the State guarantees the right of every person to use these services regardless of ethnic, religious or racial background.

125. Within the framework of extensive health-care reforms being carried out in Azerbaijan in the northern, north-western, southern and central regions of the country inhabited by ethnic minorities, fully equipped treatment and diagnostic centres, primary health-care services and hospitals that meet international standards have been introduced and opened to the public. Ethnic minorities living in these regions, such as Lezgins,

Tsakhurs, Avars, Ingiloys, Jews, Meskhetian Turks, Tatars, Talysh and others, enjoy a high standard of medical care.

126. In recent years, the Ministry of Health has built or renovated more than 300 medical establishments in the country's regions, including in ethnic minority areas. A perinatal centre has been set up in the central regions of the country inhabited by Meskhetian Turks, and other medical facilities have been renovated and opened to the public. Fourteen public health programmes have been successfully implemented and ethnic minorities have also benefited from them.

Concluding observations, paragraphs 25 and 26 (Instruments of consultation and dialogue)

127. The Baku International Multiculturalism Centre was established by presidential decree on 15 May 2014. The main goal of the Centre is to ensure that tolerance is protected in accordance with the ideology of Azerbaijanism and cultural, religious and linguistic diversity, and also to celebrate Azerbaijan worldwide as a centre of multiculturalism, and to study and promote existing multicultural models.

128. The principal objectives of this centre are as follows:

- Study the basic cultural, social and political fabric of Azerbaijan, where multiculturalism and tolerance have become a way of life, and develop a mechanism to advocate this
- Identify and implement ways of promoting cultural and ethnographic diversity in Azerbaijan
- Conduct a scholarly analysis of the foundations of tolerance of cultural and religious diversity in Azerbaijan and determine ways of preserving them
- Study cultural heritage relating to different regions and support their harmonious development in the modern era and the process of preserving historical, cultural and religious monuments, while tapping the potential of civil society
- Study and promote a range of cultural encounters involving different regions in multicultural life
- Implement measures aimed at increasing the professional, religious and secular knowledge of young members of the clergy belonging to different religions

129. With a view to promoting the multicultural traditions in Azerbaijan more widely, a presidential decree was issued on 4 February 2019 to ensure that the International Centre for Multiculturalism was adequately funded.

130. In accordance with a presidential order of 11 June 2018, a sum of 1,800,000 manats (approximately US\$ 1,060,000) was allocated from the President's reserve fund to further strengthen religious education and promote ethnic cultural values, support religious faiths in the country and improve their financial situation. Of this amount, 44.4 per cent, i.e. 800,000 manats (approximately \$470,000), was allocated to non-Islamic religious communities in the country. It should be noted that it was considered essential for these funds to be distributed to a certain number of members of non-Islamic religious organizations.

131. At the same time, the Office of the President has a Department of Inter-Ethnic, Multicultural and Religious Affairs. This department is directly involved in determining State policy on inter-ethnic relations and freedom of religion, and in preserving and developing multicultural traditions.

132. By Presidential Decree of 10 October 2017, the Foundation for the Promotion of Spiritual Values attached to the State Committee for Work with Religious Associations was established. The main purpose of the Foundation is to provide State support for the implementation of educational activities in Azerbaijan in the field of religion, the protection and development of spiritual values and the preparation and implementation of targeted

programmes involving relations between religion and the State, to ensure that citizens and religious organizations enjoyed religious freedom and to implement social projects in this area.

Concluding observations, paragraphs 27 and 28 (Inflammatory speech by politicians)

133. The preservation and development of the historical traditions of tolerance and strengthening of mutual understanding and dialogue between ethnic minorities and religious faiths in the country are among the priorities of government policy in Azerbaijan. The Government of Azerbaijan has always shown respect for the ethnic minorities living in the country.

134. The State supports and will further intensify all efforts aimed at protecting ethnic minorities and combating racial discrimination in the country. In this regard, we wish to point out that the information contained in paragraph 28 of the concluding observations is inaccurate and unfounded.

135. For information, it should be noted that, according to the data of the 2009 population census, more than 120,000 ethnic Armenians live in Azerbaijan (see the table Population composition by ethnicity in annex 1). These persons do not conceal their ethnic origin and have equal rights as citizens of Azerbaijan, which are protected by the public authorities.

Concluding observations, paragraphs 29 and 30 (People of African descent)

136. Foreign nationals and stateless persons may enter Azerbaijan on a visa or visa-free basis in accordance with the procedures prescribed by law. Foreign nationals, including citizens of African countries entering the country on a visa, must apply for a visa in person or through a representative at the diplomatic missions and consulates of Azerbaijan in their country of residence or in a third country. At the same time, since 2017, foreign nationals and stateless persons are granted a visa within 3 days, or 3 hours through the ASAN Visa system. African countries, including South Africa, Algeria, Morocco, Mauritius and Djibouti, are now also using this system.

137. Between 2015 and 2018, 26,185 citizens from African countries visited Azerbaijan. The largest numbers were nationals of South Africa, Kenya, Mauritius, Cameroon, Gabon, Ghana, the Sudan, Senegal, Sierra Leone, Angola, Uganda, Nigeria, the United Republic of Tanzania, Ethiopia and Somalia. During this period, the number of people visiting from African countries has been growing every year and has increased by and large by a factor of 2.9.

138. Between 2015 and 2018, the State Migration Service granted 92 per cent of the 2,169 applications made by citizens of African countries for an extension of their temporary stay or for temporary or permanent residence permits and work permits for gainful employment in Azerbaijan. In particular, the residence status of about 130 undocumented foreign nationals from Africa was legalized.

139. During this period, a temporary residence permit was granted to 40 football players from Mali, Uganda, Cameroon, Ghana, Liberia, Guinea-Bissau, Senegal, Guinea, Togo, the Congo, Côte d'Ivoire, the Gambia, South Africa and Nigeria, who play in various football clubs in Azerbaijan.

140. The period 2015–2018 also saw an increase in the number of students from African countries studying in higher education institutions in Azerbaijan. Thus, the number of Africans studying in Azerbaijan went from 72 students in 2015 to 136 in 2018. The students who chose to pursue their studies in higher education institutions in Azerbaijan came mainly from Nigeria, the Sudan, Ghana, Sierra Leone, the Gambia and Zimbabwe.

141. During this period, five citizens from Africa were granted refugee status. In addition, the Office of the United Nations High Commissioner for Refugees (UNHCR) country office in Azerbaijan issued a certificate of guardianship to a national of Côte d'Ivoire.

142. In addition, since October 2016, the Education and Training Centre of the State Migration Service has been offering foreign nationals and stateless persons residing in Azerbaijan free courses in the Azeri language and the history and culture of Azerbaijan and on the legislation on the rights and obligations of foreign nationals and stateless persons.

143. In the period 2016–2018, all foreign nationals and stateless persons who applied were regularly offered courses at the Education and Training Centre on their rights and obligations under the law, the State language, psychosocial issues and other subjects. During this period, tens of foreign nationals from Africa, including Egypt, Nigeria, Algeria, Morocco, Tunisia and the Congo, participated in courses organized by the Training and Education Centre.

144. The State Migration Service has not received any complaints from the diplomatic missions of these countries regarding violations of the rights of citizens of African countries in Azerbaijan or discrimination against them on the grounds of race, ethnicity, religion, language, sex, origin, beliefs or political or social affiliation.

Concluding observations, paragraphs 31 and 32 (Identity papers and statelessness)

145. In 2017, Azerbaijan provided OHCHR with information on the implementation of paragraph 32 of the Committee's concluding observations of 12 May 2016.

146. Taking into account the recommendation put forward, according to the amendments made by the decision of the Cabinet of Ministers of 21 July 2017 on the procedures for State civil registration of births and deaths, foreign nationals and stateless persons are not required to produce documents on the registration of their residence in Azerbaijan in order to register births.

147. At the same time, we would like to note that, during 2015–2018 period, a number of amendments were made to legislative acts concerning issues of citizenship of Azerbaijan and new acts were also adopted. Thus, the rules for determining a person's citizenship of Azerbaijan were approved by a Cabinet of Ministers decision on 18 March 2015.

148. In addition, the Citizenship Act was amended to facilitate the naturalization of stateless persons living in the country. According to these amendments, in cases stipulated by the international treaties to which Azerbaijan is a party, the courts are to establish whether persons residing in Azerbaijan who entered the country before 1 January 2006 with a passport of the former Union of Soviet Socialist Republics or other document are stateless, not being nationals of any other State and lacking valid identity documents, and also the fact of their permanent residence in Azerbaijan.

149. Azerbaijan has joined the UNHCR campaign to end statelessness within 10 years. The State Migration Service periodically carries out extensive awareness-raising activities in various cities and regions of the country to prevent and reduce statelessness and to document stateless persons in Azerbaijan.

150. As a result of measures taken by the State Migration Service to document stateless persons in the period 2015–2018, 743 stateless persons were granted Azerbaijani citizenship by presidential orders. They include:

- 181 people in 2015
- 117 people in 2016
- 378 people in 2017
- 67 people in 2018

151. Furthermore, the applications of 173 stateless persons who have applied for citizenship of Azerbaijan are under consideration.

152. In addition, between 2015 and 2018, 104,241 persons were identified as Azerbaijani citizens and the relevant authorities ensured that they were issued with identity documents of Azerbaijan.

Concluding observations, paragraphs 33 and 34 (Migrant workers)

153. In 2017, Azerbaijan provided OHCHR with information on the implementation of paragraph 34 of the Committee's concluding observations of 12 May 2016.

154. For general information on the situation of migrant workers in Azerbaijan, however, it should be added that, under article 75 of the Migration Code, except in the cases provided for in the Labour Code, migrant workers are subject to the same working conditions as those established by law for Azerbaijani citizens and are paid in accordance with the procedure established by law for Azerbaijani citizens. Any matters related to the employment of migrant workers that are not covered by the Migration Code are regulated by the Labour Code.

155. National legislation affords migrant workers the same social and labour rights as Azerbaijani citizens, prohibits any form of restriction on their reunification with family members and provides that foreign nationals and stateless persons married to Azerbaijani citizens may be recruited without having to obtain the corresponding authorization.

156. Pursuant to article 13 of the Labour Code, foreign nationals and stateless persons may, unless domestic law or the international agreements to which Azerbaijan is a party provide otherwise, enjoy all labour rights equally with citizens of Azerbaijan and have obligations in keeping with those rights. The employment contracts concluded between legal or natural persons and migrant workers may provide for other conditions conducive to improving the social protection of migrant workers. In accordance with national legislation, migrant workers have the right at any time to terminate a labour contract in accordance with the procedure established by law and to leave Azerbaijan. Migrant workers have the same rights as Azerbaijani citizens in respect of working conditions, wages, working hours, rest periods and social security.

157. Under article 51.1 of the Migration Code, foreign nationals and stateless persons wishing to reside temporarily and engage in gainful employment in Azerbaijan must obtain a work permit along with a temporary residence permit. In addition, in the 20 cases set out in article 64 of the Migration Code, foreign nationals and stateless persons do not need a work permit to engage in gainful employment. For example, they include persons conducting business in Azerbaijan, heads of organizations established under international treaties and their deputies, accredited journalists in Azerbaijan, professors and lecturers invited to give lectures in higher education institutions, artists, coaches and athletes invited to work in sports clubs that are registered with the State, persons engaged in professional religious activities in religious organizations that are registered with the State, heads of branch offices and representatives of foreign corporations in Azerbaijan and their deputies, heads and deputy heads of corporations that are registered in Azerbaijan, founders or at least one of the founders that are foreign corporations or natural persons, persons who are married to a citizen of Azerbaijan and others. Thus, between 2015 and 2018, some 58,000 foreign nationals and stateless persons were granted a temporary residence permit and were not required to obtain a work permit.

158. During 2015–2018 period, 25,748 foreign nationals and stateless persons studying in Azerbaijan, in accordance with article 45.0.9 of the Migration Code, were issued temporary residence permits on the basis of obtaining full-time education in higher and secondary special education institutions and in general education institutions. Permits for temporary residence in Azerbaijan are documents that grant a foreign national or stateless person authorization to stay temporarily in Azerbaijan for a short period of time and the right to leave and return to the country without a visa, attest to the identity of such persons and confirm their registration at the place of residence in the country.

159. The State Migration Service has set up an advisory board under it, with the participation of representatives of local and foreign business confederations, employer

associations and large companies operating in Azerbaijan, to ensure transparency in the issuance of work permits and to analyse the difficulties faced by employers.

160. Furthermore, it is worth noting that efforts are being made to improve the work permit system.

Concluding observations, paragraphs 35 and 36 (Human rights defenders and journalists)

161. By law, all media, including the Internet, are free. At the same time, the media may not be used to spread rumours that offend citizens' honour and dignity, to publish false or malicious articles or to cause harm to the business reputation of voluntary or State organizations by slander, and liability arises for the abuse of these freedoms. No one in Azerbaijan, including journalists and human rights defenders, has been prosecuted or subjected to torture in connection with politically engaged speech or the exercise of freedom of thought. The penalties applied to them are only related to specific offences committed, including criminal mischief, impairment of health and other unlawful acts.

162. Azerbaijan has an enabling environment in which human rights defenders and journalists can operate freely. In Azerbaijan, considerable attention has been focused on the development of civil society, an essential element of any democratic State, and a strong partnership between State bodies and NGOs has been set up. One notable example is the work being done by the Public Affairs Committee, composed of prominent human rights defenders and NGO representatives, which has been exercising public oversight of the justice system for many years.

163. It is also worth noting that the presidential State support fund for the development of the media has made regular financial contributions to the media, organized press awards for individual pieces of journalism and fostered mutually beneficial cooperation between central and local authorities and between other State bodies and the media. Pursuant to orders of the Head of State, the housing and living conditions of media professionals have been improved.

164. Human rights defenders and journalists are not threatened or prosecuted in connection with their activities. Only persons suspected of committing a specific crime are held criminally liable in accordance with the procedure established by law and are guided by the principle of the equality of all before the law, irrespective of race, ethnicity, attitude to religion, official position or other circumstances.

165. Between 2017 and 2018, only five media professionals were convicted under articles 147 (Defamation) and 148 (Insult) of the Criminal Code; one was sentenced to deprivation of liberty and three to punitive deduction of earnings and one received a fine.

166. At the same time, it should be noted that such humanistic institutions as pardons, amnesties and release on parole are effectively put into practice in the country. On 16 March 2019, the President signed yet another order pardoning a number of convicted persons. There have been 65 orders issued with respect to 431 convicted prisoners, including 399 who were released before the remainder of their custodial sentences was served. In total, since 1995, about 8,000 persons have been pardoned under the relevant decrees and orders and about 30,000 persons have been released under amnesties.

167. Since 2008, the courts have not ordered the termination of any NGO's activities on the application of State bodies.

168. Currently, there are no NGOs or media outlets that have had their assets frozen or seized. At the same time, there is not a single person in prison who is an NGO representative or works as a professional journalist. None of the NGOs whose bank accounts have been seized in the past were organizations representing ethnic minorities.

Concluding observations, paragraph 37

169. Azerbaijan condemns all forms and manifestations of racism, racial discrimination, xenophobia and related intolerance. Intercultural and interreligious dialogue and multiculturalism remain part of State policy, while Azerbaijan continues to contribute to the development of multiculturalism and plays an active role in strengthening dialogue among civilizations and cultures.

170. In 2008, Azerbaijan put forward the Baku Process for the establishment of a dialogue among cultures. As part of this process, over the past 11 years, every two years since 2011, the World Forum on Intercultural Dialogue and the Baku International Humanitarian Forum have been held on six occasions.

171. The fourth World Forum on Intercultural Dialogue, on the theme “Advancing intercultural dialogue: new avenues for human security, peace and sustainable development”, held in Baku from 4 to 6 May 2017, can be considered the first international event in the world that was not a United Nations conference to be broadcast live on United Nations Television. The fifth World Forum on Intercultural Dialogue was held from 2 to 3 May 2019 on the theme “Building dialogue into action against discrimination, inequality and violent conflict”.

172. In the report of the Secretary-General on the promotion of a culture of peace and interreligious and intercultural dialogue, understanding and cooperation for peace, submitted at the seventy-second session of the General Assembly in September 2017, the particular emphasis placed on the successful implementation of the Baku Process since 2008 should be seen as a recognition at the international level of the contribution that Azerbaijan has made to intercultural dialogue in recent times and the role it has played as a bridge between civilizations since ancient times.

173. In this connection, the President signed an order on 17 November 2017 to hold celebrations marking the tenth anniversary of the Baku Process. Pursuant to this order, the Baku International Humanitarian Forum was successfully held in Baku on 25 and 26 October 2018.

174. On the President’s initiative, the seventh United Nations Alliance of Civilizations Forum was held in Baku from 25 to 27 April 2016. As well as measures aimed at strengthening intercultural and interreligious dialogue and promoting multiculturalism, issues related to new challenges and threats were raised during the Forum, including the prevention of discrimination, xenophobia and racism and action against belligerent separatism.

175. The Baku International Multiculturalism Centre was established by presidential decree on 15 May 2014. Pursuant to the relevant presidential decrees, 2016 was declared the Year of Multiculturalism and 2017 the Year of Islamic Solidarity.

176. The Heydar Aliyev Foundation makes a major contribution to the development of multiculturalism and tolerance in the country. One of the Foundation’s projects, entitled “Azerbaijan: the address of tolerance”, includes the reconstruction and restoration of mosques, churches and temples, both in Azerbaijan and elsewhere. The Catacombs of Marcellinus and Peter in Rome were restored under a bilateral agreement between the Foundation and the Holy See.

177. The Foundation has also provided financial support for the restoration of five fourteenth-century stained-glass windows in Strasbourg Cathedral, carried out the restoration of works of art in the Park of Versailles Palace in Paris that have been on the World Heritage List since 1979 and assisted in the restoration of seven tenth-to-twelfth-century churches in the Department of Orne in France. It has also supported the restoration of the Capitoline Museums in Rome.

178. As noted above, the prevention of racial discrimination in Azerbaijan is guaranteed by the Constitution and the country’s laws and regulations, which are regularly being improved in accordance with international standards. Guarantees of racial equality in

Azerbaijan are provided for in numerous laws, presidential decrees and orders and decisions of the Cabinet of Ministers.

Concluding observations, paragraph 39 (Amendment to article 8 of the Convention)

179. The position of Azerbaijan on amending article 8 of the Convention and the financial implications of doing so is still being examined.

Concluding observations, paragraph 40

180. Azerbaijan has updated its common core document of 2008 by submitting an updated report to OHCHR in October 2017 (HRI/CORE/AZE/2018, Distr.: 5 February 2018).

181. Furthermore, with a view to regularly updating the common core document of Azerbaijan, on 28 April 2017, the President signed an order requesting the Government of the country to submit updates to the common core document to OHCHR at least once every two years. A working group composed of representatives from the relevant State bodies has been set up to prepare the document and the Ministry of Foreign Affairs has been tasked with coordinating their activities.

182. In April 2019, the Government provided OHCHR with the information prepared by this working group in the form of a new annex to the 2017 common core document of Azerbaijan.

Concluding observations, paragraph 41

183. In 2017, Azerbaijan provided OHCHR with information on the implementation of paragraphs 32 and 34 of the Committee's concluding observations of 12 May 2016.

Concluding observations, paragraph 43 (Dissemination of information)

184. The concluding observations of the Committee on Racial Discrimination of 12 May 2016, following consideration of the combined seventh to ninth periodic report, have been translated into Azeri and distributed to the State authorities.

Annex 11

Office of the Prosecutor General of the Republic of Azerbaijan, *Detained Four Servicemen Accused of Insulting Bodies of Armenian Servicemen and Tombstones Belonging to Armenians* (14 December 2020)

genprosecutor.gov.az /az/post/3272

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Detained four servicemen accused of insulting bodies of Armenian servicemen and tombstones belonging to Armenians

14.12.2020

The courage demonstrated by the servicemen of the Azerbaijani Army in the Patriotic War for the liberation of the territories of the Republic of Azerbaijan and the restoration of its territorial integrity, bravery and professionalism shown during military service led to a victory engraved in history with golden letters.

Numerous servicemen of the Armed Forces of the Republic of Azerbaijan have been awarded by the Orders of the President of the Republic of Azerbaijan for their heroism in performing combat missions, and their bravery in military service.

Azerbaijani civilian population was shelled by Armenia from the first day of the counter-offensive

operations aimed at the liberation of the occupied territories. However Mr. Ilham Aliyev, the President of the Republic of Azerbaijan, as the Supreme Commander-in-Chief of the Armed Forces instructed the Azerbaijani army to strike only at the legitimate military targets of the enemy on the battlefield, and to adhere to the norms and principles of international humanitarian law, including the requirements of the Geneva Conventions in relation to prisoners of war and the civilian population. Soldiers and officers of the Azerbaijani Army, guided by the instructions of the Supreme Commander-in-Chief, during the liberation of our lands from occupation treated the civilian population, including women, children and the elderly, captured servicemen and religious figures, with care and attention, demonstrating the high culture and humanism of our people. This treatment was widely covered at the meetings of these persons with representatives of the International Committee of the Red Cross, and through interviews with local and media outlets. It is regrettable to note that mistakes in the understanding of the methods and techniques of struggle against the enemy by some servicemen under the influence of the severe psychological state caused by the war led to committing illegal acts that could overshadow the bravery and zeal shown by the Armed Forces, as well as the victory gained.

Thus, the video footage of Azerbaijani servicemen insulting the bodies of Armenian servicemen killed during hostilities, as well as inhumane treatment of captured Armenian servicemen spread in some media and social media pages were analyzed and studied by the Prosecutor General's Office and the Military Prosecution Office of the Republic of Azerbaijan. Although some of the videos were found to be fake, there are serious doubts as to whether some of them are true and reflect reality. In addition to the information earlier reported to mass media, we state that based on the materials collected in connection with this information criminal proceedings have been launched by the Military Prosecution Office under Article 115.2 (torture, cruel or inhumane treatment) and Article 245 (insulting acts on graves or corpses) of the Criminal Code of the Republic of Azerbaijan, and intensive investigative measures have been carried out.

The investigation revealed reasonable suspicions that Rashad Aliyev and Gardashkhan Abishov, who served as junior sergeants in the military unit "N" of the Armed Forces of the Republic of Azerbaijan, committed offensive actions against the bodies of Armenian soldiers who died during the hostilities in Zangilan district, and recorded their actions on a smartphone and sent them to other people via social media.

There are also ground for suspicion that soldiers of the "N" military unit of the Armed Forces of the Republic of Azerbaijan Arzu Huseynov and Umid Aghayev committed insulting acts by destroying Armenian gravestones in the cemetery located in Madatli village of Khojavend district, and recorded their actions on a smartphone and sent them to other people through social networks.

R.Aliyev, G.Abishov, A.Huseynov and U.Aghayev were charged under relevant articles of the Criminal Code, and by a court decision, a measure of restraint - arrest was imposed against them. Necessary research will be conducted on other videos spread on social media and the public will be provided with detailed information about the results.

The Prosecutor General's Office of the Republic of Azerbaijan declares that the above-mentioned criminal acts committed by the servicemen of the Republic of Azerbaijan are unacceptable and contradict the mentality of the Azerbaijani people, which is tolerant, highly appreciates multicultural

values and is historically distinguished by its humanism.

Persons who have committed similar violations will be brought to liability by taking measures provided by law.

In accordance with the recommendations of Mr. Ilham Aliyev, the President of the Republic of Azerbaijan, and Supreme Commander-in-Chief of the Armed Forces, public statements were made by law enforcement authorities to conduct investigations of criminal cases, related to these violations. However no investigation was conducted, no action was taken and no statement was made by the Armenian law enforcement agencies, including the Prosecutor General's Office on killing 101 civilians, injuring 423 civilians, insulting actions by the Armenian Armed Forces, as well as by the Armenian servicemen on the bodies of Azerbaijani servicemen killed during the hostilities. Unfortunately, no action was also taken regarding the inhumane treatment of the captured Azerbaijani servicemen.

It should be noted that the prosecution authorities of the Republic of Azerbaijan are conducting the necessary and intensive investigative actions on all crimes related to videotapes depicting insulting actions on the corpses of Azerbaijani servicemen killed during the hostilities, including inhumane treatment of captured Azerbaijani servicemen, and killing and injuring Azerbaijani civilians. The Prosecutor General's Office will take all possible measures to identify the perpetrators and bring them to justice within the existing legal mechanism and international law.

At the same time, the Prosecutor General's Office of the Republic of Azerbaijan urges the Armenian law enforcement agencies to take similar measures, and in accordance with the norms and principles of international law calls for serious legal action on crimes committed against Azerbaijani citizens, for an open and fair investigation and for informing the public.

Annex 12

Ministry of Foreign Affairs of the Republic of Azerbaijan, No:147/21, Commentary of the Press Service Department of the Ministry of Foreign Affairs of the Republic of Azerbaijan to the letter of the Council of Europe Commissioner for human rights, Dunja Mijatović addressed to the President of the Republic of Azerbaijan (28 April 2021)

Republic of Azerbaijan Ministry of Foreign Affairs

mfa.gov.az/en/news/no14721-commentary-of-the-press-service-department-of-the-ministry-of-foreign-affairs-of-the-republic-of-azerbaijan-to-the-letter-of-the-council-of-europe-commissioner-for-human-rights-dunja-mijatovic-addressed-to-the-president-of-the-republic-of-azerbaijan

Given the stated interest of the Commissioner in following the recent human rights-related developments around the conflict between Armenia and Azerbaijan in recent months, it should be emphasized that the conflict has lasted for almost 30 years, caused enormous humanitarian sufferings and accompanied by massive violations of human rights of the hundreds of thousands of Azerbaijanis. Yet, all these sufferings and violations have been left unnoticed by the current Commissioner as well as her predecessors, under the pretext that they fall outside the Commissioner's mandate.

The ensuing liberation of the Azerbaijani lands has revealed the horrific scale of destruction inflicted by Armenia on these territories during the years of illegal occupation. As part of a deliberate policy, hundreds of historical monuments, dozens of museums, mosques and cultural heritage sites were destroyed, looted and vandalized. Images and videos depicting the disgraceful treatment of holy sites, where old mosques in the occupied territories were desecrated and transformed into a pigsty are unfortunately in abundance.

Besides that during the course of the 44-day war, in a blatant violation of international humanitarian law, Armenia committed series of horrific war crimes. Shelling with ballistic missiles of densely populated residential areas of Ganja and Barda, as well as other cities of Azerbaijan located far from the frontline resulted in the killing of more than a hundred innocent civilians.

Again, all these revolting facts were regrettably ignored by the Council of Europe's Commissioner for Human Rights. And no one can claim that these matters directly impacting the life and rights of the civilian population go beyond the Commissioner's mandate.

Against this background, the Commissioner has now started to show interest in politically charged issues, suddenly forgetting restrictions imposed by the respective "mandate." This is another sign of a double-standard and selective approach; which Azerbaijan has been often subjected to by different Council of Europe bodies.

The attempt to depict the conflict between Armenia and Azerbaijan as an "inter-ethnic hostility" or "bitter relations between the ethnic communities residing in and around Nagorno Karabakh" is a gross misinterpretation. The conflict was unleashed by Armenia on the basis of its groundless territorial claims against Azerbaijan and accompanied by heinous crimes, including acts of genocide, ethnic cleansing, other crimes against humanity as well as the most serious war crimes.

Furthermore, the Commissioner should be reminded that currently there is no “ethnic community”, as was referred to in her letter, residing “in and around Nagorno Karabakh” other than ethnic Armenians, due to the notorious practice of ethnic cleansing. The Parliamentary Assembly of the Council of Europe (PACE) in its resolution 1416 (2005) expressed its concern over “mass expulsion of population and creation of mono-ethnic areas, which resemble the terrible concept of ethnic cleansing”.

Commissioner’s “regret” over the inauguration of the Military Trophy Park in Baku is equally unsubstantiated. The Trophy Park symbolizes the triumph of international law and justice over the decades-long policy of aggression and ethnic cleansing. Immortalizing victory in the war for freedom, sovereignty and territorial integrity is a practice widely applied by many nations, including across the Council of Europe region. The Park like its analogies in other corners of the world will serve as a stark reminder that racism, discrimination and intolerance have no chance to succeed. This is a place for education for the present and future generations on the dangers of a policy of aggression and intolerance and provides the venue for seeking the truth.

“Dehumanizing scenes” or “disturbing and humiliating images” need to be looked for in other places across the Council of Europe area, where nations glorify their colonial past and demonstrate evidence of horrific crimes against the colonized peoples.

Five months after the end of the war, a worrying level of manifestation of hatred and Azerbaijanophobia is still observed in Armenian society. It is disturbing to see that anyone who dares to speak about reconciliation and peaceful coexistence with Azerbaijan is treated as “traitor” and called "Azerbaijani" and “Turk”, as denigrating slurs. Moreover, irresponsible and dangerous ideas of revanchism and intolerance are propagated at the state level, and regrettably, shared across the whole political spectrum in Armenia.

All these reprehensible developments have since remained however unnoticed by the Commissioner, including the fact that the Armenian authorities have failed to take any punitive step against any Armenian official for his/her racist approach towards Azerbaijan and Azerbaijanis. The public of Azerbaijan is not aware of any step taken by the Commissioner in respect of such blatant manifestations of intolerance, racism and discrimination by Armenian officials.

In conclusion, it should be emphasized that the letter of 20 April 2021 casts doubt on the independence and impartiality of the Commissioner’s work, and it might adversely impact the relations between the Commissioner’s office and Azerbaijan. Moreover, the very fact of the letter being very far from an impartial appeal clearly runs against the stated noble goal of “promoting peace and reconciliation”. On the contrary, it emboldens revanchist circles risking the fragile process of establishing good-neighborly relations in the region.

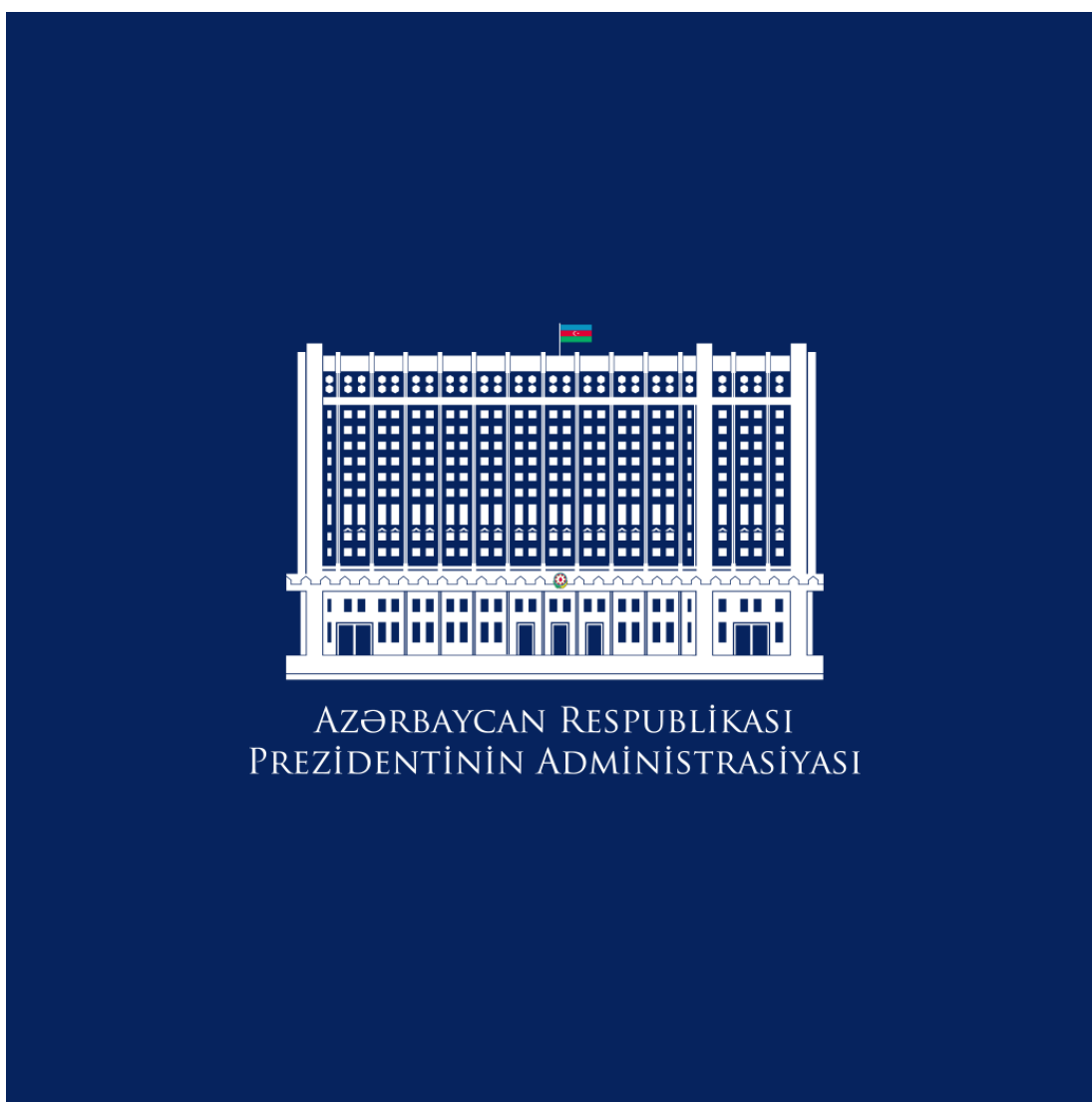
Azerbaijan strongly urges the Commissioner to remain impartial as requested by her mandate and refrain from actions and statements that negatively affect the authority and reputation of the Council of Europe.

Annex 13

“Ilham Aliyev and First Lady Mehriban Aliyeva attended opening of Vagif Poetry Days in Shusha”, *The President of the Republic of Azerbaijan Ilham Aliyev* (30 August 2021)

president.az /en/articles/view/52881

Ilham Aliyev and First Lady Mehriban Aliyeva attended opening of Vagif Poetry Days in Shusha



30 August 2021, 11:40



Ilham Aliyev and First Lady Mehriban Aliyeva attended opening of Vagif Poetry Days in Shusha

The Vagif Poetry Days have been organized by the Heydar Aliyev Foundation in the native city of the poet for the first time after the liberation of Shusha from occupation.

President of the Republic of Azerbaijan Ilham Aliyev and First Lady Mehriban Aliyeva attended the official opening ceremony of the Vagif Poetry Days.

The head of state addressed the opening ceremony.

Remarks by the President Ilham Aliyev

- Dear ceremony participants,

First of all, I would request that we pay tribute to the memory of our martyrs who perished heroically for the Motherland with a minute of silence.

May Allah rest the souls of all our martyrs in peace!

Dear friends, it is a formidable day in our country's life today. We are celebrating the opening of the Vagif Poetry Days in front of the mausoleum of the great Azerbaijani poet, statesman and vizier to the Karabakh's khan Molla Panah Vagif. I cordially congratulate you and the people of Azerbaijan on this occasion.

Vagif's mausoleum, like all other historical monuments in the occupied territories, was vandalized by the Armenians. The mausoleum has been fully restored and reopened for the second time yesterday.

As you know, the decision to erect the mausoleum of Molla Panah Vagif in Shusha was made by great leader Heydar Aliyev. On his initiative, the mausoleum was opened here on 14 January, in snowy and frosty weather. This was no ordinary event because Shusha was a part of the Nagorno-Karabakh Autonomous Region at the time. As you know, the Armenians had claims to Shusha for many years, tried to portray Shusha as an Armenian city. However, there was no historical or cultural basis for that. We must also take into account that Molla Panah Vagif was not only a poet, but also a vizier to the Karabakh's khan. During the Soviet era, Soviet ideology and the Soviet government's approach to history was such that khanates were described as a black spot in history. Despite all this, thanks to the resolve and determination of the great leader, this mausoleum was erected and Shusha was reaffirmed as an Azerbaijani city again.

Unfortunately, after the occupation of Shusha, all historical monuments and cultural sites, including the mausoleum of Vagif, were destroyed by the vandals. The occupation of Shusha was a great tragedy of our people because Shusha has been a cradle of Azerbaijani culture. Shusha has a great symbolic meaning in the history of Azerbaijan. Shusha is the crown of Karabakh. After the occupation of Shusha, other districts and cities were occupied as well. Of course, the strategic importance of Shusha was lost for us, and the enemy took advantage of this and occupied Lachin a few days later – in May 1992. A year later, in April 1993, they occupied Kalbadjar, thus establishing a geographical link between the Nagorno-Karabakh Autonomous Region and Armenia. Our defeat was inevitable, given that there was a period of chaos in Azerbaijan at that time. There was no regular army and there was civil confrontation.

The fall of Shusha led to the loss of other districts. However, we, the people of Azerbaijan, were never going to come to terms with this occupation. During the occupation, I repeatedly said that we would never come to terms with this situation, that we would liberate all the occupied lands, including Shusha, from the occupiers at any cost.

As you know, the process of negotiations lasted for about 30 years, but to no avail. The unfolding of events, the second Karabakh war and the conduct of foreign powers showed that this issue could never be resolved through negotiations. Due to the fact that they wanted us, the Azerbaijanis, to come to terms with this situation. They tried to portray this situation, i.e. the frozen conflict, as a no-alternative option. We had a completely different opinion, and I never concealed that. I said that if the issue was not resolved peacefully, we would restore our territorial integrity through war. All norms and principles of international law recognize this right. The UN Charter, UN Security Council resolutions and historical justice gave us this right. And we achieved this.

Shusha is an Azerbaijani city. The foundation of Shusha, as we all know, was laid by Panahali khan in 1752, and next year we will celebrate the 270th anniversary of Shusha. Despite the occupation, Shusha managed to preserve the Azerbaijani spirit. Everyone who comes to Shusha can see this. Even in a devastated shape, even during the occupation when it was vandalized, Shusha was able to preserve its spirit, its stature. It did not yield, did not break; it awaited us. We had to arrive, and we did. We have arrived here as a victorious people. We did not achieve that

through negotiations, not as a result of any concessions made by Armenia, but by shedding blood, losing martyrs, demonstrating self-sacrifice on the battlefield, restoring our territorial integrity and our national dignity.

The 44-day Patriotic War is part of our glorious history. This history will live forever as this victory is unique in our history. The people of Azerbaijan deserved it, and we won the victory, drove the enemy out of our homeland, liberated our cities, and liberated our native Shusha. Today, Shusha is being revitalized, and tangible steps are taken to revive the city of Shusha. I first came to Shusha on 14 January this year, after the war. This date was not chosen by chance. 39 years ago, the mausoleum of Vagif was opened here with the national leader in attendance, and my arrival here specifically on 14 January had a great symbolic meaning. One of the first instructions during my first visit here was to restore Vagif's mausoleum, because the vandals had destroyed it. Vagif's bas-relief and the gravestone inside the mausoleum were dismantled.

In other words, they committed vandalism inherent in them, as we have witnessed across all other liberated lands. The restoration of the mausoleum was undertaken by the Heydar Aliyev Foundation, and we are launching the Vagif Poetry Days in front of this mausoleum today. The Vagif Poetry Days have been reestablished, and so has the "Kharibulbul" Music Festival. In May of this year, we held that festival with great enthusiasm and reinstated this history.

During my first visit, all the relevant instructions on the restoration of Shusha were given. And a lot has been done in the seven months since January. Those who come to Shusha for the second or third time can see this. Yes, the city is still in ruins. No matter how hard the Armenians tried, they could not present Shusha as an Armenian city. If it were an Armenian city, then why is it in such a state, why was it destroyed, why wasn't a single building constructed here? Except for the new villas of three or four Armenian bureaucrats, no new buildings have been constructed here. All the old buildings have been demolished, all historic sites razed to the ground.

The restoration of Shusha began on 14 January, and enormous progress was accomplished in a short time. First of all, the road was paved. We saw on 14 January what condition Victory Road was in. It took us about two and a half to three hours to get here from Fuzuli. It was snowing, there was no road; there was just a trail covered with ice and mud. An asphalt road has been built now, and this is Victory Road. A highway is also being built. A highway with tunnels is under construction from Fuzuli, and there will be a shorter road. Shusha's electricity infrastructure has been restored, high-voltage power lines have been extended from Fuzuli, and a substation has been built. In other words, one of the main priorities was to supply Shusha with electricity. When the enemy was leaving Shusha, they blew up Shusha's water lines. We have restored water supply to Shusha. Water comes to Shusha from two sources now. The restoration of historical sites in Shusha has started. Vagif's mausoleum has already been restored. The bust of Vagif, which was destroyed by Armenians, has been restored, and it was unveiled again in a ceremony yesterday. Three mosques are being repaired. The renovation of the Yukhari Govharagha Mosque is nearing completion. Instructions have been given to repair the Saatli and Ashaghi Govharagha mosques.

The repair of these mosques has been undertaken by the Heydar Aliyev Foundation too. The Natavan's spring has been restored and now abounds in water. The Armenians also dried up all the 17 springs here. If it were an Armenian city, why did they dry up those springs? Also Kharibulbul Hotel was opened, received its first visitors in May-June, and other steps were taken.

The busts of our great Natavan, Uzeyir Hajibeyli and Bulbul that Armenians riddled with bullets were delivered here by me, and I had them placed in the central square. Yesterday saw the outset of another phase of Shusha's rejuvenation. As I mentioned, Vagif's mausoleum and Vagif's bust were unveiled again, the statue of Uzeyir Hajibeyli, destroyed by the despised enemy, was erected again. An order has been given to restore Uzeyir Hajibeyli's demolished house. Yesterday, Polad Bulbuloglu and his son, Bulbul's grandson, celebrated the opening of Bulbul's house. Polad has restored his father's house, with a beautiful museum created there. Karabakh Hotel reopened its doors to visitors after major overhaul yesterday. We saw what Karabakh Hotel looked like during the occupation. Only two floors of it were used. There was no water or electricity. It was in a state of disrepair. That footage is available. It has also been restored, and I think that the most important of these measures is the laying of the foundation stone of a new residential district.

The new hotel will be five-star. There will be 150 rooms in it. At present, there are 150 rooms in Karabakh and Kharibulbul hotels in Shusha – a total of 300 rooms. There will be a large conference hall and event venues. The location of the five-star hotel was also chosen by me. The despised enemy was in the process of building the so-called parliament of the self-styled "Nagorno-Karabakh Republic" there. Their intention was to insult us. There is no concept of a "Nagorno-Karabakh Republic". The foundation of that building had already been laid and structure had already been completed. By my order, this devil's lair was razed to the ground.

The five-star hotel will be built in a beautiful location. The most important event was the laying of the foundation stone of the new residential district yesterday. It will be developed based on the master plan of Shusha. The city's master plan has been approved and is a very detailed and well-thought plan. At the initial stage, we plan to build 25 residential buildings here – three, four and five-story residential buildings, so that citizens can begin to return to Shusha.

These comprehensive measures show that the revival of Shusha is progressing rapidly and the people of Shusha are returning to Shusha. Groups of people are coming to visit their hometown. At the same time, natives of Shusha are provided with jobs at the facilities that have already been opened here. So we will revive Shusha.

Dear friends, about 40 years ago my father was standing here, while I was standing right over there. We were gathered for the opening of Vagif's mausoleum in frosty and snowy weather. Then, on 29 July 1982, I came to Shusha for the second time with my father. At that time, the Vagif Poetry Days were held. Today we are celebrating the opening of Vagif's mausoleum for the second time. My father was 59 when the Vagif Poetry Days were held. I am 59 now. Some may think that this is a coincidence. But I think that there is a great symbolic meaning in that. History repeats

itself. The black page of Azerbaijan's history is behind us and we are able to breathe again.

During the occupation, many of us – both former IDPs and the Azerbaijani people, including myself – repeatedly thought that there was no justice in the world. If there was justice, we would not have found in that situation. I was of the same opinion. But life has shown that there was justice, one just has to be patient. You have to be patient, you have to believe in justice and you have to work to achieve justice. You have to move towards the goal. Self-sacrifice is required to restore justice. Today we can all say openly that indeed, there is justice, justice has been restored, we are in Shusha today, and from now on we will live in Shusha forever.

While sharing the good news about Shusha with the people of Azerbaijan on 8 November, I said that Shusha was already free, that was the truth. We are gathered in a free Shusha. I said that we have returned to Shusha. That was also true. Festivals, poetry days, cultural and many other events are already held and they will continue. I said that we would revive Shusha. It is happening, because we are reviving Shusha.

Long live Shusha! Long live Karabakh! Long live Azerbaijan!

X X X

President Ilham Aliyev and First Lady Mehriban Aliyeva then viewed the "Karabakh is a pearl of Azerbaijani culture" and "Again in the native land: Pearls of Karabakh art" exhibitions organized by the Heydar Aliyev Foundation as part of the Vagif Poetry Days.



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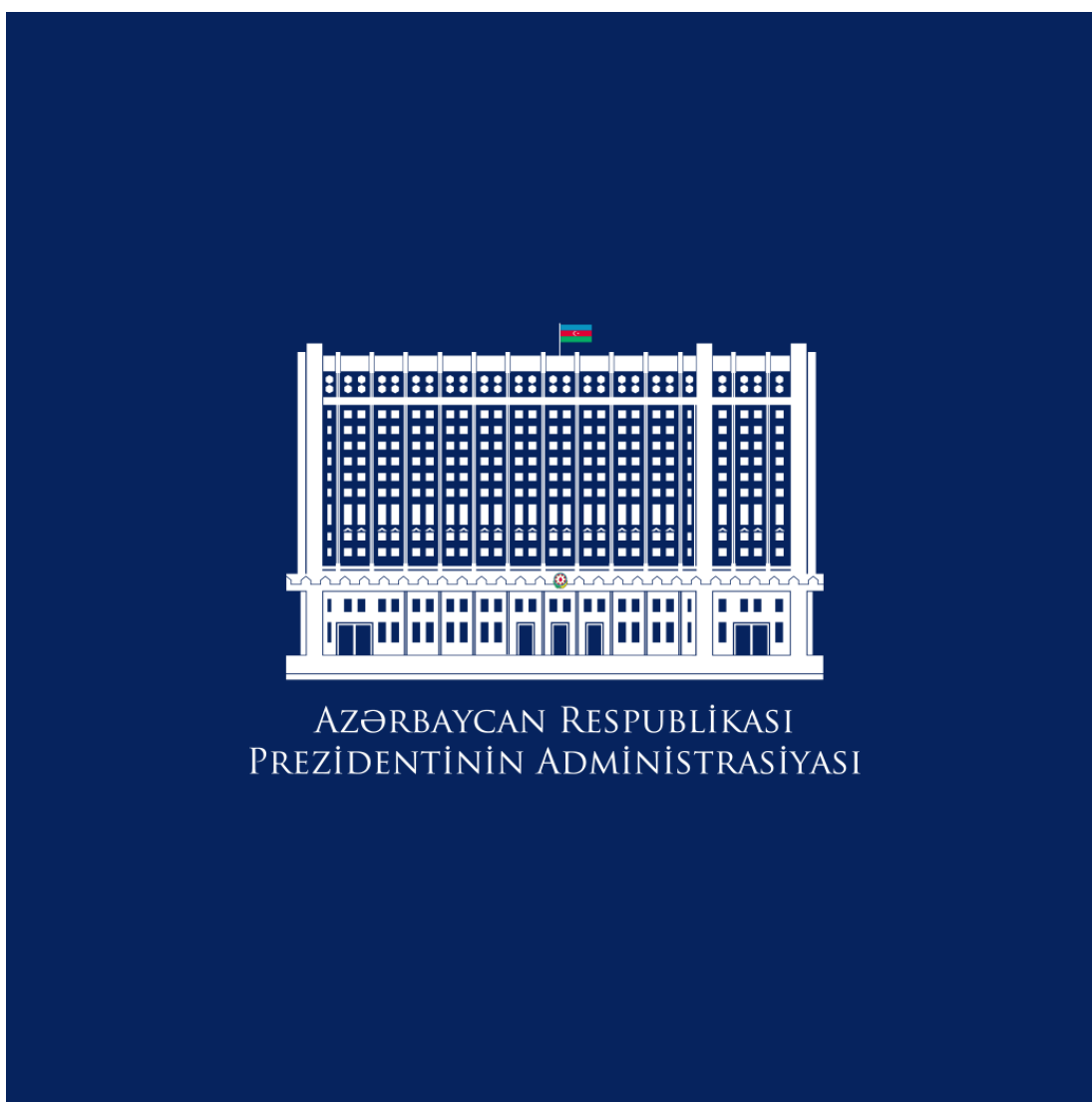
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Annex 14

“Ilham Aliyev chaired meeting on results of first quarter of 2022”, *The President of the Republic of Azerbaijan Ilham Aliyev* (12 April 2022)

[president.az /en/articles/view/55780](http://president.az/en/articles/view/55780)

Ilham Aliyev chaired meeting on results of first quarter of 2022



12 April 2022, 14:40



President of the Republic of Azerbaijan Ilham Aliyev has chaired a meeting dedicated to the results of the first quarter of 2022.

The head of state made an opening speech at the meeting.

Opening remarks of President Ilham Aliyev

- Three months of the year are now in the past. Today we will analyze the work done, and also talk about plans for the rest of the year. In the first three months of this year, our country has successfully developed in all areas. We must assess the results of these three months as a continuation of last year's success.

Last year was a very significant year in the life of our country. It was the first year after the war. Of course, last year was very important for the post-war period. Our main goal last year was to start the restoration of the liberated territories and assert the new realities at the international level, and the results in both directions are obvious.

The results of the post-conflict period, the results of the first year give grounds to say that we have reached all our goals. First of all, we have continued our contacts and active cooperation with international organizations, and the world's leading international organizations have acknowledged the new realities. First of all, an international event has recently been held in Shusha under the UN auspices – an event dedicated to the 30th anniversary of Azerbaijan's membership in the UN. It was a very significant event. It showed yet again that the UN is a body that fully recognizes the territorial integrity of Azerbaijan. Of course, when we were faced with the fact of occupation after joining the UN, we saw that the UN and its Security Council had adopted fair decisions. Unfortunately, those decisions had remained on paper for almost 30 years. However, the settlement of the Karabakh conflict, the unilateral settlement of it by Azerbaijan has also taken this

burden off the UN. I would like to reiterate that this event in Shusha was of particular importance, and it is no coincidence that it triggered a wave of panic and hysteria in Armenia.

Our activities in other leading international organizations were also successful. The biggest international institution after the UN is the Non-Aligned Movement. Azerbaijan currently chairs the Non-Aligned Movement, and as you know, with the consent and support of all member states, our chairmanship has been extended for another year. This is a manifestation of the great confidence shown to us. The Non-Aligned Movement has demonstrated a fair stance on the past conflict immediately after Azerbaijan became a member of this movement, and I believe that further important events have taken place in this direction since the end of the war. The Non-Aligned Movement was in unequivocal solidarity with Azerbaijan before, during and after the war.

Another major international organization is the Organization of Islamic Cooperation. During the occupation, the Organization of Islamic Cooperation adopted numerous resolutions in support of our position. At a recent meeting of the Organization of Islamic Cooperation at the level of foreign ministers, several other resolutions were adopted in support of Azerbaijan's position, including one dwelling upon the destruction of Azerbaijan's historical and religious sites by Armenians. The organization's leaders have visited the liberated lands.

Then the OSCE, which gave a mandate to the Minsk Group. The OSCE has also fully accepted the new realities. I recently had a meeting with the OSCE Chairman-in-Office, and the meeting once again showed that the OSCE also fully accepts the new realities, and this is a very significant event. As for the OSCE Minsk Group, immediately after the war, the Minsk Group co-chairs arrived in Baku. This was their first and last visit to Azerbaijan after the war, and there was sufficient information about that meeting in the media, I do not want to repeat that. Our position has always been unequivocal. Whatever we said during the discussions, we voiced the same theses and opinions in our official statements. We have resolved this conflict ourselves. The Minsk Group was active for 28 years before the second Karabakh war. The co-chair countries have probably made hundreds of visits to Azerbaijan and Armenia over the years. The result is obvious. The result was zero. The reasons for that are known to the Azerbaijani public too. I would not like to talk about that too much. The result is obvious, and I want to say again that the result is zero and Azerbaijan has resolved this conflict on its own. We have resolved it by military and political means. Although the mandate given to the Minsk Group to resolve the conflict is de jure in force, it can already be considered invalid de facto. During the post-war period, before the last Russian-Ukrainian war, we expressed our views on this issue. Our foreign minister has met with the Minsk Group co-chairs at various international events, and we said to them, "Tell us what you want to do now? The Nagorno-Karabakh conflict has now been resolved, there is no and will not be an administrative territory called Nagorno-Karabakh in Azerbaijan. Tell us what you want to do, let us know, and then we will state our position. For more than a year now, we have not received any proposals on this issue. Under the current circumstances, the Minsk Group and its co-chairs are virtually non-functional. This has already been stated by high-ranking officials of these co-chair countries. Therefore, of course, there can be no talk of any group activity. I think that the OSCE can play a role as a

credible international organization. As I mentioned, during my recent meetings with the OSCE Chairperson-in-Office I stated that civil society representatives, the media and other influential public figures could hold meetings within the framework of the OSCE, i.e. within this format, so that Armenian-Azerbaijani relations could be normalized. This is the issue on the agenda now. The Nagorno-Karabakh conflict has been resolved. Now the issue is the normalization of Armenian-Azerbaijani relations, and any international organization, an organization that can contribute to this area is certainly welcome to do that.

At the same time, our contacts with the European Union have intensified after the war. The European Union has also accepted the realities of the post-conflict period. At the initiative of the President of the European Council, Mr. Charles Michel, trilateral meetings were held in December and April. Information about the meetings has been provided, so I don't want to talk much about that. But, of course, both the experts and the Azerbaijani public could see that the final communiqué did not contain the expression "Nagorno-Karabakh", which is quite natural. Because Azerbaijan expressed its protest, so there is no word "conflict" either. This is natural, because there is no conflict. The conflict has been resolved. The European Union is now working on normalizing Azerbaijani-Armenian relations, and these issues were discussed at the April meeting, on 6 April. As you may know, Azerbaijan has made a proposal consisting of five principles to normalize relations between the two countries, and the Armenian side welcomed this proposal. These statements had already been made before the Brussels meeting. At the meeting in Brussels, I wanted to clarify this for myself and I did. Armenia accepts the five principles. So the territorial integrity of Azerbaijan is recognized and Armenia renounces its territorial claims to Azerbaijan. In other words, if it accepts the five principles – as it was confirmed at the April meeting – then these are part of these five principles. This is a very positive thing, and I think that it is a key condition for the normalization of bilateral relations. It was agreed that working groups would be established both on the border and for the preparation of a peace agreement. As you know, the foreign ministers of Azerbaijan and Armenia have recently had a telephone conversation, which I think was the first time it happened in the last 30 years. We also welcome that.

Because the relations between two countries should be resolved by the two countries. Those who want to help should help. This is how I see it. This is our position. I think that the working groups on the delimitation of the border to be set up by the end of April, as well as the working groups on the preparation of a peace agreement, should start their work soon. We have very high hopes for this process and are not wasting time. In any case, we are in favor of starting to resolve the issue without wasting time.

So I want to say again that our policy immediately after the war, our activities in international organizations, our relations with major powers in a bilateral format, as well as the developments and events in Karabakh and East Zangazur, have brought about these realities. I must also note that we were in close contact not only with international organizations, but also with neighboring countries. All neighboring countries have accepted the new post-conflict realities, and this should be considered a very positive development. At the same time, we are pleased with the launch of

the 3+3 cooperation format. The first such meeting has been held. There was no agenda for the first meeting, as it was simply a meeting to create this format. We have plans for the second meeting and what issues should be discussed there. I think that the second meeting should be held in the near future. In other words, we shouldn't waste time. We don't need these formats simply for the sake of visibility. If these formats don't produce concrete results, then they will lose their significance.

We are in favor of doing tangible work and have a very clear vision for the future development of the region. We know exactly what we want and we will continue to use every opportunity to achieve our goals. These are the main issues related to the post-conflict period. Most of this work was done in 2021, and some of it in the first three months of this year. This gives us the opportunity to say, if all this is implemented, that there will be peace in the region, in the whole of the South Caucasus, there will be calm, the risks of war will be greatly reduced, and we can live comfortably. We will be able to build and create, which is very characteristic of the Azerbaijani people. We are doing this and we will talk about it today.

At the same time, of course, we must never forget the occupation, the Armenian savagery. At the same time, we must not forget that Azerbaijan is strong and Armenia is weak today. The behavior of the Armenian side is based on these factors. We live in real life, and we must never forget the policy of ethnic cleansing Armenia pursued against us in the early 1990s, the Khojaly genocide, the occupation, and we must always remember it as Azerbaijanis. As a responsible people, we must always be ready for anything.

Of course, looking to the future, I am confident that Azerbaijan will become even stronger. The Azerbaijani public will see that again when we discuss other issues today. The development of Armenia will be up to itself, up to Armenia's attitude towards neighboring countries. Because it is clear to everyone now that Armenia cannot develop without normalizing relations with Azerbaijan and Turkey and that their 30-year policy of aggression cost them dearly. They have wasted the opportunity to become a truly independent country. Despite the occupation of our lands for 30 years, we have achieved full political and economic independence. This is why we are confidently and proudly saying our word from all the podiums now. Therefore, this perhaps is Armenia's last chance. Either the country will develop or it will find itself in an even more precarious situation, I want to say again that, first of all, the relations with Azerbaijan and Turkey must be normalized on the basis of norms and principles of international law.

As I said, we have not forgotten and will not forget anything. Therefore, immediately after the war, along with all other reconstruction work, we, as always, continued to pay attention to the military field. I must say that after the war, new and large contracts were signed with Turkish and Israeli companies. The implementation of some of these contracts has started, others have been completed, and others still are continuing.

Each day of the 44-day war has been analyzed in depth, and, of course, this analysis allowed us

the opportunity to build our future army on the basis of the real situation. Taking this into account, the purchase of new weaponry and equipment is also being arranged. At the same time, after the war, the Ministry of Defense has undergone restructuring. Structural changes have been made, and this will further strengthen and modernize our army. After the war, a new type of troops – the Commandos – was created, and I personally attended the opening of the first Commando military base in Hadrut. This is a very strong army contingent. I am sure that this contingent can now perform any task. We will increase the number of commandos every year. I think it would be inappropriate to disclose information about their numbers, but everyone should know that thousands of fully trained fighters have already been and will continue to be trained.

At the same time, the number of personnel of the Special Forces who showed special heroism in the second Karabakh war has been increased, and it will continue to be increased. We will allocate and are already allocating as much as it is necessary for military issues. In Armenia, the picture is completely different. They can only spend the financial aid allocated to Armenia from abroad or unrepaid loans. I want to clarify this issue as well. I believe that in order to establish peace in the region, the process of arming Armenia must be stopped. Armenia does not have the money to buy weapons. It never did. In the second Karabakh war, we destroyed Armenia's military equipment worth about 4-5 billion dollars. Some of this equipment was taken as spoils of war, and we are using it. Some of it is displayed in the Military Trophies Park. The question is: where does so much money come from in a poor country? Where do these loans come from? Were these loans then repaid or written off? If those loans had not been given to them, I am sure there would have been no need for the second Karabakh war. Armenia would have meekly come to us seeking an agreement, just as it did when signing the act of capitulation, accepting all our conditions and acting completely differently after the war. Therefore, if money is allocated for the armament of Armenia again, we will consider it as an unfriendly step and will take our steps accordingly.

I want to say again that as a country living at its own expense, we will, of course, allocate as much as we need to build an army.

In the post-conflict period, of course, we have taken all our steps in relation to the economy, to the restoration of our territories in a calculated and prudent manner, and the results are obvious. All plans for the post-conflict period in Azerbaijan are being implemented. The international community has acknowledged these realities from a political point of view. At the same time, the interest in Azerbaijan has increased – both respect and interest. We are seeing this interest in large-scale investment projects. In just three months of this year, two major investment projects were launched – the foundation of two renewable energy plants was laid. The 470-megawatt power plants are being built by foreign investors and will be commissioned next year. We can thus save up a large amount of natural gas and expand our export opportunities. At the same time, I think this is a very important issue for other investors. At present, there is a great interest in Azerbaijan as a result of ongoing transformation, transparency and personnel reforms, as well as due to our victory in the second Karabakh war. There are many applications for working together and establishing business relations. Azerbaijan today is one of a handful of countries in the world

that has been able to attract so much interest.

Our economic indicators are also very positive. The results of the first quarter hardly need any explanation. The gross domestic product has increased by 6.8 percent. The world is entering a post-pandemic period, so to speak. It may be a little premature to use the word “post-pandemic”, but in any case, the current situation in the world and in Azerbaijan indicates just that. Therefore, I think that our economic growth of 6.8 percent can be viewed a tremendous achievement. In the non-oil sector, this is measured by even higher figures. Our non-oil economy has grown by more than 10 percent. Growth in industrial production is about 4 percent, but in non-oil industrial production it is more than 18 percent. These figures in themselves confirm the words I am saying. The diversification of the economy, the reduction of dependence on the oil and gas sector, the decline in both its share in the GDP and exports – all these are a reality.

Our foreign trade turnover has increased by more than 60 percent. Our exports have almost doubled. Of course, rising oil prices must also be taken into account. However, our non-oil exports have also increased significantly – by 45 percent.

This has been possible specifically as a result of the reforms. I have never compared Azerbaijan with other countries and am also unaware of the statistics. And yet I do not believe that many countries have similar statistics. Of course, our foreign trade turnover has increased and our foreign debt has decreased. If we compare this with April last year, we can see that our foreign debt in April last year accounted for 18 percent of the GDP, but now it is only 12.5 percent. In other words, we were able to reduce the external debt by more than \$600 million in one year. This was made possible thanks to the implementation of the external debt management strategy. I once set an objective that we should be very cautious in obtaining loans. At the same time, state-owned companies used to take various loans without asking anyone. And when they could not repay those loans, the burden of payment fell on the state. At the same time, a very opaque picture was observed. We have put an end to that. No government agency can take a single manat in loans without the government's permission. Every loan is now approved by the government, and we should attract loans only to projects that are important, to projects with a high-tech component, as well as projects being implemented in liberated lands. There is no need for taking loans for other projects. This is why we have reduced our foreign debt both in absolute terms and in relation to the GDP. Of course, the gross domestic product has also increased, but I don't want to cite a specific figure as yet. But I think that if we continue to develop at this pace, there will be a very significant growth by the end of the year. The balance of foreign trade is also very positive. The positive balance in just three months has been more than \$5 billion. This is a very large number. Experts will know that this balance is negative in most countries around the world. Countries import more than they export. In Azerbaijan, in just three months, we have earned \$5.1 billion – our exports exceed imports. Of course, I am sure that this figure will increase even more by the end of the year. This has had a strong impact on macroeconomic stability. There has also been an increase in our foreign exchange reserves. Our foreign exchange reserves have increased in three months. Therefore, we can rightly be proud of all these indicators. But this does not mean that we should

be complacent with these achievements. No! Developments in the world are moving in a negative direction. Clashes and wars are flaring up.

There are different views on sustainability in the future. There may be food shortages in the world, food prices are rising. We will talk about that as well today. I must also say that we have made all these achievements through our own efforts. We have not received a single manat in support from anyone. We are restoring the liberated lands on our own. Yes, we have invited foreign companies. They are working there as contractors. But so far we have not received a single manat from anyone. We rely solely on our own strength and our own talent. I want to emphasize this in particular. Because usually after such bloody wars and such devastation – the devastation in Karabakh and Zangazur is unique for the world, there was no such devastation even in World War II – donor conferences are held, international organizations get together and implement a restoration plan. Suffice it to look at the history of World War II. At that time, the Marshall Plan was implemented. If America hadn't implemented the plan to rebuild Europe, it would have probably taken Europe 50 years to restore its potential on its own. International funding has been provided for other conflicts. But no-one is helping us, neither during nor after the occupation. In fact, most countries did not even want to call the occupation an occupation. I remember our activities in international organizations and bilateral talks during the occupation. It took us tremendous effort to incorporate the principle of territorial integrity of our country in those declarations. Many were refusing. However, it was as clear as day who is the occupier and who is the occupied country. This is double standards, this is injustice. We are still seeing that today, in the Russian-Ukrainian war. In the past, when we were liberating our lands from occupation using the famous "Bayraktar" drones, foreign experts and the media were describing it as a deadly weapon. In the Russian-Ukrainian war it is called an angel. This is the difference, this is double standards, this is injustice towards us. This is a reality. And we have created and are creating a new reality on our own. Therefore, I want to say again that I still hope that international organizations, large foundations, international non-governmental organizations engaged in charity will heed attention. Aghdam is the Hiroshima of the Caucasus. It's not me saying this. It is international experts. All cities like Aghdam have been razed to the ground by Armenians. We have not received a single manat from anyone. But this injustice cannot be tolerated. I think that our institutions, the government, the Presidential Administration, the ministries should all take serious action on this issue. If they do not want to help, let them say that we will not help you. We will then know what it is. It has been about a year and a half since the war ended. Not a single foundation has helped us. More than 200 people have been killed or seriously injured since the war ended. There are so many foundations and NGOs in the world that deal with this issue. What are they doing? Let them come and help us. We don't have sufficient physical resources. We have purchased what we needed. We have purchased machinery, equipment and even drones capable of detecting land contaminated with mines. But we do not have enough specialists. We do not have enough manpower. Therefore, let them at least help us in this area. I repeat that we will restore everything on our own anyway. I said that we will rebuild both Karabakh and Zangazur as an exemplary region. Azerbaijani citizens will live there comfortably and prosperously. It will be an example for the whole world. But my appeal is to

international organizations. Those involved in human rights, those championing the principles of justice should pay at least some attention to Azerbaijan and avoid double standards. In short, this shows everything, so to speak. I am confident that the economic achievements of the first three months of this year will be continued until the end of the year. Because we see that there are opportunities to achieve this. Thus, we will successfully complete this year as well.

Now I would like to listen to an update on some issues. First, with three months of the year now in the past, what is the situation with budget execution? The Minister of Finance, you have the floor.

Minister of Finance Samir Sharifov: Dear Mr. President, distinguished participants of the meeting.

The results of the first quarter of 2022 can be assessed as a continuation of the achievements of the Republic of Azerbaijan in 2021. Last year's socioeconomic results showed that after the great victory in the Patriotic War, Azerbaijan achieved significant progress in the economy by mobilizing its resources quickly. Thus, last year's GDP growth was exceeded by 2.2 percent, i.e., it reached 5.6 instead of 3.4 percent. We are seeing a continuation of this trend this year too. These positive trends are also reflected in the execution of the state budget for the first quarter of this year. In the first quarter, state budget revenues exceeded the forecast by 6.3 percent, or 418 million manats, with budget revenues amounting to 7.1 billion manats.

I would also like to note that the State Tax Service has exceeded the forecast for revenues by 539 million manats, or 23.8 percent, and by the State Customs Committee by 236 million manats, or 23.7 percent. On social insurance premiums, 1.41 billion manats were executed against the forecast of 961 million manats. I should note that the more significant share of over-fulfillment of forecasts for the State Tax Service, i.e., by about 90 percent, is due to increased revenues in the non-oil sector. In general, revenues from the non-oil sector in the first quarter accounted for more than 80 percent of total revenues and more than 80 percent of total tax revenues. Under such circumstances, the State Oil Fund transfers into the state budget were executed by 2.757 billion manats against the planned 3.180 billion manats, i.e., 13 percent, or 423 million manats less. It has to do with the fact that state budget execution has been very high.

Distinguished Mr. President, I must also note that the execution of budget expenditures in the first quarter of the year is usually not so high. This year though, it was 99 percent. Even with this high level of budget execution, the state budget surplus amounted to 1.38 billion manats in the conditions of an excess of budget revenues provided by fiscal authorities on the one hand and the under-collection of 423 million manats from the State Oil Fund, on the other. This is a very good indicator. As I mentioned, state budget expenditures for this period were executed at the level of 5 billion 630 million manats, or 99 percent. The primary state responsibilities, financial assistance from the state budget and other programs have been fully funded, and budget requests submitted by state budget organizations to the treasury have been fully implemented.

I want to note that the funds allocated from the state budget for implementing the Karabakh reconstruction program constitute 2.2 billion manats. The 346 million manats, or about 16 percent,

have already been executed in the first quarter. The implementation of the state capital investment program has been provided at about the same level. Distinguished Mr. President, your instructions have been fulfilled.

In the first quarter of this year, 220 million manats were allocated under the food security program, mainly in the aftermath of food problems in the world. This is due to the provision of certain farming subsidies to agriculture. So much for budget execution.

President Ilham Aliyev: I see. Could you also bring us up to date with the future parameters of our foreign debt? As I said, there is a strategy that is being implemented successfully. 12.5 percent is a figure any country can be proud of. As you know, I set a task a few years ago that our foreign debt should not account for more than 10 percent of our gross domestic product. So we are approaching that. At the same time, of course, we should take loans and shouldn't give them up completely. Therefore, please bring us up to date with the situation for this year. How much money is to be repaid from the state budget this year, how many loans will be received, and what will be the short-term parameters of the strategy for the coming years? Tell us about that, please.

Samir Sharifov: Distinguished Mr. President, I would like to note that the implementation continues of the medium and long-term strategy for public debt management in the Republic of Azerbaijan, approved by your Order dated 24 August 2018. Work to implement the goal you set before us to reduce the ratio of foreign debt to GDP to 10 percent also continues. One of the crucial issues in this direction is gradually reducing the total public debt, i.e., foreign and domestic public debt in foreign currency and, taking into account this direction, increasing the share of domestic debt in the debt portfolio. When the strategy was adopted, this ratio was 94 percent, i.e., 94 percent was the share of foreign public debt. At present, it has been reduced by 82 percent. It is because the share of domestic debt has increased. To develop domestic public debt, i.e., domestic financial markets, we are offering more government securities and government bonds to the market. Since adopting the strategy, this debt has increased by 3.2 percent. At present, it is 2.5 billion manats, and the program is underway.

It is beyond doubt that when the execution of the state budget is good, i.e., when the fiscal authorities provide a surplus, there is no budget deficit, and as a result, we do not leave so much domestic debt. But this program will be continued.

Distinguished Mr. President, according to your recent decree, the total public debt will be maintained at 20 percent of the GDP in the medium term. The foreign debt will be reduced to 15 percent in the medium term and 10 percent in the long term.

Today, one of the most important issues is our borrowing strategy – how much we will borrow. Distinguished Mr. President, at the same time, the approval by your recent Order of certain budget indicators of the Republic of Azerbaijan, first of all, on the non-oil base deficit, has created a specific framework for us. The total borrowing is projected at 4.3 billion manats for the next three years within this framework. This does not include debt refinancing. If we include debt refinancing,

we are borrowing roughly 8.3 billion manats. The 1.3 billion manat part of the new debt will be the funds we will receive from the loans signed so far. In other words, they were signed for certain projects, but these loans have not been fully used. The new debt is estimated at 3 billion manats.

Distinguished Mr. President, I would also note that our current gross domestic product is relatively high. Considering the expected results by the end of this year, the Ministry of Economy has already provided us with new medium-term forecasts for the coming years in March. Given these forecasts, we believe that we may have additional opportunities for borrowing.

Mr. President, as you mentioned, international organizations intend to lend us reasonably large amounts. After some of your remarks, the European Union announced its intention to lend us 2 billion euros. They are ready to provide this amount through two banks – the European Bank for Reconstruction and Development and the European Investment Bank. On the other hand, other international financial institutions, primarily the World Bank, offer us their credit lines because of their extensive experience in reconstruction. The Asian Development Bank is also ready to provide significant loans based on programs initiated by the government of Azerbaijan. Here, so to speak, "the ball is on our court." Depending on what projects we choose, we can attract these funds within the loan framework you have set for us.

President Ilham Aliyev: The goals are clear. I want to say again that we must reduce our foreign debt to 10 percent of the GDP. To get closer to this, you need to submit suggestions on how much we have to buy and how much we have to return. The EU's lending proposals are, of course, positive. Because, as you know, after the war, the loan and grant package for Armenia was about 2.6 billion euros. Azerbaijan was supposed to receive only 140 or 160 million. Of course, we could not remain silent. It is a pretty positive development that the European Union has announced a 2 billion euros package for Azerbaijan. I consider it a very positive matter. But at the same time, I have looked at those proposals. There are projects we can implement without borrowing, of course. At the same time, our desire and fair position are that the terms and conditions on which a loan or grant is offered to Armenia should be the same for us. Whether we will use it is a different matter, but the approach should be the same, especially if we consider that there is no single structure in Armenia destroyed. In Azerbaijan, there is not a single sound building on 10,000 square kilometers. I can never leave that aside. Therefore, this must be taken into account.

As for our cooperation with leading international financial institutions, I know that a World Bank mission recently visited Azerbaijan. The Prime Minister has reported to me. They have made some suggestions. Of course, the European Bank for Reconstruction and Development and the Asian Development Bank are our traditional partners. The European Investment Bank has recently entered the Azerbaijani market. Their first project seems to have been related to gas infrastructure. Our relations with the Asian Bank for Infrastructure and Development are also developing. We are one of the founding countries of this bank and are also shareholders in it. We need to work with these major financial institutions around the world. We need to review this strategy from time to time to know whether we can borrow more or less and repay more or less. You should look at that

and submit your suggestions.

Are there any other opinions on foreign debt? Does anyone want to provide information? Please.

Minister of Finance Samir Sharifov: Distinguished Mr. President, I would like to note that the World Bank offers us special conditions today. If we reach a full agreement with them by mid-next year, we can secure those conditions.

President Ilham Aliyev: You mean preferential terms?

Samir Sharifov: Preferential terms. Considering the reconstruction of our Karabakh, they have decided that they can give us loans on favorable terms.

President Ilham Aliyev: We can use that.

Samir Sharifov: Yes. As you rightly point out, we can choose the projects we need under these conditions. In other words, there are projects, such as the construction of roads, and we should not attract foreign currency to them. But in any case, we must consider our foreign exchange costs when choosing projects, and we could probably attract funds for these purposes.

President Ilham Aliyev: The world's leading financial institutions also provide loans to the private sector. I think they can allocate even more. This issue should always be discussed during your contact with them. For example, I am aware that leading financial institutions also provide loans to construct power plants with renewable energy. Not to us, but investors, to foreign investors. Therefore, their loans are necessary for local companies and local entrepreneurs. True, we have our mechanism, and the Ministry of Economy oversees this work. However, it is necessary to consider the issue of the World Bank, the European Bank for Reconstruction and Development and other banks giving loans to the private sector in larger volumes.

Everyone is aware that food prices are rising sharply in the world today. This process began several months ago. Of course, the Russian-Ukrainian war has accelerated this process, especially given that Russia and Ukraine are among the world's leading grain exporters. They also export other food products to world markets. There is and will be a natural scarcity now. I was recently informed that Kazakhstan has also banned the imports of wheat. Therefore, our wheat supply, of course, should be in the spotlight. The government has been instructed on this issue. Prompt measures have been taken, and stocks are being replenished. We need to stockpile more. But at the same time, we must know that this situation can and will continue for a long time. Therefore, first of all, we must increase our domestic security. Instructions on this issue have already been issued. Instructions have been issued to carry out more extensive planting work on liberated lands and other regions. Of course, the successful implementation of irrigation projects here can lead to great results. But in any case, in the current situation, I think that the rise of food prices and the prevention of artificial price increases is one of the most critical issues. What is the situation regarding this issue? The Minister of Economy, please bring us up to date on that.

Minister of Economy Mikayil Jabbarov: Mr. President, per your relevant instructions and relevant decisions of the government in this direction, we are working in conjunction with relevant agencies. This activity consists of three directions. First of all, there are permanent monitoring mechanisms. We monitor daily warehouse balances on food, flour, powdered sugar and many other products jointly with business entities and government agencies. The second direction is legislative regulation. Several decisions have been made in this regard, most recently by the Cabinet of Ministers. We are currently implementing a regime that provides for this balance. In other words, the export of products that are not produced in Azerbaijan and are highly dependent on our imports is carried out under a special control regime. At the same time, to not reduce the export potential of businesses and not lose export markets, we regulate the activities in the same way for the products manufactured in the country or capable of being manufactured so that this activity can be carried out accordingly.

Finally, the third direction is our work with businesses. Here, too, the state applies relevant incentive mechanisms. In particular, I would like to emphasize that under the relevant Order of the Prime Minister dated 5 April, a total of 115 million manats will be allocated as soft incentive loans to businesses and the mechanism of successful use of strategic food products during the pandemic. State subsidies have been allocated to repay loans and interest of many business entities, and we are doing this using a similar mechanism. What is the logic of this? It is as follows: to ensure permanent reserves, the entrepreneurs must increase the stock of those reserves. This, in turn, creates a need for more operating capital. We are using flexible mechanisms that make sure that the interests of entrepreneurs are not affected and, on the other, the tasks facing the state are fulfilled.

Distinguished Mr. President, in conclusion, I would like to note that in early 2020, from the first days of the pandemic, we observed a ban on the export of products from many major suppliers and the absence of some food products in other countries. We believe that satisfactory results have been achieved in Azerbaijan in this direction, both then and now.

According to your relevant instructions and in line with the current situation, food prices are another priority. In this regard, activities are carried out under the relevant decision on anti-inflation measures. Today, since both countries in conflict and at war are essential partners for Azerbaijan in terms of both food exports and imports, we are trying to build these processes in a coordinated manner.

In the first quarter of this year, Azerbaijan fully supplied the domestic market and exported 60,000 tons of various fruits, 37,000 tons of vegetables, 12,000 tons of sugar, and 3,500 tons of fruit and vegetables to different countries. On the other hand, we are already implementing the measures I have listed to simplify imports of these structurally dependent products.

In addition to short-term measures to eliminate inflation together with the Central Bank and other relevant agencies, we believe that steps can be taken on medium and long-term measures. I want

to take this opportunity to thank you for the positive solution to the issues raised, especially for your support in assisting small and medium-sized enterprises and food producers.

President Ilham Aliyev: I have been told that inflation has risen to 18 percent in the last three months. It is a significant figure, of course. But we must also know that part of this is imported inflation. Because the rising prices of food and other products in the world are, of course, also affecting our domestic prices. At the same time, I must note that the population's income increased by about 20 percent in three months, and if we compare inflation with population incomes, we will see that real incomes increase. But this does not mean that we should ignore that. Therefore, it is necessary to take and strengthen anti-inflation measures. Of course, the main issue here is to prevent artificial price increases. Because in such cases, in such a geopolitical situation, some shady entrepreneurs try to take advantage of that by raising prices without any reason. Particular attention should be paid to this. Do you have a word on food security?

Prime Minister Ali Asadov: Inflation can be divided into two parts. In other words, the 18 percent you are talking about is food inflation. Our overall inflation rate is 12.2 percent for three months. Imported food accounts for more than 60 percent of inflation. The Minister of Economy stated the reason for this. You mentioned that there are often cases of price increases and abuse in these situations. Since the beginning of the year, during the period when we kept subsidies for bread, the processes following the increase in the price of the so-called "factory bread" by five gapiks have been monitored to this day, and entrepreneurs are aware of that. These processes are rigorously controlled. With your permission, I would like to mention two critical points regarding reserves.

At the beginning of the pandemic period, starting from March, on your instructions, these processes were carried out mainly in the direction of supplying the republic with food and other deficit products, including medicines and medical supplies. The public is also aware, Mr. President, that in connection with the Ukraine-Russia war, the price of grain has risen to its peak. But it is not just the price. The point is that the import of grains follows a certain process of its own. As you have mentioned, given the leading role of Ukraine and Russia in world grain production, we are increasing these reserves, given that Ukraine will face difficulties this year. I want to touch upon one more point. On your instruction, concrete projects are being prepared to reduce the dependence of local production on imports, and the measures will be submitted to you soon. You mentioned the ongoing planting in Karabakh, in the liberated territories, and it is also underway on other large farms.

Mr. President, Mikayil Jabbarov said that daily monitoring is carried out on each product, mainly in terms of prices, warehousing and national stocks of the 12 main products used by the population, which are included in the minimum consumer market. Of course, it is a time when most countries are only prioritizing their supplies. Taking into consideration, we are also looking primarily at our resources. If a local production wants to export its products, entrepreneurs apply to the Ministry of Economy and their applications are promptly considered within five days. So I can say that we have enough stocks of essential food products in Azerbaijan today.

President Ilham Aliyev: I see. Speaking of this issue, we must first increase the production of food wheat. Of course, we must stockpile it. Because our total grain production accounts for 60 percent of the country's demand, and we are only 25 percent self-sufficient in food wheat. Therefore, the goal is to provide ourselves with at least 70-75 percent of food wheat. There are potential and opportunities to achieve this – both in our country's liberated lands and elsewhere. Public investment spending should be increased this year and in the coming years. At the same time, entrepreneurs should be provided with targeted loans and preferential loans to develop this area because wheat is an essential food product. Our geographical location and climate and the quality and conditions of the soil in some places preclude us from being 100 percent self-sufficient in wheat today. But we must work towards that, and in less than six months, we are now engaged in large-scale cultivation on the liberated lands. As a result of urgent measures, we are sowing for the second time, and this year we will sow about 50,000 hectares. It is an outstanding result. Additional funding should be provided for measures to increase productivity both on the liberated lands and elsewhere. First of all, irrigation, irrigation systems, fertilizer and other issues must be addressed.

The number of houses and apartments we have built for the families of martyrs and those disabled in the war is growing. This was one of the priority issues during the occupation, and these issues were resolved after the Second Karabakh War. The goal here is that the living conditions of the families of martyrs – the families of martyrs of both the first Karabakh war and the Second Karabakh War and those disabled in the war – must be resolved soon. Necessary steps were taken in this direction both this and last year. The Minister of Labor and Social Protection of the Population, please update us on this work and what will be done by the end of the year.

Minister of Labor and Social Protection of the Population Sahil Babayev: Distinguished Mr. President, one of the main directions of the policy pursued under your leadership after the liberation of our territories as a result of the victory of the Azerbaijani Army is the expansion of state support for the families of our martyrs and those disabled in the war. Under your instructions, measures have been taken in several areas in this regard. First, 103,000 social payments were assigned to 93,000 people as social benefits - this covered members of the families of martyrs, those disabled in the war, and war veterans. I want to emphasize that by your relevant decree, the pension of the President of the Republic of Azerbaijan paid to this category of people in early 2021 has increased by 60 percent. Since this year, their disability benefits have increased by 60 percent. In general, as I mentioned, 103,000 social payments were assigned to 93,000 people.

Another area was employment support measures. This framework took employment measures concerning 11,000 family members of martyrs and those disabled in the war. Half of them were involved in self-employment programs and were allowed to start a small family farm. Another direction was the employment program, where more than 2,000 family members of martyrs and those disabled in the war were hired within the framework of the employment marathon, especially as a result of the active participation of our entrepreneurs in this program. One of the most critical aspects of this program, as you mentioned, was housing. Last year, about 3,000 apartments were

provided to the families of martyrs and disabled war veterans. In the first quarter of this year, 200 apartments were provided to this category of people. By the end of the year, we plan to provide 1,500 apartments to the families of martyrs and disabled war veterans. In this context, the plan is to open the next residential complex soon, after which this process will be accelerated.

Mr. President, I would like to emphasize that 6,300 apartments have been provided to this category of people over the past three years by your decrees. In general, this figure is 12,500 apartments in the years of independence. A total of 6,300 of them have been implemented within the expanded program over the last three years. The provision of an additional 1,300 apartments by the end of the year is essential for improving the living conditions of this category of people.

Another area was rehabilitation. Within this framework, the ministry has provided a total of 23,000 rehabilitation services to 8,000 soldiers wounded in the war. I want to emphasize that 190 war veterans who have lost their limbs have been provided with 200 fourth-generation electronic prostheses. In addition, 16,000 rehabilitation aids were provided to about 3,000 soldiers wounded in the war. This process is also being successfully implemented and will continue to be implemented. We have only six remaining veterans who lost their limbs during the Patriotic War and have not been provided with prostheses. The reason for that is their treatment program because they can receive prosthetics only after a certain point in their treatment. Under your decree last summer, the establishment of Unified Coordination Centers began in August to carry out work in this area in a coordinated manner – both in DOST centers and in the regional branches of the State Social Protection Fund. To date, Baku and 33 districts are covered by the Unified Coordination Center. Three more centers covering 15 districts will be established in the next two months. Over the past six months, 26,000 of our citizens – members of the families of martyrs and disabled war veterans – have been admitted to these centers, and 26 services provided by six different central and local executive authorities are centralized and provided to them.

President Ilham Aliyev: Thank you.

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The head of state delivered closing speech at the meeting.

Closing remarks by the President Ilham Aliyev

- We need to talk about the work to be done before the end of this year. I will talk only about the work to be done in Karabakh and East Zangazur and our plans because it would take a long time if I also talked about the efforts across the country. As a result of implementing the investment program in the country, the work is going according to plan, and citizens in each region see that. Many projects are being implemented based on appeals from citizens. People address issues of concern to me, to the Presidential Administration, to the government, to various government agencies, and every appeal is carefully reviewed. Therefore, when developing the investment program, of course, preference is given to proposals from the ground.

As for the work in Karabakh and East Zangazur, no one lives there yet. This is why we must do the work there in a centralized manner. Last year, large-scale landscaping and construction work was launched, and major infrastructure projects were implemented. If I list them all today, it will take a long time.

I want to reiterate my instructions on the work to be done before the end of this year and in the next two years. The first is related to the master plans of cities. At present, the master plans of Aghdam and Fuzuli have been approved, and work has begun based on these master plans. I have already gotten acquainted with the progress of my work. The master plans of other cities should be approved soon. Master plans for Shusha, Jabrayil, Kalbajar, Zangilan, Gubadli, Hadrut and Sugovushan settlements should be prepared and approved this year. Then additions should be made to our investment program for Karabakh and East Zangazur. As it was noted here, a total of 2.2 billion manats are envisaged. But a little more than 300 million manats was used in the first quarter. Of course, after the master plans have been approved, we will only deal with specific issues. First of all, I mean the construction of residential buildings because other infrastructure projects are also being implemented. To speed up the demining process, about 100 million manats are envisaged in the state budget for this year, which is a priority for us. Because without resolving this issue, we cannot place people in those areas. But once we are sure that those areas have been cleared of mines, we can start placing our citizens there.

As I mentioned earlier, new equipment is being purchased, including the most modern equipment, drones and other modern devices. There is, of course, a great need for the support of international experts. We now have three agencies – ANAMA, units of the Ministry of Defense and the Ministry of Emergency Situations – engaged in demining. Of course, the issue of involving local companies was discussed some time ago, and as far as I know, local companies are also involved in this work. Because this initiative will give an impetus to the development of entrepreneurship – unfortunately, the demining process in our country will take a long time. At the same time, local companies can gain experience and provide their services here. As for foreign companies, their offers, of course, have not been quite acceptable to us in terms of the price. Because there is a considerable difference between the prices offered by local companies and those charged by foreign companies, therefore, I think that the more local companies are established along with the three government agencies, the better. Also, the purchase of the most modern machines and mechanisms through the state must be provided.

Work on arranging electricity supply will be continued in the liberated areas this year. Four 20-megawatt hydroelectric power stations were built on the liberated lands last year. Two are in Sugovushan, one in Gulabird village of Lachin district, and one on the Lev river in Kalbajar district. When the nefarious enemy left our lands, they destroyed and set on fire more than 30 power plants, and the ruins of those stations are still there. Everyone can see that, especially in Kalbajar and Lachin districts. We started the restoration of those stations last year. This year, five stations will be restored by AzerEnergy, and the capacity of these stations will be 27 megawatts. However, it would be better if the remaining stations were restored and operated by entrepreneurs afterward.

Because, of course, the state can take on this work too, but there are many other costs for the state – this is the first. Secondly, it can be a good investment for entrepreneurs. If we consider that all the liberated regions are now connected to other regions of Azerbaijan by power lines, the energy produced there will be included in the overall system. I think it can be very attractive for entrepreneurs. I am aware that the Ministry of Economy and the Presidential Administration are engaged in this work, and some suggestions have been made. I think that proposals should be made for each station, and perhaps entrepreneurs will get more enthusiastic after this meeting hearing this information from me. It would be good to hold a special presentation for entrepreneurs interested in this issue regarding the location of the remaining stations. I am talking not just about the stations destroyed by the Armenians. At present, foreign companies are applying to us to construct wind farms, especially in Kalbajar and Lachin districts. If this is of interest to foreign companies, it means there will be a profit. We must also involve local companies, either together with foreign companies or separately. The potential of solar power plants in the Jabrayil and Zangilan districts is exceptionally high. So we must make the best use of all of them. We need to increase the share of renewable energy in our total energy balance by 30 percent. I issued this instruction earlier, and we may reach an even higher figure in the future. Also, we can save natural gas and export it at its current high price.

As I mentioned earlier, there are already lines connecting all regions. Nine power substations were built on liberated lands last year. This is a very good indicator. At the same time, power lines were laid from Dashkasan, which has the most challenging natural terrain, across the Kalbajar mountains – from Dashkasan to Kalbajar. The height of the mountains there is 3,500 meters, and we were able to do it in challenging, complex conditions in the winter months. AzerEnergy specialists deserve high praise. This year, work on constructing “Khudafarin” and “Giz Galasi” Hydroelectric Power Stations should be accelerated. Negotiations are underway with the Islamic Republic of Iran, and I think they should also be accelerated so that we can reach an agreement here as soon as possible. Because the capacity of these stations will be very large – 240 megawatts, and after these stations are built, half of this capacity will reach us. We can take advantage of these opportunities. Negotiations are underway with BP on constructing a solar power plant in Jabrayil. I do hope there is a result soon. I think this station will have tremendous potential.

In general, I have already voiced this figure. Renewable power plants in the liberated lands alone will have a capacity of more than 9,000 megawatts, and we are receiving numerous proposals from the world's leading companies. We have power lines with neighboring countries, and our export opportunities are expanding. Last year, electricity exports increased even further in comparison with 2020. We have a unique potential here, both in the country and the Caspian Sea. But I would like to draw your attention to this issue in the context of the work to be done in the liberated lands. At the same time, the construction of power lines from Zangilan via Iran to Nakhchivan and from there to the Iranian energy system and Turkey is also on the agenda.

Last month, Iran and Azerbaijan signed a memorandum on constructing bridges and railway

bridges. At the same time, the memorandum contains a clause on the construction of power lines. This is why we must start this work as soon as possible. In any case, concrete specific must be made this year on the work to be done in Azerbaijan. After the construction of lines from the Jabrayil substation to Zangilan and the final agreement with the Islamic Republic of Iran, this line can be extended across Iran.

At the same time, the construction of road bridges and railway bridges is also on the agenda. Of course, this does not rule out the opening of the Zangazur corridor. The Zangazur corridor must be opened. An extensive exchange of views was held in Brussels on 6 April on the railway and highway through Zangazur. A project to build a road through Iran to Nakhchivan and worldwide markets are already being prepared. I hope that a groundbreaking ceremony can be held soon, and thus a new international transport corridor will be opened. In general, all our plans related to transport infrastructure have been implemented on time. If these significant investments had not been made in the port, railways, airports, highways and other infrastructure, Azerbaijan would be deprived of these new opportunities today.

Conversely, we can maximize our transport infrastructure now. New cargo ships and tankers are being built at the shipyard. In other words, all these are timely steps. If we hadn't built the shipyard, we would not be able to use these opportunities today. We are not dependent on anyone now. We can build as many ferries, tankers and cargo ships as we want, and we will increase the volume of cargo transportation across the Caspian Sea this year and next year.

I should also note that a 60-kilometer section of the 100-kilometer Horadiz-Aghband railway is ready. So we are moving fast. A four- and six-lane highway are also being built.

I would like to draw your attention to one more issue. Armenia must also see that it cannot thwart our plans. If it doesn't grant us passage through Zangazur, it will lose and, first of all, violate the 10 November statement. Because the 10 November statement explicitly states that there must be a connection between the western regions of Azerbaijan and the Nakhchivan Autonomous Republic, which is Armenia's obligation. If they don't want to fulfill their obligation, then we will not be under any obligation to fulfill our commitments either. They should know this and not procrastinate. We will achieve what we want sooner or later anyway. They should move a little faster. Otherwise, they will still find themselves at an impasse yet again.

As for other infrastructure projects, I can say that the construction of the Barda-Aghdam railway is continuing this year. It will probably be commissioned next year. At the same time, railways and railway stations should be built in Aghdam and Fuzuli. Project proposals must be submitted and reviewed by relevant authorities and then submitted to me.

Another issue related to the transport infrastructure is the opening of Zangilan International Airport. This is also scheduled for this year. This will be the second international airport in the liberated lands after Fuzuli. As for the construction of Lachin International Airport, we plan to do so in 2024. There is a lot of work to be done, the mountains have to be blown up, and the territory has to be

cleared. There is extensive ground disturbance work to be done there. But it will definitely happen.

As for the construction of roads, the roads from Naftalan to the village of Talish should be fully operational this year. They will also connect Naftalan with Sugovushan. Both places are very conducive from the tourism perspective. Naftalan has already become an international tourist center, and the distance to Sugovushan is very short. Tourism opportunities have recently started to be explored in Sugovushan – tourism, accommodation and sports. So this road is essential, and we will be able to easily reach Sugovushan from both the direction of Naftalan and Tartar. Therefore, this road should be commissioned this year.

A new alternative road bypassing Lachin is also scheduled for commissioning this year. This road is significant, and we must put it into operation this year. The roads to be commissioned this year also include the Fuzuli-Hadrut highway, the Gubadli-Eyvazli village road and others. In particular, the construction of military roads will be continued in Kalbajar and Lachin districts. Last year alone, about 700 kilometers of roads were built in places where there were never roads before. These roads have been built to the Azerbaijani-Armenian border.

It is now possible to serve comfortably at the border. I want to inform the Azerbaijani public about ongoing projects. Concerning automobile roads, work is powering ahead on the Barda-Aghdam highway. The Kalbajar-Lachin highway and a 4-kilometer tunnel are being built. A highway is being built from Khudafarin to Gubadli and from there to Lachin. The Jabrayil-Hadrut road is under construction. Victory Road has been opened, but the 4-lane Fuzuli-Shusha highway, as well as Horadiz-Aghband and Aghdam-Fuzuli roads, are also being built. One of the most critical roads is the Togana-Kalbajar highway because after this road and the 12-kilometer tunnel have been built, there will be no need to cross the Murov Pass. We will be able to pass through a tunnel easily.

The construction of the Kalbajar-Istisu highway will be continued this year. This also has a significant symbolic meaning. The Istisu sanatorium was very popular in Soviet times. Many residents from Azerbaijan itself and different parts of the Soviet Union would go there for rest. But when Mehriban Aliyeva and I were in Istisu, we saw an appalling sight. The sanatorium and water sources were destroyed entirely. I said that this savage tribe had put its nose everywhere, even there. There were only ruins of the former sanatorium. So I decided that a new modern hotel should be built there. Currently, a hotel project for about 150-160 people is being prepared. We must also start producing medicinal drinking water. This instruction has also been issued. Initial contacts have been established now, and I think that the foundation can be laid for both essential and symbolic projects this year. At the same time, I am confident that we will restore this historical justice and create an international resort there. Because after the commissioning of Lachin airport and the construction of the Toghana-Kalbajar highway and tunnel, it will be very convenient to come to Kalbajar from both Ganja and Lachin. I am sure that it will not be long before Istisu regains its glory. Drinking water sources are now being developed in the liberated lands. Among them, of course, the drinking water project of Shusha is a priority. Because people already live in Shusha. Residential buildings are also being built in Shusha, and people will return there soon. Therefore,

the Shusha drinking water project should be fully operational this year. While fleeing Shusha during the war, the Armenians blew up those water lines and committed another atrocity. During the occupation, they destroyed all 17 water springs in the city. These are savagery manifestations, showing that Shusha has always been a foreign city to Armenians. They were always jealous of Shusha, cherishing an ugly dream of occupying Shusha one day. Unfortunately, in May 1992, Shusha was occupied due to national treason. Now we have returned to Shusha. We are the owners of Shusha, and we will live there forever. The restoration of Shusha, along with all other liberated lands, is, of course, vital, and I think it should be a priority. The Azerbaijani people also appreciate this approach. Now restoration work is underway in Shusha, some historical sites have been restored, and I want to issue instructions on the work to be done this year. Historical sites are being restored, the Heydar Aliyev Foundation is restoring three mosques, and the construction of a new mosque will begin in the coming months. The location has already been determined, and we have laid its foundation.

Other historical sites are also being restored. There are some proposals and sketches, and, of course, we must restore the historical image of Shusha. No project that could damage the historical and architectural ensemble of the city should be carried out there. The foundation of a new TV tower has been laid in Shusha, and the project will probably be launched shortly. The required funds must be allocated. A school for 960 pupils and a 90-bed hospital are under construction. The foundation of these projects has been laid. The former post office building will house "ASAN service," a DOST center and other facilities serving the population. The post office building will be overhauled while preserving its original architectural appearance.

I should also note that the foundation of a residential area has been laid in Shusha, and the construction of houses has begun. A site has been selected for the construction of a new five-star hotel. It is a place where the self-styled entity wanted to build a so-called parliament. There was another devil's lair there as well. It disappeared during the war too. A project for a five-star hotel has been submitted to me now. It will be a beautiful building in line with the architecture of Shusha. The building of the mayor's office is being overhauled, and a new conference hall is being built right next to it. Because now there is no place to hold major events in Shusha now. Therefore, the conference hall will be adjacent to the mayor's office, where the most prestigious events will be held soon.

The Kharibulbul festival will be held in Shusha again next month. Last year, the people living in Azerbaijan demonstrated their talent at this festival organized at the initiative of the Heydar Aliyev Foundation. This time, we have invited folk bands from around the world. I already have preliminary information and don't want to announce it ahead of time, but I think it will be an exciting festival. We have already revived this tradition. As you know, TURKSOY has declared Shusha "the cultural capital of the Turkic world" in 2023.

Irrigation projects in the liberated areas are planned for this year. The peculiarity of these projects is that preparations take a lot of time. Because the design work must be done correctly, and places

must be chosen correctly. Where will the canal be built? Where will the reservoir be built? These are time-consuming issues. This is why I am not pushing anyone. But at the same time, we must find the resources for implementing the already approved projects. It has been noted here that we are now implementing the budget with a surplus. In the first three months of this year, tax authorities collected more than 500 million manats above the forecast and customs authorities have collected more than 200 million manats in taxes. So we have these opportunities now.

Irrigation will be one of the critical factors in providing food security for both the liberated lands and the country as a whole. These projects must be implemented so that they are integrated into our overall irrigation system. It is necessary to pay serious attention to that because the natural terrain of the liberated lands, especially the Kalbajar, Lachin and Gubadli zone, is such that both irrigation water and drinking water can flow from there to Aghdam, Barda and other places. It must be integrated into our overall irrigation system. At the same time, we must use our rivers as a source of drinking water. During the occupation, our rivers were subjected to environmental terror, our rivers were under occupation, and the enemy deprived us of our own rivers. We could not use the water of the Tartar River. The Tartar River is one of the largest rivers in Azerbaijan. As the water was in the hands of the Armenians, they cut off the water in the summer, perpetrating ecological terror against us. In winter, they released it, causing floods.

A gas line in Karabakh, where the Armenians live, was in disrepair, and there was no gas supply there for some time. They raised a hue and cry because of that, saying that Azerbaijan was causing a humanitarian catastrophe there. They had cut off the gas supply for Nakhchivan for 15 years and kept it that way. The winter in Nakhchivan is harsher. The frost reaches minus 30 degrees. The people of Nakhchivan lived without gas from 1990 to 2005. Who deprived them of gas? The Armenians and the Armenian leadership, the Armenian state.

Did anyone, any organization or country raise its voice back then? No! They didn't care. But when there was no gas in Khankendi for one week, there was no one left in the world who wouldn't call us – from America to Europe. First of all, there are countries in Europe with no gas. There is no gas there at all. Gas lines were never built there. I don't want to name those countries. There are also countries where the level of gas supply is 3-5 percent. Is there a humanitarian catastrophe there? They have been without gas for one week. Is this a humanitarian catastrophe? Then why wasn't Nakhchivan a humanitarian catastrophe when it was deprived of gas for 15 years? This is the question. Is there an answer to this question? Yes! Double standards and discrimination. We have now restored the gas supply, and the Armenians must appreciate it. We have simply shown goodwill. If we didn't want to, we wouldn't restore it. Who can say anything to us? Did we have to restore it? No! We have restored it and hope that they will also understand that they are citizens of Azerbaijan, that they must and will live under the Azerbaijani flag. The sooner they understand this, the better for them. This is why we did that. We showed humanism. But we have never forgotten that Nakhchivan was left without gas. In 2005, according to an agreement with Iran, we supplied gas from Iran to Nakhchivan, laid a gas line from Astara to the Iranian Astara and are doing swap operations. Since then, Nakhchivan has been supplied with gas from Iran in this manner. But our

gas was cut off. Our water was cut off.

A special report was prepared and adopted by the Parliamentary Assembly of the Council of Europe a few years ago – a report on Armenia's environmental terror against Azerbaijan. Everything was clearly stated there. We were deprived of water from the Tartar River. However, when Heydar Aliyev built the Sugovushan reservoir, it was intended to irrigate 100,000 hectares of land in Barda, Aghdam, Goranboy, Yevlakh, Aghjabadi and other districts, and water flowed there. We have now returned to Sugovushan, restored the water, and new canals will be built. Other rivers, too – the people of Azerbaijan and indeed the rest of the world should know what the Armenians deprived us of. The Hakari River is one of the largest rivers, but we could not use its waters. The Bazarchay River. It is also called the Bargushad. The Lev, the Zabukh, the Tutgun, the Turgay, the Basitchay, the Gargarchay, the Guruchay, the Kondalanchay, and the Okhchuchay rivers. All these rivers were occupied and mercilessly exploited by Armenians. The catastrophe of the Okhchuchay River is before the eyes of the world now.

We have raised this issue. When we raised the issue, we were promised that the company that caused the disaster would come and clean it up. But a year has passed now, but we haven't received any proposals. "Cronimet" is the company that contaminated the Okhchuchay River. It is a large company, and according to some foreign media, it had an illegal business relationship with representatives of Serzhik Sarkisyan's former junta regime using corruption schemes. Together they operated the copper plant there. After that, the Armenian government bought this plant from those corrupt Armenians. But should "Cronimet," the company responsible for this disaster, be held accountable or not?

I said that the issue should be raised in international courts. I do not want to go into too much detail now. We will make a legal claim, preparations are underway, and international experts have been involved. We will expose the Armenians all over the world for their atrocities. This also applies to foreign companies that have exploited our natural resources. Do the foreign companies that illegally exploited our gold and other fields believe that they will get away with that? They won't! We will bring them to justice and disgrace them. "Cronimet," which has turned the waters of the Okhchuchay River yellow, should come and clean it up. Or do they think that time has passed and we have forgotten everything? We have not forgotten and will not forget anything.

Notice how many reservoirs there were in the occupied territories. Khudafarin - the largest reservoir with a capacity of 1 billion 600 million cubic meters, Giz Galasi, Sugovushan, Khachin, Kondalanchay-1, Kondalanchay-2, Ashaghi Kondalanchay, Aghdamkand – these reservoirs were under occupation. We are restoring and will restore them. As for specific projects, I should also say what will be done in this area. The construction of the Hakarichay reservoir is on the agenda. It will be a new reservoir. The Sugovushan water reservoir and canal will be renovated. The length of the canal is 5.2 kilometers, and after the repairs, it will be possible to supply water to a larger area from Sugovushan. The Khachinchay reservoir and a 7-kilometer canal will be renovated. I should also note that the Khachinchay reservoir is proper under Mount Farrukh, right next to the village of

Farrukh, and the Armenian military positions were threatening the operation of this reservoir. In other words, it was a huge source of danger. Shots were repeatedly fired in the direction of Aghdam from there and other villages.

I think no one in the world wouldn't know of Mount Farrukh, and Mount Farrukh, the great mountain of Azerbaijan, is under our control now. The Azerbaijani flag flies there now. Mount Farrukh is of great importance for the safety of the Khachinchay and the use of this water. After that, we plan to renovate the Ashaghi Kondalanchay, Kondalanchay-1 and Kondalanchay-2 reservoirs. The reconstruction of the Tartarchay Left Bank canal, the water management complex of Aghdam, Fuzuli and Jabrayil districts, as well as identification of water sources, is also on the agenda. Because the water sources of the Soviet era may not be suitable now for several reasons. Therefore, these complex measures are envisaged now, and the preparation of a project on the Bargushad reservoir must be completed this year. Based on a recently submitted proposal, a new reservoir is to be built in either Zangilan or Gubadli district, and the construction of these canals will allow us the opportunity to irrigate 10,000 hectares of land soon. I want to say again that all this work must be integrated into our standard water management system.

As for other projects, I should say that residents of Aghali village will settle in Aghali already this year. This year, Aghali village will be opened. This is the first pilot project. The establishment of the Dovletyarli village in the Fuzuli district will begin this year. This is a project that covers several villages. There will be a larger settlement than Aghali village. In other liberated areas, village reconstruction projects are being prepared so that we will restore the villages in parallel with the cities.

The construction of three schools should be completed this year – school No. 1 in Aghdam, a school in Jabrayil and, as I mentioned, a school in Shusha. All three schools are intended for 960 pupils. Four hospitals are under construction. A hospital will be commissioned in Shusha this year. The construction of a 210-bed hospital in Aghdam and a 180-bed hospital in Fuzuli has already begun. The foundation of a Jabrayil hospital will be laid shortly.

I have attended groundbreaking ceremonies of two industrial parks in the Aghdam and Jabrayil districts, and the Minister of Economy recently reported to me on the work to be done there. The interest is great, local companies are very enthusiastic, and I am sure that the extensive area intended for those parks may not even be sufficient soon, perhaps in a year or two or three years. Therefore, I am delighted that Azerbaijani entrepreneurs join this work with great enthusiasm. I understand that it may not be economically viable at the initial stage. But I view it as a civic duty on their part, and I am glad that they responded to my call. At the same time, considering the potential of the liberated areas and transport routes, I am confident that every manat invested here will pay off.

In other words, we are taking comprehensive measures to return the former IDPs. Residential buildings, infrastructure, jobs, opportunities for agriculture, industrial parks – we will do this in a

planned manner. This is a list of things to be done in the liberated lands this year alone, and I am sure that all our plans will be implemented. We will achieve what we want. The people of Azerbaijan will continue to be regularly informed about the work being done in the liberated lands.

Thank you



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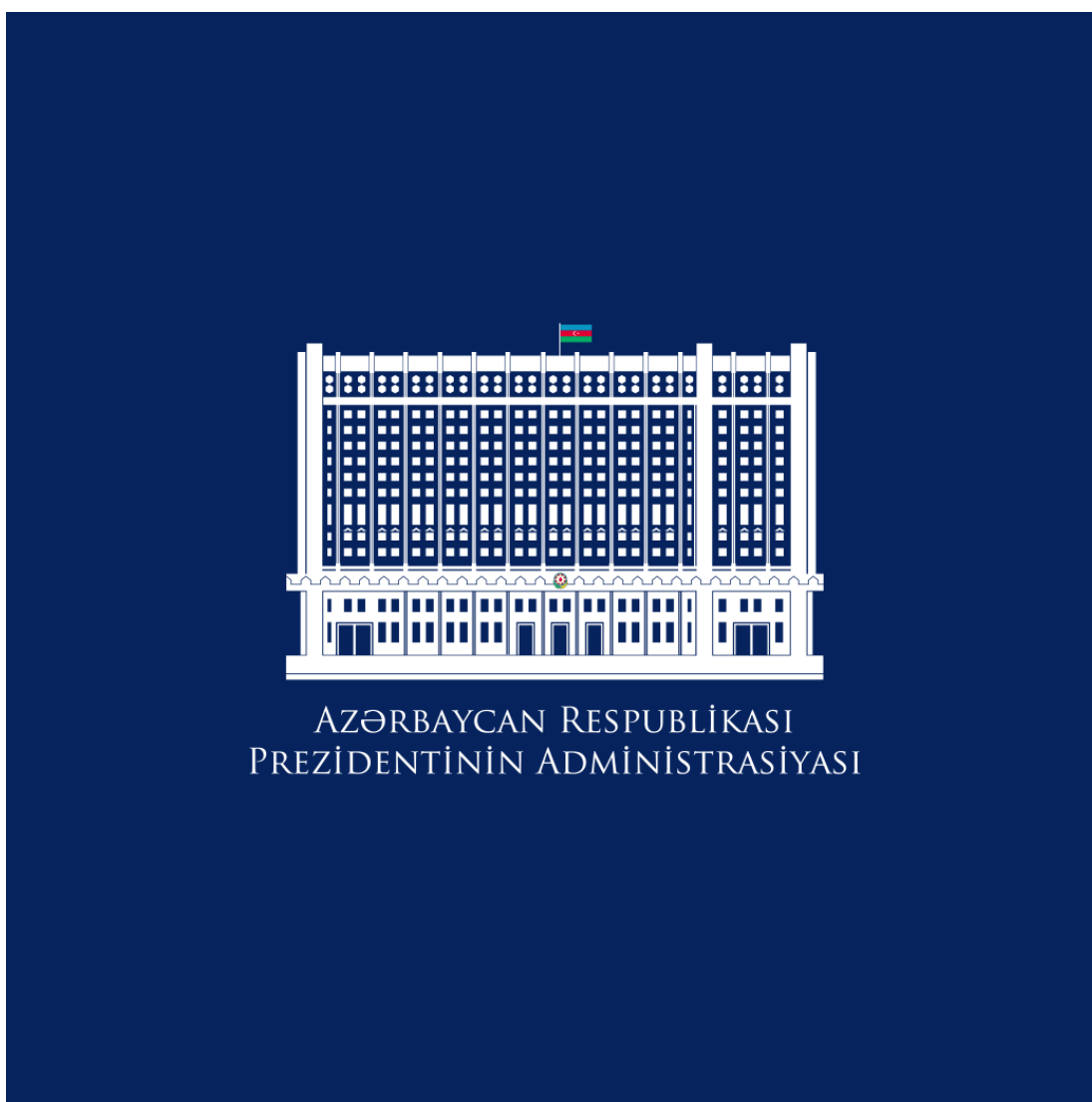
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Annex 15

“Ilham Aliyev gave a speech at 5th Congress of World Azerbaijanis in Shusha”,
The President of the Republic of Azerbaijan Ilham Aliyev (22 April 2022)

[president.az /en/articles/view/55859](http://president.az/en/articles/view/55859)

Ilham Aliyev gave a speech at 5th Congress of World Azerbaijanis in Shusha



22 April 2022, 10:00



The fifth Congress of World Azerbaijanis has today kicked off in the city of Shusha.

President of the Republic of Azerbaijan Ilham Aliyev gave a speech at the Congress.

Speech of President Ilham Aliyev

- Dear participants of the congress! I sincerely welcome you! Welcome to Shusha and Karabakh!

First of all, let us commemorate our dear martyrs who died for the Motherland with a minute of silence.

May their souls rest in peace!

We avenged our martyrs on the battlefield. We took revenge on the battlefield. Their blood did not remain on the ground, which is a consolation for their relatives, for all the people of Azerbaijan.

Today we are holding a Congress of World Azerbaijanis in free Karabakh and free Shusha. The name of this congress is Victory Congress, and this is natural. Because for the first time after the historic Victory, Azerbaijanis from all over the world are gathering to hold a congress. In general, the name Victory is very appropriate for our people. You have come here through Victory Road, the name of the congress is Victory Congress. At present, Victory Museums are being built in different parts of the country, first of all, in liberated lands.

From now on, the people of Azerbaijan will forever live as victorious people, and the state of Azerbaijan will live as a triumphant. This is excellent happiness – for all of us, for those living in Azerbaijan, Azerbaijani citizens, and Azerbaijanis living abroad. Our heroic sons who carried out this historic mission have rendered unparalleled services to history, the people and the Motherland. Young people who grew up in the years of independence, young people who grew up in the spirit

of patriotism, showcased this historical feat and presented historic news to the people of Azerbaijan.

On the way here, I remembered the first congress held in 2001. The first congress was held on the initiative of great leader Heydar Aliyev in 2001. In his profound speech, the Great Leader expressed his views on the Karabakh problem, of course, and said that Azerbaijan would restore its territorial integrity, the occupied territories would be liberated from occupation, and the Azerbaijani people would return to their ancestral lands. We, the followers of the Great Leader, have made these words come true. I was informed about the start of preparations for the 5th Congress, and I said that this congress must definitely be held in Shusha. I am sure that the congress participants have also welcomed this idea and have come to Shusha, ancient Shusha, the capital of our culture, with great enthusiasm. Shusha also greets its dear people with such sunny weather, which once again shows that this is our historical land. Even nature and the sun are in solidarity with us.

The solution to the Karabakh conflict was a significant task for me as President. Since day one of my presidency, the solution to this issue and the development of the post-conflict period in the interests of Azerbaijan have been my top priority. All resources have been mobilized. All of us – both Azerbaijani citizens living in Azerbaijan and Azerbaijanis living elsewhere in the world – were focused on achieving this goal. I said that every single one of us must work hard to bring this holy day closer every day. There was no more important and noble task than to work towards the liberation of our lands from occupation. This is why the army building process was carried out swiftly, this is why Azerbaijan has acquired a modern army, this is why the young generation was brought up in the spirit of patriotism, hatred of the enemy and loyalty to the Fatherland, and this is why economic reforms were carried out. At the heart of all our work, our policy, and our steps were the desire to bring this holy day closer, to see this day. We have achieved this thanks to our own strength. Instead of 30 years of meaningless negotiations, the people of Azerbaijan demonstrated their strength, restored justice, restored international law and proved to the whole world that we are a great nation and that these people, the Azerbaijani people, never intended to come to terms with the occupation.

I have repeatedly said, including at the congresses of World Azerbaijanis held after the first Congress, that we will never put up with this occupation. We will liberate our ancestral lands from occupation at any cost. But I really wanted this issue to be resolved peacefully, not through war, because I believed that this issue could be resolved peacefully. The norms and principles of international law supported the position of our country. The world's leading international organizations adopted decisions and resolutions supporting Azerbaijan's position based on justice. Armenia's policy of aggression was no longer a secret to anyone in the world. At the same time, after the balance of power between Azerbaijan and Armenia had changed dramatically in our favor, I thought that the Armenian leadership would finally realize that they had no resources to compete with us – political, economic or human. I thought that Armenia would finally come to its senses and understand that in a 21st-century world, it is impossible to occupy a large part of the territory of a

neighboring state. Unfortunately, the Armenian leadership, as well as the international community and international organizations, were of a different opinion, and the protracted negotiations, which lasted almost 30 years, were simply aimed at perpetuating this occupation, covering up Armenia's policy of aggression and making us come to terms with this painful situation. Of course, we could never agree to that, and our resolve, determination and heroism on the battlefield proved this again. We didn't wage war only with Armenia. We didn't wage war only with the Armenians of the world, we fought against Armenia's patrons, and we have won this war. Therefore, the historic significance of this victory is even greater. We have proved that we are ready to die. We would rather die than back down. During the years of independence, our young people who grew up in the spirit of patriotism were ready to embrace death for the sake of the Motherland.

Most of those martyred in the second Karabakh war were younger generation members. None of them had been to Karabakh, they had never seen this land, but the national spirit, justice and love of the country living in their hearts led them to death. We showed the whole world how to fight in the 21st century, how to fight with dignity, how to fight in modern ways, and in a matter of 44 days, the Armenian army was completely destroyed. The cost of Armenia's destroyed weapons, equipment and equipment captured as booty is at least \$4-5 billion. It is also another matter where such a poor country could get this money, but there is almost no Armenian army now. During the war, there were mass desertions in the Armenian army. According to their own sources, there were 10,000 deserters in the Armenian army. There were no deserters in the Azerbaijani Army. This is the greatness of our people, the confidence of our people in victory, the unity of the people and government, and the unity of Azerbaijanis worldwide. I know that you and millions of other Azerbaijanis living abroad were closely following the course of the war in your countries. At the same time, in your communications, comments on social networks and other resources, you conveyed the true voice of Azerbaijan to the public. That is still necessary today. There is still a need for that today because even though the war is over, the territorial claims against us are not over yet. I am sure that this will end. I am confident that as a result of our efforts in the post-war period and as a result of our subsequent efforts, we will get rid of the territorial claims of Armenia and Armenians of the world against Azerbaijan.

But there are still such claims today, and we must be prepared for that. During the war, we liberated more than 300 towns and villages on the battlefield in a matter of 44 days. This is why Armenia was forced to sign an act of capitulation in the early hours of 10 November. It was after we had liberated Shusha on 8 November that the Armenian leadership finally realized that continuing the war would cost them even more dearly. However, if they had listened to my words in the first days of the war and given us the schedule of their withdrawal from the occupied territories, the war could have stopped earlier. During the war, I repeatedly appealed to the people of Azerbaijan, saying that the Armenian leadership should provide us with a timetable of when it would vacate our lands. As soon as that happened, we would stop the war. And this is exactly what happened. But they were forced to do so. In 44 days, the Armenian army and the Armenian state were destroyed entirely and found themselves on the brink of a precipice. They had to sign an act

of capitulation on 10 November, and we returned to Aghdam, Kalbajar and Lachin districts without a single shot being fired. Thus, we resolved the war by military and political means. Let me repeat this – we did that alone, without any mediators.

As for the mediators, unfortunately, high-ranking officials in Armenia are still talking about the Minsk Group. I think this is pointless, and it makes no sense. The Minsk Group was virtually paralyzed in 2019. The group, which was mandated to address the issue in 1992, has failed to achieve any results. Looking at the actions of this group and proposals in retrospect, we can see again that this group was not established to resolve the problem. We were just a little naive at the time. This group was established not to resolve the problem, but to perpetuate the fact of occupation. Armenian lobby groups are quite influential in the Minsk Group co-chair countries. This is why this group did not achieve any results for 28 years.

In 2019, the group almost ceased its activities. The reason for that was the bizarre behavior of the new Armenian leadership. Because when the new leadership of Armenia came to power in 2018, both the Minsk Group, I must say quite frankly, and we had certain hopes that the criminal junta regime had been overthrown. A new generation of politicians had come to power. We were hoping that they would realize that they were not in a position to fight or wage war with Azerbaijan. Active negotiations for almost a year reinforced these ideas even more. However, in 2019, the Armenian leadership began to take a completely different position. The ludicrous statements voiced by the Armenian leadership virtually put an end to the process of negotiations. By saying that “Karabakh is Armenia, full stop,” they put an end to the negotiating process, and the Minsk Group, which met with me after this statement, was in a very uncertain situation because it was impossible to hold any talks after this statement. Because the essence of the talks was to liberate the occupied territories.

As a matter of fact, the Minsk Group has not been able to take any action, at least for the sake of visibility. But the Armenian leadership went even further. After that, explicit threats were voiced against us. We were threatened with a new war for new lands. But the international community continued to stay tight-lipped over that. This is an obvious threat. It was another threat from an occupier state to the state whose lands were already occupied. In other words, we were threatened with renewed occupation. However, the UN, the OSCE, other organizations or the Minsk Group made any statements about that. Inspired by this, of course, the aggressor became even more depraved and actually started to believe in the mythology Armenia had been concocting for decades.

We have shattered this mythology and driven the enemy out of our lands in a matter of 44 days. Armenia was brought to its knees before us, bowed its head, was forced to sign an act of capitulation, asked for help, and it is still in that situation now. Even today, there is no door left they wouldn't knock on, whining that Azerbaijan is threatening us, Azerbaijan wants to strangle us here. We have fulfilled our duty. We don't set our sights on the lands of other states, and we never have. But we will not give our land to anyone either, and the second Karabakh war proved that again.

In other words, the Azerbaijani soldier put an end to the conflict – the heroic Azerbaijani soldier. The last events of the war unfolded here in Shusha. Climbing the steep cliffs, our heroic soldiers and officers defeated the Armenian army, which was armed with cannons, tanks and artillery, in a face-to-face fight. After the Shusha Victory, Armenia tried to put up some resistance for only one day – if that can be called resistance at all – and stated on 9 November that it was ready to sign an act of capitulation.

We fought the war with dignity, acting with dignity in the post-war period. We can already talk about the results of the post-conflict period. Because I want to say again that our victory, the victory we achieved in 44 days, was unexpected for many. Military experts, politicians and representatives of various organizations dealing with this issue have always told us that Azerbaijan could not win this war. Because throughout the 30 years, Armenia had been building fortifications and defense lines in the occupied territories. At the same time, the natural terrain of Karabakh is such that it would be difficult for us to liberate the lands, we were told. There will be many losses, but all these assumptions have been overturned as a result.

They had overlooked one issue – the determination of the Azerbaijani people, the strength of the Azerbaijani soldier and the love of the motherland. Yes, there were indeed five lines of defense in some places and six lines of defense in other places. There were fortifications, barbed wire, pieces of iron and so on. The geography of the region was very unfavorable for us. Despite all this, we fulfilled our historic mission with minimal losses, with losses two or three times less than those of the Armenian army, and ended the war here in our historic city.

Everyone coming to Shusha now. Every Azerbaijani can see that Shusha is an Azerbaijani city. If it were not the case, Shusha would not be in such a difficult state. You and other visitors have come here now, a year and a half after the war. But if you had come here immediately after the war, you would have seen the situation. It is still in a run-down state. But Shusha is being restored, Shusha is being revived, and work on the revival of Shusha is very extensive, and you will be informed about that.

If this city were Armenian, would they bring it to such a state? A total of 1,800 people lived here. In fact, 90 percent of them were servicemen and members of their families. There is not a single surviving historical building left here. Armenians also dried up 17 of the 17 water springs, desecrated our mosques, demolished them and knocked down our palaces. In other words, not a single new building was constructed here. They simply exploited our natural resources, and not only in Shusha. All other cities are in the same situation. Foreign experts and journalists have likened the completely destroyed Aghdam to Hiroshima. Yes, Hiroshima was destroyed by an atomic bomb, whereas Aghdam and other cities were destroyed due to Armenian vandalism. In the 30 years since the first Karabakh war, they dismantled all our buildings and transported and sold the stones, and international organizations have recorded this in their reports. They dug graves and extracted the golden teeth of the dead. In other words, Armenia and the Armenian people have disgraced themselves worldwide for these atrocities. Therefore, everybody, every visitor

coming to the liberated lands, can and must see the Armenian savagery. They should see that we have destroyed the occupier and the fascists. All their actions between the first Karabakh war and the Second Karabakh War, in the period between the two wars, were fascist in nature. They fired ballistic missiles at our peaceful cities to kill civilians during the war. If this is not fascism, then what is? Tocka-U, SCUD and Iskander-M missiles hit Shusha. After the snow melted, the remains of the Iskander-M missile were found in Shusha, in the center of the city, and we proved again that Armenia used this deadly weapon, a banned weapon and a weapon they did not have. Those who do not believe this can come and see the remains of the Iskander-M missile in the Military Trophy Park in Baku.

We have crushed fascism. We have saved the South Caucasus from fascism. However, there are still manifestations of fascism there, as some circles in Armenia and Armenians of the world, Armenians living abroad are still trying to intimidate us. However, they should not forget the history of the second Karabakh war. We have further increased our strength. During the year and a half, a lot has been done in the field of army building. Some of this work has been disclosed to the public. Some, of course, cannot be revealed. But everyone should know that the Azerbaijani Army can perform any task today. Combat capability and national spirit, as well as morale, weapons, equipment, the creation of new combat units – we are doing all this precisely because there are still manifestations of Armenian fascism there, and we should always be prepared to crush Armenian fascism if it happens to raise its head ever again. Armenia knows and understands this perfectly well and should never forget it.

We will only go from strength to strength from now on, and the post-war period shows this again. Both the restoration of the territories and our steps at the international level have shown our strength. The post-war period is very sensitive, and a year and a half after the war, we can confidently say that we have passed this difficult test with dignity. Leading international organizations have embraced the postwar realities, including the UN, which held an international event in Shusha. The European Union is currently very active in the process of normalization of relations between Azerbaijan and Armenia. The OSCE understands perfectly well that the Minsk Group no longer exists. I was indeed asked a few months ago, before the Russia-Ukraine war, what the Minsk Group should be doing now. I said that 2022 would see the 30th anniversary of their establishment. They will celebrate the anniversary and then retire. But since the start of the Russia-Ukraine war, they haven't had the opportunity to celebrate the anniversary.

Other international organizations, for example, the Non-Aligned Movement we are chairing, the Organization of Islamic Cooperation and all other leading international organizations, have supported our position and accepted the post-conflict realities. Five neighboring countries have now established a 3+3 format of cooperation. All neighboring countries have accepted the post-conflict realities. This is clearly stated in the letters I have received from leaders of the world's superpowers – the United States, Great Britain, the President of the United States, and the Prime Minister of the United Kingdom. So we have already passed this stage, and the issue of normalization of Azerbaijani-Armenian relations is on the agenda now. Again, it is us who set out

this agenda. Despite all the painful moments, despite the occupation and despite all the atrocities committed, we believe that this is necessary for the future of the region. So we came up with a peace agenda, but there was no response from Armenia. International organizations also showed little interest in that. So we put forward a proposal consisting of five specific principles, and Armenia has accepted these five principles. Thus, the Armenian leadership has officially stated that it recognizes the territorial integrity of Azerbaijan and has no territorial claims to Azerbaijan and will not do so in the future. This is an essential moment for the post-conflict period, and we intend to conduct further negotiations based on these five principles.

At present, the foreign ministers and ministries of the two countries are setting up working groups, and I think concrete talks should be initiated soon. The talks should not be delayed because a peace agreement will be signed based on five principles. Therefore, the text of the agreement can be prepared and signed soon. Thus, the relations between Armenia and Azerbaijan can be established, including diplomatic. By making this proposal, we once again show our good intentions and, I repeat, show foresight. The revengeful forces occasionally raising their voices in Armenia should remember that this is the only way out for Armenia, their last chance perhaps. If they refuse, we will not recognize the territorial integrity of Armenia either and will officially declare that. Given the consequences of the second Karabakh war, the Armenian side should understand what this might lead to.

Again, despite all these positive trends, every single one of us – the Azerbaijani government, embassies, diaspora organizations and all activists – should convey the new realities to the world community. You, the Azerbaijanis living abroad, have more significant opportunities in this area. In recent years, our diaspora organizations have become very active, both during the second Karabakh war and before. Despite the physical attacks of Armenian radical forces – they took advantage of their numerical superiority to commit crimes against our activists – the Azerbaijanis had their say, and this must continue to be the case.

In other words, the public of the countries where you live should be made aware, so to speak, of the realities of Azerbaijan, the post-conflict period and the history of our country. I think this is very important because historical factors are always crucial for the settlement of any conflict through political and other means. And history is evident. There is no need to go too far. It is enough to inform the international community about the agreements signed in the 19th century – the Kurakchay, Gulustan and Turkmenchay peace treaties. There is no mention of an Armenian population in them. Ibrahimkhalil khan of Shusha and Karabakh signed the Kurakchay agreement – this was his official title. After the historical events of the 19th century, a process of resettlement of Armenians to Karabakh began en masse. This is no secret.

The world community and experts are already aware of this, and it would be good if the general public also knew this. We must inform the international community about the injustices committed against the Azerbaijani people and the resettlement of Armenians to Azerbaijani lands in the 19th and early 20th centuries. It is a historical fact that Zangazur was severed from the rest of

Azerbaijan and handed over to Armenia by the Soviet government in 1920. The fact that the Azerbaijan Democratic Republic ceded Iravan to Armenia two years prior to that is also a well-documented fact. In 1921, the Soviet government was preparing to perpetrate another provocation against us. Zangazur was taken away from us in November 1920, and a year later, the Caucasus Bureau wanted to take Karabakh away from us as well. However, it didn't work, and the decision was made to keep Nagorno-Karabakh within Azerbaijan.

Nevertheless, a year and a half later, on 7 July 1923, a completely unfounded and artificial entity was established in the territory of Azerbaijan – the Nagorno-Karabakh Autonomous Region. There was no basis for that. At that time, the number of Azerbaijanis living in present-day Armenia was probably twice as high as that of Armenians living in Karabakh. Still, for some reason, this autonomous region was established here, not there. They created it and, at the same time, included the ancient Azerbaijani city Shusha in it to make Shusha Armenian. Because Shusha was the only great fortress, and as you probably know very well, all the roads to Shusha passed through places inhabited by Armenians. In other words, to come to Shusha, it was necessary to pass through the villages inhabited by Armenians. We have now built Victory Road. Our soldiers and officers paved Victory Road with their feet – through those mountains, valleys and forests. So it was another provocation. In other words, to take Shusha away from us and make it Armenian, they included Shusha in this artificial entity. But it didn't work, no matter how hard they tried. Shusha has always preserved its national spirit, and the Armenians could not make Shusha Armenian during the occupation.

Then the mass deportation of Azerbaijanis from Armenia in the 1940s and 50s was a great tragedy and yet another injustice against our people. Azerbaijanis were forcibly relocated from their historical lands to the Mil-Mughan zone of Azerbaijan. This was done against Azerbaijan even though 300,000 Azerbaijanis went to war in World War II and never returned home. It was Azerbaijan that supplied 90 percent of the Soviet Army's fuel during World War II. If it hadn't been for Azerbaijan, if it hadn't been for Azerbaijani oil, the Soviet Union wouldn't have won the war. So what kind of morality does this injustice against our people fit into just three to four years after the war?

This is history. We need to know this history. Without knowing this history, the history of the 1980-90s will be incomplete. The separatist tendencies that began in the late 1980s virtually tore most Karabakh from Azerbaijan. They started this back during the Soviet era. A special steering committee was set up, and a pro-Armenian man from Moscow was appointed to head it. The subsequent events are also well-known. For two centuries, our people have gone through all this suffering and finally had their say. Finally, we have crushed the head of the enemy with an "iron fist" and restored historical justice and national dignity. Therefore, these historical moments must always be on the agenda of diaspora organizations.

Of course, I am delighted that our diaspora organizations operating abroad are in constant contact with Azerbaijan, in contact with the State Committee, and coordination between diaspora

organizations operating in different countries is improving. This is also very important. Of course, all of us – Azerbaijanis living in Azerbaijan – want Azerbaijanis living abroad to be in close contact with their historical homeland. It would be great if the Azerbaijanis could come to Azerbaijan with their family at least once a year – especially to the liberated lands. Today we are holding this congress in Shusha. However, the liberated territories cover more than 10,000 square kilometers, routes are being opened, and airports are being built now. Therefore, the arrival and departure will be very comfortable.

Of course, we want the second and third generations of Azerbaijanis to be attached to their culture. Of course, this is not an easy task. First of all, they must speak the Azerbaijani language. Of course, it is possible to keep the Azerbaijani language alive only in families, but it is not enough. Therefore, we are always ready to help open Azerbaijani schools and Sunday schools. In fact, we are already doing that. Perhaps we need to do it more organized manner because the mother tongue is a crucial factor. The native language brings all Azerbaijani citizens closer together.

Our young Azerbaijanis living abroad must know the history of the second Karabakh war and convey these truths to their friends. In other words, Azerbaijanis living abroad are a great force. Their activity is significant for our country. Their activity and communication of Azerbaijani realities and protecting Azerbaijan's interests strengthen our state, of course. As the state of Azerbaijan, we are always interested in the lives of Azerbaijanis living abroad. We establish contact with them. This is an important factor in interstate relations. In contact with my colleagues and leaders of countries where Azerbaijanis live, I always pay attention to this issue.

The congress held in Shusha has a tremendous historic significance. Azerbaijan has entered a new era. We have lived as a country whose territory has been occupied for 30 years. It was challenging for us – for me as President, for every citizen, and for you, the Azerbaijanis living abroad. We knew that there was no factual basis for that defeat. It is only the events that took place in Azerbaijan in the early 1990s – the war for power, national treason, betrayal and other evil deeds – that brought about that situation. We knew that we deserved this Victory. I want to say again, as I did at the beginning of my speech, that my main priority as President was to strengthen our country and restore our territorial integrity. It wasn't very easy for you, too, because there are Armenian diaspora organizations in the countries where you live. You involuntarily communicate with Armenians, meet with them or attend different events together. I understand that this was a tough period for you.

But the situation is entirely different now. We are holding our heads high now, with a smile on our faces, which will always be the case. I am fully convinced that from now on, the Azerbaijani people will forever live as victorious people, and the Azerbaijani state will forever live as a victorious state. We are on our land, we stand firm on this land, and no one will ever be able to force us off these lands.

Long live Shusha! Long live Karabakh! All together: Karabakh is Azerbaijan! Thank you.

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The Congress continued with panel sessions on the topics "Tasks facing the Azerbaijani Diaspora in the post-war period; action plan/road map," "Contributions of the Azerbaijani Diaspora to the restoration and reconstruction of Karabakh."

The two-day Congress brought together over 400 diaspora representatives and guests from 65 countries.

The first Congress of World Azerbaijanis was held on the initiative of national leader Heydar Aliyev in 2001. The second, third and fourth congresses took place under the orders of President Ilham Aliyev in 2006, 2011 and 2016, respectively.



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Annex 16

“Ilham Aliyev attended the international conference themed ‘South Caucasus: Development and Cooperation’ at ADA University”, *President of the Republic of Azerbaijan Ilham Aliyev* (29 April 2022)

[president.az /en/articles/view/55909](http://president.az/en/articles/view/55909)

Ilham Aliyev attended the international conference themed “South Caucasus: Development and Cooperation” at ADA University



AZƏRBAYCAN RESPUBLİKASI
PREZİDENTİNİN ADMINİSTRASIYASI

29 April 2022, 10:10

“SOUTH CAUCASUS: DEVELOPMENT AND COOPERATION”

APRIL 29, 2022
BAKU, AZERBAIJAN



An international conference under the motto “South Caucasus: Development and Cooperation” has been held at ADA University.

President of the Republic of Azerbaijan Ilham Aliyev attended the conference.

Rector of ADA University, Ambassador Hafiz Pashayev, said: Your Excellency Mr. President. It is our great honor and immense pleasure to welcome Your Excellency to our annual international conference. It also gives me pleasure to welcome 40 participants of the conference who traveled to Azerbaijan from 23 countries. Last year during our first forum, which was devoted to the great victory, and the liberation of the Azerbaijani lands, you, Mr. President have, kindly supported the proposal of professor Ahmad Uysal to make it an annual event and invite international experts and think tank representatives to discuss regional peace, security and development.

You instructed us to do it, and we are glad that this year we can fulfill this task under the new brand name- Shusha International Forum. Yesterday, our foreign participants traveled to the jewel of Azerbaijani culture-city of Shusha. They could get to know some vital reconstruction and development projects in the liberated Karabakh, including an airport in Fuzuli and a new road-Zafar Yolu. This is the road along which our brave soldiers went and liberated the city of Shusha. Our guests on their way were also able to see some parts of barbarian destructions left after the Armenian occupation. Now, this is an important goal of our nation and a well-articulated personal mission of President Ilham Aliyev to turn Karabakh into the most prosperous and peaceful region of the world.

I believe our participants came back from Shusha full of joy and impressions. The history of Karabakh, consequences of the liberation war, regional integration, security, and challenges to the development issues. These are some topics that are under the forum’s discussion. We hope that

the messages and points coming from panel discussions will spread worldwide through articles and social media networks. During the Shusha session, a number of speakers made some suggestions and recommendations, which I guess, participants might raise today to get your, Mr. President, reaction. On behalf of all participants, I would like to extend our sincere gratitude to you, Mr. President, for your strong support of this forum and your visionary leadership in building sustainable peace in the region. Mr. President, taking this opportunity, I also want to thank you for the support you continuously extend to ADA University. Now, giving the floor to Your Excellency, we look forward to and are delighted to hear your introductory remarks. Thank you.

President Ilham Aliyev said: Thank you very much. Good morning, ladies and gentlemen, dear guests. First of all, I would like to express gratitude to ADA University for hosting this event. It's already a tradition. We met last April and discussed a broad range of issues related to the post-conflict situation. Of course, having these traditional meetings is very important for us, I think for the international community to understand better our plans, our intentions and to look at what has been done. I am glad that ADA University took this very important initiative. As you know, this is one of the leading universities in Azerbaijan with an already a very high level of education, excellent international contacts and also a university that is growing. Relatively recently, a new international partnership format on education was established.

Soon, I am sure the Italian-Azerbaijani University here under the ADA umbrella will open its doors for students. I want to express gratitude to all the participants, to our guests, for visiting us and for traveling to Shusha. I am sure it was an interesting journey to see the beauty of Karabakh and, at the same time, the devastations along the route to Shusha and in Shusha also. Well, what you've seen is, I think, the best illustration of what we had to experience during the 30 years of occupation. These mass destructions and devastations were not a result of the first Karabakh war. That resulted from barbarism and vandalism committed by Armenia throughout the 30 years of occupation. So, all our villages, most of our cities have been destroyed, knocked to the ground. In some regions like Kalbajar, Lachin, and partly Zangilan and Shusha, illegal settlement programs have been officially sponsored by the Armenian government, which is a brutal violation of international conventions. You have been informed about our plans to rebuild Karabakh and Eastern Zangazur. The plans really are large-scale, and we are implementing them with our own resources allocating the financial resources of our budget and supporting international companies. But apart from that, the last year since we have met and discussed last April, one of the important tasks in front of us was to strengthen the new realities and to work with leading international organizations to present our case, to present our vision for the region and also it was very important that the international community, the leading international organizations accept the new realities on the ground, and it happened.

And also, in the meantime, we've been actively advocating for a new era in the Caucasus, an era of peace and cooperation. And finally, we got a positive response from Armenia just recently. Their government accepted five basic principles which Azerbaijan put forward, the principles which should be a foundation for a peace agreement with Armenia. At the same time, also, based on

Azerbaijan's proposal Armenia finally agreed to establish joint working groups with Azerbaijan to start the process of delimitation of our border. I think these are important signs of recent development. Also, it shows that now after a year and a half passed since the second Karabakh war, the Armenian leadership and, I hope population understand the necessity of peace. And if a peace agreement is signed and those basic principles are known, then the peace in the Caucasus will be long-lasting and sustainable. This is what we want, and I think that what we demonstrate and what we announce is a clear example of our will to contribute to the peace in the Caucasus. We are rebuilding Karabakh. We are mobilizing our resources to strengthen our economy because, without that, it will not be straightforward to allocate substantial funds. At the same time, we advocate for peace agenda in the Caucasus, and I think on all the tracks, the initiative is in our hands. This initiative serves and should serve the cause of peace. So, probably, I would conclude my introductory remarks here and maybe leave more time for our discussions. Once again, thank you for being with us, and I am sure that this traditional format of gathering will continue, maybe as one of the ideas I heard from Hafiz Pashayev is that there will be some proposals from the participants. I want to add to that by saying that maybe there could also be some time of interaction between the Shusha international fora which will take place regularly. Maybe we can think about some other forms of meetings and conferences in between maybe in other cities, in Aghdam, Zangilan, in other cities which have been liberated. So, to make, I think, our interaction more efficient, because, for us, importance is that the international community knows what has happened, knows the full truth about the years of occupation and knows about our plans and intentions to build peace. For that reason, I think there should be a permanent line of contact between participants and those members of the expert society who didn't manage to be with us today. So, that's my proposal for maybe the next round of the working program, but of course, all the proposals you will represent will be very carefully addressed. So, once again, thank you, and I wish you a pleasant stay in Azerbaijan.

Rector Hafiz Pashayev: If you allow me, I have to add to what I have said already about the visit to Shusha. There is already one proposal to make the next one in Lachin.

President Ilham Aliyev: Agreed.

In Lachin, you know, we are now in the construction phase of an international airport, and in Zangilan, the airport will open this year. In Lachin, probably in 2024, we will find a way to get there more comfortably.

Assistant to the President of Azerbaijan, Head of Foreign Policy Affairs Department of the Presidential Administration, Hikmat Hajiyev: Thank you, Mr. President. And with your permission, we can start our question-and-answer session. Quite a substantial number of our participants have subscribed for the questions. And I would like to start our first question with your permission with Mr. Svante Cornell. I will ask just our participants please present the country that you are presenting and the institution that you have come from. Thank you.

Svante Cornel, Director of Institute for Security and Development Policy, Sweden

Thank you very much. Thank you, Mr. President, for the invitation to this conference. It's an honor to be here. And it was particularly an honor to see the liberated Shusha for the first time. I am Svante Cornell with Central Asia Caucasus Institute in Washington and the Institute for Security and Development Policy in Sweden. My question follows up on your point about an era of peace. We understand especially, I think, after seeing Shusha, you know, studying something for 25-30 years is one thing. Seeing it with your own eyes is very different. And we understand the difficulty of looking forward in view of the devastation that was imposed on these lands. But for an era of peace, my question to you regards whether you believe in the need for developing institutions to support on a regional level a new era for the Caucasus. My perspective is that the liberation of Karabakh could be a changing point for the whole region, providing a historic opportunity to reverse the processes of division and conflict that really started with the separatism that led to the occupation of Karabakh in the late 1980s, and replaced this with a different process, a different era but not only in Karabakh but in the broader Caucasus the process of cooperation and development that is truly regional. For this to develop, it seems to me institutions would be needed, and Azerbaijan is the only country that has the credibility and the resources to lead the process of creation of such institutions. Do you see the possibility of yourself taking the lead in creating regional institutions for the South Caucasus, particularly financial ones, such as regional development funds and the like? Thank you.

President Ilham Aliyev: Yes, it's a fascinating issue which you touched upon. We need to consult with the expert society and the government on what kind of a regional financial package we can put forward. Still, of course, it's evident that for the time being, our primary engagement is on how to rebuild Karabakh and how to return the former refugees as soon as possible. At the same time, our peace agenda and initiatives, which have been publicly articulated and were supported by the international community, are aimed at regional development and new opportunities for regional development in the South Caucasus. Not only between Azerbaijan and Armenia, of course, this is one of the essential elements of regional cooperation, but in the Southern Caucasus in general. We lost this opportunity for thirty years because of separatism, Armenian aggression, and the South Caucasus was not integrated. Yes, there is very close cooperation between Azerbaijan and Georgia, which on a bilateral level and international level already presents its importance.

At the same time, I think that there should also be an understanding in Armenia that they cannot continue to live like an isolated island in this region. They need to normalize relations with us. They need to put down territorial claims to Azerbaijan and Turkey and not be hesitant in any interaction on a trilateral level in the South Caucasus. Why am I saying that? Because there have already been several proposals from Azerbaijan supported by leading international organizations to organize trilateral meetings on different levels. We suggested the levels of foreign ministers. Armenia refused. Then, there was a suggestion to have this meeting on the level of experts. Again Armenia refused. Then we suggested having this meeting on the level of civil society representatives, and again Armenia refused. Our partners know this, and we do not understand

why. Because we think it is counter-productive if we look to the future of the South Caucasus as an integrated area of security, cooperation, and shared prosperity, then this policy of Armenia is beyond any logic. Probably, they need some time. Probably, they need to evaluate risks that they think may occur from that. But I think it's inevitable, and we are ready, and our Georgian colleagues are ready. So, I think that could be the first step. Concerning the financial package for the region, you know how Azerbaijan and Georgia have integrated; taking into account the energy and transportation routes, you are a good expert on that. And I think there is also an opportunity to invite Armenia to be a part of regional development, and they will benefit from that. They will benefit from getting access to our energy resources. They can be, to a certain degree, a part of the international transportation corridors. So that in itself will generate additional wealth. And also, normalizing relations with Azerbaijan will open such opportunities for Armenia that probably today it is difficult even to predict. So these are our plans. Building institutions, I think, should be in different directions. First, we need to start, I think, from a kind of a political dimension, because this is the most important. To what degree is Armenia willing to go forward? Because during the times of occupation, during my numerous contacts with Armenian leaders, we had always seen that when we came to a very decisive moment to have a break-through, they always made a step back. There was very little trust, and still, I can say that there is not much trust with their behavior, if I may say so, because sometimes they make very contradictory statements. So, the political dimension, I think, a significant contribution will also be a kind of engagement of their representatives in our discussions. We, for instance, will support that. We also think about some contacts, people-to-people contacts on the level of NGOs. As I said before, we can have some regional dimensions and look at a broader regional development because you know that European Union already announced a massive financial package for Armenia, 2.6 bln euros and also, later, for Azerbaijan. So, part of that resources can build connectivity and create better opportunities for people. Considering the very small population of Armenia, I think that will be more than enough if it is used for the cause of peace but not again try to take revenge or to pose a threat to its neighbors.

Chief Executive Officer of Haider Global BVBA Brussels and London Sajjad Karim: Mr. President, Sajjad Karim, a former member of the European Parliament and chair of the South Caucasus delegation. Thank you very much. It's good to be back in Baku. Since we last met, the situation has changed considerably. I certainly find it possible to congratulate you personally and the people of Azerbaijan for this significant achievement in putting an end to this long-lasting injustice that existed for far too long. One of the things that stays with me, Mr. President, of all of the meetings you had with my delegation is that you never limited your vision for development to Azerbaijan. You always spoke about peace and development for the entire South Caucasus. With the current progress being made both in negotiations for a peace agreement between Azerbaijan and Armenia with the EU facilitation and Turkiye-Armenia relations. Is it now reaching the time for Azerbaijan with its friends and allies to help create political space for Prime minister Nikol Pashinyan within Armenia, and with the Armenian diaspora in Europe and USA, he can really push for his people's backing for peace? Thank you.

President Ilham Aliyev: Thank you. We hope that will be the case. Of course, every government has its own agenda, and we heard that the Armenian government also announced a peace agenda. It is a very positive statement, but at the same time, we need to see actions. And now, I think, we see these actions, we see statements coming from the Armenian government, which are aimed at peace, based on the new realities in the region, and based on international law. That's what we always were advocating for. The realities have changed, and even the mediators have acknowledged this. Even before the Russia-Ukraine War, there was a kind of frustration among the co-chairs of the Minsk Group on what they should do. Because Azerbaijan itself implemented the Madrid principles. When I met the representatives of the Minsk Group just after the end of the war, I told them to give a proposal on what they were going to do and what will be their agenda. And I know that it was difficult for them to put forward some practical proposals. But after the Russia-Ukraine War, it was already announced that the Minsk Group co-chairmanship was no longer functional. It is dysfunctional. In this respect, it shows that the new realities, of course, have their impact. So, it is important that the Armenian government and Armenian political spectrum fully realize the new realities and refrain from any attempts to take revenge. First, it will be counter-productive. If that happens, the result will be even more painful for Armenia. Second, it will contradict the region's demand and the international community's demand to achieve a long-lasting peace. From our side, we do everything to support the positive trends. If you look at the history of long-lasting wars, occupations, and devastations, we will see that, in our case, the move from finalizing the hostile stage toward peace was very rapid. And that was again based on our proposal, because we and I personally, who said for more than one year that we needed to have a peace agreement with Armenia, finally, they agreed, most recently. It was just weeks before. Before that, there was silence. And there were statements again, statements related to contesting our territorial integrity. And at the same time, it was we who said let's start work on border delimitation. Again, there was silence on the Armenian side for more than one year. Finally, they agreed and soon, I would say, very soon, the joint working groups will meet. Why should they lose one year? It's not understandable. Therefore, all our efforts will be aimed at strengthening the positive trends. But we cannot do it unilaterally. In the Armenian government, we need to see a partner whom we can trust and with whom we can agree on a long-term peace. So, I think it is possible, but of course, it will depend on the internal political development in Armenia. Because, understandably, all the ideological foundations have been seriously damaged. Because all their ideology was based on aggression, on attempts to legitimize the occupation. Everything they've done, starting from erasing Azerbaijani cultural heritage, ending with changing the names of our cities, including Aghdam and Shusha and others, all aimed at turning de facto occupation into de jure legitimization of secession. So now, this ideological basis no longer exists, and we understand it is not easy for them to find a new goal. In our case, our goal was very clear, to strengthen independence. During the times of occupation, we always were thinking about how to return Karabakh and how to strengthen independence, making it irreversible. Not be dependent on anyone, whether it is political, economic, financial or energy matters. And we achieved that. We achieved both full independence and the ability to conduct an independent policy, and we achieved the return of Karabakh. Armenia lost its chance to be a really independent country. I don't want to

go into many details. Everybody knows the real political configuration there. They lost lands that did not belong to them. So, they need to understand it and find for themselves a new goal. And I think that will be peace and benefits of cooperation and putting down territorial claims to Azerbaijan and Türkiye. And you know, it is absolutely irrational to put territorial claims to Türkiye, one of the world's leading economies and one of the few leading armies. We support the Turkish-Armenian process, and I think it's a chance for the Armenian government and politicians to think thoroughly about their future and how they want to see themselves in the region. They don't have a clear understanding. They need to put down all the illusions, put down all attempts to rebuild the army, become stronger, have a five million population they announced as their state program, and then take back the territories. That will be the end of their statehood, the official end. We are ready to support positive tendencies, and we are doing that. So, we have hopes, but we need to test Armenians because we never had negotiations with them on peace. So now, it's time when we start. As I said, on the border, it will start very soon. We are ready for the talks on a peace agreement, and we are waiting for the date from the Armenian government when we will start.

Professor of Political Science and International Relations of Türkiye's Maltepe University Hasan Unal: Mr. President, Your Excellency, you were with us last year, and I was here, and I congratulated you in particular on your great victory, a victory of an unprecedented scale last year which basically changed the whole political landscape here. Under your great leadership, the Azerbaijani armed forces did a very, very good job indeed. You not only put a sharp end to the irredentist dreams of Armenia, but you also managed to wake them up to the reality that they can't get what they want with impunity. This year, I would like to congratulate you, particularly on two things: your concerted efforts to reconstruct the liberated territories, a large part of which we saw yesterday both in Fuzuli and Shusha. And for your relentless efforts for a diplomatic solution to the conflict region-wise, both between Azerbaijan and Armenia, of course, between Türkiye and Armenia. Here, I would like to ask you about Russia because I think it's quite timely as in the West, there is so much Russia-bashing. You seem to be dealing with Russia quite professionally and from a quite professional point of view, and last year you concluded a defense pact with Türkiye, you called it, you know, quite nicely Turkish-Azerbaijani NATO pact, about which we were quite happy in Türkiye. This year, you have signed an agreement, a declaration with Moscow. You have agreed on a number of schemes for cooperation, including defense matters and the political solution to the conflict in the South Caucasus. And it seems as if there is a triangle now, which seems to be working in good order between Ankara, Baku and Moscow. Now. Would you comment on that first? You know, at the time when there is so much Russia-bashing across the western world, would you also please comment on how your handling of Russia impacts Armenia's behavior if any? Thank you very much.

President İlham Aliyev: Thank you very much. Thank you for your kind words about what we are doing in the liberated territories, and thank you for being with us last year and this year. With respect to the question you asked, I think what you said also demonstrates what I have said before, the independent character of Azerbaijan's foreign policy, which is based on our national

interests and based on the maximum level of achievements. And in our region, we need to think about security and cooperation as an integral part of today and our future. Because without security, there will be no cooperation, and there will be no economic benefits. The economic performance of Azerbaijan, which is also based on our resources, also was generated by stability, long-lasting stability, which is part of security. Therefore, these important events you mentioned, Shusha Declaration signed last June with President Erdogan in Shusha, reflect the character of our brotherly cooperation with Türkiye. Today we have just officialized the substance of this cooperation. We have been allies already, in all forms, including military cooperation and the defense industry. So now, by signing Shusha Declaration in this historical city, we demonstrated to the whole world that we are together by word and by signature. The signing of a Declaration on Allied Interaction with Russia also was based on our strategic interests because it's our neighbor. It's a country that actively participated in ending the Second Karabakh War and whose peacekeepers are in Azerbaijan, in Karabakh. Plus, there is an extensive range of issues that we have worked on with Russia for many years, including economic, energy, transportation, cultural, and humanitarian areas. Of course, we were purchasing much military equipment from Russia. True, we were purchasing it at a market price, unlike Armenia, which got it free. The so-called loans covered it, but these loans have never been returned. So, that's a difference. But at the same time, I think it was also a kind of message to the regional players that there should be peace, and Türkiye and Russia participated in the new configuration of the region after the war. You know that the Turkish-Russian monitoring center to observe the situation is based in Aghdam. So this is, I think this kind of arrangement is possible for the first time in history. And also the Turkey-Russia relationship. Now we see the efforts of President Erdogan to facilitate a ceasefire in Ukraine. So, all that is serving the regional security and stability, simultaneously, as I said, demonstrates the independent character of our cooperation once again. We do what is in the interests of the Azerbaijani people, which are the people who want peace after so many years of occupation. Of course, economic and political dialogue should continue, and we favor that. You also mentioned a kind of triangle between Türkiye, Russia and Azerbaijan. It didn't happen yet. We didn't have any formal engagement at any level. But at the same time, many issues are interrelated. Particularly transportation and energy. And we have an active dialogue with both of these countries on separate tracks. They have it on their track, but it has never been a trilateral format. Today I think it's a little premature to talk about that. We are satisfied with the regional configuration. We have good relations with all our neighbors, with Türkiye and Russia and with Georgia and Iran. We hope to have good relations with Armenia, and thus, we will be surrounded by the area of stability. We want to concentrate on the peace agenda and economy to not spend billions of dollars every year on purchasing arms but rather divert it into economy and reconstruction.

A question: Do you think that Russia can influence Armenia's behavior?

President Ilham Aliyev: Well, it's difficult to say, but we all know that there have been a lot of expectations in Armenia that Russia will interfere in the war in Karabakh. It didn't happen because we fought on our territory. And Armenia was trying to manipulate this Collective Security Treaty

Organization's obligation. But Collective Security Treaty Organization has the mandate to support member states on their territory, and we were fighting on our territory. So that did not happen. But at the same time, we all know, and we publicly said many times during the 44-day war regularly, there were cargo planes carrying weapons from Russia to Armenia several times a day. We traced all the routes from Rostov and Mazdok.

We asked our Georgian friends to close the airspace, and they did. Also, we asked our Georgian friends to block the land route from Russia to Georgia to transport weapons to Armenia, and they did it also. And we are grateful. We send letters to all Caspian littoral states not to allow Russian cargo planes carrying weapons to Armenia. We send it to Kazakhstan, Turkmenistan and Iran. But unfortunately, these planes were using the airspace of these countries to enter Armenia. That is how it was, and we should not hide this part of the 44-day war. But Armenian expectations were much bigger. They thought that the Russian army should come and fight and defend separatism. It did not happen. There was a kind of frustration there, but we know how the Armenian government and diaspora work because of the years of occupation. They think that the whole world owes them everything. And someone will come and defend them; someone will come and fight for them. Someone will come and give them money and everything while they sit and exploit their questionable and very doubtful so-called tragedy. Every country and every people had tragic moments in its history. But their problem is that they made their central ideology these doubtful and fake historical facts rather than looking to the future. So now, we need to take into account that Prime minister Pashinyan paid an official visit to Russia on 19 April, just almost two months after the war between Russia and Ukraine, and it was an official visit. So, it demonstrates that relations between these two countries are excellent. We always want relations between countries which surround us to be good. That's part of our peace agenda.

Professor Brenda Shaffer from US Naval Post Graduate School Energy Academy:

Hello Mr. President. Thank you for hosting us, especially in the beautiful Shusha. I'm currently a professor at the US Naval post-graduate school, and I'm very happy to be here in Azerbaijan. So you talked about the exceptional behavior of Armenian and the conflict. One issue that there seems to be an almost uncontested agreement in the international system is the use of mines. You can hardly find any country you know sometimes with terror, we see different interpretations one man has its liberation and another man has its territory right. We did not find anyone who says that the use of mines has something legitimate. And in this conflict, the use has been exceptional and not just in the military zones. However, I think something like asking for ten days reprise for humanitarian reasons before leaving Kalbadjar and then using that to throw thousands of additional mines, placing mines on the bodies of the shahids of Azerbaijani soldiers. So, medical doctors and nurses were injured and killed when preparing the shahids for the burial. Unprecedented in our modern era. But should the international community enable this behavior? I can even think about the US Congress almost every year giving earmarked funds to Karabakh for demining, which it seems they were using for mining. As you said that the EU throws 3 billion dollars with no strings attached of saying maybe you should use this for demining. Shouldn't the

international community be obligated to enable this behavior, to provide funding for this important work to demine the regions?

President Ilham Aliyev: Yes, I fully agree with you, and thank you for raising this issue. It's one of the big problems and big tragedies because after the war ended, more than 200 people, military and civilians, were killed or seriously injured because of the mines. As you correctly mentioned, they planted mines after the war ended, and we had tragic events. Two journalists were killed in Kalbadjar on the newly-planned mine. It is very difficult now to demine the area because physically we don't have the capacity. Our demining agency was created many years ago. Now we are increasing the number of personnel. We purchase new equipment and machines, including very sophisticated drones that can detect the mine-contaminated area, but it takes time and effort. So far, we have had groups of Turkish specialists who helped us demine, but, of course, we will need broad international cooperation. Armenia, unfortunately, was not even reprimanded for that terrible behavior. We find mines now which are newly-planted and in the area which makes finding them very difficult. So, this is another demonstration of their behavior.

As we correctly mentioned, we gave them ten to twenty days to leave the territories they had to leave based on the agreement signed on 10 November. But they used it to plant mines. They burnt houses they did not build but settled in there. They cut trees and caused other ecological disasters. So, it demonstrates the behavior. And it's not only the behavior of the government, and we must be very open, the level of hatred against those who did not do anything wrong to you, who came only to return their territory and be able to live on that land. Unfortunately, with respect to international support, we have not gotten any support from any international organization. What we do, we do it at our own expense. We wanted to contract several international companies that could help us speed up the process. Unfortunately, the price they want to charge is several times higher than the cost we pay to our demining agency. So, they look at it from a commercial point of view.

Well, we can, to a certain degree, understand it because they are private companies. But that means that we will not be able because it's an astronomical figure they want to charge for one meter of demining. When the EU announced EUR 2.6 billion support to Armenia and 140 or 160 million to Azerbaijan, of course, we raised our voice on a very high level. That was another demonstration of double standards because I said that not a single house was demolished in Armenia.

Why do you give them EUR 2.6 billion? And a big part of that will not be a loan; it will be a grant, just a gift. And only a hundred something million to Azerbaijan, the country ten thousand square kilometers of which is totally destroyed, and there was no answer. But it was good that later EU started to address this issue. During my last conversation with the President of the European Council, Mr. Charles Michel, he told me they would allocate five million euros for demining.

We are grateful for that, but it will not make a big difference. We need serious support from international NGOs who deal with mine problems. None of them so far turned their eye toward

Azerbaijan. We know that several NGOs and foundations help countries get rid of the mines, but in our case, nobody is helping. And everything that is done on the liberated territories is done with the financial source of Azerbaijan's budget only. Not a single dollar we got from any country or any international organization. And, of course, it is not fair. It is a double standard, but there is nothing we can do; we live in this world. No matter who will help us or not, we will clean the area. Of course, it will take more time. We will resettle former refugees and rebuild Karabakh, which will be an example for the world. Thank you, Brenda; I am very glad to see you again.

John Roberts Energy Security Specialist (UK): First of all, thank you very much for being here and organizing a conference, because winning the peace is always as hard as winning a war and very often a lot harder. I've got two related questions concerning energy because that is my field. The first is the situation regarding the supply of oil and gas to Karabakh and Armenia as a peace-building mechanism. And the second is how the plans are developing for a tripartite summit with Turkiye and Turkmenistan and what energy issues will be discussed.

President Ilham Aliyev: Thank you, with respect to oil and gas delivery to Karabakh, it did not start yet. But of course, we have plans to build gas lines, I mean to that part of Karabakh where we are now implementing the reconstruction works. And of course, we built power stations and already, not a considerable number, but more than 20 megawatts of new power stations were built last year. And 25 megawatts will be built this year. So, all of Karabakh and East Zangazur are already connected with electric lines. We had to bring these lines across high mountains of 3.500 m which have snow six months a year. So, that has been done. Now, we have electricity. With respect to the area now under temporary control of the Russian peacekeepers, we do not supply any energy there. But the gas pipeline that goes from Armenia to Khankandi is going through the territory under our control. There was recently an explosion, and there was no gas for several days. Unfortunately, we were immediately accused of causing a humanitarian catastrophe. Again, double standards because when the First Karabakh War started, Armenians cut the gas supply from Azerbaijan's mainland to Nakhchivan. For fifteen years, Nakhchivan, with a population of more than 400 thousand people at the time, lived without natural gas. And the winter there is much more severe. It goes beyond 30, and nobody accused Armenia of causing a humanitarian disaster for Nakhchivan. In 2005, we agreed with Iran to build a pipeline, and now Nakhchivan is 100 percent gasified. But what we did was to restore the pipeline going from Armenia to the temporarily Russian-controlled part of Karabakh, and now the supply has been restored. What it will be in the future, I don't know. If there is a need to use our energy, I think it will be possible. It will be much easier and less costly to deliver electric energy and natural gas from Aghdam to Khankandi rather than bringing this gas from Russia, Georgia, Armenia, Azerbaijan and Khankandi. But again, if there is such a request, we will look at that. With respect to a trilateral meeting between Azerbaijan-Turkiye and Turkmenistan, yes, there were plans to organize such a meeting, but the dates have not yet been fixed, and we are waiting for our partners to give us one. Turkmenistan initiated it, and the summit is due to take place in Turkmenistan. Therefore, we are waiting for the dates.

Hikmat Hajiyev: We have on our list also Amanda Paul.

European Policy Center, Belgium Amanda Paul: Good morning, Mr. President.

President Ilham Aliyev: Good morning.

Amanda Paul: Thank you very much for the invitation. It was a real pleasure and honor to come here and have the opportunity to visit Shusha, and that's something that I have wanted to do for a very long time. So a dream come true. Suppose I can put it that way. I'm from the European Policy Center, a think tank in Brussels. So coming from the EU, I would like to ask you a question about the EU. Charles Michel has been very proactive in facilitating dialogue between yourself and Prime Minister Pashinyan and progressing the agenda. How would you characterize the role of the EU so far in this process? So far, there have been two meetings, if my memory serves me correctly. Could you elaborate on how you see the role of the EU? Is it doing the right thing? Could it do more? And what would you like to see the EU do more?

President Ilham Aliyev: Thank you very much. Thank you for this question. It is very important to understand better our plans and prospects for regional cooperation. We highly appreciate the role of the EU in the post-conflict normalization, particularly the President of the European Council, Mr. Charles Michel. He visited the region - Azerbaijan and Armenia last year when we had very long and very constructive discussions with him about our plans for the EU position. Also, we are grateful that they seriously addressed our concern. I already mentioned an immense disproportion between the financial package to Armenia and Azerbaijan, and that was corrected. Now we are only waiting for some more specific details. Because our position was delivered to European Union leadership, Azerbaijan wants to get as much as Armenia in the same proportion. As many loans with the same interest rate from European banks and as many grants. I think that is a very fair position.

Then we had, as you know, several sessions of interaction in Brussels. Mr. Charles Michel organized December and April trilateral meetings. There was a video conference in February with the participation of the President of France. We also regularly communicate by telephone. And there is a plan to organize a follow-up of our Armenian and Azerbaijani representatives at the beginning of May, again in Brussels. So we highly welcome these efforts. For us, European Union is a very important partner. And we have a very broad agenda with the EU. The Armenia-Azerbaijan conflict was never part of that because the Minsk Group dealt with it and the EU was a little bit distant. But now, it is also on our agenda along with the issues like trade, energy, transportation, humanitarian issues and issues related to democratic development. So, we consider the EU as a fair broker and welcome the efforts. I think that's now when the Minsk Group co-chairmanship is dysfunctional. I think the EU can play, and it already plays a very active role in the normalization process. We support it, and we see the benefits. And by the way, my recent contacts with the Armenian colleague were in Brussels. Brussels has now become my main travel destination. And one more thing to add is that we are now in the final stage of agreeing on some

issues on our new agreement with the EU, which is, according to our and EU's assessment, more than 90% ready. There was a war, then COVID put it on standby a little bit. But I think that we can finalize it pretty soon. We have an agreement, but it was signed many years ago. The new agreement is very comprehensive. It incorporates the new realities after Second Karabakh War and will definitely address the new situation in the world.

Hikmat Hajiyev: On our list, we also have doctor Maxime Gauin from France. Mr. President, for your information, Maxime Gauin, in a French court for more than ten years, fights against Armenian lobby groups. Mr. Gauin, the floor is yours.

Researcher, Center for Eurasian Studies, France, Dr. Maxime Gauin. Thank you very much, Mr. President, for welcoming us to this conference. I would like to ask you two questions. The first is about the destruction of cultural monuments in previously occupied territories. We all saw who destroyed what in these territories and who was ready to rebuild these territories. Unfortunately, not everybody understands that. The European Parliament prefers to blame the victim. UNESCO, as far as they understood, didn't understand quite well. Unfortunately, I am among the signatories of the letter to the UNESCO Chairwoman. So, what belongs to bad faith, and what belongs to lack of information? Can we assess that? And what could be done in both cases for better understanding, considering that I am firmly convinced that most European Union citizens and most American citizens are ready for fair assessment if they have the correct data.

My second question is, what would you see for the ethnic Armenians who remain loyal to their country, Azerbaijan, in the future for cooperation for rebuilding the previously occupied territories and thinking above all to those in Baku and Ganca today. Thank you very much.

President Ilham Aliyev: Thank you. With respect to the first question, I would say that we are very disappointed that not only lack of information causes the wrong attitude to the conflict and the years of occupation, but deliberate manipulation of facts. Because first, when we started to face this injustice, it seemed that we needed to work harder, present our case, and explain that it is Azerbaijani people who are suffering from occupation. We have been a victim of aggression, and we thought everybody would understand it and treat us fairly after making that clear. But then we realized that no matter what we say, there are strong pro-Armenian groups and sentiments and perceptions and beliefs. No matter what Armenians did throughout the occupation, it was never the subject of any punishment or even criticism. For many years, I was calling for sanctions against Armenia. It is the only way to resolve the conflict and the only way to avoid war. If you don't sanction Armenia, they will never leave the territories. They will never leave voluntarily with such strong lobbying positions in the three co-chair countries and notable military and political arrangements with these countries. But unfortunately, it didn't happen. In contrast, sanctions were imposed in other conflicts. We again see the double standard.

After the war, a kind of narrative was very strange and based again on fake facts that I would call Azerbaijanofobia. That Azerbaijan will destroy Armenian cultural heritage on the territories, we

returned. UNESCO was knocking on the door and was planning to come, and, of course, we worked with them. We need to have proper wording in our correspondence. We needed to have full compliance with the territorial integrity of Azerbaijan in their public communications. And finally, we already agreed on the text and agreed on the mission's composition. I would like to say that for 30 years, we have been asking UNESCO to come to occupied territories and testify, and they have always refused. Just one year or maybe a year and a half before the Second Karabakh War, our then foreign minister was in UNESCO asking for that, and the answer was that UNESCO was not involved in political issues. After the war ended, the situation changed. Why? Because it was a kind of a perception that Armenian historical heritage could be damaged. But, the fact that 65 out of 67 mosques were knocked down by Armenians is absolutely ignored, as if this is not historical heritage and as if it is not religious heritage. That is the situation which we are facing. But, now, after thousands of international representatives visited Shusha and all of them saw that the Armenian church is untouched, on the contrary, it will also be restored, unlike the mosques which Armenians destroyed, now the interest of UNESCO to come to the region goes down. Because, when they come or if they come, what will they have to report? They will have to report about 65 destroyed mosques. They will have to report that the Armenians kept pigs and cows in Aghdam Mosque. They will have to report that Armenian, Christian and Alban religious heritage is untouched. We will never do it, and we never did it. Here in Baku, you can find the Armenian church in the city's center. We keep there 5,000 Armenian books. What do we see in Yerevan? They changed the name of an Azerbaijani mosque. They called it a Persian mosque. The mosque in Shusha they also called a Persian mosque. They even invited specialists from Iran to make some repairs to change its origin. There was a diplomatic note, and the Iranian ambassador then was invited to the Foreign Ministry, and we demanded to end that. Because that was also part of the legitimization of the destruction of Muslim heritage, this is the difference.

Our religious and historical heritage in Azerbaijan belongs to all people of Azerbaijan. The Zoroastrian temple, mosque, catholic church, orthodox church, Armenian church and synagogue are all our national heritage, and we preserve them. Everybody who visits Baku, Shusha, Guba and other places can see it. But, of course, this double-standard approach is something we are already used to living with, unfortunately. But, again, I think the meetings like this one and Shusha being a city now hosting every week significant international events and soon we will have another Khari Bulbul festival there with the participation of folklore groups from 10 countries, that will also be something which no one can ignore or neglect or turn a blind eye on.

And the second question. With that respect also, our position is very clear. I already said that Armenians who live in Karabakh - we consider them our citizens. We hope that they will also soon understand that living as citizens of Azerbaijan, they will have all rights, and their security will be ensured. Azerbaijan, unlike Armenia, is a multiethnic country and all ethnic groups who live here live in peace and dignity, including Armenians. We have an Armenian minority, and there was never any issue with that respect. But, of course, there should be an end to Azerbaijanophobic propaganda in Armenia. Demonizing Azerbaijanis and creating a mythology about us will not serve

the cause of peace. Plus, what happened after the war demonstrates that we don't have any bad intentions. We want peace. We want recognition of our territorial integrity.

Living standards in Azerbaijan are much higher than in Armenia, not to mention the part of Karabakh temporarily controlled by Russian peacekeepers. Therefore, I think that understanding will come, and we have already gotten some messages from Armenians in Karabakh. Very positive messages. We have already started some preliminary contacts on different levels. I don't want to go into many details, but it has already started, and this once again demonstrates our intention. They can be part of the rapid economic development, and they can feel much more safe, more secure and more comfortable within a single Azerbaijani state. However, they need to abandon the separatist trends and separatist aspirations. They also need to understand the reality. They need to look at the map. They need to see the geography and understand that hundreds of thousands of Azerbaijanis will return within a visible future to Kalbajar, Lachin, Shush and Aghdam, and they have to live in this environment. They have to live like neighbors, put down the hostility, isolate separatists, bring separatists to justice, and then, I think, see the benefit.

Hikmat Hajiyev: In our list we have Ventzeslav Sabev.

Founder at University Center on Governance Faith and Values, Geneva, Switzerland, Ventzeslav Sabev. Thank you, Your Excellency. Good morning, Mr. President. My name also reveals my country of origin. Even if I come from Switzerland, the brothers in Bulgaria are very grateful to your country for restoring their safety this week. It was a significant help.

Now, coming from Bulgaria, Switzerland, and representing the University of Geneva, I am working on interfaith and intercultural dialogue. In your previous response, you answered, reminding Azerbaijan's cultural filter and tradition that this is a model working well in the region. We are looking forward to seeing it replicated across the region and beyond. A very clear message you also gave again was an appeal to the organizations in western Europe. You said that time is ripe for people-to-people contacts at NGO levels, and when we tried in the last few months to organize such events, we were told to be careful about the balance in the narrative between history and the message toward the future. We want to focus on reconstruction, putting efforts into building communities and integrating communities. What would be your advice in managing this balance between countering fake history and distorted historical messages versus focusing on the future for an integrated message?

President Ilham Aliyev: Well, I think that first of all, there be a clear understanding about which part of history is fake and which part of history is not, because, unfortunately, in Armenian historiographic signs, every step you make, you see the fakes, including with respect to Azerbaijani lands, including with respect to the history of Karabakh. By the way, I can tell you that this fake history policy lasted 5-6 years and even had a new dimension. They started to officially name Azerbaijani cities with Armenian names, with fake names, including, for instance, the city of Shusha, which they started to call Shushi, which never was Shushi. By the way, I don't know what

Shushi means and why Shushi must be considered an Armenian name. I don't understand. If you look at all the maps, historical maps, if you look at the Soviet encyclopedia, you will see Shusha. But, that is a product of the recent 5-6 years, the fake history of Armenians in Azerbaijan. We know the history, and it is clear. Also, it can be seen on Wikipedia. Look at the Kurakchay peace agreement, 1805. Who signed it? Ibrahim Khan, Karabakh and Shusha, and Russia general. There was no mention of Armenians. Armenians started to be brought to that area from Persia and Eastern Anatolia later, after the Turkmanchay and Gulustan agreements. All these are historical facts. We don't say that they should be ethnically cleansed because they have lived in Karabakh for 200 years. No. But history should not be manipulated. And the same is with some other historical so-called documents they try to present. But, I think that if we want to achieve the goal, the main focus should be on the future. You do not want to go too far back in history. That is the reason for Armenian failure. They always dreamed of achieving something they thought they had lost. They always based their ideology and education on the past and therefore lost the future.

As far as the future is concerned, I think what will be important now is to start contact with representatives of civil society. We are ready for that, and we discussed it with EU representatives, with representatives of the United States government and made a proposal to organize this kind of contact. The Russian government has also organized one contact in Moscow. A group of intellectuals from Azerbaijan and Armenia met there, and I think this format can also be continued. We can also have these meetings in Baku and Yerevan, in other words, to start talking to each other. If we reach an agreement with the Armenian government on peace, this agreement must also be part of the national consensus. We understand it. Otherwise, it will be very difficult to sign this agreement and implement it. But, how to achieve national consensus when they continue to demonize Azerbaijan and present us as a people and country who wants to destroy them. No, we wanted only to restore our territorial integrity and live in peace. So, my recommendation would be, because I think it's time has already come, one year and a half have passed, time passes very quickly, to organize these kinds of events in Europe, Russia, Turkiye, and America to start public diplomacy. And also maybe on the level of experts, I think it is also possible. I said in the beginning that there could be some events in-between Shusha international forums. One of the events can be to invite experts from Armenia, those who want peace, who advocate for peace, not for hatred, and start this. I think ADA can be a perfect home for that. Thank you.

Hikmat Hajiyev: In our list we have Rick Fawn. Rick, please.

Professor, University of St. Andrews, the United Kingdom, Rick Fawn. Thank you very much, Excellency. This is a tremendous opportunity for us, and the trip yesterday was extraordinary and made the seemingly impossible possible. It was also very important to see what Azerbaijan has achieved in such a short time. The question I would ask, also seeing that we have recognized some of the obstacles ahead, is to hear from you what the region could look like and Azerbaijan's contribution to the South Caucasus in ten years.

President Ilham Aliyev: It would be responsible from my side to give such a prognosis because,

you know, the situation in the region is closely connected to the situation in the world. And I think the situation in the world in the post-Soviet area will seriously influence the regional situation. Therefore, having this prognosis, I think we need to have in mind two scenarios. One scenario is a peaceful future for the post-Soviet area. Another scenario is not a peaceful future. Considering now the war between Russia and Ukraine, we do not know when that war will stop and what will be the post-war situation. But, with respect to Azerbaijan, I think we will be much stronger in ten years, of course, and I hope that by that time, maybe even earlier, all the disagreements and problems with Armenia will be resolved. So, the region of the Southern Caucasus will be firmly integrated, and three countries of the Southern Caucasus will already have close cooperation. There are opportunities for that. Azerbaijan is a generator of regional projects, whether transportation or energy. It already played an important role in the trilateral cooperation between Azerbaijan, Turkiye and Georgia, which became a foundation for broad European cooperation. Without that, which we did in 2006, the Baku-Tbilisi-Ceyhan pipeline, today's energy security of Europe would be much more vulnerable because the gas pipeline wouldn't have been built. So, as a generator and as, of course, the biggest economy in the Southern Caucasus with the great potential to grow, because only these three months our economy grew 7% and our export more than 90%, including 45% in non-energy related export, and a generator of wealth and a generator of stability. But, it will depend, of course, on the agenda in Armenia, what will happen there, the plans of the Armenian government for peace agenda, and whether they will be implemented. But, I think politically, it should be an absolutely new composition. From an economic point of view, there should be a new map in terms of regional transportation ties because we have already created a new transportation map. Looking from 2008 when we started working on Baku-Tbilisi-Kars and 2017 when it was done, it is an absolutely new picture. Maybe before that, there could be more interaction between South Caucasus and Central Asia. Today, it doesn't happen. It is kind of sporadic, and mainly it comes through Azerbaijan, through our infrastructure facilities. However, as a Caspian littoral state, a Caucasian state, I think Azerbaijan has a special role in this format. It can happen. So, these are our plans. Usually, once officially announced, our plans are eventually implemented. What I am saying now is my thoughts. I do not yet make it an official agenda, but we are working on that. I think Azerbaijan has a considerable potential to join political consultations that Central Asian countries have between themselves. You know there is a format of five countries. We are very close historical connections and traditional ties with these countries and their peoples. Plus, the Caspian Sea should be a bigger bridge between cultures and between economies. Will Armenia be part of that? I don't know. I think it will be good for all that they are and there is an opportunity, what we offered and which is called Zangazur corridor will cross their territory. I am sure it will, but again they are losing time because we already are building the highway and railroad to the Armenian border, and the railroad will be ready by the end of this year, and the highway perhaps later. So, if they are not part of that, they will be bypassed, and last month we already signed an MOU with Iran on building bridges bypassing Armenia. So, we bypass them in the projects related to gas and oil pipelines, and Georgia is benefiting from that, getting good money from carriers. We bypass them, building the road to Kars through Tbilisi and now, when they have a historical chance to demonstrate to their people that there can be benefits of

their military failure at war. That benefit is being part of the region and getting access to the wealth. For a year and a half, they blocked it. They did not give us the geographical coordinates of where the road will go through the Megri region, and they did not even start a feasibility study on the construction of the railroad. However, our 60 kilometers of the railroad are already ready. And 40 kilometers left, as I said, maybe by the end of the year or at the beginning of next year, it will be ready. And then, we will build a bridge, and we already agreed with the Iranian government, and they will be bypassed. So, my prognoses are based, of course, on our agenda. However, I do not know what will be the agenda in Armenia and the global situation in the world because since we met last time, the situation in the world has already been different. Of course, the world will never be as it was before February.

Hikmat Hajiyev: Now, we have on the list Doctor Ji Yingfeng.

Doctor Ji Yingfeng, Doctoral Researcher, University of Cambridge, the UK: Thank you, Your Excellency. Thank you for arranging the time to communicate with us and openly answering questions. I am a researcher from the University of Cambridge in the UK, and my research area focuses on China's relationships with Eurasian countries and decarbonization in Eurasian countries. I have two questions: the first one is regarding China's relationship with Azerbaijan under the framework of the Belt Road Initiative. In 2013 when Chinese President Xi Jinping visited Kazakhstan, he proposed and called for Eurasian countries to jointly build a Silk Road economic belt to promote the integration of Eurasian countries.

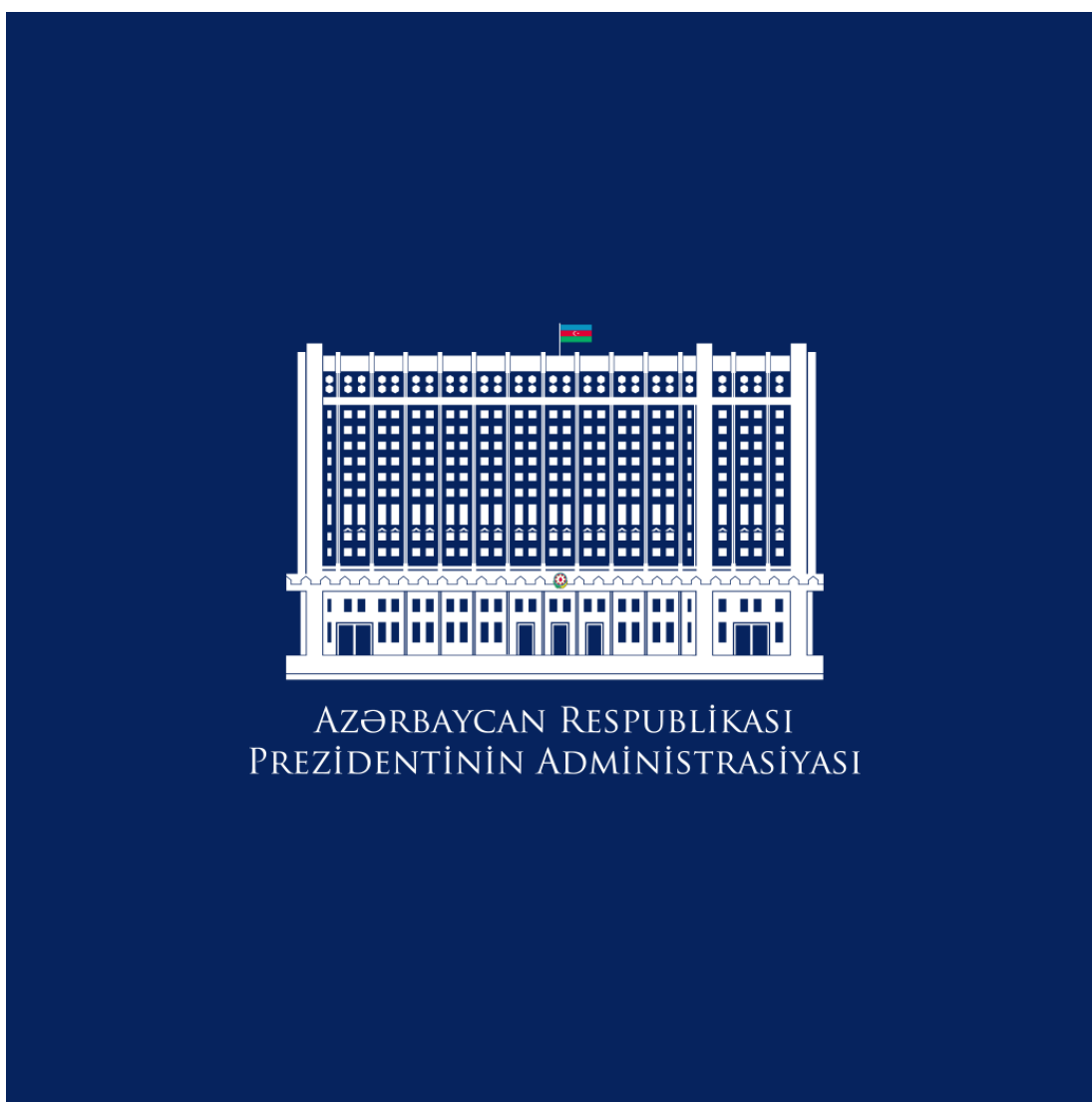
Azerbaijan and China signed a cooperation document, an MOU, on that. But from external sources, it is feared that cooperation areas and projects are not clear to observers, so I would like to ask you to elaborate a bit on the cooperation areas between the two countries under this framework. And with Azerbaijan's recent efforts to promote integration in the South Caucasus, where do you foresee more prospects to strengthen cooperation with Chinese partners. The second question is regarding renewable energy development in Azerbaijan. With the global decarbonization trend in Azerbaijan, we gave decarbonization and renewable energy development two meanings by promoting renewable energy development nationwide and building the smart city in the Karabakh region. In this context, we gave two meanings of renewable energy development not only in the context of decarbonization but also in the context of post-conflict reconstruction. So, following the government's vision, I want to invite you to update us on the current status of implementing green energy development in the Karabakh region and nationwide. What are the main challenges foreseen ahead? Thank you very much.

Annex 17

“Ilham Aliyev visited military unit of Defense Ministry’s Special Forces”,
The President of the Republic of Azerbaijan Ilham Aliyev (30 April 2022)

president.az /en/articles/view/55917

Ilham Aliyev visited military unit of Defense Ministry`s Special Forces



30 April 2022, 11:35



President of the Republic of Azerbaijan, Commander-in-Chief of the Armed Forces Ilham Aliyev, has visited a military unit of the Special Forces of the Defense Ministry as the Special Forces mark the 23rd anniversary of its establishment.

Minister of Defense, Colonel General Zakir Hasanov, reported to Commander-in-Chief Ilham Aliyev.

The head of state first laid flowers at the bust of National Leader Heydar Aliyev and paid tribute to his memory.

Then the Commander-in-Chief put flowers at the monument to the martyred members of the Special Forces.

The Commander of the Special Forces, Lieutenant General Hikmat Mirzayev, briefed President, Commander-in-Chief of the Armed Forces Ilham Aliyev on the conditions created in the military unit.

In 1999, by a decree of great leader Heydar Aliyev, one of the most agile and highly capable units of the Azerbaijani Army was established. Officers and ensigns who took part in the First Karabakh War took an active part in the Special Forces formation. These units of the Azerbaijani Army, united under a single command by National Leader Heydar Aliyev, were formed in close cooperation with the Turkish Armed Forces and Special Forces.

After the Commander of the Special Forces, Lieutenant General Hikmat Mirzayev, reported to Commander-in-Chief Ilham Aliyev, the President addressed the personnel of the military unit.

Speech by the President and Commander-in-Chief Ilham Aliyev

- Twenty-three years ago, by a decree of National Leader Heydar Aliyev, Special Forces were established in Azerbaijan. By signing that decree, he once again showed great foresight. The establishment of Special Forces justified itself in our historic victory in the second Karabakh war.

In 1999, the situation was different. Hopes for a peaceful settlement of the Armenia-Azerbaijan Nagorno-Karabakh conflict had not yet been dashed. However, based on Heydar Aliyev's decision, a special military unit was established in Azerbaijan's Armed Forces. Since then, Special Forces have played a tremendous role in achieving our historic victory, covering a great and glorious path and showing unprecedented heroism in the Patriotic War.

The reasons for our defeat in the First Karabakh War are clear. At that time, there was no regular army in Azerbaijan. No army building was carried out, and the country's leadership could not fulfill its duties. The occupation of Shusha and Lachin in May 1992 and the occupation of Kalbajar in April 1993 established a geographical link between Nagorno-Karabakh and Armenia. Thus, the occupation of our lands, unfortunately, became a reality.

The Patriotic War is our glorious history. The people of Azerbaijan supported their army and backed it. All Azerbaijani citizens rallied around it, all Azerbaijanis of the world united. We united like a fist and inflicted such crushing blows on the enemy that they are still unable to recover. The Armenian army was utterly crushed in 44 days. The remains of the Armenian army are on display in the Military Trophy Park in the center of Baku. The Armenian leadership used to threaten us with a new war. They were saying that if Azerbaijan wanted to resolve this issue by military means, Armenian tanks would be on the streets of Baku. Indeed, Armenian tanks are on the streets of Baku. We have destroyed and brought them here. Now those tanks, as well as cannons and other equipment, are on display at the Military Trophy Park.

In a matter of 44 days, we liberated more than 300 cities and villages from the enemy. We won this victory on the battlefield – not through negotiations, not concessions, but by shedding blood and losing martyrs. What was driving us forward? Our patriotism, love of country and hatred for the enemy! We have brought up the young generation in this spirit, our army has grown up in this spirit, and Special Forces, the most combatant branch of our army, were advancing with this mission, and this idea in their minds, putting their chests forward.

The historic victory of Azerbaijan's Armed Forces will forever remain in our history. We will live forever as a victorious nation and as a victorious state. It was our sons, soldiers and officers who delivered us this joy. All the Armed Forces made a valuable contribution to this Victory, and this historic Victory was achieved in 44 days. The enemy was brought to its knees before us and was forced to sign an act of capitulation with its own hands. This is perhaps one of the most, if not the most memorable, the happiest and the proudest moments in our history and my life. The signing of the act of capitulation by Armenia is the proudest event in my life.

Special Forces have made an immense contribution to our victory in the Patriotic War. I know this as the Supreme Commander-in-Chief, and I have told the Azerbaijani public about it. All the people

of Azerbaijan know this, and the enemy knows it. The liberation of our villages from the first days of the war shook up the enemy. They did not believe that the Azerbaijani Army could achieve this historic victory by breaking through five or six lines of defense, shedding blood and sacrificing martyrs.

They were still hoping that someone would stop us, that someone would put pressure on us and that we would stop our Victory march under that pressure. I said that nothing and no one could stop us, that we would go to the end, that we would drive the enemy out of our lands until the end, and that the war could stop only after the enemy signed an act of capitulation, and this is precisely what happened. We proved our commitment to our word. From the first days, our army was moving forward and never took a step back. According to their confessions, there were more than 10,000 deserters in the Armenian army during the war. There was not a single deserter in the Azerbaijani Army. These are the moral qualities of the Azerbaijani people. These are our national spirit and love of the Motherland. It was the love of the homeland, but at the same time, training and professionalism that drove us forward.

In all our critical operations, Special Forces were at the forefront. I want to emphasize the role of the Special Forces, along with other military units, in liberating our cities and villages. After a series of successful operations, our path to Shusha was clear. By saying path, we understand there was no road. After the successful Hadrut operation, which drastically increased the number of deserters in Armenia, they did not believe we would go in that direction. They were expecting us in a different direction. But our lions and heroes paved the way forward with their bare hands, their own feet and with their own chests. The objective was Shusha, and it passed through valleys and woods. I said during the war that our mission would be incomplete without Shusha. From the first day to the last day of the war, our goal was to liberate Shusha, our beloved city, the crown of Karabakh, from Armenian occupation, and we achieved that; you achieved that, the Special Forces did. Our tireless heroes spent a few days crossing through those valleys and woods with only light weapons in their hands. They liberated many villages along the way, shed blood, and gave martyrs, but did not stop and only marched forward. Everyone who comes to Shusha today is puzzled – how did the sons of Azerbaijan liberate this impregnable fortress? Every time one goes to Shusha via Victory Road, one keeps wondering about that. The number of people going to Shusha via Victory Road has significantly increased lately – both Azerbaijani and foreign citizens. During their subsequent contacts with me, people asked me how we could build this road in Azerbaijan in such a short time? And I reply that this is irrelevant – just imagine how our soldiers and officers passed through those forests, paving that road. By naming this road Victory Road, we have inscribed this glorious Victory in our history once again.

Every time I see those steep rocks as I approach Shusha via Victory Road, I always think of you, of how this impregnable fortress was captured – with light weapons, in city battles and hand-to-hand fights. Ahead of you, at the top of the mountain, Armenians armed from head to toe with heavy guns, cannons and tanks were helpless in front of you.

It was your strength, resolve, professionalism and love of country. You fought for your homeland and in your homeland. The occupying enemy could not stand in front of you on the territory of Azerbaijan. The liberation of Shusha is the brightest page of the war. Today, the Shusha operation, the Hadrut operation and other operations are being studied in the world's leading military schools.

A year and a half have passed since the Second Karabakh War. Military experts and people dealing with this issue still talk about Azerbaijan's victory. I have been asked many questions about this issue, about the war and our victory. What are the factors that preconditioned this Victory? The first among them is patriotism. In other words, it was the love of the Motherland that made you look death in the eye and say, "We will rather die than retreat." And we demonstrated precisely that. We have demonstrated to the whole world that we are a great nation, and we have fought the war with dignity. While the enemy was defeated on the battlefield, our cities and villages came under fire. More than a hundred civilians, including children and women, lost their lives under this cowardly fire. We fought a war with dignity, and I said during the war that we would take revenge on the battlefield. We have never fought and will never fight against civilians. The sublime qualities of the Azerbaijani people do not allow us, and it never happened. The whole world recognizes that the Azerbaijanis fought with dignity, fought like men, drove out the enemy, brought it to its knees and kept their word.

The situation in our region is entirely different now. We are multiplying our strength as a victorious nation and as a victorious country. All instructions on the future activities of Special Forces have been issued. I was in this military unit a year before the war when I met with Special Forces. It is a great honor for me to be with you today, on this holiday. I am proud of you. All the people of Azerbaijan are proud of you. Armenia, the Armenian armed forces begin to tremble on hearing of Azerbaijan's Special Forces. They have not gotten over it and never will get rid of this fear. We do not seek war. We have achieved what we wanted. We have restored historical justice. We have honorably fulfilled our duty to the people, to history and to future generations. But we must always be alert because revanchist forces are still raising their heads in Armenia. There are still those in Armenia who make territorial claims against Azerbaijan.

We must always keep it in the spotlight and must not be indifferent to that. Additional funds were allocated for army building after the Second Karabakh War. As it has been the case since 2004 to date this year, military expenditure is the number one provision, including increasing the number of Special Forces, which is already a reality. I do not want to say anything about the numbers now, but I can say that after the Second Karabakh War, the number of Special Forces has doubled. The selection process is now even more rigorous, and the interest is more significant. There are many applicants. Moral and psychological qualities, physical training, professionalism and, most importantly, love of the homeland are the main conditions for being selected.

Reforms are underway in other armed forces as well. New military units capable of conducting special operations are being established, and the Azerbaijani Army is becoming even stronger. Today, our army is even more potent than during the war.

I once again sincerely congratulate you on the 23rd anniversary of the establishment of Special Forces. I wish you renewed success and many more victories. I want to conclude my speech with the slogan of the Second Karabakh War: Karabakh is Azerbaijan!



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Annex 18

“Ilham Aliyev and First Lady Mehriban Aliyeva have attended the opening of a new residential complex for families of martyrs and war disabled in the Sabunchu district, Baku”, *The President of the Republic of Azerbaijan Ilham Aliyev* (2 May 2022)

[president.az /en/articles/view/55929](http://president.az/en/articles/view/55929)

Ilham Aliyev and First Lady Mehriban Aliyeva have attended the opening of a new residential complex for families of martyrs and war disabled in the Sabunchu district, Baku.



AZƏRBAYCAN RESPUBLİKASI
PREZİDENTİNİN ADMINİSTRASIYASI

02 May 2022, 14:00



President of the Republic of Azerbaijan Ilham Aliyev and First Lady Mehriban Aliyeva have attended the opening of a new residential complex for families of martyrs and war disabled in Sabunchu district, Baku.

Minister of Labor and Social Protection of the Population Sahil Babayev informed the President and the First Lady of the new residential complex.

It was noted that the new residential complex, consisting of 12 nine-story buildings and 576 apartments, was constructed on 2.76 hectares. The buildings in the complex have a total of 36 one-room, 144 two-room, 360 three-room and 36 four-room apartments.

A 100-seat kindergarten and an office building are available in the complex. Necessary conditions are created for residents and their children, and the complex has been provided with all the necessary infrastructure.

It is no coincidence that the families of martyrs and disabled veterans of the war were presented with 200 apartments and 50 cars on the occasion of Ramadan. Humanism, special attention to families in need of social care and commitment to Islamic values are essential components of the concept of governance of the President of Azerbaijan.

The political will and consistent, practical steps taken to address social issues give grounds to say that Azerbaijan has developed a socially-oriented model of the state. Even reforms arising from changes in the global market, supply and demand, and new challenges are compensated by social measures. In other words, a system of comprehensive measures to strengthen the market economy serves the interests of the relatively vulnerable segments of the population. This policy has been prevalent in the post-war period. The social support package implemented on the instructions of President Ilham Aliyev during the post-war period covered 100,000 people and

included a total of 166,000 services.

Over this period, 103,000 social payments were made to 93,000 people, including family members of martyrs and war veterans. The housing program has been expanded five times, as 3,000 apartments were handed out in 2021 and 3,500 in the post-war period. Twelve thousand five hundred families of martyrs and disabled veterans have been provided with apartments and houses, while 7,400 disabled veterans received cars.

A total of 200 servicemen of the Patriotic War and 300 disabled veterans received the latest generation prostheses, and 1400 disabled veterans received 17,000 rehabilitation aids. Five thousand families received social and psychological services, 1,500 people with rehabilitation services, and 11,000 have been involved in employment programs. Services have been provided to a total of 30,000 people.

President Ilham Aliyev and First Lady Mehriban Aliyeva viewed the conditions created at the kindergarten in the complex.

Then the President and the First Lady visited the family of martyr Mahir Mammadov, who was awarded medals "For the Liberation of Fuzuli," "For the Motherland," and "Courageous Warrior" for his valor and bravery in the Patriotic War.

Speaking to the martyr's family members, President Ilham Aliyev said:

- First of all, I would like to congratulate you on the occasion of Ramadan. This holiday, we are celebrating the opening of a new township in Baku. Both martyr families and disabled veterans of the war will live here. May Allah rest the souls of all our martyrs in peace! May Allah rest the soul of your son in peace! It is a great tragedy, a grave loss. You have lost your son, you have lost your husband, and you have lost your brother. I know that Mahir was a hero. He also took part in the April battles. The state awarded him three medals for his extraordinary heroism in the Patriotic War. It is a tremendous loss and an incurable wound, as everyone understands. But the only consolation may be that he sacrificed his life for the Motherland. Thanks to his heroism and our sons like him, we ended the occupation of our lands.

We had martyrs in the first Karabakh war, and about 4,000 people are still missing; apparently, they have died. We had more than 15,000 martyrs in total. Despite this, our lands were also lost. But we had fewer martyrs in the Second Karabakh War. Of course, the life of every martyr is irreplaceable. However, one of the essential requirements of our operations during the war was that our losses should be minimal and return of our lands should be secured.

Of course, the memory of each martyr lives and will live on forever in the hearts of their families and the entire Azerbaijani people. Last year, on 27 September, the Day of Remembrance, we conducted the Remembrance March, in a way, together with our martyrs, holding their photos. Then those pictures were handed over to their families. It can be the only consolation, and there

can be no other consolation.

Of course, we are trying and will try to solve the day-to-day problems of all our martyrs. It is our duty. It is my duty as President and that of our state. The families of the martyrs of the First and Second Karabakh wars have been provided with more than 12,000 apartments. Again, this is our duty. The main consolation is that they have reached eternity, the peak of martyrdom. No one will live in this world forever. Sooner or later, we will all be reunited in eternal rest. Of course, to die at a young age is a great tragedy, but what can we say? The only consolation is that they fought and died for the Motherland. At the same time, they had been avenged. He passed away on 19 October. The city of Fuzuli had already been liberated from occupation. After that, his comrades continued their victorious march to the end, went on to plant our flag in Shusha, drove out the enemy and restored justice.

It is, of course, very hard for you. It is impossible to come to terms with this loss. Time will not heal this wound. But his memory and heroism will live on forever. Azerbaijani citizens, Azerbaijanis worldwide, are proud of our martyrs. They are a source of pride for us, and this will continue to be the case forever, for as long as the Azerbaijani people are there. We will remember them forever. Their heroism will never be erased from our memory, from the hearts of future generations. Martyrs do not die; we have repeatedly said this, and they are still with us because their memory lives on. Mahir's son lives. I am sure that he will grow up well worthy of his father. The fact that he is growing up to become a hero like his father can be a consolation for you.

In other words, he left behind his son, his young wife, his brother, and his mother. As you know, I had many meetings with the families of martyrs, veterans and wounded veterans after the war. Each meeting shows the greatness of our people yet again. It is an enormous tragedy to lose a son, a husband or a brother. However, this did not shake the resolve of our people. We will live forever as heroes and a victorious nation because of heroes like Mahir. I repeat – we must never forget the first Karabakh war. We must not forget the martyrs. Although they became martyrs, our lands were also lost at that time. This time, they became martyrs, but we returned the lands. That is the difference, and this can be some consolation. Of course, the wound of losing a dear one will never heal, but life will go on.

Now we have started the reconstruction of our lands. The image of our martyrs is eternally engraved on the liberated lands, on the new buildings being created, on houses, schools, and hospitals, on each stone. They died for this land; they held Motherland above anything else. I want to say again that Mahir showed true patriotism during the April battles and the Second Karabakh War. The main task for you now is to keep his memory alive and raise his child as a valuable citizen. This is also a vital issue for the state. The state does and will do its best to address the problems of martyr families. I wouldn't want to talk about it too much. It is our duty, and your life and wellbeing will always be in the spotlight for us.

Martyr Mahir's brother Habil Mammadov: Thank you very much, Mr. President, for visiting us on

this holy day. You have always paid great attention and cared for the families of martyrs and wounded veterans of the war. Thank you very much on behalf of our family. Thank you very much for this beautiful apartment. Mrs. Aliyeva, thank you very much. May Allah be pleased with you.

First Lady Mehriban Aliyeva: How old is his son?

Martyr Mahir's mother Timziya Mammadova: You know, his son was born on 21 September, and the war broke out on the 27th.

First Lady Mehriban Aliyeva: He was born in September...

Timziya Mammadova: He never got to see his son; he is his first child. He got married a little late.

First Lady Mehriban Aliyeva: May Allah bless him. What is his name?

Timziya Mammadova: He was named after his grandfather – Salim. Thanks to you, our martyrs are rejoicing now that our lands have been taken.

President Ilham Aliyev: Their souls will always be rejoicing. It was the duty of all of us. We avenged his death on the battlefield, carried on to the end, and secured the Victory. When Mahir's son grows up, he will be proud of his father for the rest of his life. I am sure that the people of Azerbaijan will always take care of him and respect him because he is the son of a martyr.

Timziya Mammadova: He will be proud of his father, that's right.

Habil Mammadov: We often take him to his father's grave.

First Lady Mehriban Aliyeva: The names of all martyrs are written in Victory Park.

President Ilham Aliyev: Everyone's name is there. The Victory Museum will also be established. The Victory Park is located in one of the most magnificent places in Baku, perhaps the most magnificent one – right in front of the Seaside Boulevard. A large memorial will be built there. Work will begin soon. The names of all martyrs will be engraved there. The Museum of Victory and the Museum of Occupation will be established in all liberated cities. So the names of all our martyrs will live forever. They gave us that joy.

Timziya Mammadova: Mahir was a very good son too. He was in love with his job. He was a cartographer and loved his job. May Allah rest the souls of all our martyrs in peace.

President Ilham Aliyev: May Allah rest the souls of all our martyrs in peace.

Habil Mammadov: Mr. President, we are proud of you. It is good that our people and state have a President like you. May Allah grant you good health. Thank you very much for everything. Thank you very much for your attention and care.

President Ilham Aliyev: Thank you.

Timziya Mammadova: On your instructions, the families of martyrs are looked after very well. Everything is fine, and we are not dissatisfied.

Habil Mammadov: They regularly enquire about us.

President Ilham Aliyev: Yes, I have instructed all government agencies to pay attention to the families of martyrs.

Timziya Mammadova: They do.

President Ilham Aliyev: In all matters, employment, domestic and any other problem that may arise in a person's life – all government officials, central and local executive bodies must always be together with the families of martyrs and provide assistance. It is our duty.

Our primary duty was to expel the Armenians from our lands, and our children, like Mahir, succeeded in doing that. Every government official now has to pay attention to the relatives of our martyrs, and there is full solidarity in society over this issue. Government agencies and everyone else are trying to help martyr families. Employment issues are essential. We also had many wounded veterans of the war. We had more than 10,000 wounded soldiers and officers. They are also in the process of recovery. Two hundred prostheses of the latest model have been arranged for them, returning them to everyday life. The state must and will do whatever it takes.

Habil Mammadov: The apartment is also beautiful, Mr. President.

Martyr Mahir's wife, Gunel Mammadova: Thank you very much for the apartment.

President Ilham Aliyev: It is good. It is a settlement. There is a kindergarten and a school nearby.

Habil Mammadov: The conditions are very good.

President Ilham Aliyev: You know, these houses were built for IDPs. During the occupation, enormous work was done to accommodate the IDPs, create normal conditions, and establish such beautiful townships. But after the war, I decided to provide the apartments reserved for them to the families of martyrs so that they could soon move into these apartments. I have to say that some martyr families of the first Karabakh war have not been provided with apartments yet. A total of 12,500 apartments have indeed been provided, but there are still people waiting in line. That is why I said that we have already started to build houses for the IDPs in Karabakh and Zangazur. They have to live there. Secondly, we should present these beautiful houses to the families of martyrs to address the problems of our wounded war veterans.

Three thousand apartments were provided last year, 1,500 more this year, and this process will continue. These apartments have all the conditions for living. All other issues related to employment must be addressed, and I know that you are working. Matters related to pensions. The families of martyrs should always be at the center of our attention so that there are no

problems in your lives and the lives of other martyr families like yours. As President, I have ordered all government agencies to do so, and they are doing exactly that today. It is our duty.

Family members: Thank you very much, Mr. President.

President Ilham Aliyev: There is a beginning and an end to life. No one lives forever. But being a martyr means a tremendous service to the people, history, and future generations. Martyrs live forever; their mission and heroism are invaluable because they sacrificed their lives to liberate the lands and restore justice and restore our people's dignity. Our lands had been under occupation for 30 years, and our people went through moral suffering, all of us, including Mahir. It was the love of the Motherland that drove him forward. And he could not come to terms with this injustice. He sacrificed his life, and our sons like him restored the dignity of our people. It is a great victory that is an indispensable factor for the growth and education of our future generations. We have been living as a victorious people for a year and a half now. We used to be a people whose lands were occupied.

Timziya Mammadova: Our heads are high now.

President Ilham Aliyev: Yes, our heads are high, which will be the case forever. I want to say again that we are and will always be proud of Mahir and martyrs like him.

Habil Mammadov: Thank you, Mr. President.

President Ilham Aliyev: I do hope that the conditions created for you by the state can slightly reduce your pain.

Habil Mammadov: This is a consolation for us, Mr. President. It was very nice to meet you. Thank you very much for everything.

President Ilham Aliyev: Thank you.

Family members: Thank you. Thank you very much.

Annex 19

“Azerbaijan Television interviewed Ilham Aliyev in Basgal settlement of Ismayilli district”, *The President of the Republic of Azerbaijan Ilham Aliyev* (12 August 2022)

president.az /en/articles/view/56906

Azerbaijan Television interviewed Ilham Aliyev in Basgal settlement of Ismayilli district



12 August 2022, 15:35



The Azerbaijan Television interviewed the President of the Republic of Azerbaijan, Ilham Aliyev, in the Basgal settlement of Ismayilli district.

- Mr. President, first of all, with your permission, we would like to find out your impressions of the visit today.

- My visits to the regions are regular regarding familiarization and additional instructions. As you may know, I oversee the ongoing work myself. In recent years, construction and improvement activities have become widespread in all regions. As part of my visit to the Aghsu and Ismayilli districts today, instructions have been issued and reports about the work already done and what more will be done here.

Major infrastructure projects have been implemented in both districts in recent years. It is possible to say that most of the infrastructure projects have been completed. Large-scale projects related to gas, electricity and water supply, as well as the construction of roads, have been implemented. Suffice it to say that despite being a mountainous district, the gas supply in the Ismayilli district exceeds 80 percent, while in the Aghsu district, it is close to 100 percent. More than ten electricity substations have been built in these two districts recently, and electricity supply is fully provided. In the construction of roads, work is underway both on village roads and the new section of the Ismayilli-Mughanli road.

Large-scale projects related to social infrastructure have been implemented as well. Hospitals for 160 patients have been built in both cities, Aghsu and Ismayilli, and about 100 schools have been built or renovated. Major projects related to the creation of jobs have been implemented. In short, a rock-solid foundation has been created for the future development of this region. As you know, there can be no development talk without infrastructure projects.

On the way here, I was familiarized with the work at the “Diri Baba” tomb. Some time ago, I issued instructions to restore this historical monument, preserve it and create tourism infrastructure around it. The “Diri Baba” stands out for being a rare site in the entire Caucasus region. More than 500 years old, this tomb has been viewed as a holy site by the people of Azerbaijan for centuries. Of course, it is our duty to preserve this ancient historical site, to give it a new life, to restore it, so the conditions around it should also meet modern standards.

At the same time, I issued a special decree several years ago regarding the development of the Basgal settlement and the protection of the historical heritage of Basgal. Based on that decree, the State Tourism Agency has been working here for some time. About 50 percent of the work has been completed, and everyone can see that today. Basgal is one of our ancient settlements, a place with a unique history. Of course, I would very much like the historical appearance of this place to be preserved and, at the same time, better conditions to be created for the people living here. And we have done that – opening opportunities for creating jobs. I am sure that the settlement of Basgal, like the settlement of Lahij, will reveal its face to the whole world as an ancient historical settlement of this region.

As you know, both citizens of Azerbaijan and visitors to our country are visiting Lahij all the time now. I am sure the same fate is in store for the Basgal settlement. For this purpose, the conservation of this historical place of residence and the protection of its historical appearance are of particular importance.

A new modern hotel with 179 rooms was opened at the entrance of Basgal settlement today. Of course, the opening of this hotel will significantly expand the tourism potential of this region. At the same time, the creation of these facilities in the Ismayilli district means the opening of hundreds of jobs. About 300 jobs are created in the hotel in Basgal alone, and those working there are also local residents.

At the same time, the operation of the large agricultural park in the Aghsu district is also making an essential contribution to the economy of this region. About 200 jobs have been created there.

In other words, job creation should become an ongoing process in Azerbaijan because our population is growing, and the demand for jobs is increasing. As a result of the implementation of the projects I have mentioned, the state provides excellent support for the creation of jobs as a result of the conditions being created for the private sector.

Of course, both the tourism and agricultural sectors of this region will facilitate the future development of the region. Decisions made in previous years regarding the development of agriculture are already bearing fruit. As you may know, there are huge concerns about food security in the world today. Azerbaijan is also actively working in this direction. As a result of the work done and to be done in the future, we will turn ourselves into a country that has secured itself in this field as well, and I am sure that food security in Azerbaijan will be ensured to the maximum extent.

- Mr. President, our next question is related to food security. You have already touched upon this issue. The constant increase in prices, especially the grain shortage, has become one of the main topics on the global agenda today. What measures and steps are being taken in Azerbaijan in this direction?

- Of course, when we integrated our economy into the world economy, we applied all the fundamental principles of the market economy in Azerbaijan. If we look at the structure of the gross domestic product of Azerbaijan today, we will see that the private sector accounts for most of our gross domestic product – local companies, foreign investors and foreign companies. Under such circumstances, any economic processes in the world do not bypass us. They have an impact on us too. This includes the growing prices of food products worldwide, which, of course, also affects us. This year, inflation in most world countries is in double digits. As you may know, inflation is usually very low in developed countries, but we are seeing double-digit inflation even in those countries now.

The growing food price has also been imported to Azerbaijan. Because we are still unable to provide ourselves with staple foods fully. However, consistent work is being done in Azerbaijan in this direction. For example, in the field of animal husbandry, which is not a traditional sector for us – I am talking about the Soviet era, when animal husbandry was hardly developed in Azerbaijan – we provide ourselves with meat products by 90 percent, with poultry by 80 percent, and with milk and dairy products by 85 percent. I am sure that in the next three to five years, we will reach the level of one hundred percent, although the demand is also increasing due to population growth.

Unfortunately, we will not be able to provide ourselves with grain for many more years fully. The self-sufficiency ratio for wheat in Azerbaijan was 62 percent at the beginning of this year. It is for this purpose that a special program has been developed, the introduction of new types of subsidies has been started, and as a result, I am sure that the production of food wheat in Azerbaijan will dramatically increase. But it will take time. I think that if we can provide ourselves with food wheat at the level of 80 percent in about three to four years, it will be a great result. Therefore, the increase in the price of grain in the world markets is affecting all countries.

However, today's situation is that it is not only about the price – there is also a shortage of grain.

As you know, due to the Russia-Ukraine war, many countries are physically unable to provide their population with wheat and grain. Because the primary producers of grain are Russia and Ukraine, the war has undoubtedly caused significant obstacles in this matter. However, there is no problem in this field in Azerbaijan. We traditionally buy both grain and fertilizer from Russia. As a result of the agreements reached with our Russian partners, we are importing and will continue to import as much fertilizer and grain as we want. As for fertilizer, as you may know, we have already become fertilizer producers ourselves and even export urea. But other types of fertilizer are still being imported into Azerbaijan.

In short, these factors are a reality, and we are living in real life. We are doing and will continue to

do specific things to insure ourselves against all problems fully. I am sure that in the coming years, we will be able to significantly increase productivity due to irrigation projects, proper agro-technical measures, other measures and subsidies provided to get more crops from the existing cultivated areas. At the same time, we are already engaged in planting and harvesting on liberated lands. Planting and mine clearance work was carried out on my instructions without wasting time. I think that the products grown in Karabakh and East Zangazur will help us fully ensure our food security in the future.

- As a continuation of this topic, planting work is underway on your instruction in the lands freed from Armenian occupation. What kind of agricultural work is being done in liberated territories in general?

- The liberated territories have a favorable climate and natural conditions for agriculture, animal husbandry and plant growing. We should, of course, make the most of all this. At the same time, the current issues related to food security do not emerge today. This issue simply became more acute as a result of the Russian-Ukrainian war.

Of course, after we had liberated our lands from the occupiers, I issued a direct instruction that we should start farming on these lands without wasting any time. This year, grain was planted on an area of 50,000 hectares, and the harvesting draws to a close. True, productivity is very low, which is natural because these lands remained unused for many years, there was no irrigation, grain was grown in dry conditions, and it is the first year that planting has been done. Therefore, the average productivity per hectare is below one ton. However, I am sure that in the coming years, productivity will increase even more, and cultivated areas will increase. I believe that we should envisage at least 100,000 hectares of liberated territories for grain cultivation – of course, provided that all modern agro-technical measures are taken, including the proper organization of irrigation, especially considering that our main rivers were also subjected to Armenian occupation. The loathsome enemy had deprived us of our own water. As you may know, we were unable to use the water of the Tartar River. We could not use the water of the Hakari and the Bazar rivers either. These are the main rivers in liberated lands, but there are many more.

Therefore, if we consider this factor, the organization of agriculture in liberated territories based on modern and planned specialization will allow the people returning there the opportunity to provide for themselves by farming and harvesting and getting decent money. At the same time, the food supply and export capabilities of our country will significantly improve. For example, Kalbajar, Lachin and Zangilan districts have excellent prospects in terms of animal husbandry. Without wasting any time, we sent herders with their flocks of sheep there for the second year now, and we have already seen the results. We have sent beekeepers there as well. Hundreds of beekeepers have already established their farms in Kalbajar and Lachin districts and are reaping abundant harvests. We have already become a honey exporter.

In Fuzuli, Aghdam, Jabrayil and Gubadli districts, grain, grape, fruit and nut growing should be

developed. In other words, the state will provide its recommendations. Farmers and citizens returning there will be supported, subsidized, and provided with recommendations and support in taking their produce to the market. Let me reiterate that the development of agriculture in these districts – East Zangazur and Karabakh regions – should be built on the most modern foundation because we are virtually starting everything from scratch. We can't afford to make a mistake. We cannot make the mistakes made during the agricultural reform in Azerbaijan.

Everything should be correct and transparent, and I am sure that the most significant productivity will be achieved in the lands liberated from occupation.

- Mr. President, as is known, a standoff broke out in Karabakh in the aftermath of Armenian provocation in early August. What can you say about that event?

- Yes, the Armenian side resorted to yet another armed provocation. As a result of this military provocation, one of our soldiers became a martyr. May Allah rest his soul in peace. May Allah rest the souls of all our martyrs in peace. However, everyone saw and should see that our martyr's blood did not remain unavenged. We immediately launched Operation Vengeance, avenged the death of our martyr and severely punished the enemy. Operation Vengeance lasted several hours and was a punitive measure. The blood of the Azerbaijani martyr cost the enemy dearly, and they should not forget that. If a similar provocation is perpetrated again, the response will be the same. No one can stop us, and no one can stand in our way. We can conduct any operation on our lands at any time. Simply, the fact that Operation Vengeance was very effective but short shows that our strength remains unchanged. At the same time, it showed that we do not want a new war. Because the Second Karabakh War showed our strength, and we achieved what we wanted through military and then by military-political means. We will achieve our other dreams too. We will achieve them when the time is right. It is a reality that there are both tactical and strategic steps on our agenda. I am sure that Armenia is also aware that we know what to do and when to do it, and we always do what we say. We have repeatedly warned Armenia not to play with fire, to behave, to accept the new reality and not resort to military provocations.

Unfortunately, we have had to teach them another lesson. I do hope that this lesson will be remembered this time.

Operation Vengeance was not only aimed at avenging the blood of our martyr. As supreme Commander-in-Chief, I also set other goals and objectives, and all of them were fulfilled. The result is obvious, so I wouldn't want to talk too much about it. I simply want to say that we did what we wanted, and the other side has been forced to accept this again.

In principle, Armenia must come to terms with this situation, with the new reality in the future, because there is no other option. Operation Vengeance showed Armenia again that no one and nothing can stop us – not someone's statement, not someone's announcement, not some phone call. Nothing and nobody! The people of Azerbaijan know this perfectly well. The Second Karabakh War showed this. I am sure that the other party also knows this. They simply forget this sometimes.

This is why these tragic events happen.

We won the war. We have regained our territorial integrity. Why should our children die after the war is over? Why should they get killed by the Armenians? We cannot allow that. I want to say again that if a provocation like this is repeated, the response will be even harsher. They will be even more sorry and implore for help even louder. But let me say again that our intention is not to start a new war. Enough is enough. We have achieved what we wanted. We want the Armenian armed forces to leave Karabakh once and for all. This is Armenia's commitment. This was stipulated in the act of capitulation of Armenia signed on 10 November 2020. We are achieving it and will continue to achieve it.

I should also note that hundreds of Armenian soldiers were withdrawn from the Karabakh region after Operation Vengeance. This shows, unfortunately, that such operations have an effect. The reason I say "unfortunately" is that it was not necessary to do this. If Armenia had correctly analyzed our warnings and drawn the right conclusions, there would have simply been no need for this. Anyway, we weren't the ones who started it. We have secured what we want and established ourselves in our lands, which will continue to be the case.

- Mr. President, the Azerbaijani side gave Armenia time to vacate Lachin city and the villages of Zabukh and Sus and surrender them to Azerbaijan by the end of August this year. What is the status of this issue?

- In fact, this date was requested from us by the local Armenians living in the area in Karabakh where the Russian peacekeeping forces are temporarily stationed. We agreed to that. I should note that the Statement of 10 November 2020 explicitly states that a new road will be built and that the planning and approval of this road must be completed within three years. Let me also state that I was the one who included this clause in the trilateral statement. Because when the final negotiations were held on 9 November 2020 – the negotiations were conducted through Russian President Vladimir Putin, and the Armenian leadership and Russia itself were actively involved in these negotiations – I strongly insisted that this clause had to be included. Because the road connecting Armenia with Khankendi passes through the city of Lachin, if I hadn't had this item included, then the city of Lachin would have fallen under this five-kilometer-wide zone, and it wouldn't have been possible to return the former IDPs there any time soon. This is why I insisted and succeeded in having it included. This is why this item was included in the document.

Of course, as you know, extensive work is currently underway in Karabakh and East Zangazur, including constructing this road as soon as possible. We built this road in just one year. It is 32 kilometers long. Before that, immediately after the second Karabakh war, we started talks with the Russian side regarding the route of this road. In other words, this road did not fall out of the sky. We reached an agreement on this road. There were several routes on the table, and this route was eventually chosen.

The Russian Ministry of Defense agreed and approved this route with us at the highest level. If this

had been otherwise, how could we have built a road in the territory under the temporary control of Russia? So this is natural. If anyone attempts to accuse us of having done something illegal or taking a unilateral step, it is not the case. We can prove it at any level. An inquiry can be sent to the official authorities of Russia as to how this road was built - all the documents and agreements are there. This route was agreed upon. Of course, we didn't have to agree on this route with Armenia because Armenia has nothing to do with it. Armenia has informed about the point the access at the Armenian border so that they bring their new road to that point. Unfortunately, they did not do that. Why? To mark time – there is no other reason.

When we started to build this new Lachin road, we appealed to Armenia through the Russian side and said that – because I had foreseen that they would resort to such escapades. We suggested that we could also build a road in their territory. It is only 8-9 kilometers long. They refused. They said no, they would do it themselves. And when did they start it? It is actually hardly possible to describe it as a start because they are only working on the feasibility study now. At that time, we sent an official letter to the Russian side. We sent a notice saying that we would finish the construction of this road on 5 August and asking them to transfer the posts of the peacekeeping contingent from the old road to the new road. And this is also natural. When we sent out this letter, the Armenian side probably got acquainted with it.

A day later, Armenia declared that it wanted to start the feasibility study of this road and would build it by the end of 2023. In other words, it is an act of manipulation. It is an entirely hollow and inappropriate step. We said that if this were the case, then on 5 August, we would enter the Lachin corridor, set up our posts there and see how you would act. Then the commotion started. The Armenians living in Karabakh appealed to us. They asked us many times to give them time until the end of August. We agreed to that. After all, it doesn't matter whether it is 5 August, 25 August or 1 September.

The Armenians living in Karabakh also asked us to build a 4-kilometer ground road to the point where it will be connected to the Armenian border. We agreed to that, but, of course, those who had illegally settled in the city of Lachin, the villages of Zabukh and Sus should leave. This is natural. Their stay there is actually a war crime. It runs counter to the Geneva conventions. The occupying country cannot carry out an illegal settlement in the occupied lands. This is a war crime. The Armenians from Syria and Lebanon who had settled may not know this, but the Armenian leadership knows it perfectly well. So the news is coming in from there now, as someone says that they won't leave, others say they won't leave. It is up to them. They are war criminals. Let them not test our patience again. Let them leave of their own free will. We don't care where they go.

We must return to Lachin, Zabukh and Susa. I have ordered the state refugee committee to contact the natives of Lachin city, Sus and Zabukh villages so we can return them to their native places soon.

So this is how developments unfolded. Several conclusions can be drawn from this. First, Azerbaijan is committed to all its obligations. We have taken this path, and our other steps have

been based on these commitments. We have acted based on that. But Armenia is still engaged in provocations. They have to understand that marking time will not do them any good. If they think that something may change in their favor in a year or a year and a half, they are wrong. Things may change in our favor because the geopolitical situation in the world and the region is evident. You don't have to be a great politician to see that. Azerbaijan's power is growing, both military, economic and political, while Armenia's isolation if it is possible to say so, is because they are wrong. They are doing the wrong thing. They have not yet given up their territorial claims against Azerbaijan. However, I told them directly and officially. Abandon your territorial claims. If you don't, then we can raise a territorial claim against Armenia too. Therefore, delaying things will not give them anything. At the same time, they have to understand that one result is that Azerbaijan is achieving what it wants. No matter who says what, we succeed. We are working towards our goals and achieving the result.

Another result is that – I am saying this for the first time because there are already manifestations of this process, and the incident of the new Lachin road showed it even more clearly – the Armenian government is losing its influence over the Armenians living in Karabakh. It is a reality. Conversely, the Azerbaijani government is increasing its influence. This is a reality. I believe this is because the Armenians living in Karabakh see that the Armenian leadership is incapable of solving their problems – security, economics, finance or anything else. It is not able to solve any problem.

On the contrary, they saw that the Azerbaijani government was treating them as its citizens. I have said this before, and this is not the first time I have said it. The Armenians living in Karabakh are our citizens. The sooner they realize this and the process begins, the better for all of us.

Today, there is no Karabakh issue on the agenda of the normalization process between Armenia and Azerbaijan. There were such attempts, but I never agreed to that. What does Armenia have to do with it? This is our affair. There is no talk of status at the negotiating table now. What is being discussed? The rights and security of the Armenians living in Karabakh. I have said yes, their rights and security will be ensured by the state of Azerbaijan, and I always do what I say. We saw this during the construction of the new Lachin road. I can say that when we started building this road, the Russian peacekeepers were somewhat protecting our construction workers from the local population, or them from us, from our construction workers. I don't know who they were protecting, but they were there. After a while, they left, and for the last six to seven months, there was not a single Russian peacekeeper along the road at all. There was no need for them. Our construction workers were in contact with Armenians living in the villages there. Some of them even came out to help and expressed their gratitude to us for building such a high-quality road. There has never been such a quality road in the history of Armenia, let alone Karabakh. The roads they have built are already falling apart less than a year later. So these contacts are already taking place. And this is very important – I welcome them. People-to-people contacts will contribute to lasting peace.

I am returning to this central topic. One of the significant consequences of these events is that

Armenia is about to lose its influence, and the positive influence of the Azerbaijani authorities is growing and will continue to grow. The Armenians living in Karabakh should take the right step and understand that their future lies only in integration into the Azerbaijani society. It is not possible otherwise. We are living real life. From the point of view of economy, geography and transport, Karabakh is an integral part of Azerbaijan. From the point of view of history, from the point of view of international law, it is an integral part of Azerbaijan. If someone in Karabakh still talks about some status or independence, be it for the sake of some populism or, as they say, because they are afraid of someone, one should know that they are the first enemy of the Armenian people because the Armenians living in Karabakh will have no status, no independence and no special privilege. They are the same as the citizens of Azerbaijan. Just as the rights of Azerbaijani citizens are protected, so are theirs. Just as the rights of the peoples living in Azerbaijan are protected, so are theirs. This is the only way. These events showed that we are showing understanding. We could have said no, 5 August is the deadline, and that's it.

Get out, we are coming, and we will stand here. Who can ever stop us? No one can stop us. Who can stop an army of 100,000 troops? The road of Lachin itself is right under our feet. We didn't do that. Why? Because they asked us. We are also fine. Let's wait until the end of the month. You have probably heard that the local Armenians, i.e., the influential people, are telling those leaving not to set the houses on fire, not to dismantle the roofs, not to remove plumbing, and not to take things away. I mean, they were saying this two years ago? No! Two years ago, they were proud of that. They would put certain things on their backs and carry them with them, thus disgracing themselves in front of the whole world. But now they are saying that it is not your house. When did you come here? In 1994. Who lived here before then? Azerbaijanis did, so leave.

So this is the situation. I can say that almost two years have passed since the second Karabakh war, but notice how many changes have occurred over the two years. I am not even mentioning the restoration and reconstruction work we still carry out there. This is obvious. So many changes have taken place in consciousness. Thanks to what? Thanks to our correct policy. Because immediately after the war, I said that we needed peace. We should start peace talks with Armenia. We haven't received a positive response yet, but I hope we will. A delimitation commission should be established. They also objected to that, but they eventually agreed. The Zangazur corridor is necessary, but they objected to it. We are expecting the route of the Zangazur corridor from them in the coming weeks. The Armenians living in Karabakh also saw they could only benefit from Azerbaijan.

This is why I am optimistic about the future. I want to say again that we consistently achieve what we want. What we want is peace in the region. There should be no war, Azerbaijan should thrive, and our people should live well and prosper.

- Mr. President, thank you very much for the interview.

- Goodbye.



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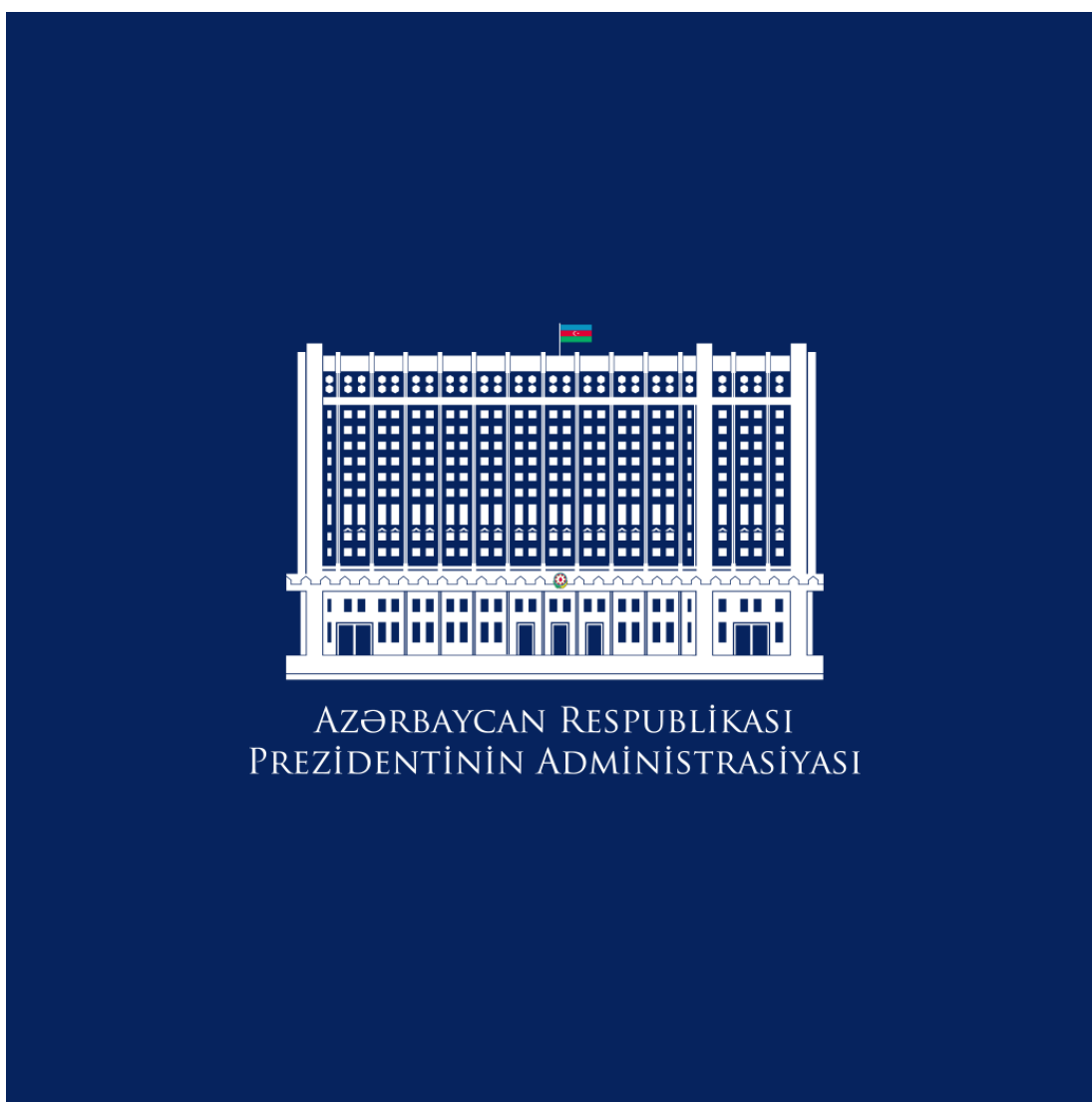


Annex 20

“Speech by Ilham Aliyev at the meeting of CIS’s councils of heads of state in Astana”, *The President of the Republic of Azerbaijan Ilham Aliyev* (14 October 2022)

president.az /en/articles/view/57748

Speech by Ilham Aliyev at the meeting of CIS's councils of heads of state in Astana



14 October 2022, 09:30



- Thank you, dear Kassym-Jomart Kemelevich.

I would like to inform my colleagues about the situation that is developing in our region. Colleagues are well aware that during the period of occupation of the territory of Azerbaijan by Armenian armed forces, I never brought this topic up for discussion within the framework of the CIS because it was the OSCE Minsk Group that was dealing with the conflict settlement and had a mandate. Unfortunately, for 28 years the result of the Minsk Group was zero. As it is clear now, the main goal of this structure was not to resolve the conflict but to freeze it. Negotiating was only a cover for the conflict not to be resolved for many more years. Therefore, since the conflict has now been resolved and Azerbaijan has resolved it itself in accordance with international law and the UN Charter, including Article 51 of the UN Charter, which stipulates that every country has the right to self-defense, the conflict is considered to have been settled.

The post-conflict situation is developing differently. Therefore, I would like to inform my colleagues about what has been happening lately. In September, literally a month ago, clashes took place near the Azerbaijani-Armenian border. The reasons for those clashes are obvious. Terror against Azerbaijan continues – first of all, landmine and sniper terror. Since the Second Karabakh War, more than 250 Azerbaijani citizens have either died or been seriously maimed as a result of landmine explosions, which were mainly planted during the years of occupation. At the same time, we have discovered 1,400 anti-personnel mines made in Armenia, which were planted near the border with Lachin district in 2021. The roads leading from one Azerbaijani military position to another were also mined. The clashes, their active phase lasted a maximum of eight hours. Azerbaijan had no intention of occupying the territory of Armenia, as some may assume. Not a single city, not a single village was occupied. As a result of the mediation efforts of the Russian side, I would like to emphasize that it was the Russian side that came up with a ceasefire proposal – some attribute this to other countries, which is completely unfounded – as a result of the

mediation efforts of the Russian side, the clashes, as I said, were stopped.

On 6 October, on the sidelines of a new platform of the European political community in Prague, a four-sided meeting was held with the participation of the President of France, the President of the European Council, the Prime Minister of Armenia and the President of Azerbaijan. At that meeting, as a result of many hours of negotiations, the decision was reached to send a civilian mission of the European Union in the amount of 40 people to the territory of Armenia near the Armenia-Azerbaijan border. Subsequently, we learned that their number would be 50. They will stay there for at least two months and the purpose of this mission, as we saw it and therefore agreed to, is to help the parties to draw the border and agree on issues related to delimitation. There was an attempt to send this mission to the Azerbaijani side, which was resolutely rejected by us. Therefore, the mission will be located on the territory of Armenia, in the zone of CSTO's responsibility. The first group of European representatives arrived in Armenia yesterday in order to determine the location of this mission.

Unfortunately, despite the fact that Azerbaijan agreed to the four-sided meeting, including the participation of the President of France although France has nothing to do with the relations between Azerbaijan and Armenia – as a co-chair of the Minsk Group, France did have a mandate for mediation, but since the Karabakh conflict has been resolved and there is no need for the services of the Minsk Group, especially since this was rather a disservice, as I said, and the Minsk Group had done nothing at all, not a single centimeter of our territory was vacated – Azerbaijan showed goodwill nonetheless and allowed the French President to participate in this meeting. As for the participation of the President of the European Council, as you know, several trilateral meetings have already been held in Brussels and, in principle, we have always supported the efforts of the European Union towards the normalization of Azerbaijan-Armenia relations. Despite the goodwill shown by Azerbaijan, just a week after the meeting in Prague, the President of France made insulting, unacceptable, false and provocative statements. They are available in the media and everyone can see them. In these statements, he accused Azerbaijan of engaging in a horrific war, thereby manipulating the facts, trying to mislead the French and world public. Azerbaijan waged war on its internationally recognized territory. Karabakh is recognized by the whole world as a part of Azerbaijan. We exercised our right to self-defense and restored our territorial integrity by force. It was then stated that France would never abandon Armenia. This, as they say, is a matter of bilateral relations. Biased statements were also made against the Russian Federation, namely, that "Russia played the Azerbaijani game". It is up to the French public to decide on how politically correct it is for the President of a great country to use the street lexicon. For our part, we categorically condemn and reject such statements and, given such an attitude of the French government, see no further possibility for France to play a role in the normalization of Azerbaijan-Armenia relations.

In addition, the French foreign minister has also made false anti-Azerbaijan statements. During the Second Karabakh War, the French Senate and the lower house of their parliament adopted resolutions recognizing the so-called Nagorno-Karabakh although it wasn't recognized even by

Armenia. We are aware that another anti-Azerbaijan resolution is being prepared in the French Senate in mid-November. Therefore, unfortunately, the current French leadership, unlike the previous ones – I had the opportunity to communicate quite closely with President Chirac, President Sarkozy and President Hollande, and our relations were quite balanced, quite friendly, and we always perceived the activities of previous French presidents, despite, of course, a certain factor of the Armenian diaspora in France, as balanced. However, the current French leadership has effectively crossed out all this. Therefore, I wanted to inform colleagues about this situation.

Further, the Embassy of Azerbaijan has been attacked twice in Paris. Moreover, after the first attack, the President of France, in a telephone conversation, promised to me that measures would be taken to prevent this from happening again. This turned out to be untrue, to put it mildly. The security guards that were installed in front of the Embassy of Azerbaijan after the first act of vandalism and an attempt to break into the Embassy building were removed. Most likely, this was agreed with the Armenian side. As soon as the security was removed, there was a second attempt to break through, there were insulting posters, crowds of raging radicals attacking the Embassy of Azerbaijan. This is categorically unacceptable and it is a violation of all diplomatic conventions.

I must say that Armenia has also organized provocations against the Embassy of Azerbaijan in Lebanon and against the Embassy of Azerbaijan in the United States. There is video footage of that, and the latest act of aggression and terror, using firearms, when a car of the Embassy of Azerbaijan in the United States was fired at. We call on the authorities of the United States, France, Lebanon and all other countries where there are Azerbaijan's diplomatic missions that can be subjected to terror, to show responsibility and fulfill their international obligations. We have no doubts that the acts of terror and vandalism were organized by Armenia. Why am I saying this? Because in the 1990s, Armenian special services carried out 32 terrorist acts – explosions in the subway, buses, ferries and trains. As a result of those heinous terrorist acts, more than 2,000 Azerbaijani civilians were killed.

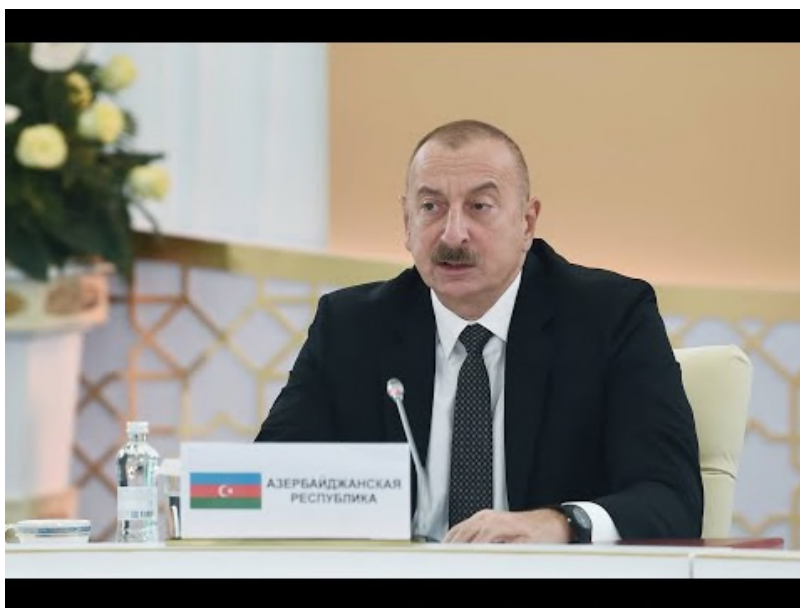
As for other aspects of the post-conflict situation, we are now actively engaged in the reconstruction of liberated territories. Everything there has been destroyed. The footage has been published and everyone can see it. On an area of 10,000 square kilometers, there is practically not a single building left, 65 out of 67 mosques have been destroyed. Footage of Muslim shrines being insulted, when pigs and cows were kept in mosques, is also available on the Internet. All this speaks of the extreme degree of hatred for the Azerbaijani people and the entire Muslim world. This is the only way to perceive it.

Another point I would like to draw your attention to is that a trilateral Declaration was adopted with the mediation of the Russian Federation in November 2020. Azerbaijan is fulfilling all the provisions of the Declaration, including ensuring unhindered access from Armenia to Karabakh. Armenia is not fulfilling its part of the Declaration. Namely, it does not provide unhindered access from the main part of Azerbaijan to the Nakhchivan Autonomous Republic, which is its legal obligation, and has not yet withdrawn the Armenian armed forces from Azerbaijani territory. We are

still showing patience, but it is not unlimited. If these two important provisions of the trilateral Declaration of November 2020 are not implemented, we will be left with no other option but to act accordingly.

In conclusion, the fate of the Armenians of Karabakh. At the meeting in Prague, we also had an exchange of views on this issue. Our position is clear and precise. Karabakh is Azerbaijan. The rights and security of the Armenian population of Karabakh will be ensured in accordance with the Constitution of Azerbaijan. We are not going to discuss our internal issues with anyone. And as far as I understood from the results of the meeting in Prague, this topic did not cause any discrepancies among participants of the four-sided meeting.

Thank you for your attention. I considered it necessary to inform my colleagues about what happened, because there are different versions of what happened. I wanted you to hear our version, which is the only true one, from me. Thank you.



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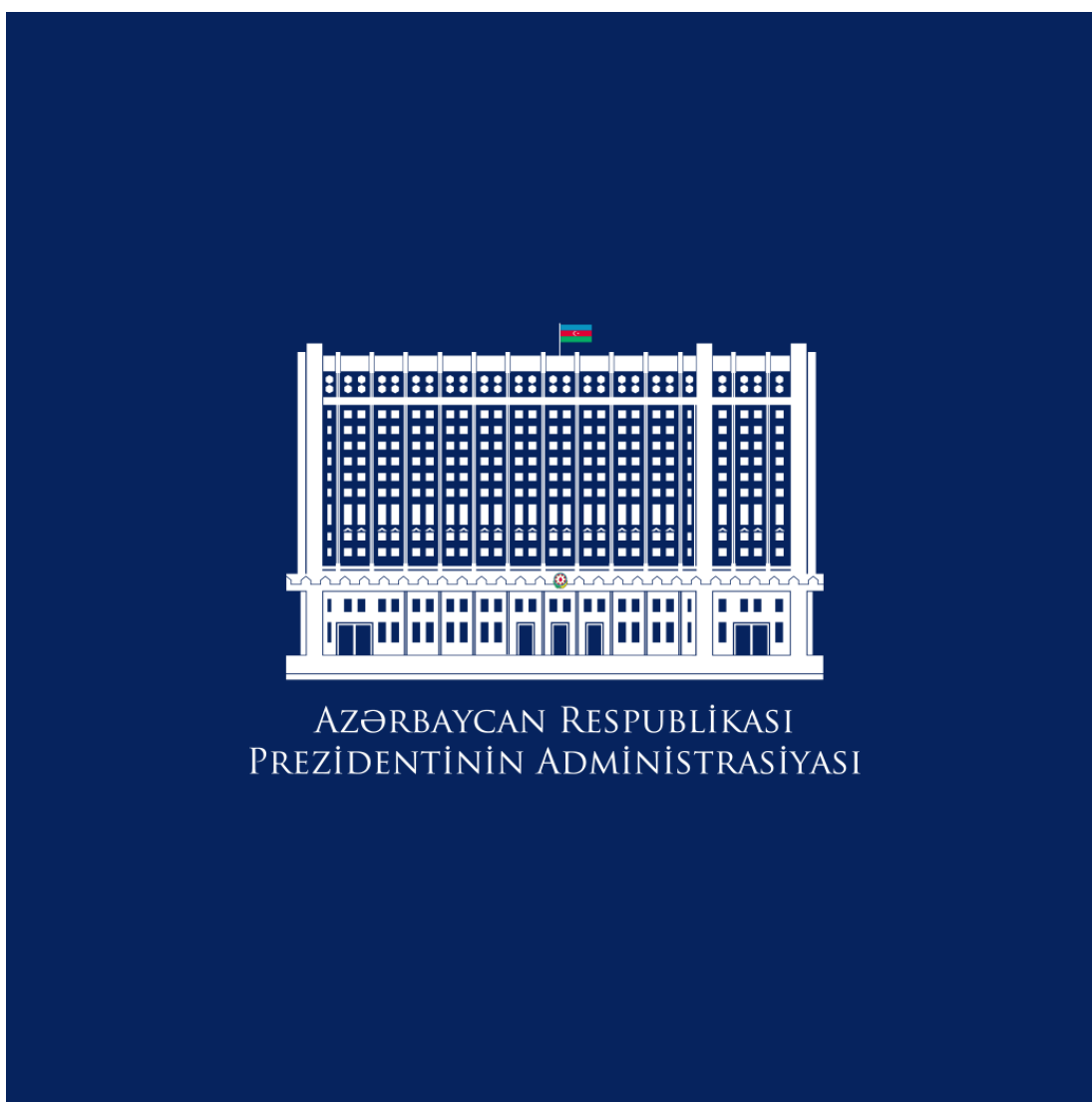
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Annex 21

“Ilham Aliyev received delegation led by Special Envoy of European Union for Eastern Partnership”, *The President of the Republic of Azerbaijan Ilham Aliyev* (17 November 2022)

president.az /en/articles/view/57891

Ilham Aliyev received delegation led by Special Envoy of European Union for Eastern Partnership



17 November 2022, 11:55



President of the Republic of Azerbaijan Ilham Aliyev has received a delegation, which includes officials of the European Union and a number of Eastern Partnership member states, led by Special Envoy of the European Union for the Eastern Partnership Dirk Schuebel.

Welcoming the guests, President Ilham Aliyev said: Welcome. Greeting a large delegation means there are a lot of things to be discussed.

Dirk Schuebel: Mr. President. Great many thanks for receiving us. We feel very honored that you find time to meet us. Perhaps, I can start by shortly introducing myself and my colleagues. My name is Dirk Schuebel. I am a newly-appointed EU Special Envoy for the Eastern Partnership. But I am not new to Azerbaijan. I have been many times here in the past years in the previous capacities and I am very happy to be back. And we are here with a delegation of special envoys, ambassadors for the Eastern Partnership from several member states.

We are all appointed special envoys for the Eastern Partnership to launch or maybe reload the Eastern Partnership, to modernize it in the given situation. Because obviously, it is reloaded in current geopolitical situation. New ideas, and new incentives need more tailor-made approaches. That is also the reason why we are here. We want to listen from your side as well, how do you see it from your perspective. What can we do better? What can we do more tailor-made in our cooperation with Azerbaijan? I think the cooperation has developed very well over the last few years. We are moving ahead on many fronts, energy, of course, goes without saying. But also on the political side, I think we have done a lot of efforts. President Michel is very active. You have met him many times and you saw him, also as we all are - the European Union are honest partners. We have no hidden agenda. We have no special agenda. We want simply to have cooperation and move ahead in our cooperation. Many dialogues have been established. Security dialogues, many others. We are ready to look into more. But of course, we don't forget about the

main issue – the conflict. It is not a secret, I think, Mr. President, we have come from Armenia. We were first in Armenia. We had good talks I must say there and I think, the main message we all got there is that Armenia is interested in peace as well. And we also hear that is also your interest. So, whatever we can do to help contribute to this long-lasting, sustainable peace. Once and for all put aside, we can move on to a prosperous Southern Caucasus region together with the neighboring countries, I think this would be our main wish as well that we want to convey. One last thing on the bilateral issues – our agreement. We still would like to ask maybe for another push so that we can get it done. There is not much left that needs to be negotiated, as you know. So if we can have our bilateral agreement agreed it would be another major step forward, of course in our bilateral cooperation. Another reason we are being here is we are happy to hear your views, your ideas. We will convey them to our leaderships in our respective capitals and otherwise we are simply happy to be here and grateful to be received by you, Mr. President.

President Ilham Aliyev: Thank you. Thank you very much. First of all, thank you for coming and I appreciate this visit. I think this is very important from the point of view of a proper evaluation of what we need to do in the future. And in general, you know that the substance and agenda of EU-Azerbaijan cooperation is very broad. And we are very satisfied with the level of cooperation in deferent areas, in political, economic, energy, humanitarian. Of course, with respect to Eastern Partnership, you know that from the very beginning of this program Azerbaijan was very supportive and participated actively in different events, including summits. Now, I agree that it is time to modernize it, to review what has been done, because it is already more than a decade has passed since the program was launched. And members of the Eastern Partnership have made their choice. Some of them signed Association Agreement, and some of them joined Eurasian Economic Union, while Azerbaijan is the only one that joined none of the formats. And the economic performance, economic stability, political stability and, of course, the liberation of our territories show that our foreign policy was based on pragmatism and was targeted. And the main target was to restore the territorial integrity of Azerbaijan which we did two years ago. Therefore, of course, there is a need to see what are the new opportunities with respect to the Eastern Partnership. As far as we are concerned, we considered this program, this platform not as a platform of cooperation between the member states but as an additional opportunity to enhance cooperation with EU. Because with five other members of the Eastern Partnership group, we have different relationships. And, of course, for us, it was important to have an additional mechanism of cooperation with the European Commission. Now, I think, you are right in the current geopolitical circumstances, we need to review it. As far as we are concerned, in the meantime, we worked actively on bilateral track with member states of the EU. And with nine of them we have signed or adopted strategic partnership declarations and agreements. So, this is one third of member states. And, I think Azerbaijan is unique among the Eastern Partnership group, the country which really achieved the strategic goal. So, this is a good platform and we consider it a basis for our negotiations with EU on the agreement. And it is moving successfully but slowly. Successfully, because we have completed most of the chapters, more than 90 percent, slowly because we are stuck with the issues which we think can be resolved if we have a political will from both sides.

There are certain concerns in Azerbaijan, because any agreement which we signed or plan to sign must give additional benefit to us and to our partners. So, we cannot sign something which in the midterm or long term can create certain economic difficulties. Therefore, the chapters where we are stuck are trade, economy, and some others. I already gave instructions to our negotiators to speed up the process and I think that there is a chance to finalize it. I think that it will be another important milestone in our cooperation. We will talk, of course, about energy development and energy diversification projects. We will know what we are talking about. But taking into account that you mentioned your visit to Armenia and that you got a message from Armenian leadership about peace, you know, we have heard these messages during all the years of occupation that they want peace. And they were not sincere. We also wanted peace but we also wanted our lands back. They wanted peace without giving the lands back. This is a difference. And we had to resolve the conflict by force and then by political means. Now, when they talk about peace, I think it is a kind of manipulation, because if they really wanted peace they would have responded to our proposal. It was us who made a proposal to start negotiations on peace agreement right after the war ended. And that was one of the probably unique cases in world history. The country whose lands were under occupation for so many years, which restored justice by force, and after the enemy was defeated and thrown out from our territories we offered peace. Despite all the devastations, destructions, Armenians created on our territory, and sufferings of Azerbaijanis, we offered peace. We offered a kind of framework - the now famous five principles. It was us who advocated for establishing a commission on delimitation, it was us who tried to find a ground for the normalization of relations. Armenia was very reluctant in the first phases of the process. Now, they talk about peace. But what do they mean by peace? We do not actually understand. Because our position is very clear. It has been articulated many times publicly and also in my contacts with the leaders of the European Commission, the United States, Russia, and the countries which have been involved in the process of normalization that we need to have two tracks. Armenia-Azerbaijan normalization process and also issues related to the Armenian minority in Azerbaijan, in Karabakh, concerning their rights and security. Just yesterday, I had a phone call from Secretary of State Blinken and once again we talked about that. We have full understanding that there must be two tracks. And they should not be mixed. But statements from Armenia are very controversial. They say they recognize our territorial integrity and sovereignty. Not only say but they signed under that in Prague and Sochi.

That means sovereignty over all our territory. We all understand what sovereignty means. At the same time, they want to incorporate issues related to Armenian minority in Azerbaijan into our peace agreement. It will not work. It is not possible. And we will not agree on that. Therefore, we need to have a very clear position from the Armenian government about their agenda.

And I said recently if they want peace we want peace, if they do not want peace, well, it is their choice. We did not have peace for 30 years, what was the end of the story Armenia should not forget. Therefore, again, we need to judge their actions by steps not by words, because their words sometimes contradict what they do or what they plan. I do not know whether you got a direct

answer from Armenian leadership about that. I doubt, because they want to keep this ambiguity which is not helpful. And, also the country which wants peace should refrain from very dangerous rhetoric, which Armenian officials afforded recently, comparing Azerbaijan to ISIS and Al-Qaeda, I think is a very dangerous rhetoric. First, because they are the ones who acted as ISIS and Al-Qaeda. Ambassadors of the EU visited the liberated territories. Armenians did the same as what was done by ISIS and Al-Qaeda concerning historical and religious heritage. It was not us, it was them. So they committed acts of terror, they committed genocide, they destroyed our mosques, not us. But Mr. Pashinyan when he uses this wording he should know that we hear it, and what will be our reaction he should also think about. So it is not easy and I think important is that Armenia should openly declare what they do want. If they want to talk about rights and security of Armenians in Karabakh, it will not work. We are ready to talk about that with Armenians who live in Karabakh, not with those who have been sent from Moscow hiding in their pockets billions of stolen money from Russian people, like person called Vardanyan who was transferred from Moscow there with a very clear agenda. But we are ready to talk to those people in Karabakh who live there and who want to live there. We are ready. By the way, this process has started. If not for external interference and attempts to block this process from some countries, which I just mentioned, I think the process could have had better dynamics. But it has nothing to do with Pashinyan and his government. This must be separated. As I said, there is a consensus between Azerbaijan, EU, United States, and Russia. Those countries and the institutions, which Azerbaijan sees as the ones that can be helpful.

x x x

At the meeting, the sides discussed the development of relations between Azerbaijan and the European Union, Azerbaijan's role in Europe's energy security, and the issues of cooperation in the field of transport and communication. Azerbaijan was described as a regional transport and logistics hub.

They exchanged views on the normalization of relations between Armenia and Azerbaijan and the signing of a peace treaty, border delimitation, regional security and other issues of mutual interest.

Annex 22

Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Azerbaijan v. Armenia), Preliminary Objections of the Republic of Armenia (23 April 2023) (excerpt)

INTERNATIONAL COURT OF JUSTICE

**APPLICATION OF THE INTERNATIONAL CONVENTION ON THE
ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION**

**AZERBAIJAN
v.
ARMENIA**

**PRELIMINARY OBJECTIONS OF
THE REPUBLIC OF ARMENIA**



VOLUME I

21 APRIL 2023

and desist from planting landmines”.⁸ Nothing has changed since the Court reached those determinations.

10. Even accepting Azerbaijan’s factual allegations as true (*quod non*), the acts about which it complains were not “based on” race, colour, descent, or national or ethnic origin as the definition of “racial discrimination” in Article 1(1) of the CERD requires. Nor did they have the “purpose or effect” of nullifying or impairing ethnic Azerbaijanis’ equal enjoyment of human rights and fundamental freedoms as Article 1(1) also requires. To the contrary, such weapons are indiscriminate by nature, as demonstrated by the region’s tragic history of death and injury arising therefrom. Moreover, Azerbaijan’s own evidence makes clear that any landmines were laid exclusively for self-defence purposes. As such, and in line with the Court’s reasoning in the case concerning *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates)*,⁹ even if the measures concerning landmines and booby traps of which Azerbaijan complains were to be proven on the facts, they are not capable of constituting racial discrimination within the meaning of the Convention.

11. The same is true about Azerbaijan’s claims concerning alleged harms to the environment. As demonstrated in **Chapter 3.III**, like landmines and booby traps, environmental harm is inherently indiscriminate. It recognizes no national or other boundaries, and is incapable of distinguishing between members of different

⁸ *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Azerbaijan v. Armenia), Provisional Measures, Order of 7 December 2021, I.C.J. Reports 2021*, p. 405, para. 53. See also *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Azerbaijan v. Armenia), Provisional Measures, Order of 22 February 2023*, paras. 22-23.

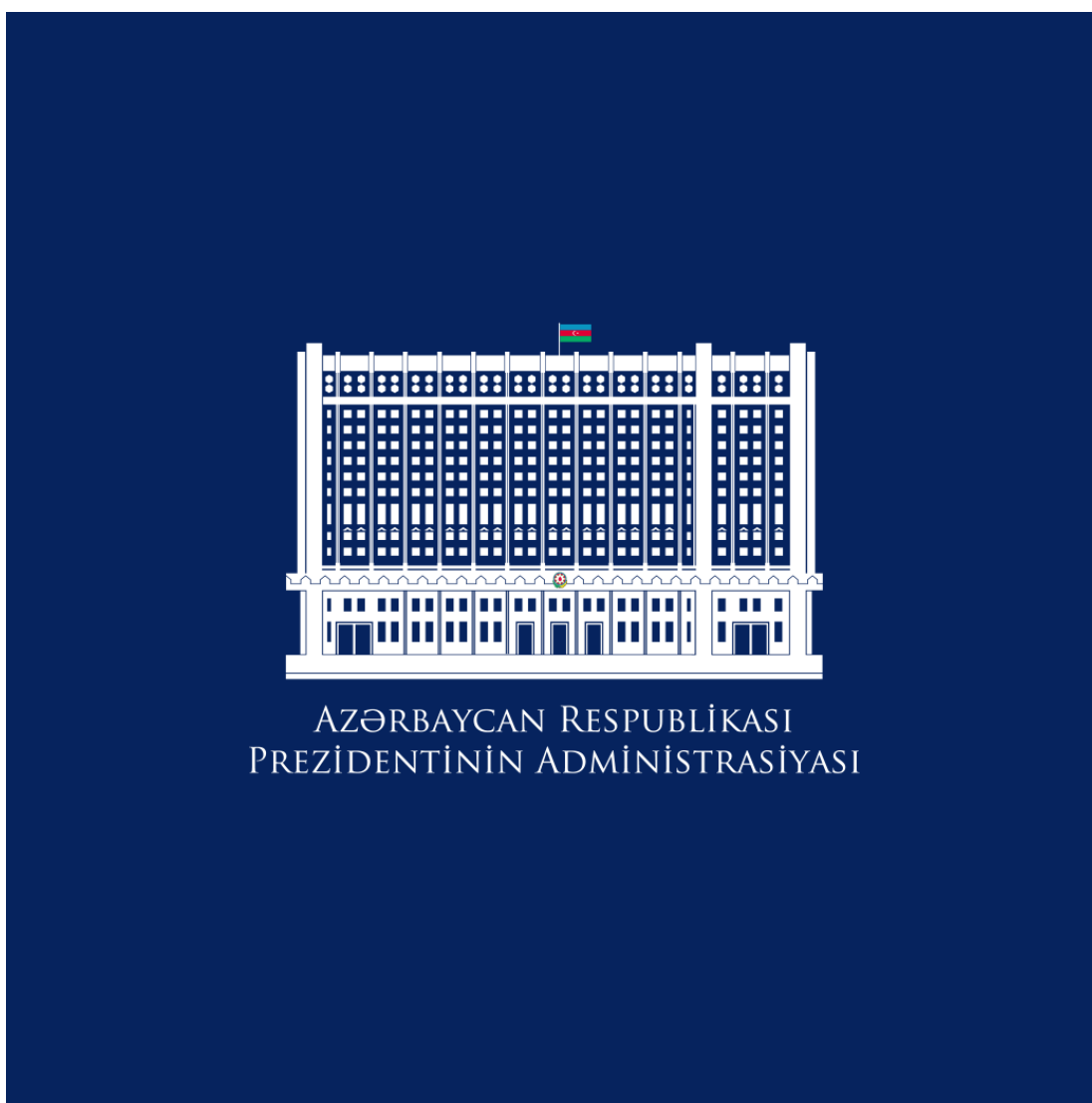
⁹ See *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates), Preliminary Objections, Judgement, I.C.J. Reports 2021*, p. 71, para. 112 (“Thus, the Court concludes that, even if the measures of which Qatar complains in support of its ‘indirect discrimination’ claim were to be proven on the facts, they are not capable of constituting racial discrimination within the meaning of the Convention”).

Annex 23

“Opening Ceremony of Global Media Forum was held in Shusha”, *The President of the Republic of Azerbaijan Ilham Aliyev* (21 July 2023)

[president.az /en/articles/view/60544](http://president.az/en/articles/view/60544)

Opening Ceremony of Global Media Forum was held in Shusha



21 July 2023, 15:40



An opening ceremony of the Shusha Global Media Forum on “New Media in the Era of the 4th Industrial Revolution” has been held.

President of the Republic of Azerbaijan Ilham Aliyev attended the opening ceremony of the Forum and answered the questions.

Addressing the event, President Ilham Aliyev said:

- Dear guests, ladies and gentlemen. Welcome to Karabakh, welcome to Shusha.

I am very glad to see you here, and thank you for accepting our invitation and participating in the Shusha Global Media Forum, which is a remarkable event for our country and, of course, for the Karabakh region.

Shusha is officially a cultural capital of Azerbaijan already. But at the same time, Shusha is a symbol of our victory and also a symbol of peace. Because after Shusha was liberated, the Second Karabakh War stopped. You came here through the liberated territories. From Fuzuli Airport to Shusha, you came by the road, which later was called by us the Victory Road. This road did not exist neither during soviet times, nor during the period of occupation. This road was opened by the courage and spirit of our heroes. That is a way how we moved, liberating cities and villages, moved here to this city, which is also a symbol of our courage. Shusha already hosted several international events, including the Khari Bulbul International Music Festival, Vagif’s Poetry Days, several international sporting events and now Global Media Forum. So, the city kept its identity despite the fact that it was very deliberately destroyed during the time of occupation.

I prefer not to have a long speech but maybe to have more of our discussions and to address issues, which are of interest to you. So, probably I will now conclude and give floor to the

moderator.

Moderator: Your Excellency. First of all, we'd like to express our gratitude to You for taking your time to be with us. Ladies and gentlemen, as our President mentioned his kind participation here is for the purpose of exchanging ideas in an interactive form.

And now, with your permission, Mr. President, we are going to the questions from the participants. I would like to inform you that some of the questions have been collected in advance to save our time and I will read them out one by one. But dear participants, feel free to jump in with your questions at any time.

Mr. President, shall we start?

TRT World, Bora Bayraktar.

Bora Bayraktar: Thank you very much for your invitation. I'd like to ask a question about, of course, the Karabakh victory. We know that foreign relations between two countries, the personal relations of leaders are also important and they play an important role. And we know that Your Excellency has very good relations with the Turkish President, Mr. Erdogan. This special relationship played a very important role in liberation of Karabakh.

Mr. President, the President of Türkiye has won a five-year term. It means that now you have five more years together. It seems like a golden opportunity. What will be your priority in these five years in this process? I mean, what would you say we have to do together immediately? What is the first thing that you want to do with Türkiye?

President İlham Aliyev: You are absolutely right. Our personal friendship with President Erdogan, I think, is known now not only to the regional community, but also to the world. This is a really important factor of regional development and regional stability. But also I'd like to say that relations between the peoples of Azerbaijan and Türkiye are based on long-lasting friendship and brotherly ties. So, this is a great foundation for our countries to develop and support each other. From the first days, even I would say, from the first hours of the Second Karabakh War, Türkiye, its people and its leader were side by side with us. The statement of President Erdogan in the first hours of the Second Karabakh War that "Azerbaijan is not alone" was a great moral support to us. Throughout all the 44 days of the Second Karabakh War, we felt the support from our brothers. President Erdogan several times publicly announced the position of Türkiye. At the same time, other governmental officials also elaborated on that. So, that was a great moral and political support to Azerbaijan.

After the victory in the Second Karabakh War, Azerbaijan and Türkiye formalized their relationship, which, actually, de facto were relations between allies. This relationship was formalized by signing the famous Shusha Declaration, which was signed a couple of 100 meters from this hotel and elevated our relations at the level of allies. This is really a big asset for our nations, for our peoples.

This declaration actually opens new horizons in front of us. Though, even before that Azerbaijan and Türkiye in many areas demonstrated unity, solidarity, and mutual support. If we take the broad agenda of our cooperation, we'll see starting from political relations, energy, trade, transportation, defense, defense industry, and many other. So, it's easier to name the areas, where we are not very advanced rather than in the areas where we are closely working. I have no doubts that my brother President Erdogan will be reelected. Because what he did for Türkiye during 20 years in office is a demonstration of commitment to his people and to his country. Today, Türkiye is one of the global leaders. International influence of Türkiye is growing year after year. Of course, in Azerbaijan, it is difficult to find someone who was not happy with the results of the elections. In the coming five years, we will definitely continue our close partnership. The world is changing, the situation in the region is changing. We need to stabilize situation in the South Caucasus. We need to have sustainable peace and security for the future. The role of Türkiye in global affairs and in particular, in our region, of course, is a role of very important stabilizer. Policy of Türkiye aimed at regional security and regional development is highly appreciated in Azerbaijan and not only in Azerbaijan.

As you know, President Erdogan already paid a state visit to Azerbaijan after elections. This is a tradition between us, you know. I do the same after my reelections. And also, before that participating in the inauguration ceremony, we had an opportunity to address the issues of our future cooperation. Probably, I will not disclose all what we agreed on. But I think, it will not be difficult to guess that in the coming years, Türkiye and Azerbaijan will play more important role in our region. Of course, we'll use our potential in order to bring our countries closer.

Moderator: James Flue, the United States of America.

James Flue: Thank you, Mr. President. My question is about threats to Azerbaijan. And what you sort of view as the most important threats to the country?

President Ilham Aliyev: Well, actually, after the liberation of our territories, we don't see any potential threats to our country. Because, first of all, there are no internally generated threats. The country is stable. The level of solidarity among Azerbaijanis is high as never before. The country's economic development is very impressive. I don't want to go into details into figures, but those who are interested in that can see that Azerbaijan's economy is self-sufficient and based on our own resources and good management. So, in that respect, the oldest threats we had before was a threat coming from Armenia from its occupational policy. And that threat was here around, including in this particular place for almost 30 years. Now this threat, in general, have been managed. But of course, we must be on alert. We should not forget our past. We should not forget that we were stabbed in the back by our neighbors, when we did not expect that, and they took advantage of chaos in Azerbaijan and occupied our territories. Also, we should not forget that even now, despite the results of the Second Karabakh War, there are people in Armenia in different segments including government and in other parts of society, which live with revanchist ideas, and they do not hide it. Therefore, we must be ready for any kind of scenario. And for that purpose,

right after the Second Karabakh War, despite the glorious victory, courage and spirit we demonstrated on the battlefield, we started immediately deepening reforms in the defense area. I already publicly spoke about that. Today, our army is much stronger than three years ago. This is a need, I think, which is based on our history, and also based on that, we see that international law norms are being violated brutally. Now, we see that international law is working selectively. We have faced that for many years, when we were raising our voice saying that, look, the United Nations Security Council adopted four resolutions demanding withdrawal of Armenian troops from our lands - immediate and unconditional withdrawal. But these resolutions were not implemented. So, now this tendency is spreading around. When international law doesn't work, when signature does not mean a lot, the only guarantee for peace is strength. So, having said that we cannot exclude potential threats, which may emerge in the future because situation in the world and in our region is quite unpredictable. For the time being, the level of external threats is not very high. But, probably also because of the fact that we are ready to manage those threats and to defend ourselves.

Mikhail Gusman: If you will allow me, I will ask my question now. My name is Mikhail Gusman. I represent the TASS agency.

Dear Mr. President! A little over a year ago, on February 23, we had the honor of welcoming you together with colleagues, some of them are here today, at the TASS agency, together with leaders of the Russian media. This was the day after you signed the Moscow Declaration with the President of Russia. More than a year has passed. The world is in a very turbulent state. After the victorious 44-day war, Azerbaijan is consistently working, but so far it has not been possible to conclude peace with Armenia. Russia is conducting a special military operation. And yet, how would you assess the development of this memorandum you signed? How is it being implemented? What are its prospects? Are there any problems in the implementation of this Memorandum, which was signed in Moscow on February 22?

I will also have a second question. Thank you.

President Ilham Aliyev: In my opinion, the declaration signed in February last year was a milestone in Russia-Azerbaijan relations. The declaration covers the history of development of relations, which developed differently in various periods of independence and reached the level of strategic partnership just as both countries declared for long years. This was really so because if we look at the scope of work done by both countries, the two sides set a goal of strengthening relations and results-based cooperation.

We know very well how deep these relations are and the scope of international is quite broad. Russia played a key role as a mediator for many years and played its part in ceasing military operations and settling the Armenia-Azerbaijan relations and Nagorno-Karabakh conflict as one of such areas.

We all remember those days very well. It was the Russian side that acted as a link between

Armenia and Azerbaijan, I mean between the leadership of the countries, on November 9, 2020 when the trilateral statement was being coordinated. Therefore, the signing of the Declaration on Allied Interaction had a solid foundation.

As for the period we are going through after the signing, this period is completely new for the peace, for our region, including Russia and ourselves. But despite this, despite such a serious change in the geopolitical situation, the development of relations between Russia and Azerbaijan since the signing of the Declaration has been quite successful. There have been many contacts at the highest level, there have been contacts at the level of heads of government, ministers of foreign affairs and other representatives of governments and state bodies. Therefore, I can say with full confidence that provisions of the Declaration are being fulfilled. The most important thing is that there is political resolve at the level of the leadership. Taking the opportunity of the presence of media representatives here and the fact that you will discuss these issues tomorrow and the day after tomorrow, both cooperation and problematic issues, I would like to say that those small rough edges that we see in the Russian media in relation to Azerbaijan and in the Azerbaijani media in relation to Russia have no influence on the policy of Azerbaijan and Russia.

We know this quite clearly. But this is also, as they say, a tribute to the time when media representatives are completely free in their assessments. Since the situation is changing dramatically, including our region after the Second Karabakh War, the situation in the world after the start of the Russian-Ukrainian war, then, naturally, different assessments, different analyses and different opinions are inevitable. But again, taking this opportunity, I want to say that in any case, such moments do not affect the political will of the Azerbaijani leadership. Therefore, I think that the future of our relations will be as positive and successful as in previous years. Considering that you started your remarks in Azerbaijani, I think that you can ask the second question right now. Otherwise, you may never get another opportunity.

Mikhail Gusman: Thank you, Mr. President. Before asking my question, I would like to express my gratitude to you personally and to the organizers of this Forum. Because I visited the liberated Shusha two years ago. I was lucky enough. Shusha is also changing in a spectacular way and the Forum is also organized at an exceptional level. My second question is that Azerbaijan has been successfully leading the Non-Aligned Movement for the last few years, and a month ago, I contacted your successor, Ugandan President Museveni. He talked about Azerbaijan's successful leadership of the Non-Aligned Movement over the years and emphasized that Azerbaijan had breathed a new life into it. I have two questions about this. In which direction do you see the further development of this movement? Secondly, a women's forum and a youth forum were created here during the period when Azerbaijan chaired the Movement. We are also considering the media. How would you see the evaluation the prospects for organizing a media forum of the Non-Aligned Movement in Azerbaijan? Thank you.

President Ilham Aliyev: Thank you, this is a very good idea. I think that it will be fully accepted by us. We don't have much time left as our chairmanship ends early next year. Therefore, in order to

have time to do this, we probably need to work together. As you know, initiative is punishable, so I invite you to take an active part in the preparation of such an event.

This will be very useful, especially considering that, as you noted, the Non-Aligned Movement – I can say without false modesty – received a second breath during Azerbaijan's chairmanship. It is no secret that the influence of the Movement had been gradually in decline and it had become a platform for discussing certain issues that did not have much of a continuation. As is the case with any work we do, we treated this work with great responsibility and began to work step by step in the direction of institutional development. And I think the fact that Azerbaijan's chairmanship was extended by a unanimous decision for another year, and in fact for a year and a half, shows that our activity was appreciated and is in demand. In addition to the formats you mentioned, I would also add a parliamentary platform, this is also a very important element in terms of institutional development. We believe that this is the path the Movement should follow. Of course, after we transfer our powers to Uganda in a few months, we will be in the trio for some time, while Uganda presides. Of course, we will actively participate in consolidating efforts, filling the activities of the Movement with concrete results.

I must say that during COVID we showed leadership in drawing the attention of the world community to this problem. Azerbaijan as chair was one of the countries that actively opposed vaccine nationalism. We didn't hesitate to call countries by their names – the ones that bought five times more vaccines than they needed, while many poor countries found themselves unprotected. Among other things, it was simply shameless. On our initiative, a database was created in the countries of the Movement, which was also used by the World Health Organization, not to mention the fact that we allocated 10 million US dollars for humanitarian and financial assistance and provided assistance to many countries with vaccines. So, the countries of the Movement saw that this structure, although it is not an organization, can achieve its goals.

At the summit in Baku, when we took over chairmanship, I said that we would protect international law, justice and the legitimate interests of member countries. I think that we have successfully coped with this task. And I would like to believe that after we transfer the powers of chair, the positive dynamics will be continued. In any case, we will do everything to ensure that this is the case.

Moderator: Mirshahin Agayev, "Real" Analytical and Information Center.

Mirshahin Agayev: Mr. President, I would like to thank you for giving us the opportunity to ask questions of the President of the Republic of Azerbaijan in Shusha after 29 years. Let's keep in mind that tomorrow is the National Press Day, it is a holiday for all of us, and let me ask you to accept my gratitude on behalf of all our media as the head of state, as the Victorious Commander-in-Chief, for making this holiday even more magnificent.

My question is about your hand sign. It can be like this, when you extend your hand, and like this, when it becomes an Iron Fist. We have heard this statement a lot in Shusha, and every time we

have seen the real echo and impact of this statement. My question today is a little below Shusha, about Khankendi. You know that the remnants of the separatist forces are carrying out certain events there and are engaged in disinformation. Azerbaijan is said to be allegedly blocking someone and something although I recently prepared a special edition of the “Mirshahin's Time” program on Lachin road, and we saw everything there. We saw Red Cross vehicles coming and going through there, how warm and gentle the attitude towards people is. This is one thing.

Among the tasks facing the “New Media in the Era of the 4th Industrial Revolution”, what do you require from us in order to combat this type of disinformation? Because you brought us Victory. You were in front of us in our media struggle, and you were the key person in breaking the information blockade of Azerbaijan. We followed you. Therefore, I want your advice in this matter. Thank you.

President Ilham Aliyev: Thank you. I think that the Azerbaijani media are doing great things in this direction. Of course, the general direction is already clear. All of us, regardless of the position we held during the occupation period, every patriotic Azerbaijani tirelessly went towards this goal. In my speeches, I said many times during the occupation that this day would come, the day of freedom would come, each one of us must bring this day closer, and we brought it closer and closer. This is our national Victory. In other words, the people of Azerbaijan deserved this Victory.

Of course, the restoration of international law, the restoration of our territorial integrity – all these are fundamental rights, and we won this right on the battlefield by shedding blood and giving martyrs. However, at the same time, the activity of the Azerbaijani media in this field is valuable, because the media was our first tool to convey the problem we are facing to the world community not only from the perspective of international law, but also from the general human perspective. This is why I always mentioned this during meetings with media representatives in the previous years, i.e. during the occupation period. I mentioned that we should reach bigger international audiences.

You will probably agree that what we were saying in the past was falling on deaf ears. It was as if we were trying to prove something to ourselves. It was important. It was important to keep the issue on the agenda and to educate the younger generation in the spirit of patriotism. Most of our sons who liberated Shusha and all the other occupied lands had never seen Shusha, Aghdam or any other occupied land. In other words, education at home, education in schools and keeping this issue on the daily agenda by the media strengthened the internal unity to a huge extent. Of course, state policy was always at the forefront. However, at a later stage, we started speaking to a more international audience. That is, we have these opportunities, and there are publications of many of our media resources, websites and other electronic means in various languages. Today, we are destined again to prove our truth. Because the campaign against us continues to this day. We must and we do respond with solid and real arguments to those who cannot digest our Victory, who are jealous of our success and who have started an open information war against us. It is the result of this that today, despite all these slanders, libel and lies, the voice of Azerbaijan, the rightful voice of

the Azerbaijani people and state is being heard, and our media are the main tool for this. Therefore, the solidarity and unity in society provides us with this advantage.

As for recommendations, to be honest, I am a bit far from this. Because the independence of the Azerbaijani media is one of the main conditions for the development of our society. Secondly, you know everything perfectly well yourself, and I am very glad that the healing process in our media is progressing successfully and articles that are against the interests of the people and may harm the interests of the state are now very rare. That is, this is again a factor that indicates the responsibility of the media. So, my advice to the media is to keep it up.

Moderator: Mr. President. It's quite active here and we are getting some questions from our participants. I do believe that we will have enough time for all questions. Next question from Jordan Morgan, the United Kingdom.

Jordan Morgan: Mr. President, thank you very much for the hospitality. My name is Jordan and I'm from the UK. My question for you. What opportunities do you see for Azerbaijan and the West Asia region since China brokered Iran-Saudi rapprochement? And what opportunities are present for Azerbaijan? Thank you.

President Ilham Aliyev: In respect with our relations with Asian countries, you mean?

Jordan Morgan: This whole region.

President Ilham Aliyev: Well, regional development here in the Southern Caucasus largely depends on the normalization of relations between Azerbaijan and Armenia. We have now international actors, which should try to help us to find a mutually acceptable solution. And fortunately, what we've seen so far is clear that all international actors understand that this solution must be based on international law. And now, after almost three years have passed since the end of Second Karabakh War, we hear more and more very straightforward statements that Karabakh is Azerbaijan. If that was the case during the times of occupation, probably the Second Karabakh War wouldn't have started. But unfortunately, during those years - 28 years, negotiations under the umbrella of the Minsk Group not only produce zero result, but also actually did not elaborate the formula, which must be taken as a basis for settlement. They're ambiguous and sometimes contradictory statements, not to mention actions, actually lead to the freezing of the conflict. At some point, we realize here in Azerbaijan that their goal is to freeze the conflict and make occupation endless through different so-called public diplomacy initiatives to impose an understanding that we should start cooperation, we should start doing business with Armenia, and the conflicts will be resolved by the future generations.

Many times, during the times of occupation, I publicly raised the issue of imposing sanctions on Armenia. I was explaining this position by international organizations' decisions and declarations. The United Nations Security Council resolutions, the Council of Europe, the Parliamentary Assembly of the Council of Europe decisions, even the European Parliament - though, it now takes

a very pro-Armenian stand but even the European Parliament once adopted a resolution, which reflected the reality. But it did not happen because their geopolitical agenda was different.

So, we had to do it ourselves. We had to implement the Security Council resolutions of United Nations on the battlefield. Now, situation is different. By the way, at that time, none of those international players who today say "Karabakh is Azerbaijan" never said that. They said that with respect to some other protracted conflicts in the post-soviet area, but not about Azerbaijan. When it came to Azerbaijan, their narrative was "you have to agree". You have to integrate self-determination and territorial integrity understanding, which is not possible. It is not possible. Fundamental principles of international law like territorial integrity and self-determination of any nation should not undermine territorial integrity of countries, especially, when this nation has already self-determined itself once having independent Armenian state.

So, now situation is different. And now, international brokers are, how to say, expressing their position from a more realistic point of view. Because I always said that I heard many times during the times of occupation that Azerbaijan has to take into account the reality. And now I say yes, I agree. Now everybody should take into account the new reality. One cannot think about any peace agreement with Armenia, which is not absorbing the reality of the 30-year occupation and destruction, and the reality of the results of the Second Karabakh War. But so far, the efforts of international actors are not enough. At the moment, we have three international actors who are providing the assistance - the United States, Russia and the European Union. And on three tracks, Azerbaijan works in good faith and with result-oriented approach. But so far, it did not end in any result. Because Armenia needs to make, I think, one of the final steps. They already made several steps after the war, I would say that these were not the steps, which they made voluntarily. There have been several cases during the last two-and-a-half years, several episodes. I would name it like it clearly demonstrated to Armenia that if they do not recognize our territorial integrity, we will not recognize their territorial integrity. And what will mean for them is more or less clear. They already accepted that Karabakh is Azerbaijan publicly. Now they need to put their signature under the document. This is one of the final steps and there must be some more. But if that step is made - negotiation teams on the level of foreign ministers are going to hold the next round of negotiations to take place in the coming days in Moscow - if Armenia will agree on that paragraph, where they totally refrain from any territorial claims to Azerbaijan, I think, the signing of a peace agreement can be realistic by the end of the this year. If not, well, I said many times, if they don't want to have a peace agreement with us, we cannot force them. We could not force them to comply with international law for 28 years. We managed only to force them by force. But in this case, there'll be no peace. Well, it's not the best scenario for the region. It will not add stability, security. And also taking into account the very fragile geopolitical situations that may create complications in the future. So, we have three brokers. All of them have enough international mechanisms to work independently. We hope that on one of these three tracks, we will see progress.

Moderator: The next question from Maurizio Geri, Italy.

Maurizio Geri: Mr. President, it is my second time in Shusha. Thank you very much for having us here. My question is related with the last two weeks I spent in Baku for the Energy Summer School in ADA. So I would like to ask you the role of Azerbaijan as a bridge between Europe and Central Asia. In particular, gas and other energy from countries like China and Russia. So, I know that there are projects with Turkmenistan. I know you said you would be happy with it if the Turkmenistan decides to do it. What could be the help that Italy or Europe could give you to support you in this process?

President Ilham Aliyev: With respect to the Trans-Caspian Gas Pipeline project, several times I already expressed our position. I want to repeat that this is not the project, which Azerbaijan will initiate. Because usually the projects, which are initiated by the countries, other projects based on these country's resources as we did for instance with the Southern Gas Corridor. We initiated, we were their major shareholder, and we were actually their coordinator of all intergovernmental relations and agreements. As you know, this project was successfully implemented, and already for more than two years Azerbaijan became an important gas supplier to Europe. The President of the European Commission names Azerbaijan a reliable partner, and the Energy Commissioner of EU calls Azerbaijan a pan-European gas supplier. And this is true, because geography of our gas supplies to Europe is becoming broader and broader, and hopefully by the end of this year, two more European countries will be recipients of Azerbaijani gas.

With respect to the Trans-Caspian. This project as an idea is based on the gas resources of Turkmenistan. Therefore, it's not up to us to initiate it or to invest in it. What can we do? We can provide our existing infrastructure or can provide infrastructure some land in their possession in order to build a new infrastructure. But I think, it's also important to know that today, Azerbaijan is working on expansion of the pipeline, which was built less than three years ago. Why? Because demand in Europe is growing. The pipeline, which was designed for 10 bcm like TAP, now, needs to be expanded up to 20 bcm. TANAP from 16 to 32. That was not expected by us. Because situation has changed. So, why we talk about expansion is that Azerbaijan will produce more gas and is producing every year more gas than year before. For instance, if 2021 we exported 19 bcm, last year, it was more than 22 bcm, and this year, probably it will be 24 bcm or even more. And these months - that's in the time when we didn't see each other - we already announced the discovery from the Absheron gas field, which possesses at least 300 billion cubic meters. And the first well is already producing gas more than any well on Shahdeniz. So, in other words, expansion of our pipeline system is based on our growing resources. For additional gas from Eastern shores of the Caspian – first, the Trans-Caspian Gas Pipeline must be built under the sea, and second from Baku to the European destination, another something like the Southern Gas Corridor must be built. And the main question is who will finance these important projects? And we don't have an answer. Therefore, before we find an answer who will finance it, I think, implementation or even some ideas about that will be unrealistic. And also you know very well that now European banks stopped financing the projects of fossil fuel. Therefore, it will be difficult to raise substantial money for that. Because, when we were building the Southern Gas Corridor, apart from corporate

financing, we had financing from EBRD, EIB, ADB and also from the Asian Infrastructure Investment Bank. But now two of these European institutions - they are out, I hope temporarily, from the fossil fuel financing, therefore, who will finance it? The green transition makes implementation of this project even more complicated. And the fluctuation of the gas prices in Europe, which we see also creates a lot of questions. By the way, also the price cap, which, I think, was absolutely unacceptable for the consumers to put a limit for the price. This is totally in contradiction with any market economy principles, which these countries were advocating for many years. So, in other words, from realistic point of view, this is very problematic. But again, if someone decides to build the Trans-Caspian Pipeline, we will be only happy. We will have more transit fees and more cooperation.

Vusala Mahirgizi, head of APA group: Mr. President, I want to ask you about the Return. The relocations to Lachin are currently underway as part of the Great Return. Residents of which district will be welcomed in their districts at the next stage? My second question may seem a little personal to you. When Karabakh was liberated, you were the first to go there, followed by our army. You have been visiting Karabakh very often, and every time you come, new projects and new places are opened. How does that make you feel? A completely ravaged place being rebuilt from scratch. How does that feel? How does it feel to be a winning President in general?

President Ilham Aliyev: You know, the emotions I experience are no different to those felt by the people of Azerbaijan. The only difference is that I see these places so often. Most people see it on television, but at the same time, as you know, there are now tours to liberated areas and, as you mentioned, citizens are quickly returning to the liberated lands.

Of course, first of all, I feel proud. Every time I come to Karabakh and Eastern Zangezur, the first thing I feel is a sense of pride. Because it is impossible not to be proud of my people, our Army, our heroes, and every time you also come to Shusha along Victory Road, just look at how our heroic soldiers and officers with only light weapons covered this road, how they died in hand-to-hand battles in the face of the enemy armed with cannons, tanks, and artillery. This is how high the spirit of the Azerbaijani people is. In other words, all this showed the qualities of our people to all of us again. It once again showed to each of us, first of all, and to the whole world how high the moral qualities of the Azerbaijani people are.

It is very hard for each of us to see the destroyed cities and villages. We cannot come to terms with this pain. Although I have already been to the liberated lands perhaps a hundred times in the last three years or so, every time I see the ruins, my heart hurts. I ask myself every time. Why did the people we consider neighbors resort to this barbarism? What did we do to them? We were the defeated side in the First Karabakh War. We did not destroy their cities, we did not destroy their graves, we did not remove the bones of their dead. Why did they do this? How much hatred did these people have in their hearts for us to commit such inhuman acts? I mean I still can't understand that and probably no normal person can ever understand it.

At the same time, every time I see a new development project or participate in a groundbreaking ceremony, it feels as if blood is being pumped into my veins, in other words, that is, it gives me so much positive energy that this positive spiritual energy also strengthens a person physically. It is not just about the weather of this region. I am sure you feel the same way. We say a lot about how we feel good in Shusha or Zangilan or Lachin. Not only because of the weather. What is happiness? Happiness that comes from within. Many have asked themselves, but every time I see this development, I say to myself that this is probably what happiness is.

As for the Great Return program, we have now approved the Master Plan of more than 30 cities and villages, the foundations of many villages have been laid and the figures have already been announced. We will return more than 150,000 people to both Karabakh and Eastern Zangezur within the next three years. Now we are at the preliminary stage of the work, as they say, because the design takes a long time, the tender procedures take a long time. We want everything to be in order, according to the law, to be completely transparent, and this takes time, it does take time. I am sure that the former IDPs understand this. To the Karabakh region alone, 140,000 people are expected to return by 2026. I already hope that next year the first residents will arrive and settle down in the city of Shusha. Now, you probably haven't had the time today, but you will probably walk around in the evening or tomorrow, and you will see that in several places construction projects, namely the construction of residential buildings, are already underway.

Of course, the demining process was the biggest obstacle. Because the work we have done during these two and a half years not only shows that we have financial opportunities. It also shows that we have very serious experience and professional personnel. I don't think anyone would have thought of implementing projects on this scale in a matter of two and a half years. No-one could have imagined that in just two and a half years, such large-scale work would be carried out on a large area covering 10,000 square kilometers. This is why the Azerbaijani public is periodically updated about the plans and the work done. When master plans of the cities were approved, the opinions of the people who lived in the cities were taken into account, and I attended the groundbreaking ceremony for the reconstruction of cities together with the former IDPs. In other words, we really want people who have suffered morally and physically for 30 years to be provided with the best conditions, and we are moving towards that and will continue to do so.

Moderator: And the next question from Majeed Shawkey, Egypt.

Majeed Shawkey: My name is Majeed. The Middle East News Agency, Egypt. Mr. President, you have talked about threats to your country and your efforts for the development after the war. How far landmines are affecting the daily lives of ordinary people and how far these landmines are affecting the efforts for development? And if there are any plans for removing these mines, given the high cost of the process? Thank you very much.

President Ilham Aliyev: Yes, you touched upon probably the most important issue. Because landmines already claimed almost 300 lives and serious injuries of our civilians and military

personnel. So, 300 mine explosions on the liberated territories, because of these war crimes. Planting landmines is a war crime. But not giving us the maps of landmines is a continuation of the Armenian terror. Because we know that they have it. This is how the mines are being planted. Those, who plant the mines, they have to have a map. Otherwise, they themselves can be victims of those mines. They first denied on the very high level, on the level of the Armenian Prime Minister that they have mine maps. Then, finally they admitted that they have it. That means they were lying to us at first. And why were they lying to us? They wanted Azerbaijanis to be killed, to continue to be killed, losing their legs, being severely injured. When they announced that they gave us the maps, and we started to check the accuracy of those maps, which was not as high as 25%. You can imagine that it means nothing. It means that these maps are absolutely useless. We are undertaking very serious efforts in demining. We purchased equipment, special machines, the mining machines. One of our local companies started to produce demining machines in Azerbaijan. We invited private companies to join the efforts, and several private companies already were established, which already started the demining process. Our State Agency ANAMA, along with the battalions of the Ministry of Emergency Ministry, specialists are working day and night to clean the area. But according to our estimation more than 1 million mines have been planted. The maps, which Armenians gave us, cover about 400,000. That means that they admitted that 400,000 have been planted. But we know that it is more than 1 million. So, it's very credible information. We received several proposals from international companies to work in this area. But unfortunately, the price was very high. I don't want to go into much details, but on average it was 8 to 10 times higher than the cost of demining of one mine. So, in other words, Azerbaijani local companies and ANAMA are demining the area 8-10 times cheaper than foreign companies, which applied for this job. We started to use drones thanks to good brains of some people. There are drones now, which detect the most contaminated places by mines and it is helpful. But at the same time, we can understand that it's a long process. Unfortunately, we should understand that there will be more victims and more casualties. So, the mine terror of Armenia continues. The most important is the fact that the areas, which have not yet been cleaned, are isolated now. Restricted access to the liberated territories helps us to minimize the casualties. But after the former IDPs will return, they must be very careful. I want just to use this opportunity once again to apply to them, I made it many times, to be very careful and not to go to the places, which are not authorized. This is really very dangerous and this is one of the biggest threats, which we will face for many years in the future unfortunately.

Moderator: Gela Vasadze, Georgia.

Gela Vasadze: Mr. President, first of all, thank you very much for organizing such a large-scale and wonderful event. I am really impressed. I agree with you that there are just a few steps, perhaps even step to peace. But peace depends on how far the process of integration of the Armenian population of Karabakh goes. When they tell me about people, when talking with friends, I ask them: "Give me the phone number of these people." Do you have the phone number of Karabakh Armenians? Do you know this phone? Thank you.

President Ilham Aliyev: We have repeatedly expressed our position on this issue and have shown maximum constructivism. But, unfortunately, the junta that seized power in Karabakh and which calls itself “presidents”, “ministers” or “deputies” is only causing everyone to laugh. They have taken hostage those who now live in the territory where the Russian peacekeeping contingent is temporarily stationed.

We took the initiative, I appointed a special representative who was supposed to deal with representatives of the Armenians of Karabakh, and in order to establish these contacts, he was sent to Karabakh. The first meeting took place there, in the village of Khojaly, at the base of the Russian peacekeeping contingent. After that, we invited representatives of the Armenians of Karabakh to come to Baku to continue the dialogue. But they refused, and quite defiantly. After some time, we invited them again – perhaps there was some kind of a mistake, it happens, a misfire – in order to find out whether they want it or not. But there was a refusal again. And then I said that there would be no third invitation. If they are not interested, so be it.

Well, what happened next you probably know – the establishment of a border checkpoint on the state border of Azerbaijan and Armenia. If you trace the chronology of all our actions, even if you go back before the beginning of the Second Karabakh War, you will see logic and a very strong argument on our side. We did not do anything for which we would be ashamed or we could say, “yes, we are wrong there.” We did everything right.

We gave them a chance, including the Armenian leadership before the start of the Second Karabakh War for two years, but they did not take advantage of it. We gave them a chance at a time when the Lachin-Khankendi road was just a “thoroughfare” through which Armenia transported mines that were produced in Armenia in 2021. And we discovered these mines. We found them. We invited representatives of the Russian peacekeeping contingent, as well as representatives of the Russian-Turkish monitoring center, which is located in Aghdam, demonstrated that to them and asked: “How did these mines get into Karabakh? Who brought them? And who was supposed to watch? It is unacceptable for us to die after the Victory on our own territory because Armenia continues its policy of terror.

Therefore, all our steps were logical, justified, legitimate, competent and sufficiently courageous. So, the establishment of a checkpoint on the border is an important stage in the post-conflict situation, which has significantly changed the landscape and the fact that these actions were fully accepted, although not immediately and not entirely willingly by all actors, but they were eventually perceived as legitimate. It was also a message. But how many times are we supposed to send messages? How many times can we hint? Was it not enough? The Farrukh operation, the situation on the border between Armenia and Azerbaijan in May 2021, the situation on the border in September 2022, and the border checkpoint. Well, how many messages should we give to them? Are they really so slow-witted?

Therefore, the issue of reintegration depends on when the Armenian residents of Karabakh will be

able to get rid of these shackles, of this junta that took them hostage and exploited them as slaves. It is still exploiting them now, because when eco-activists came to the Lachin-Khankendi road, the Armenian leadership, the so-called leadership in Khankendi did not allow ordinary citizens to use this road. They set up a roadblock, accusing us of the blockade. Today they put up concrete blocks on the Aghdam-Asgaran road again. When you said, “why do products have to be shipped from another country? After all, Karabakh is Azerbaijan.” Right? It is, isn't it? Doesn't everyone recognize it as such? Everyone recognizes it. Does anyone say it is not? No! And why should goods be delivered from another country? This is illogical. But instead of accepting this gesture, concrete blocks were placed there. So, who is blocking whom? This is the whole point.

And today's comedy show they are staging when they sit in a tent and protest against someone. It is just a joke, you know. People who call themselves “president” protest, do a sit-in strike – we have some journalists joking that the next stage will probably be a lying down strike. Whatever it is, it won't help the case. We are ready to follow the path of reintegration, respecting the rights and security of the Armenian minority in Karabakh within the framework of our Constitution and within the framework of the good practice of how these issues are resolved in Azerbaijan as a whole.

Azerbaijan is a multi-ethnic and multi-confessional state, and this is our strength. All representatives of ethnic groups living in Azerbaijan have the same rights and obligations and the same level of security. So, why should some ethnic group stand out against this background is also not entirely clear to me. This is our approach. We still have not lost hope that the sensible part of society that lives in Khankendi and its environs will understand the futility of ignoring of Azerbaijan and common sense will prevail. Otherwise, I think that only naive people can count on the fact that someone will come and fight for them. They had several stages when they had to understand and come to terms with the realities.

They appealed to different authorities, to different countries starting with neighboring ones and ending with some countries that are located further away. But no-one in the right mind will fight against us on the territory of Azerbaijan for them. Therefore, they must eventually understand and accept these realities. I have already said this. I was told many times by mediators during the occupation, that “the First Karabakh War ended like this, so you must accept the realities”. But I wasn't accepting them and did not. I am saying again: accept these realities, and these realities will only change – if they do – not for the benefit of either Armenia or the Armenian minority in Karabakh. Therefore, I hope that they will hear these words and draw the right conclusion.

President of the Global Policy Institute, Paolo von Schirach: Mr. President. Thank you for your hospitality. You won the war, you need to win the peace. What message could you give to the American private sector, corporate economy, which are interested in business with Azerbaijan. Of course, everybody knows about oil and gas. What about other sectors of the economy? What would be your message to American business leaders who are interested in partnering with Azerbaijani companies, where the benefit should be transparent and mutual with particular value for your country and the people who suffered so much because of this horrible war? Thank you.

President Ilham Aliyev: One of our priorities now is to stimulate the development of the sector, which is not related to natural resources. And that program is being successfully implemented. Year after year, we increase not only the share of the non-energy economy in our GDP, which is now more than 50%, but also increase our non-energy related export. My message would be that now capital goes to the places where there's a predictability and stability, which is a case in Azerbaijan. That was here for many years, even during the times of occupation. But definitely the Nagorno-Karabakh Armenia-Azerbaijan conflict being unresolved created certain probably frustration and was elevating certain risks. After the Second Karabakh war is over, this risk is very minimum in general.

So, our government has a very predictable policy with respect to development and also with respect to improvement of business climate. I think that foreigners who live and work in Azerbaijan can also prove that in recent years, there have been very serious, positive changes in management, including our fiscal system, including corporate management in our companies. This process is already in the final stage of full compliance with international standards. The country's economy is sustainable, foreign debt is below 10% of GDP. And currency reserves exceed the foreign debt 10 times. So, in principle, if we decide, we can zero the foreign debt within one week.

Trade turnover has a high surplus. During these six months, we had 10 billion US dollar surplus in our export over our import. Political situation is stable. Azerbaijan proved itself as a reliable partner in oil and gas, and at the same time, is now working actively on issues related to connectivity, taking into account the geographical location and already very modern transportation infrastructure. So, these are general messages to companies, which probably think it's a good idea to come and try to work in Azerbaijan.

With respect to the areas, which are now priorities for us, of course, number one is reconstruction of the liberated territories. We have a growing number of foreign companies, who are working here as contractors.

Another important sector, which we are actively working on, is digitalization. And already substantial financial resources have been channeled to that sector. I know that some American companies are already showing interest to the renewable energy area. We have discovered a lot of potential. Those who know Baku are aware that Baku is a very windy city. When the wind was very strong, it always created certain problems. But at the same time, now we found out that wind will generate a lot of money in the Caspian. So, the IFC already made the assessment and testifies that there is 157 gigawatt of wind power only in the Caspian Sea. Foreign companies have already started several investment projects in renewables. Last December, an agreement was signed between Azerbaijan, Georgia, Hungary and Romania and witnessed by the European Commission to build an integrated green energy line from Azerbaijan to Europe going under the Black Sea. So, feasibility study already started. We expect the feasibility study to be presented probably in September-October. The first steering committee of the projects was held in Baku this February.

The first 240-megawatt solar power station is to be inaugurated by the end of this year. But this is only the first. We already signed MoUs and contracts at the level of 10 gigawatts. So, if half of these MoUs is materialized, that will be more than enough to supply big geography in Europe. At the same time, it will save us a lot of natural gas, which we use now to generate electricity and that natural gas will go also to the international market. So, it's a win-win situation.

And also I would like to see more foreign companies in agriculture. We don't have many of them so far. We use some of the advanced technologies, including in the irrigation area. But, I would personally would like to see investors, because there is a big potential of agriculture, especially, in the liberated territory, whose soil is very fertile. And 25% of our water resources is generated in Karabakh, can you imagine? We've been deprived from that for 30 years and we could not use it, because Armenians were closing the dams as water reserves. 100,000 hectares of land were not irrigated. We had to drill the wells, artesian wells. So, now this water is a source of life not only for Karabakh. We have a plan to build pipelines to bring this water to the central part of Azerbaijan, which needs water most of all.

So, I would like to see in agriculture and also in transportation, but here it is more, how to say, already internationalized this sector, because one country cannot be transportation hub. If it wants to be a hub, it should work with the neighbors. So, here we have quite a good international cooperation with the neighboring countries and big potential in expansion of transportation infrastructure.

Moderator: Your Excellency, the next question, Mohamad Al Kadi, Al Jazeera TV.

Mohamad Al Kadi, Al Jazeera TV: Thank you very much, dear Mr. President. Thank you for your hospitality in this beautiful city of Shusha, the cultural capital of Azerbaijan. My question will be in Arabic so that everyone should know that there are Arabs in this Forum too. Because the Arabs also watched and observed the war in Karabakh with great interest, and you talked with them about the damage to museums, centers and mosques. You also talked about historical places, monuments and thousands of lost manuscripts and books. In your opinion, why did the Armenians cause this devastation and deliberate and programmed destruction of Azerbaijani heritage and culture?

My other question is when the reconstruction of Karabakh will be completed and how long will it take? Thank you very much.

President Ilham Aliyev: The process of reconstruction of Karabakh and Eastern Zangezur has been divided into stages. The Great Return program has been adopted. Financial resources have been mobilized for the implementation of the program. In dollar equivalent to date, projected spending on infrastructure and urban development purposes by the end of the year will be somewhere around \$7 billion. So, this is just the beginning. How long will the implementation of this program, which is divided into stages, take? It is difficult to say. Because at the first stage, our main task is to rebuild eight cities and about 100 villages. People have already been settled in

several places. The Aghali village of the Zangilan district, the Talish village of the Tartar district, and the city of Lachin.

But this is a gradual process. One million people who suffered from the occupation must return to their ancestral lands. I should also mention that before we started the restoration work, we conducted an informal survey among the former IDPs to find out whether they intend to return to their ancestral lands or not. The good news is that the absolute majority of IDPs gave an affirmative answer. This, of course, increases the amount of work to be done, and I think that the rehabilitation of cities will be possible in the next five years.

On the example of the city of Lachin, I can say that in a matter of eight months, the town of Lachin was completely rebuilt. There are facilities for more than 700 families today – both individual houses and multi-apartment houses. Now the school will be ready for September 15. A kindergarten will also be ready. A hospital will be ready and other social facilities are being built.

Therefore, I am sure that people will live in all liberated cities in the next five years. But the development plan of the cities is certainly more extensive. Because if we take the city of Aghdam as an example, in the period before the occupation, somewhere around 40,000, perhaps even 50,000 people lived in the city of Aghdam. According to our master plan, about 100,000 people will live in the city of Aghdam. Of course, all this will be done in stages. Because funds should be spent when people are ready to go there.

As for your first question, I mentioned in my comments that I still can't understand where this cruelty and hatred comes from. Because the Armenians have lived in the territory of Azerbaijan for a long time. Their migration to Karabakh en masse began in the first half of the 19th century. In 1805, as a result of the Kurakchay agreement, the Karabakh Khanate was included in the Russian Empire. The agreements of Gulustan and Turkmenchay signed after that included other khanates of Azerbaijan into the Russian Empire. After that, the process of settlement of Armenians from Iran and Eastern Anatolia began. There are many documents to confirm this. Therefore, the writings, letters and statements of prominent statesmen are all confirmed historically. So they came to these lands as guests of the Karabakh land, including Shusha. They claimed that Shusha is an Armenian city. First, the history of the city of Shusha doesn't date too far back. In 1752, Panahali Khan built a city in Shusha, and last year was declared the year of Shusha in Azerbaijan because we were celebrating the 270th anniversary of Shusha. From then and until the occupation, the absolute majority of people living in Shusha were Azerbaijanis.

If Shusha was an Armenian city, why was it in such a deplorable state? Why were 17 springs of Shusha dried up by Armenians during the occupation? I specifically enquired about that when I came to Shusha on November 14, 2021. Because Shusha was a city of 17 mosques, and 17 springs. If this was your city, why did you dry up the springs? Why didn't you leave a single stone in Shusha? There are two or three villas in Shusha that were built during the occupation, and they were on the Lachin-Khankendi road. One of them belongs to the head of the junta located in

Khankendi, Karabakh. One is said to have been donated by the head of the junta to one of the leaders of Armenia, and the owner of the other is unknown.

Besides, the Khankendi junta did not leave a single stone in Shusha. As for other cities, their hatred towards Azerbaijan and our people does not fit into normal human psyche. Psychologists, probably psychiatrists should analyze this and tell us what the reason for this cruelty and barbarism is. That is, they stole gravestones, erased the names of Azerbaijanis who died there and used them as gravestones for their own relatives. What kind of culture is this? Or to dig up Azerbaijani graves, extract gold teeth from the skulls of the dead, melt them and sell them in the market. I am not talking about the damage done to the environment. A total of 60,000 hectares of forests were destroyed by Armenians, chopped and sold for parquet floors.

When the Second Karabakh War ended, Russia appealed to us to give them time to leave those lands – Aghdam, Kalbajar, Lachin. We probably haven't forgotten those shameful scenes yet. They cut down trees and burned houses. They burned the trees and in the houses once inhabited by the Azerbaijanis which they settled illegally in, they even dismantled their cheap belongings and carried them on their backs right in front of the whole world. What name can we give to that? Therefore, what can we expect from people who committed these deeds? Everything I say is 100 percent true. I am not exaggerating anything. In fact, I am not even saying all of it.

There may be a reason that they did this in order to completely Armenianize this region, to erase the cultural heritage of Azerbaijan and to make these lands unfit for habitation in the future. Because the ruins you see are the cities of Fuzuli and Aghdam, which suffered the greatest destruction. There is not a single sound building left there. Those ruins are not wartime ruins. Those ruins are the ruins resulting from the demolition of these houses after the First Karabakh War. They removed the stones one by one and sold them here and there. So, what can you call that?

We do not touch the historical heritage of the Armenian people. There is even an Armenian church here in Shusha. Anyone can go and have a look, not a single stone has been touched there. On the contrary, it is protected. That is our attitude, and we are not going to take revenge on them for their actions. I said even during the war and afterwards that we must take revenge on the battlefield, and when we did that. We also avenged the blood of our martyrs on the battlefield. We have never fought against civilians. But during the war, they fired at our peaceful cities with Iskander, Tochka, and Scud missiles. About a hundred innocent people, including 12 children, were killed as a result of this cowardly fire.

So by saying all this, I want to state that our memory is not erased. It will not and should not be erased, the people of Azerbaijan should never forget this. Again, not for revenge, they must remember it so that it never happens again. Because we made a mistake once, we trusted the neighbors too much and then we were made to suffer for it.

In any case, everything is obvious. The importance of these gatherings is also important, among

other things, because representatives of the international media gathered here will see everything with their own eyes. They will convey the truth of Azerbaijan to their countries, their people, and the public. We want that.

During the occupation, it was a kind of forbidden zone. They did let some foreigners come to the city of Shusha but no-one was allowed to go to Aghdam and Fuzuli districts. Because whoever goes there will see everything. But now everything is obvious and it shows once again what historical result we have achieved. We did not just defeat Armenia. We broke the back of Armenian fascism. We almost saved the Armenian people from these evil deeds. Maybe this bitter defeat, the bitter defeat in the Second Karabakh War will be a lesson for them, and they will sit down and think about how to live in this region from now on, acknowledge their sins, confess their crimes, and bring criminals to justice. This process has already started. In Armenia, the executioners whose hands are soaked in the blood of the Azerbaijani people are being punished by the Armenian government now. It is only fair, and there should be a continuation. Only in this case can there be real reconciliation between peoples. A peace treaty can be signed, but the main issue is to take steps towards reconciliation at public level, and the first of them is the confession of their sins by the Armenians.

Igor Korotchenko, Russian military expert: Thank you. Mr. President, in your speech you noted that the world is turbulent, everything is changing very quickly, and against this background, Azerbaijan is successful. It stands like a rock. For many countries today, Azerbaijan is an example in addressing a variety of problems. The strategic vision of the future of Azerbaijan, which is in your hands, Mr. President, how do you see the future of Azerbaijan? Thank you.

President Ilham Aliyev: First of all, thank you for such an assessment of what we are doing and how the country is positioning itself. In principle, we have strategic directions for development, and they were determined many years ago. The only thing is that life makes adjustments, and we have to integrate the changing realities into our plans. But I will not say that it is of any dramatic nature. In the foreground after the liberation of the occupied territories, of course, are issues of socioeconomic development. Because the political processes in Azerbaijan are going in the right direction. There is a consensus in society on the main issues of our future. Whether it is political development, whether it is economic development or issues related to social policy. Therefore, improvement of the well-being of the Azerbaijani people is now the main task. Before that, this was always one of the priorities, but the main priority, of course, was the issue of liberating the territories and, accordingly, strengthening the potential of the Armed Forces. Now with regard to defense capability. This issue is also in the spotlight, taking into account the experience of the Second Karabakh War, taking into account what we needed more, what we needed less, what was used more and what was used less. But as someone who deeply knows the issues of military construction you probably understand what I am talking about. But, of course, the issues of sustainable development and reducing dependence on the oil and gas sector come to the fore. This task, I think, is facing all oil-producing economies in which this sector plays an important role, including ours. This is not easy to do. But without this there will be no sustainable development.

Because natural resources are resources that are depleted, and we must be prepared for the economy to show its resilience in any case. Of course, we are making reserves, we are accumulating foreign exchange reserves, we are improving the system of governance. All this gives us additional opportunities.

Even if we look at the statistics of the fulfillment of the forecast by our tax and customs authorities, the picture is very impressive. This is not the first year that we have been introducing upward additions to the budget in May and June based on the fact that the tax and customs authorities have collected much more revenue only thanks to transparency and a new approach to governance. As for the broader context, not everything here depends on us, including the issue of normalizing relations with Armenia. If we come to the signing of a peace treaty, this will improve the situation in the South Caucasus as a whole and exclude the South Caucasus, by and large, from the high-risk zone. Because the high-risk zone is not just an assessment of experts, it is also about ratings, which involves opportunities to take loans. These issues are directly related to foreign investment, especially now, when investors primarily proceed from potential and existing risks. The settlement of relations with Armenia will remove this risk, it will be good both for our economy and for the economy of Armenia. In general, it will create opportunities for the normalization of relations and a more complete implementation of our plans. This will allow us the opportunity to finance issues related to our defense potential to a lesser extent, i.e. it will free up fairly large resources.

And of course, I still see Karabakh and Eastern Zangezur as a driver of the non-energy sector of the economy. Because in terms of natural and climatic conditions, in terms of tourism potential, in terms of the potential of agriculture, as well as renewable energy, this region will be able to seriously contribute to the treasury of our GDP. For example, I will say that by the end of next year we will complete the construction of about 30 hydroelectric power plants with a capacity of 200 MW. More than 50 MW have already been put into operation, and for comparison, perhaps I am going into too much detail, but it might be of interest to someone. The efficiency of using hydroelectric stations in Karabakh is much higher than in any other point in Azerbaijan, i.e. the flow is so powerful and the rivers are so full-flowing. Each power plant has its own efficiency factor, whether it is a combined cycle power plant or a hydro power plant, and there is exceptional efficiency here. That is, the huge potential of wind power in the Kalbajar-Lachin zone, in the Jabrayil district – in just a couple of months, the construction of a solar station with a capacity of 240 MW will begin. In other words, it will be such a huge energy potential plus a logistical center. No-one has canceled the Zangezur corridor and this project remains on the agenda and will remain until it is implemented. And this opens up huge potential. It is now called connectivity, as it were, of transport links. And in order to fully answer this question, this requires a separate interview. Thank you.

Moderator: The next question, Khalil Mohamed Ibrahim, Chad.

Khalil Mohamed Ibrahim: Dear Mr. President, when you liberated these lands, many countries gave you moral, logistical and diplomatic support. The positions of many countries were unclear.

What will Azerbaijan's diplomatic relations be in the future? The second question is how Azerbaijan's relations with African countries will be in this regard. Thank you very much.

President Ilham Aliyev: Our relations with African countries are developing rapidly. Some time ago, our embassy in the African Union was also opened. At the same time, we are in close contact with African countries within the framework of the Non-Aligned Movement, and I have already mentioned that part of our humanitarian aid during the COVID period was also directed to the African continent. I must also state that until today our relations in the economic and commercial sphere have not been on a very high level. Just like on the political level. There are probably natural reasons for this, and I think that opportunities in this direction will be evaluated as contacts become more intense. Anyway, we are interested in that.

As for the position of countries during the Second Karabakh War, this is now history. We know who was with us, who was with Armenia, and who was in a neutral position. I think it would be wrong to bring this issue up again now. Our main task was to liberate our lands and we did that. Every country has its own agenda, its own foreign policy, its own internal, as they say, reasons. We understand that too. From some countries, we expected a little more support, from some countries we expected nothing at all. So, these are the laws of international relations, and I can say that in our experience, such issues do not have a great impact on bilateral relations. Even during the occupation, I can say that we saw a neutral position from many countries. We were not satisfied with that, because we rightly demanded that the position of justice prevail. At the same time, we saw the position of countries that were in solidarity with Armenia during the occupation. But let me say again that this did not lead to the freezing of our relations with those countries, that's one thing. Secondly, I think we have achieved this to some extent. We have to try to play on the opponent's court, and we did that. Our relations with countries considered to be close allies of Armenia – during the occupation, I mean that period – also developed successfully, and we managed to show those countries that their real political, economic and other interests should lie in Azerbaijan, not in Armenia. This factor made it possible to somewhat amend the pro-Armenian position of these countries. It is true that during the Second Karabakh War and afterwards, the countries distinguished for being close to Armenia could no longer hide their pro-Armenian position or did not want to. To a certain extent, this led to the straining of our relations with such countries. But that doesn't mean it will be like this forever. At this stage, it will end, a new stage will open, and the main thing is that you have an agenda.

In the post-war period, we did everything in sequence, one step was a logical continuation of the previous step, and we were moving towards the goal. We reached many goals. There are some goals we haven't reached yet, but we will reach them. Of course, political competence is not in the last place in order to achieve those goals. Therefore, our communication channels are open with all countries. In parallel with this, we express our displeasure, protest and countermeasures at the appropriate level when necessary.

Nurjan Kasmaliyeva, Kyrgyzstan: After the completion of the Karabakh war, some Central Asian

countries announced their willingness to help Azerbaijan in reconstruction of liberated territories. What kind of support or help Azerbaijan received from the Central Asian countries? And in general, how can you characterize relations with the Central Asian countries, in particular, with Kyrgyzstan?

President Ilham Aliyev: We are very grateful to our friends and brothers in Central Asia for support. When you drove from Fuzuli Airport, probably, you've noticed the housing project, which is being implemented. There is a school behind it, which was generously donated to us by Uzbekistan and also the Art Center, which was donated by Kazakhstan. Both are under construction and the school must be ready by the end of August, and Art Center for young generation - Youth Art Center - by the end of the year. So, these are two signs of support. And actually all this is foreign aid, which we received since the war ended. This was a very important gesture demonstrating their solidarity. They clearly understand that we can build schools and we build schools. But this was a genuine desire to demonstrate their solidarity and to help us, and understanding that what a great scope of work is in front of us.

With respect to cooperation with Central Asian countries in general, they are very dynamic. I visited many Central Asian countries last year and this year. Also presidents of the Central Asian countries visited Azerbaijan, and we expect also more visits of presidents of friendly countries by the end of the year. We are now actively working on bilateral level on the issues related to investments and trade. We established a Joint Investment Fund with Uzbekistan and there is such initiative to establish one with Kyrgyzstan. The amount of assets is not very big, but it depends on the availability of the projects. With Uzbekistan, the Fund is on the level of half a billion US dollars, with Kyrgyzstan I think it is 25 million. Because we do not have yet projects to be implemented, so, these funds, of course, can be enlarged and they will be enlarged.

You also asked particularly about our relations with Kyrgyzstan. They are very good, very friendly. I paid a state visit to your country and the president paid a visit to Azerbaijan. We also meet regularly at the meetings of the Organization of Turkic States summit and also CIS summits. With the Central Asian countries, we are now actively working on the issues related to connectivity and transportation infrastructure. Just several days ago, I received the Prime Minister of Uzbekistan, a while ago Prime Minister of Kazakhstan. Main topics of conversation were transportation routes across the Caspian through Azerbaijan, Georgia, Türkiye to Europe. This route is going to be one of the most important transportation routes for the Central Asian countries. Because Azerbaijan's transportation infrastructure is modern and is capable to handle cargoes much more than we have now. So, I think that there is a great future in our relations.

Moderator: The next question, Mohammad Reza Pour, IRNA News Agency.

Mohammad Reza Pour: Mr. President, thank you for the invitation. I greet you on behalf of IRNA News Agency, on behalf of Iran. Mr. President, the governments of Iran and Azerbaijan are making great efforts to develop and strengthen relations between the two countries. How will the launch of the project, which will take place in the near future, affect the strengthening of relations?

President Ilham Aliyev: I am sorry. Your question wasn't clear. Please repeat your second question.

Mohammad Reza Pour: What effect will the launch of "IRNA Azeri" have on the strengthening of relations?

President Ilham Aliyev: Maybe you are a little far from us, so we can't hear your question well. Please voice your question to the moderator and he will pass it on to us.

Moderator: Opening of IRNA office in Azerbaijan? In the coming days, IRNA agency will open its office in Azerbaijan and what role can "IRNA Azeri" play between the two countries?

President Ilham Aliyev: I hope "IRNA Azerbaijan" will definitely contribute to strengthening of relations between our countries. Because I think the responsible media outlets need always to contribute to strengthening of relations between neighboring countries. Therefore, I think the best way is to inform your audience in Iran about Azerbaijan's reality, about the process of reconstruction of Karabakh and Eastern Zangazur. Of course, I think that it will be very good if more people in Iran know the reality of the Second Karabakh War and post-war situation, especially with respect to Azerbaijan's agenda of broad regional cooperation here in the region. So, I wish you success in your activity. I'm sure that you will play an important role in strengthening our relations.

Moderator: Next question, Tarek Cherkaoui, Manager of TRT World Research Centre?

Tarek Cherkaoui: Your Excellency. I would like to congratulate you, after winning the battle for liberation. You are winning also the battle for reconstruction. My question is about Shusha, actually. What is your vision for Shusha down the line in 10 years' time? Thank you.

President Ilham Aliyev: Well, reconstruction of Shusha has started. The master plan has been approved a while ago, and now the construction of the first housing projects has started. Maybe you can see them. They are in different parts of the city. These projects will accommodate the Shusha residents back to their homes. At the same time, as I already said, Shusha was officially declared by the presidential decree a cultural capital of Azerbaijan. And we expect big traffic from all over the world to come to this unique place. Because history, culture, architecture and climate of Shusha is really a big asset for our country. Of course, the city, which is situated on the rock, surrounded by the ancient city wall is really a pearl of the Caucasus - as we call it the crown of Karabakh. We are actively now restoring the historical monuments of Shusha. Three mosques have already been rebuilt with one of them restored and others built, which were destroyed. The first historical monument, which we restored was a Mausoleum of our great poet and the minister "vizier", a kind of minister of Karabakh Khanate Vagif, which was destroyed by Armenians during the times of occupation. As I said, we already restored the springs, traditional springs - five of them already are full with water.

Shusha's infrastructure also is taken care of. When Armenians were running away from here, they

damaged the water distribution system. So, we had to build it from scratch. And, in general, all the infrastructure of Shusha, including new roads, has been taken into account while master plan was elaborated. This September, we will inaugurate the opening of the school, which is designed for almost 1000 pupils and the hospital for 90 patients will be ready, I think, in several months, may be probably by the end of the year. Everything in Shusha is being done based on the master plan. And that will allow the city to look even better than it looked ever before. So, it will be very convenient and modern, at the same time keeping the authentic look. Because almost all the historical buildings are now in the process of renovation. And those who travel to Shusha often can see every time the changes and how city becomes looking better and better. There will be still some demolition works to be carried out, because of the buildings, which were built during the soviet times. Their sustainability do not allow us to use them as apartment buildings. But the master plan for Shusha is really amazing. I think this will be one of the best places in three-four years in the world, not only in the Caucasus.

By the way, this hotel is also a good illustration of what we're doing. Two hotels have been restored - Karabakh and Khari Bulbul and they were built from scratch. Interesting thing about this hotel is that here on this particular place, the separatists wanted to build a parliament for so-called Nagorno-Karabakh Republic. And when I came here first time in January, I came to see it, they did not finish it. There was only construction. They wanted to move their so-called parliament here, and to continue Armenisation of Shusha. And standing in front of that, I called it the "House of the Devil". And the "House of the Devil" was knocked down, and we built this beautiful hotel, which is a five-star hotel. I hope guests also feel themselves comfortable. This also demonstrates how quickly Shusha is being developed.

Moderator: Mr. President, actually, more than two hours have already passed since the start of our interactive part. It's clear that everyone wants to be a part of this process. But we do not want to overuse your discretion. Maybe we can let Mr. Markov ask his question. He was raising his hand from the first minute.

Russian political scientist Sergey Markov: Thank you, Mr. President. If you don't mind I will speak English. If you remember we conducted very small international conference. There was even an explosion on the way to the conference. We very much hope that there will be no explosion at all here and Armenians will accept the reality peacefully. And my question to you, not only as to a politician and to a winner. You are a very experienced person. You told about three brokers, now. They are competing each other. And all of them want to be successful, first. But at the same time, all these three brokers worked together as Minsk Group and fully collapsed and were absolutely not able to prevent the beginning of the Second Karabakh War. They spent 28 years with no sense of negotiation. It has come to the war. We can see now that the number of brokers is increasing but the sense of brokering is a little bit decreasing. And what you think, first of all, who amongst the brokers will be successful in competition? What the brokers must do to be successful? And second is connected in a broader sense. How should international institutes develop not to move to the crisis because it's clear that the United Nations is not successful and the OSCE Minsk Group

proved to be unsuccessful. With your great experience, and with your great education on international relations, what could be a positive direction for these international institutions to become most stable and sustainable?

President Ilham Aliyev: Thank you very much. I want to specify a little bit with respect to these tracks of negotiations. We have two processes. One is negotiations between Azerbaijan and Armenia, and we have two brokers, which is Russia and United States. And we have the so-called Brussels format, which is not a formal negotiation, because negotiations are being held by ministers of foreign affairs and their teams and experts. The Brussels format, we consider as a kind of supplementary or a kind of a supportive mechanism of direct interaction on the level of the leaders of Armenia and Azerbaijan. So far, it has worked, I think, more or less successfully. There is some difference between this format and the Minsk Group, because we do not have exactly the same actors. One of the members of the Minsk Group was France, which is now not in the picture. But the European Union again, I said, is not a real broker for negotiations but a kind of a factor, which maybe decreases the tension and allows Armenian, Azerbaijani leaders to talk and to understand each other better. With respect to the Minsk Group, I want to say that it was not me, it was themselves who actually made it dysfunctional. When the Second Karabakh War ended, frankly speaking, they also were asking themselves what they should do next. And when communicating with us, our position was that the conflict is over taking that into account. Absolute majority of provisions of the so-called Madrid principles have already been achieved, including the peacekeeping operations. Therefore, to our mind, the Minsk Group, if continued, should have dealt with trust-building measures only, and also helping countries to implement fully provisions of the 10 November 2020 declaration. Because as you know, two important paragraphs are not implemented - first, withdrawal of the Armenian troops from Karabakh and second, having access to Nakhchivan. These two provisions Armenia does not fulfill. But then after this geopolitical clash, the Minsk Group formally, how to say, resigned. And now the reincarnation of the Minsk Group in any form is absolutely unrealistic and is unacceptable to us. We hear some rumors, sometimes, some information that there are some ideas how again to assemble this broken vase. But it is not possible from practical point of view and point of view of disagreement of Azerbaijan. Because, as you can imagine, we don't have good memories of the activity of the Minsk Group. With respect to the rivalry, yes, we see this rivalry. This is part of the global rivalry. It's not only here. It's easier to say where this rivalry is not happening. So, the Southern Caucasus and Azerbaijan is not an exclusion.

After the end of the Second Karabakh War, naturally, Russia took the lead, because, as I said before, Russia was the principal negotiator with respect to the 10 November declaration, and the Russian peacekeepers were deployed in the region. Russia is a neighbor to Azerbaijan, and though, it's not neighbor but very close to Armenia. So, it was natural. But then, we all know that Russia became more preoccupied with other issues and the rivals just started to fill the gap. So, what will be the end of this rivalry here in the Caucasus, I cannot say. For me, as a President it was always important, even during the times of occupation, that Azerbaijan does not transform into the

area of rivalry. This is the worst scenario one can imagine for any country. We see that Armenia now is slowly becoming such an area of rivalry, which can lead to serious problems. Not only Russian-American, but also other countries are actively stepping in, and I think that the Armenian government does not have a clear foreign policy strategy. They had it before the Second Karabakh War. But now we see that they don't have it and this could lead to serious problems for them.

But with respect to Azerbaijan, our area is free from rivalry. We are the area of cooperation. As you know, many times Russian and American military commanders gathered in Baku for meetings. They were high-level commanders of Chief of Staff of Russian Army and US military commander or NATO military commander - they selected Baku for their meeting. That was a sign of respect to us. Selection of Baku by them - I think four or five meetings of that kind took place - demonstrated that Azerbaijan is a country, which can unite interests even between countries, which always compete. That was a time, when this competition was more or less peaceful. Now, under current circumstances, again Azerbaijan is a place, where potentially this kind of context can restart.

What will be the final result? Difficult to say. The thing is that both sides actually provide the space for negotiations, and whether it's Moscow or Washington. That is not a trilateral negotiation, it is a bilateral negotiation. Shortly, the meeting was held in Washington, in several days it will be in Moscow. It depends on who invites. So, when we got invitation from the Russian Foreign Ministry several days ago, I immediately gave instructions to our foreign minister to agree, and they agreed the date. Then, Armenians asked to change the date. We agreed to change the date, because probably they had some reason. So, Americans were inviting more. So, more meetings took place there. But again, it is definitely the bilateral format. Negotiations between Armenia and Azerbaijan, according to our approach, must be bilateral only. Of course, the factor of where these negotiations take place is also important. It has played its role, and we are open to any kind of mediation efforts in order to make positions closer.

But one of the most important issues now on the negotiation table, which needs its resolution, is the formal agreement by Armenia to refrain from territorial claims against Azerbaijan. They did it already verbally. We consider it as a position. When the Prime Minister said that "Karabakh is Azerbaijan", I wish he said that in 2019. But he said an absolutely different thing in Khankendi. Now, he says the right thing, but now he needs to put his signature under that. He needs to initial that open paragraph, which we did not agree on peace treaty draft, and clearly demonstrates that they don't have territorial claims. Their position is a little bit ambiguous. They say "we" recognize territorial integrity, and even they say the parameters. But at the same time, they say that this Armenian minority in Karabakh should be incorporated, which is not possible at all. There are a kind of bridging language proposals, which are reciprocal, and which refer to national minorities, their rights and security in both countries. Because if Armenians want to talk about rights and securities of Armenians in Karabakh, then we want to talk about rights and securities of Azerbaijanis in Zangazur, in Goycha, and in Yerevan. So, I think, this is logical absolutely. But hopefully, we will come to a final stage, though it's difficult to predict. I can predict only what solely depends on us. But with respect to negotiations, we are hopeful, but must be less optimistic, more

realistic.

Moderator: Mr. President. It will be the last question. Shafag Mehraliyeva, ADA University.

Shafag Mehraliyeva: I teach communication and media at ADA University. In the next two days, we will continue these conversations with our distinguished colleagues talking about modern media trends. And one of the issues that usually come up in this conversation is relationship between social media and professional media or traditional media. Sometimes difficult relationship, most of the time competitive relationship. You have a very strong, open, active social media presence. I would like to thank you for that. Population of all age ranges follow you. My son religiously follows you on Instagram. And I hope that the First Lady knows that we very closely follow her. Her messages, videos are very open and warm. It gives us an opportunity to connect with you, directly without any filters without any framing. So my question to you. When it comes to social media usage, what value do you see in social media yourself? Do you use it? Thank you.

President Ilham Aliyev: Well, I can tell you that I find out many important things from social media and what is happening in our country. On several occasions in my communications with media representatives, I was telling them that you help me in my day to day job. Because you know every President has his own, how to say, very similar to each other format of activity. Because especially in the countries like Azerbaijan, where you have to work 24 hours a day and be ready for any kind of news, good or bad. At the same time, the scope of activity is really so huge that sometimes you miss some important points, so you can miss the feeling of the pulse of society. This is very important for me to feel this pulse. I feel it when I travel, when I meet people, when I also use social media and many things, which happened in Azerbaijan and were not reported to me, either due to some bureaucratic procedure or now less deliberately, now less but still. Maybe because of my being too busy with some other issues. I find out also through my grandchildren sometimes, and children from social media and sometimes myself. It helps a lot. Because there are a lot of things, which irritate me, as well as anyone in Azerbaijan. I feel the same. I live the same life like any other person. I love my country like any other person, and I am irritated like any other person, when I see injustice, bureaucracy, mismanagement or something even worse. So, channels of communications to me are different. But taking into account the current situation and, of course, post-war situation, issues related to security, peace process, energy diplomacy - I mean issues of global security and development of Azerbaijan - they prevail in my day to day working activities. So, in these circumstances, definitely, I can miss something. So, social media and not only social media, traditional media help, when I follow of course, to know what is happening in order to react immediately. In many cases, I can tell you that governmental officials react even to the cutting of one tree because I saw it on the media in many cases. It creates additional discipline. You know, I travel around the country regularly and travel most of the time by car. The reason is that when I go by car, I can see many more things than I go by a plane or by a helicopter. Officials on the ground know that I will come next time and check what is happening, what is going not as it should be. So, I think that in my future activity, definitely I will use social media. I'm not as active as I would like to, but with respect to issues, which create concern in the Azerbaijani society, I am also very

reachable by people of my office and my close relatives. And also I think that meetings like this are very important.

I was not planned to be around, when the first Forum was held last year here in Shusha by the Azerbaijani media community. I then told our Presidential Administration, employees that it will be good if we make it international next time. It happened. It is well-organized with big presentation, and I decided to join the group. When I was scheduled to be a keynote speaker, I decided not to use this formal once again, speeches or long speeches, something like that. I saw these kinds of discussions much better for me and I think for you also.

So, I'm grateful for your patience. So, almost three hours already. I'm sure you will come with very good results after two-day discussions. That will be a kind of good guidelines also for our government how to move in this direction. My last suggestion is to have this forum regularly and name it the first Shusha Global Media Forum.

Moderator: The first Media Global Forum is over. Once again, thank you so much, Mr. President, for your time. See you next year.

x x x

The Global Media Forum on “New Media in the Era of the 4th Industrial Revolution” held, at the direction of President of the Republic of Azerbaijan Ilham Aliyev, as part of the Heydar Aliyev Year and on the occasion of the 148th anniversary of the Azerbaijan National Press brought together 150 participants from 49 countries including state news agencies from 34 countries, 12 international and media organizations. Moreover, the Forum is attended by 60 local media heads and representatives.

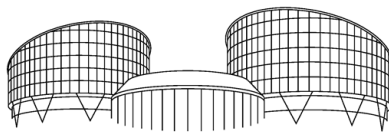
The Forum is scheduled to discuss critical issues of global importance in the media and information-communication fields. World's illustrious media leaders, experts will deliberate about new tools of journalism and communications in the digital era, digital transformation, media management and sustainable media business models, consumer trends and media literacy in the new media, methods of fighting disinformation and fake news, safety of journalists and other matters.

The Non-Aligned Movement Media Platform initiative will also be put forward by the Forum.

It is the first time that the city of Shusha has brought together heads of world's leading media, journalist organizations, media and communication experts and renowned journalists.

Annex 24

Saribekyan and Balayan v. Azerbaijan, ECtHR, Application No. 35746/11, Judgment
(30 January 2020)



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF SARIBEKYAN AND BALYAN v. AZERBAIJAN

(Application no. 35746/11)

JUDGMENT

Arts 2 and 3 • Life • Torture • Effective investigation • Death of Armenian national while detained in Azerbaijan on suspicion of spying and intending to commit a terrorist act • Azerbaijani authorities' failure to consider whether ethnic hatred had been a contributing factor in victim's death and the torture to which he had been subjected • Azerbaijani authorities' lack of communication with victim's relatives and Armenian authorities

STRASBOURG

30 January 2020

FINAL

07/09/2020

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Saribekyan and Balyan v. Azerbaijan,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Angelika Nußberger, *President*,

Yonko Grozev,

Ganna Yudkivska,

Síofra O’Leary,

Mārtiņš Mits,

Lətif Hüseynov,

Lado Chanturia, *judges*,

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 10 December 2019,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 35746/11) against the Republic of Azerbaijan lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by two Armenian nationals, Mr Mamikon Saribekyan and Mrs Siranush Balyan (“the applicants”), on 10 June 2011.

2. The applicants were represented by Mr A. Ghazaryan and Mr A. Zeynalyan, lawyers based in Yerevan. The Azerbaijani Government (“the Government”) were represented by their Agent, Mr Ç. Asgarov.

3. The applicants alleged, in particular, that their son had been tortured and killed in Azerbaijani detention, involving violations of Articles 2, 3, 13 and 14 of the Convention.

4. On 10 November 2015 notice of the application was given to the Government.

5. The Armenian Government made use of their right to intervene under Article 36 § 1 of the Convention. They were represented by their Agent, Mr G. Kostanyan.

THE FACTS

6. On the morning of 11 September 2010 the applicants’ son, Manvel Saribekyan, born in 1990 and a resident of the village of Ttujur in the Gegharkunik region of Armenia, close to the north-eastern border with Azerbaijan, went with his neighbours to the nearby forest allegedly to collect wood and look for stray cattle. At around 5 p.m. he lost his bearings

in the fog and, as it appeared later, was arrested by Azerbaijani military police.

7. On 13 September 2010 the applicants reported to the local police that their son was missing. The police conducted an investigation of the pasture area where he had last been seen and interviewed the applicants, two of the neighbours with whom he was said to have left the morning he went missing and a few other witnesses. The police also sent a description of him to the regional police departments.

8. On the same day Azerbaijani media reported that an Armenian spy – or “saboteur” – had been arrested while he was attempting to cross the border to commit a terrorist act, namely, to blow up a school. In a television broadcast, Manvel Saribekyan appeared, being interviewed by a reporter. He stated that he had been trained in Armenia to carry out terrorist acts on the territory of Azerbaijan. The applicants – as well as the Armenian public – learnt about the capture of Mr Saribekyan through these media reports, especially the television broadcast which was posted on the Youtube website. No official notification of his arrest was made by the authorities of Azerbaijan to the authorities of Armenia. The International Committee of the Red Cross (ICRC) was reportedly not allowed to visit him in custody.

9. According to a decision on the assessment of evidence of 3 January 2011, issued by the investigator in the case at the Military Prosecutor’s Office in Baku (see further below at paragraphs 23-26), Manvel Saribekyan had crossed the border to Azerbaijan close to the village of Goyamli in the Gadabay region on 11 September 2010 at around 5.30 p.m. Accompanied by three unidentified persons of Armenian nationality, a shooting had taken place between Mr Saribekyan’s group and Azerbaijani soldiers, during which the unidentified persons had retreated back into Armenia. Mr Saribekyan was alleged to have brought one kilogram of explosives for the purpose of bombing a school in the nearby village of Zamanlı. He had been arrested by military police and brought to the Military Police Department of the Ministry of Defence in Baku where he had been detained in a cell.

A criminal investigation pursuant to Article 282.1 of the Azerbaijani Criminal Code was initiated against Manvel Saribekyan and the three unidentified persons. They were suspected of having crossed the border illegally with the intention of bombing the school in order to weaken the military capacity and economic security of Azerbaijan.

10. On the morning of 4 October 2010, at 8 a.m., Manvel Saribekyan was found dead, hanging from a rope in his cell.

11. By decisions of 4 October 2010 the Military Prosecutor’s Office ordered a forensic medical examination of Mr Saribekyan’s body and an examination of the evidence found in his detention cell. Both decisions stated that, according to information from the Military Police Department, Mr Saribekyan had committed suicide by hanging.

12. The record of the examination of the detention cell, dated 4 October 2010, stated, *inter alia*, the following. The cell had a width of 2.8 m, a length of 5.4 m and a height of 2.9 m. Opposite the entrance door, at the top of the wall, there was a 50 cm high window which opened with an iron bar. The distance from the floor to the bottom of the window was 2.3 m. The distance between the inside of the wall and the iron bar of the window was 34 cm. At the far right corner of the room stood an iron bed with a mattress, a sheet, a pillow and a blanket. Mr Saribekyan was found hanging from the window with a rope that he was said to have made from a t-shirt, an undershirt, a towel and a blanket and which had been slung around the iron bar. The record further stated that his fingerprints were found in the dust on the window. Traces on the floor revealed that the bed had been moved.

13. A forensic medical examination was conducted between 12.40 and 2.05 p.m. on 4 October 2010. Present during the examination were an expert from the forensic medical examination centre of the Ministry of Defence, an attendant at the department of pathological anatomy of the Central Military Clinic Hospital, an attorney at the Military Prosecutor's Office and a senior investigator at the Military Prosecutor's Office. The protocol of 4 October of the initial examination stated that the examination concerned "the corpse of [Manvel Saribekyan] who committed suicide in the military police detention cell". Strangulation injuries were found on Mr Saribekyan's body; the protocol stated that the external examination of the body did not reveal any other signs of injury. The body was said to be well-built, well-nourished and 177 cm in height. According to the protocol, the examination was recorded by video camera; however, no photographic material relating to this forensic examination has been submitted to the Court.

14. On 4 October 2010 the Military Prosecutor's Office informed the ICRC of the death.

15. On 5 October 2010 the Azerbaijani Ministry of Defence and the Military Prosecutor's Office publicly announced that Manvel Saribekyan had committed suicide by hanging in his detention cell.

16. On 7 October 2010 the Military Prosecutor's Office launched a criminal investigation pursuant to Article 125 (incitement to suicide) of the Criminal Code.

17. On 26 October 2010 the ICRC delivered to the Armenian authorities a death certificate that had been received from the Azerbaijani General Prosecutor's Office.

18. The results of the forensic medical examination, including an internal examination of Mr Saribekyan's body, were presented in a five-page expert opinion of 3 November 2010 given by the above-mentioned expert from the forensic medical examination centre of the Ministry of Defence. He drew the following conclusions:

"Based on the forensic medical examination, the conclusions of additional laboratory investigations, the examination of evidence and the information in the

record of proceedings dated 04.10.2010 “The examination of the scene”, and according to the questions which were put before the examination, I come to the following conclusion:

The cause of death of [Mr Saribekyan] was mechanical asphyxiation which occurred during hanging as a result of the compression of the neck membranes. This opinion was confirmed by the detection of the following signs: a strangulation furrow on both side surfaces of the neck, the tip of the tongue squeezed against the teeth, haemorrhages in soft tissues of the neck and both pectoral muscles, involuntary excretion of faeces, congestion of internal organs, haemorrhages under the visceral pleural membranes and epicardium, pulmonary emphysema, partial atelectasis lesions, and brain substance oedema. According to the dynamics of the early signs of decomposition of corpses, death occurred 6-8 hours before the examination of the dead body in the morgue.

The location of the strangulation furrow in the upper third of the neck, being unclosed from bottom to top with a transverse-oblique direction, and the haemorrhage in both pectoral muscles show that the noose around his neck was tightened by his own weight as a result of hanging, front and side parts of the neck having suffered the most pressure from the noose. The noose had been squeezed typically. Taking into account the circular form on the lower extremities of post-mortem lividity and considering the direction of the strangulation furrow, it could be said that the body was hanging in a vertical state and that the dead body was hanging for 4-6 hours.

It appears from the morphological features of the strangulation furrow that the noose around his neck was made from a soft once-folded cloth and that it could have been made from the piece of rope presented for examination.

The forensic-chemical investigations, ‘had not found ethyl alcohol, barbituric acid derivatives, alkaloid (or opium) phenothiazine, pyrazolone, benzodiazepine derivatives or salicylates in the blood of the dead body of [Mr Saribekyan]’.

During the forensic examination of a tampon which was taken from the anus of the deceased [Mr Saribekyan], no sperm was found. No changes, injuries or signs of injury were found at the back area and around the anus.”

19. On 4 November 2010 Manvel Saribekyan’s body was handed over to the Armenian authorities.

20. On 5 November 2010 the Department of Criminal Investigation in the town of Chambarak, Gegharkunik region, opened a criminal investigation under section 2, points 5 and 13, of Article 104 of the Criminal Code of Armenia concerning murder committed with particular cruelty and with motives of national, racial or religious hate or fanaticism. An external examination of the body was carried out on the same day and a forensic medical examination was ordered. Later, the Prosecutor-General instructed the National Security Service to take over the case. During the ensuing investigation, the applicants and several other witnesses, who claimed to have seen the body shortly after its handover, attested that it bore several marks of injuries and torture.

21. By a request of 14 December 2010 the Armenian Prosecutor-General asked for legal assistance from the Azerbaijani Prosecutor-General in the investigation of the death of the applicant’s son, referring to the

Commonwealth of Independent States (CIS) Convention of 22 January 1993 on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases. Specifically, the request asked for information as to whether any investigation of his death had been carried out by the Azerbaijani authorities and, if so, that a copy of the materials of such investigation be provided.

22. The results of the Armenian forensic medical examination, performed on 5 November 2010, were presented in a report of 21 December 2010. The following conclusions were drawn:

“The following injuries were discovered during the forensic examination of Mr Saribekyan’s body: a depression due to compression of neck muscles; haemorrhages in pectoral and neck muscles on both sides, the skin on the right side of the head, both thyroid lobes, the soft tissue of both brain hemispheres (temporal areas), the medullary substance, the right side of the chest, the right lumbar and rear surface of the left thigh, and tissue and mucous membranes of the rectal area; as well as a lesion on part of the rectal wall. All of the above-listed injuries were inflicted during life, of which the haemorrhages in the right adipose body of the kidney and the right side of the pectoral muscles as well as the haemorrhages in the segment lying between the medium and rear axillary lines had occurred up to one day prior to death. The haemorrhages into the right lumbar area, left thigh, rectum and its mucous membranes as well as the lesion of the rectal wall had been inflicted 1-2 days prior to death. The depression due to compression of neck muscles, the haemorrhage in both lobes of the thyroid and the cranio-cerebral trauma, including the haemorrhages of the head skin, soft brain membranes and brain tissue, occurred immediately before death, of which the depression and the haemorrhages of neck muscles and both lobes of thyroid were caused by neck compression with a semi-hard ring, while the other injuries were caused with blunt object(s) having a restricted surface. Furthermore, scratches of the right temporal region of the head inflicted with blunt object(s) were also discovered.

During the forensic examination of Mr Saribekyan’s body, no gunshot injuries or closed-cut wounds were found.

Mr Saribekyan’s death was caused by mechanical asphyxiation as a result of compression of the neck organs with a ring, which is proved by the presence of the relatively slanting depression caused by semi-hard squeezing, running front-to-back and bottom-to-top, which was inflicted during life, and the haemorrhage of lower soft tissues and both thyroid lobes, emphysema as well as hemorrhage of areas beneath the epicardium and mediastinum. Due to the unavailability of data from the previous forensic examination and records describing the appearance of the body at the site of its first discovery it is impossible to determine the precise time of death. However, based on the degree of putrefaction, as well as considering that the body had undergone autopsy and was maintained at low temperatures, it is possible that death had occurred within the timeline mentioned in the decision [of 5 November 2010 to open a criminal investigation, i.e. between 11 September and 5 October 2010].”

The report was accompanied by many photographs and schematic drawings of the body and the injuries. The photographs showed, *inter alia*, the head trauma, several haemorrhages and the strangulation furrow.

23. By the above-mentioned decision of 3 January 2011 (see paragraph 9) the investigator at the Military Prosecutor’s Office in Baku terminated the two criminal investigations relating to Manvel Saribekyan, as

no third-party involvement in his death had been found and as the criminal case against him should be discontinued due to his passing. The case against the three alleged accomplices of Mr Saribekyan and an unidentified military officer who had purportedly trained them in how to use explosives was to continue, however. The latter proceedings were discontinued on 1 February 2011 because of the impossibility of identifying the suspects.

24. In his decision, the investigator noted the following on the death of Manvel Saribekyan. The crime scene examination had revealed that he could have easily moved and climbed on top of the bed in his cell and tied a rope through the iron bar of the window. The bed blanket, a towel and Mr Saribekyan's shirt and undershirt had been used to manufacture the rope. All these objects, including the window, as well as samples of Mr Saribekyan's nails, hair and other clothes had undergone physical and chemical examinations. These had revealed that there were pieces of cotton from the towel, shirt and undershirt under his nails. The fingerprints found in the dust on the window were too blurred to be identified, however. The investigator further restated the conclusions of the forensic medical examination. He concluded that it was obvious that Mr Saribekyan had committed suicide.

25. Also according to the investigator, several witnesses – including the translator assigned to Mr Saribekyan as well as military police officers and guards at the detention facility – had been questioned. They had declared that Mr Saribekyan had been detained under proper conditions and that he had never complained of the regime. He had been kept in an individual cell and had allegedly been given three meals per day; all his other needs, including toilet visits, had also been met. He had last been seen alive on 3 October 2010 at 11 p.m. when, during the final check of the day, he had been lying in his bed. At the distribution of breakfast the following morning at 8 a.m., he had been found dead, hanging from a rope in his cell. According to the witnesses, no one had been present in Mr Saribekyan's cell between these times. Further, according to statements taken from four Armenian detainees held at the same place, they had no complaints regarding their treatment and the conditions of detention. The investigator found that Mr Saribekyan had not been physically or mentally assaulted during his detention and that, thus, he had not been brought to suicide by anyone.

26. In regard to the criminal case against Manvel Saribekyan, the investigator mentioned the following. The investigation had revealed that Mr Saribekyan had served in the Armenian army between May 2008 and May 2010. After having been discharged he had returned to Ttujur where he had been unemployed for some time. One day a military officer had assembled him and eight other unknown people and trained them in how to use explosives. Ten named witnesses – apparently Azerbaijani citizens

whose functions were not mentioned in the investigator's decision – had reportedly confirmed these facts.

27. No reply to the request of 14 December 2010 (see paragraph 21 above) having been forthcoming from the Azerbaijani authorities, the Armenian Prosecutor-General extended the period of the pre-trial investigation on 27 December 2010 and on 1 March and 2 May 2011. The last decision extended the investigation until 5 July 2011.

28. On 5 April 2011 the Armenian Prosecutor-General asked for assistance from the chairman of the Coordinating Council of the prosecutors-general of the member states of the CIS in order to obtain an answer to his request of 14 December 2010. The Coordinating Council responded by stating that it had asked the Azerbaijani Prosecutor-General to provide information on criminal investigations in Azerbaijan to both the Council and the Armenian Prosecutor-General. No reply had been made to the Council's request.

29. A second forensic medical examination was ordered by the Deputy Prosecutor-General of Armenia on 21 June 2011. On 19 July its conclusions confirmed the results of the first examination.

30. The Armenian pre-trial investigation was suspended by a decision of 16 December 2011 due to the lack of response from the Azerbaijani Government to the request for legal assistance.

THE LAW

31. The applicants complained under Articles 2, 3, 13 and 14 of the Convention that their son had been tortured and killed in detention, that they had not had an effective legal remedy and that the alleged violations had occurred as a result of discrimination based on ethnic origin.

I. ADMISSIBILITY

A. The applicability of the Convention and the Court's jurisdiction

1. The parties' submissions

(a) The respondent Government

32. The Azerbaijani Government maintained that the applicants' son was captured as a member of the Armenian armed forces and, as military captives on both sides, should be considered as a prisoner of war. The 1994 ceasefire agreement between Armenia and Azerbaijan could not be considered a peace agreement. Furthermore, the relations between the countries were tense, borders were closed and frequent armed incidents

occurred. Consequently, the events complained of were to be examined under international humanitarian law and the applicants – and their son while in detention – should have addressed the ICRC which has a specific mandate under the Geneva Conventions of 12 August 1949. As the present application belonged to the sphere of international humanitarian law, it could not be the subject of the Court's jurisdiction.

(b) The applicants

33. The applicants submitted that their son was a civilian shepherd and not a member of the Armenian armed forces. The Azerbaijani Government had not produced any evidence supporting the latter contention. Moreover, there was no armed conflict within the meaning of international humanitarian law at the time of the events of the present case. The parties to the 1991-94 conflict were bound by the 1994 ceasefire agreement. Moreover, it is the factual situation on the ground that determines whether there is an armed conflict. There were no facts in the case to suggest that there was a resort to hostile armed acts from any side of the conflict at the time when their son crossed the border. Rather, the institution of a criminal case against him for illegal crossing of the border shows that the authorities did not consider him to be a member of the armed forces or a prisoner of war.

34. The applicants further pointed out that, even in international armed conflicts, the Convention continued to apply, interpreted against the background of international humanitarian law. While the ICRC had been given a mandate to act in armed conflicts, for instance by providing humanitarian assistance to victims, it could not take decisions in individual cases of violations of international humanitarian law or international human rights law. Instead, as the case did not concern an exchange of detained persons but the responsibility under the Convention of the Azerbaijani authorities in the treatment and death of their son in detention, the Court had jurisdiction to consider their complaints.

(c) The Armenian Government, third-party intervener

35. Agreeing with the applicants, the Armenian Government submitted that there were no shootings or armed conflict taking place at the time when the applicants' son was captured by Azerbaijani forces. Also, the respondent Government had failed to submit any factual data to support their contention that there was an armed conflict on the border between Armenia and Azerbaijan at that time. Accordingly, international humanitarian law was not applicable in the present case. Furthermore, even if the applicants' son's detention had occurred in the context of an international armed conflict, this would not have suspended the application of international human rights law, in particular the Convention, or the jurisdiction of the Court.

2. *The Court's assessment*

36. The Court notes at the outset that international humanitarian law and international human rights law are not mutually exclusive collections of law. On the contrary, in situations of armed conflict, the Convention has been applied and its provisions have been interpreted in so far as possible in light of the general principles of international law, including the rules of international humanitarian law (see *Varnava and Others v. Turkey* [GC], nos. 16064/90 and 8 others, § 185, ECHR 2009; and *Hassan v. the United Kingdom* [GC], no. 29750/09, §§ 102-104, ECHR 2014). This approach is also consistent with the jurisprudence of the International Court of Justice (see, for instance, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, *ICJ Reports* 2004, § 106; and *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, *ICJ Reports* 2005, § 216).

37. Nevertheless, for international humanitarian law to apply, there must normally be an armed conflict or occupation of territory. As regards conflicts of an international character, Article 2, common to the four Geneva Conventions, provides the following in paragraphs 1 and 2:

“In addition to the provisions which shall be implemented in peace-time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.”

38. Thus, the existence of an armed conflict (or the occupation of territory) is determined with reference to objective and factual criteria. It depends on facts demonstrating the *de facto* existence of hostilities between the belligerents (see the 2016 ICRC commentary on common Article 2, §§ 210-211).

39. Turning to the present case, it is clear that a state of hostility and tension has prevailed between Azerbaijan and Armenia for decades, going back at least to the late 1980s when they were still republics of the Soviet Union. The conflict between the two countries, which has centred on the status of the province of Nagorno-Karabakh, gradually escalated into full-scale war in early 1992. On 5 May 1994 a ceasefire agreement (the Bishkek Protocol) was signed by Armenia, Azerbaijan and the “Nagorno-Karabakh Republic” (see further *Sargsyan v. Azerbaijan* [GC], nos. 40167/06, §§ 14-28, 16 June 2015).

40. Since 1994 there have been recurring breaches of the ceasefire agreement along the borders which have led to the loss of many lives. Furthermore, there are no diplomatic relations between Azerbaijan and Armenia. However, the respondent Government have not put forward any

materials or concrete information that would show that there was a resort to armed force between the two states at the time of the events relating to the arrest and detention of Manvel Saribekyan or that he was to be regarded as a prisoner of war. The lack of a formal peace agreement between Azerbaijan and Armenia is not decisive, as it is the situation on the ground that determines whether there is an armed conflict or not. Moreover, the Court notes that the relevant events did not take place on territory under occupation but concerned a crossing of the border between the states of Armenia and Azerbaijan and the subsequent detention of the applicant's son in Baku.

41. In conclusion, no facts have been presented which indicate that the Convention is not applicable in the present case or that the Court has no jurisdiction. The respondent Government's objection must therefore be rejected.

B. Exhaustion of domestic remedies

1. The parties' submissions

(a) The respondent Government

42. The Azerbaijani Government asserted that the applicants had the right to challenge in the Azerbaijani courts the procedural acts and decisions of the prosecuting authority. As the applicants had not done so, they had failed to exhaust effective remedies within Azerbaijan.

(b) The applicants

43. The applicants stated that there was no available effective remedy for them to exhaust in Azerbaijan. They referred to the conclusions drawn by the Court in the case of *Sargsyan v. Azerbaijan* (cited above, §§ 117 and 119). The respondent Government had merely claimed that such remedies existed but had not specified what those remedies were.

(c) The Armenian Government, third-party intervener

44. The Armenian Government submitted that the respondent Government's objection regarding the non-exhaustion of domestic remedies was groundless. Due to the unresolved conflict concerning Nagorno-Karabakh, there were obstacles of a practical and diplomatic nature for Armenians to gain access to remedies in Azerbaijan. In this context, the Armenian Government referred, *inter alia*, to Azerbaijan's refusal to reply to the request from the Armenian Prosecutor-General under the 1993 CIS Convention (see paragraphs 21, 27 and 28 above).

2. *The Court's assessment*

45. The Court reiterates that it is primordial that the machinery of protection established by the Convention is subsidiary to the national systems safeguarding human rights. The Court is concerned with the supervision of the implementation by Contracting States of their obligations under the Convention. It cannot, and must not, usurp the role of Contracting States whose responsibility it is to ensure that the fundamental rights and freedoms enshrined therein are respected and protected on a domestic level. The rule of exhaustion of domestic remedies in Article 35 § 1 of the Convention is therefore an indispensable part of the functioning of this system of protection. States are dispensed from answering before an international body for their acts before they have had an opportunity to put matters right through their own legal system and those who wish to invoke the supervisory jurisdiction of the Court as concerns complaints against a State are thus obliged to use first the remedies provided by the national legal system (see, among other authorities, *Akdivar and Others v. Turkey*, 16 September 1996, § 65, *Reports of Judgments and Decisions* 1996-IV; and *Sargsyan v. Azerbaijan*, cited above, § 116).

46. While the present case does not concern events relating to the Nagorno-Karabakh conflict, the Court considers nevertheless that certain observations made to describe the general context of relations between Armenia and Azerbaijan in the *Sargsyan* case are relevant also in the present case. As noted above (paragraph 40), there are no diplomatic relations between Armenia and Azerbaijan. Furthermore, borders are closed and postal services are not viable between the two countries. In such a situation it must be recognised that there may be obstacles to the proper functioning of the system of the administration of justice. In particular, there may be considerable practical difficulties in bringing and pursuing legal proceedings in the other country (*Sargsyan v. Azerbaijan*, cited above, § 117).

47. In the present case, the respondent Government have not provided any example of a domestic case or remedy which would show that individuals in the applicants' situation are able to seek redress before the Azerbaijani authorities. On the contrary, the refusal of those authorities to give any assistance or even to reply to the request of the Armenian Prosecutor-General of 14 December 2010 (see paragraphs 21, 27 and 28 above) rather points to the unavailability of effective remedies in Azerbaijan for Armenian citizens.

48. Consequently, the Court considers that the respondent Government have failed to discharge the burden of proving the availability to the applicants of a remedy capable of providing redress in respect of their Convention complaints and offering reasonable prospects of success. The Government's objection concerning the exhaustion of domestic remedies is therefore dismissed.

C. Conclusion on admissibility

49. The Court considers, in the light of the parties' submissions, that the application raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court concludes therefore that the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. Furthermore, it finds that the final domestic decision was taken on 3 January 2011 when the investigator at the Military Prosecutor's Office in Baku terminated the two investigations relating to Manvel Saribekyan (see paragraphs 23-26 above) and that, consequently, the application, introduced some five months later, was lodged in time. No other ground for declaring the application inadmissible has been established. It must therefore be declared admissible.

II. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

A. The parties' submissions

1. The applicants

50. The applicants complained that Manvel Saribekyan had died as a result of torture and intentional killing while in detention and that the Azerbaijani authorities had failed to conduct a proper investigation into the circumstances of his death. This involved a violation of Article 2 of the Convention, which reads as follows:

"1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection."

51. The applicants claimed that there had been breaches of both the substantive and procedural aspects of Article 2. As regards the substantive aspect, they stated that no plausible explanation had been provided by the respondent Government as to the origin of the injuries on the body of Mr Saribekyan which had been discovered at the forensic examination in Armenia and which had been inflicted the days prior to his death and immediately before the death. These injuries, each of them posing a potential danger to life, built a strong presumption that Mr Saribekyan had

been systematically beaten in detention, culminating in an intense strike to his head, resulting in the crushing of cranial bones and the likely loss of consciousness, immediately before the hanging. He could not have inflicted such injuries on himself. Instead, he was a victim of a staged suicide, perpetrated to disguise the severe injuries he had sustained by being beaten. With reference to the Armenian forensic report, the applicants claimed that the strangulation furrow on his body did not conform with the type of rope with which, the respondent Government claimed, Mr Saribekyan had committed suicide.

52. The applicants further invoked a statement given by Y.G., an Armenian who had crossed the Armenian-Azerbaijani border together with his family in January 2010 in order to escape Armenian law enforcement. Interviewed by one of the applicants' lawyers as well as a representative of an Armenian NGO in January 2015, he had stated that he and his family had been detained at the Military Police Department in Baku until their repatriation in December 2014. They claimed to have been kept in a cell directly above that of Manvel Saribekyan. During the night when Mr Saribekyan died, Y.G. had heard his cell door open and close several times. The next morning an officer had allegedly taken photographs of Mr Saribekyan's cell and in the afternoon a guard had told Y.G. that Mr Saribekyan had not hung himself but had been hanged by other guards. Y.G. had further submitted that it would not have been possible for Mr Saribekyan to hang himself, given the configuration and furnishings of the cells. In particular, the window was placed very high up, just below the ceiling. The iron handle was at the top of the window, which opened downwards. Y.G. had also stated that he, himself, had been regularly beaten and tortured by the guards during the years in detention. The applicants asserted that the testimony of Y.G. confirmed that torture and other inhuman treatment was used as a practice against Armenian detainees at the military police in Baku. It further contradicted the Azerbaijani authorities' contention that no one had entered Mr Saribekyan's cell during the night when he died. Also, the height of the ceiling of his cell and the placement of the window and its handle implied that he could not have tied a rope to hang himself even if standing on a bed.

53. As to the procedural aspect of Article 2, the applicants maintained that the investigation in Azerbaijan had been inadequate. Among other things, they pointed to the many injuries on their son's body discovered during the Armenian forensic examination, which were not mentioned in the Azerbaijani forensic report. Also, the latter report failed to identify that a semi-hard ligature and not a soft one had caused the strangulation furrow. Accordingly, the Azerbaijani forensic examination had not been thorough. Furthermore, its conclusions were not accompanied by any photographic evidence, as opposed to the Armenian forensic report which was supported by colour photos. The applicants further alleged that their son had been

healthy before being captured by the Azerbaijani authorities; all injuries had thus been inflicted while he was in their custody. Alternatively, the applicants stated that the Azerbaijani authorities had failed to take preventive operational measures to protect their son's life, which was in potential danger. In this respect, they referred to the decision of the investigator at the Military Prosecutor's Office in Baku, according to which no one had checked on him between 11 p.m. and 8 a.m. during the night when he died. In the applicants' view, the guards should have monitored Mr Saribekyan's conduct and detected the movement of his bed, which would have been instrumental in the alleged suicide according to the said investigator.

54. Finally, the applicants submitted that the failure of the Azerbaijani authorities to answer to the request of the Armenian Prosecutor-General for legal assistance in the investigation of the death of the applicant's son was a breach of Azerbaijan's positive obligations under the 1993 CIS Convention and a violation of the procedural aspects of Article 2.

2. The respondent Government

55. The Azerbaijani Government submitted that, for a State to be held accountable under Article 2, there had to be sufficient evidence for the Court to conclude beyond all reasonable doubt that the State was responsible for a person's death. However, there was nothing in the present case to suggest that the Azerbaijani State or its agents had killed the applicants' son. Instead, he had committed suicide by hanging, which had been confirmed by the forensic examination conducted on the day of his death by the Azerbaijani authorities. In claiming that their son had been tortured and killed by State agents, the applicants were making highly speculative assumptions. The forensic examination conducted in Armenia could not be considered credible.

56. Moreover, the Azerbaijani authorities had taken all necessary procedural and investigative steps and had informed the general public about the cause of Mr Saribekyan's death. Notably, the Military Prosecutor's Office in Baku had launched a criminal investigation pursuant to Article 125 of the Criminal Code and had concluded, after a thorough investigation, that no incitement to suicide had been confirmed. Also, regarding a possible positive obligation to protect the applicants' son's life, the respondent Government contended that there had been no information indicating that his life was in danger.

57. The Government further stated that Azerbaijani authorities were not obliged to respond to requests of Armenian authorities because all diplomatic relations between the two countries had been suspended. The Armenian authorities must have known that the Azerbaijani Prosecutor-General most probably would not respond to the request for information under the 1993 CIS Convention.

3. The Armenian Government, third-party intervener

58. The Armenian Government generally agreed with the applicants' submissions and their contention that Azerbaijan was responsible for a violation of Article 2 in respect of both its substantive and procedural aspects. The Armenian Government pointed out, among other things, that, where an individual is taken into police custody in good health and is found to be injured on release, it was incumbent on the State to provide a plausible explanation of how those injuries had been caused. In the Armenian Government's view, no satisfactory and convincing explanation of Mr Saribekyan's death had been provided. Furthermore, the Azerbaijani authorities' investigation had been ineffective. The decisions of 4 October 2010 to conduct an examination of evidence and a forensic examination of Mr Saribekyan's body stated that he had committed suicide and the decision of 7 October 2010 to launch a criminal investigation only concerned incitement to suicide. According to the Armenian Government, this showed that the official version of events had already been established by the authorities before they had started to investigate the case.

B. The Court's assessment

1. General considerations

59. Article 2 of the Convention, which safeguards the right to life and sets out the circumstances when deprivation of life may be justified, ranks as one of the most fundamental provisions in the Convention. Together with Article 3, it also enshrines one of the basic values of the democratic societies making up the Council of Europe. The circumstances in which deprivation of life may be justified must therefore be strictly construed. The object and purpose of the Convention as an instrument for the protection of individual human beings also requires that Article 2 be interpreted and applied so as to make its safeguards practical and effective.

60. In the light of the importance of the protection afforded by Article 2, the Court must subject deprivations of life to the most careful scrutiny, taking into consideration not only the actions of State agents but also all the surrounding circumstances. Detained persons are in a vulnerable position and the authorities are under a duty to protect them. Consequently, where an individual is taken into police custody in good health and is found to be injured on release, it is incumbent on the State to provide a plausible explanation of how those injuries were caused. The obligation on the authorities to account for the treatment of a detained individual is particularly stringent where that individual dies or disappears thereafter.

61. In assessing evidence, the Court has generally applied the standard of proof "beyond reasonable doubt". However, such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of

similar un rebutted presumptions of fact. Where the events in issue lie wholly, or in large part, within the exclusive knowledge of the authorities, as in the case of persons within their control in detention, strong presumptions of fact will arise in respect of injuries and death occurring during that detention. Indeed, the burden of proof may be regarded as resting on the authorities to provide a satisfactory and convincing explanation (see, among many other authorities, *Salman v. Turkey* [GC], no. 21986/93, §§ 97-100, ECHR 2000-VII; and *Aktaş v. Turkey*, 24351/94, §§ 289-291, 24 April 2003).

62. Moreover, the obligation to protect the right to life under Article 2, read in conjunction with the State's general duty under Article 1 to "secure to everyone within [its] jurisdiction the rights and freedoms defined in [the] Convention", requires by implication that there should be an effective official investigation when someone has died in suspicious circumstances. This obligation is not confined to cases where it has been established that a person has been killed by an agent of the State. The mere fact that the authorities have been informed of the death will give rise *ipso facto* to an obligation under Article 2 of the Convention to carry out an effective investigation into the circumstances in which it occurred (see, for instance, *Iorga v. Moldova*, no. 12219/05, § 26, 23 March 2010, with further references). Although the failure to comply with this requirement may have consequences for the right protected under Article 13, the procedural obligation contained in Article 2 is seen as a distinct obligation (see, among other authorities, *Šilih v. Slovenia* [GC], no. 71463/01, § 154, 9 April 2009). Furthermore, the Court has consistently examined the question of procedural obligations under Article 2 separately from the question of compliance with the substantive obligation and, where appropriate, has found a separate violation of Article 2 on that account (*ibid.*, § 158).

63. The essential purpose of an official investigation is to secure the effective implementation of the domestic laws which protect the right to life and, in those cases involving State agents or bodies, to ensure their accountability for deaths occurring under their responsibility. What form of investigation will achieve those purposes may vary in different circumstances. For an investigation into an alleged unlawful killing by State agents to be effective, it may generally be regarded as necessary for the persons responsible for carrying out the investigation to be independent from those implicated in the events. This means not only a lack of hierarchical or institutional connection but also a practical independence. The investigation must also be effective in the sense that it is capable of leading to the identification and punishment of those responsible. This is not an obligation of result, but of means. The authorities must have taken the reasonable steps available to them to secure the evidence concerning the incident. Any deficiency in the investigation which undermines its ability to identify the perpetrator(s) will risk falling foul of this standard.

Furthermore, there must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory. The degree of public scrutiny required may well vary from case to case. In all cases, however, the next-of-kin of the victim must be involved in the procedure to the extent necessary to safeguard his or her legitimate interests (see, for instance, *Tahsin Acar v. Turkey* [GC], no. 26307/95, §§ 221-223 and 225, ECHR 2004-III, with further references).

2. *The death of Manvel Saribekyan*

64. The Court notes that Mr Saribekyan was arrested by Azerbaijani military police on 11 September 2010 after apparently having crossed the border from Armenia. He was brought to the Military Police Department of the Ministry of Defence in Baku, where he was kept in detention until his death on 4 October 2010. There is nothing in the case file to suggest that he had any injuries or illnesses when taken into custody.

65. The evidence presented by the parties concerning the cause of Mr Saribekyan's death differ greatly. The forensic examination performed by the Azerbaijani authorities stated that he died from self-inflicted strangulation injuries, having hung himself in his detention cell with a rope made from soft cloth; no further injuries were indicated in that forensic report (see paragraph 18 above). In contrast, the forensic examination conducted in Armenia concluded that the asphyxiation had been caused by the use of a semi-hard ring and that there were several other injuries on Mr Saribekyan's body, including a cranio-cerebral trauma, which had been inflicted 1-2 days prior to his death and immediately before his death (paragraph 22). The parties have also presented opposing views on the possibility for Mr Saribekyan to have committed suicide, having regard to the configuration of his cell and his physical condition on the day of his death.

66. The Court notes that both investigations comprised external and internal examinations of Mr Saribekyan's dead body. Whereas the Azerbaijani forensic examination was made a few hours after the body had been found, the corresponding examination in Armenia was performed a month later, after the body had been handed over to the Armenian authorities.

67. The Armenian forensic examination was accompanied by many photographs and schematic drawings; in contrast, no supporting evidence for the Azerbaijani findings has been submitted by the respondent Government. Moreover, the photographs included in the Armenian forensic report appear to show injuries that ought to have been examined by the Azerbaijani forensic expert, in particular the cranio-cerebral trauma. The respondent Government did not comment on the results of the Armenian forensic examination or the applicants' associated claims beyond asserting that that forensic examination was not credible.

68. In this connection, the Court reiterates that, while it generally requires proof “beyond reasonable doubt”, in situations where knowledge of the events in issue lie wholly, or in large part, with the authorities, as in the case of persons in detention, strong presumptions of fact will arise in respect of injuries and death occurring during that detention. It is then for the respondent Government to provide a satisfactory and convincing explanation (see paragraph 61 above). In the present case, not only the limited extent of the Azerbaijani investigations (paragraph 71 below) and the lack of documentation supporting the findings of those investigations (paragraph 67 above) give cause for concern. The Court also notes that the submissions of the respondent Government in the present case have been very brief.

69. Having regard to the information made available, the Court finds that the applicants have made out a prima facie case that Mr Saribekyan – who was taken into custody in good health and died while under the exclusive control of the Azerbaijani authorities – died as a result of the violent actions of others, notably personnel at the Military Police Department in Baku where he was kept. Given the injuries which Mr Saribekyan sustained prior to his death, as described in the Armenian forensic report, supported by photographic evidence, and the information made available to the Court regarding the configuration of his cell (see paragraphs 12 and 52 above), the account according to which he hung himself cannot be accepted.

70. The Court finds, therefore, that the Government have not convincingly accounted for the circumstances of the death of Manvel Saribekyan and that the respondent State’s responsibility for his death is engaged.

It follows that there has been a violation of Article 2 in that respect.

3. The alleged inadequacy of the investigation

71. The Court observes that the Azerbaijani investigation was conducted on the basis of the presumption that Mr Saribekyan had committed suicide by hanging. At the outset, the Military Police Department, in whose custody he was kept, informed the investigators that he had committed suicide by hanging (see paragraph 11 above). The presumption was also reflected in the decisions of the Military Prosecutor’s Office of 4 October 2010 that ordered the forensic examination of the body and the examination of the evidence found in the cell (paragraph 13). In addition, the criminal investigation launched by the latter authority three days later concerned (incitement to) suicide and thereby excluded the possibility that Mr Saribekyan had died from direct criminal violence inflicted by others (paragraph 16). It thus appears that the officials involved in the various parts of the investigation did not follow any alternative line of inquiry. This limited scope of the investigation evidently hampered its efficacy.

72. It must also be taken into account that Mr Saribekyan was an Armenian citizen who had been arrested and detained, accused of being an Armenian spy – or “saboteur” – intending to commit the terrorist act of blowing up a school. It can be reasonably assumed that these facts and allegations were known to officers and guards at the facility where he was detained, not least since, immediately after his arrest, he had been shown in Azerbaijani media. Moreover, the Court cannot overlook the general context of hostility and tension between Azerbaijan and Armenia (see paragraphs 39-40 above). In the Court’s view, these circumstances called for a careful investigation as to whether ethnic hatred had been a contributing factor in the death of Mr Saribekyan (see, *mutatis mutandis*, *Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98, §§ 160-168, ECHR 2005-VII). However, no such considerations appear to have featured during the investigation.

73. The Court has further regard to the fact that at no time during the domestic proceedings did the Azerbaijani authorities contact Mr Saribekyan’s relatives or any Armenian authority about his arrest, detention or death or the ensuing investigation. Instead, his arrest and death became known in Armenia through Azerbaijani media reports. The only official communication in this respect was the death certificate delivered to the Armenian authorities on 26 October 2010 by the ICRC which it had received from the Azerbaijani General Prosecutor’s Office (see paragraph 17 above). Furthermore, the Azerbaijani Prosecutor-General refused to reply to the request for legal assistance made by the Armenian Prosecutor-General under the 1993 CIS Convention, even when that request was repeated via the CIS Coordinating Council (paragraph 28). In this connection, the Court cannot accept the respondent Government’s contention that the Azerbaijani authorities had no duty to cooperate on account of the suspension of all diplomatic relations between the two countries. The lack of diplomatic relations does not absolve a Contracting State from the obligation under Article 2 to cooperate in criminal investigations (see, *mutatis mutandis*, *Güzelyurtlu and Others v. Cyprus and Turkey* [GC], no. 36925/07, § 244, 29 January 2019; see also the overview of the case-law on the duty to cooperate set out in that judgment, §§ 222-236). It appears that the documents relating to the Azerbaijani investigation came to the knowledge of the applicants and the Armenian authorities only following the communication of the present application. The applicants, as Mr Saribekyan’s next-of-kin, thus had no opportunity to safeguard their interests.

74. Having regard to the foregoing considerations, the Court accordingly holds that there has been a violation of Article 2 also in its procedural aspect.

III. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

A. The parties' submissions

1. The applicants

75. The applicants complained that Manvel Saribekyan had been tortured and ill-treated in detention before he was killed. Moreover, in respect of themselves, the applicants claimed that they had been subjected to mental suffering during the events of the case and that they still suffered because of their inability to find out what happened to their son. They relied on Article 3 of the Convention, which provides the following:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

76. The applicants maintained that torture and inhuman treatment were commonplace in Azerbaijani detention against Armenian detainees, in the overall context of tense relations between the two countries and hatred towards Armenians. As argued also under Article 2 (see paragraph 53 above), they asserted that the Armenian forensic examination of Mr Saribekyan's body had revealed many serious, life-threatening injuries inflicted on him the days prior to his death, giving rise to a strong presumption that he had been systematically beaten in detention. The respondent Government had not given any plausible explanation as to the origin of these injuries or why they had not been recorded in the Azerbaijani forensic expert's opinion.

77. In respect of the applicants themselves, they submitted that they had suffered through stress and anguish, as they had not received any information about the fate of their son for more than 20 days, then had had to wait another month for the handover of his body, which eventually had arrived in a decomposed state with marks of ill-treatment. They stated that they continued to suffer because of their inability to find out what happened to their son.

2. The respondent Government

78. The Azerbaijani Government denied that the applicants' son had been subjected to any kind of ill-treatment in detention or that there was any “Armenophobia” in the country. They submitted that a forensic examination of the body and a criminal investigation had been conducted and that witnesses had been heard, without any evidence of ill-treatment having been found. The applicants' statements in this respect were unsubstantiated and groundless.

79. As regards the alleged suffering of the applicants, the Government stated that the Azerbaijani authorities had announced that their son had been arrested, alive and safe, and that he had appeared on Azerbaijani national

television with no signs of injury. He was in detention for less than a month and information about his death was immediately given to the public and the ICRC. In these circumstances, the applicants could not have sustained such a degree of suffering that it amounted to a violation of Article 3.

3. The Armenian Government, third-party intervener

80. The Armenian Government expressed their overall agreement with the submissions and analysis made by the applicants, pointing to the fact that their son had been systematically beaten in detention as well as brutally beaten shortly before his death. Again, the respondent Government had failed to explain how he had sustained the injuries revealed by the Armenian forensic examination while in Azerbaijani detention. The use of torture was further confirmed by Armenian witness statements and the overall discriminatory policies of the Azerbaijani authorities towards Armenians. The Armenian Government also agreed with the applicants' contention that their own rights under Article 3 had been violated due to the mental suffering to which they had been subjected.

B. The Court's assessment

1. General considerations

81. Article 3 of the Convention prohibits in absolute terms torture or inhuman or degrading treatment or punishment. No provision is made, as in other substantive clauses of the Convention and its Protocols, for exceptions and no derogation from it is possible under Article 15. In respect of a person deprived of his liberty, recourse to physical force which has not been made strictly necessary by his or her own conduct diminishes human dignity and is in principle an infringement of the right set forth in Article 3 of the Convention.

82. Having regard to the strict standards applied in the interpretation of Article 3 of the Convention, ill-treatment must attain a minimum level of severity before it will be considered to fall within the provision's scope. The assessment of this minimum is relative and depends on all of the circumstances of the case including the duration of its treatment, the physical or mental effects and, in some cases, the age, sex and health of the individual. The practice of the Convention organs requires compliance with a standard of proof "beyond reasonable doubt" that ill-treatment of such severity occurred.

83. In determining whether a particular form of ill-treatment should be qualified as torture, consideration must be given to the distinction, embodied in Article 3, between this notion and that of inhuman or degrading treatment. As noted in previous cases, it appears that it was the intention that the Convention should, by means of this distinction, attach a

special stigma to deliberate inhuman treatment causing very serious and cruel suffering. In addition to the severity of the treatment, there is a purposive element, as recognised in Article 1 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which defines torture in terms of the intentional infliction of severe pain or suffering with the aim, *inter alia*, of obtaining information, inflicting punishment or intimidating (see, among other authorities, *Aktaş v. Turkey*, cited above, §§ 310-313).

84. As regards the mental suffering of a victim's relatives, the Court has consistently acknowledged the profound psychological impact of a serious human rights violation on the victim's family members who are applicants before the Court. However, in order for a separate violation of Article 3 of the Convention to be found in respect of the victim's relatives, there should be special factors in place giving their suffering a dimension and character distinct from the emotional distress inevitably stemming from the aforementioned violation itself. The relevant factors include the proximity of the family tie, the particular circumstances of the relationship, the extent to which the family member witnessed the events in question and the involvement of the applicants in the attempts to obtain information about the fate of their relative (see, among other authorities, *Janowiec and Others v. Russia* [GC], nos. 55508/07 and 29520/09, § 177, ECHR 2013). While a family member of a "disappeared person" can claim to be a victim of treatment contrary to Article 3, the same principle would not usually apply to situations where the person taken into custody has later been found dead. In such cases the Court would normally limit its findings to Article 2. However, if a period of initial disappearance is long it may in certain circumstances give rise to a separate issue under Article 3 (see *Bitiyeva and Others v. Russia*, no. 36156/04, § 105, 23 April 2009, with further references).

2. *The treatment of Manvel Saribekyan in detention*

85. The Court has found above that the respondent Government have not convincingly accounted for the circumstances of the death of Mr Saribekyan. The opinion issued by the Azerbaijani forensic expert did not mention any of the injuries recorded during the Armenian forensic examination (see paragraph 67 above). The respondent Government did not provide an explanation for the disparate findings of the two forensic examinations; they only stated that the Armenian examination was not credible and that the applicants' allegations that their son had been subjected to ill-treatment were unsubstantiated and groundless.

86. The applicants have claimed that Mr Saribekyan was systematically ill-treated in detention. However, the Court is unable to establish, on the basis of the information available, that he was subjected to ill-treatment throughout the whole period of detention. Nevertheless, the Court takes into

account the Armenian forensic report of 21 December 2010 which, apart from strangulation injuries, recorded haemorrhages in the kidney, chest, lumbar, left thigh and rectum as well as a cranio-cerebral trauma, all caused by blunt objects (see paragraph 22 above). These injuries, estimated to have been sustained by Mr Saribekyan during the last days of his detention, were described in detail and supported by extensive photographic evidence. In the Court's view, neither the documents in the case file nor the observations of the respondent Government give reason to question these findings. Consequently, the Court finds that Mr Saribekyan was subjected to ill-treatment in the form of severe physical violence during the final days of his life, while he was detained at the Military Police Department in Baku. In addition, as has already been noted in the examination of the complaints under Article 2 (see paragraph 72 above), the circumstances surrounding the events, notably the general context of Azerbaijani-Armenian relations and the likelihood that the officers and guards at the detention facility knew about the serious accusations against Mr Saribekyan, called for a careful investigation by the Azerbaijani authorities as to whether ethnic hatred had been a contributing factor to his ill-treatment.

87. Coming to the qualification of the ill-treatment described, the Court is in no doubt that it involved very serious and cruel suffering and that it was carried out intentionally on a detained person under the exclusive control of the authorities. The suffering experienced by Mr Saribekyan prior to his death is to be characterised as torture.

88. Accordingly, the Court concludes that there has been a breach of Mr Saribekyan's rights under Article 3.

3. The alleged mental suffering of the applicants

89. The Court reiterates that the applicants' son disappeared on 11 September 2010. On 13 September the applicants learned that he had been arrested by Azerbaijani military police through reports published by Azerbaijani media. No further information on his fate was given until 5 October when Azerbaijani authorities publicly announced that he had committed suicide the day before. A death certificate was delivered to the Armenian authorities by the ICRC on 26 October and Mr Saribekyan's body was handed over on 4 November.

90. Following his disappearance, the applicant's son thus remained unaccounted for for two days. Subsequently, about three weeks passed before his death was announced. A month after his death, his body was handed over. While the tense relationship between Azerbaijan and Armenia was undoubtedly an exacerbating factor causing emotional distress for the applicants, the mentioned periods of time, in particular the first one during which the applicants did not know the whereabouts of their son, do not as such appear long. It is true, as has been concluded above, that the Azerbaijani investigation into his death was ineffective and did not involve

either the applicants or the Armenian authorities. Consequently, the events that led to their son's death have not been fully elucidated and no one has been held responsible for his ill-treatment and death. However, the Court does not consider that this element raises an issue distinct from the above finding that the flawed investigation involved a violation of the procedural aspect of Article 2. Moreover, noting, *inter alia*, that the applicants did not witness any of the events in question, it finds that there is no sufficiently special feature in the case which gives the suffering of the applicants a dimension and character distinct from the emotional distress which may be regarded as inevitably caused to relatives of a victim of a serious human rights violation.

91. Accordingly, while having no doubt that the arrest, detention and death of their son and the uncertainty about what happened to him have caused the applicants profound suffering, the Court finds that there has been no breach of Article 3 in respect of the applicants.

IV. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

A. The parties' submissions

1. *The applicants*

92. The applicants claimed that they had not had an effective remedy in respect of their complaints under Articles 2 and 3. They relied on Article 13 of the Convention, which reads as follows:

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

93. The applicants referred to what they had stated in regard to the respondent Government's objection concerning the exhaustion of remedies (see paragraph 43 above). In essence, they submitted that the possibility of addressing the Azerbaijani authorities was illusory and unrealistic. They added that the ICRC could not be regarded as a remedial mechanism for human rights violations.

2. *The respondent Government*

94. The Azerbaijani Government submitted that neither the applicants nor their son had raised the issue of a lack of investigation before the Azerbaijani authorities or had substantiated the alleged violations of their rights. Moreover, the Armenian Prosecutor-General's request for legal assistance could not provide a remedy in the case. Due to the suspension of diplomatic relations between the two countries, the applicants, and their son while in detention, should have addressed the ICRC.

3. *The Armenian Government, third-party intervener*

95. The Armenian Government concurred with the submissions of the applicants.

B. The Court's assessment

96. The Court reiterates its above conclusion that there were no remedies in Azerbaijan for individuals in the applicants' situation (see paragraphs 46-48). However, it has regard to the reasoning which led it to find a violation of Article 2 in its procedural aspect, including the lack of communication of the Azerbaijani authorities with the applicants, as Mr Saribekyan's next-of-kin, or the Armenian authorities at every stage of the events in the case (paragraph 73).

97. In these circumstances, the Court considers that there is no need to examine the case also under Article 13 of the Convention.

V. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION
IN CONJUNCTION WITH ARTICLES 2 AND 3

A. The parties' submissions

1. *The applicants*

98. The applicants complained that all of the above rights had been breached due to their son's ethnic origin, in violation of Article 14 of the Convention, which provides the following:

“The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

99. The applicants were of the opinion that the events in the present case had to be assessed against the general context of, *inter alia*, the tense relations between Armenia and Azerbaijan and the alleged policy of discrimination and hatred advocated by the Azerbaijani Government against Armenia and its citizens. They referred, for instance, to other cases against Azerbaijan pending before the Court containing complaints of ill-treatment of Armenian citizens in Azerbaijani detention which had similar facts and legal issues as the present case (including *Badalyan*, no. 51295/11; *Khojjoyan and Vardazaryan*, no. 62161/14; and *Petrosyan*, no. 32427/16). In regard to their son, they maintained that the allegedly fabricated story of his being a “saboteur” having the intention of blowing up a school showed the discriminatory motives of the Azerbaijani authorities. Furthermore, his ill-

treatment and death in detention was the result of acts perpetrated out of hatred towards Armenians.

2. The respondent Government

100. The Azerbaijani Government contested the applicants' allegations. They argued that the applicants had failed to adduce any evidence showing a direct link between Mr Saribekyan's ethnic origin and the authorities' actions towards him. His detention was not related to his ethnic origin but based on the fact that he was a member of the military forces occupying Azerbaijan's sovereign territory. Furthermore, he had been treated fairly and with appropriate care in detention. The Government strongly denied the allegation that it encouraged hatred towards Armenians.

3. The Armenian Government, third-party intervener

101. In agreement with the applicants, the Armenian Government submitted that the present case had to be considered in the context of a State-sponsored policy of discrimination and hatred towards Armenians in Azerbaijan.

B. The Court's assessment

102. The Court notes that the applicants' complaints under Article 14 have been presented also under Articles 2 and 3 and that the allegations are essentially based on the same facts that have already been examined under the latter provisions. Notably, as part of its findings above (see paragraphs 72 and 86), the Court has taken into account the general context of hostility and tension between Azerbaijan and Armenia and found that the investigation into the death of the applicants' son had been inadequate in several respects, including its failure to consider whether ethnic hatred had been a contributing factor in his death and the torture to which he had been subjected.

103. Accordingly, the Court considers that there is no need to examine the case also under Article 14 of the Convention.

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

104. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

105. The applicants claimed 120,000 euros (EUR) in respect of non-pecuniary damage sustained by them and their son.

106. The Government contested the claim for being unsubstantiated and unreasonable. They submitted, *inter alia*, that it was the applicants' son's own decision to commit suicide and the authorities had not been able to prevent it. Any finding of a violation in the present case would therefore constitute sufficient reparation in respect of non-pecuniary damage.

107. The Court finds that the applicants have undoubtedly suffered non-pecuniary damage as a result of the violations found. Ruling on an equitable basis, the Court awards them jointly EUR 60,000 in this respect.

B. Costs and expenses

108. The applicants also claimed 1,200,000 Armenian drams (AMD; equivalent to approximately EUR 2,200) for the costs and expenses incurred before the Court.

109. The Government submitted that the claim for costs and expenses should be rejected on the ground that it was unsubstantiated and groundless, as the applicants had not specified the costs incurred and had not presented evidence linking any costs and expenses to the Convention violations alleged.

110. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum.

111. The Court notes that the applicants concluded an agreement with their counsel concerning their fees which is comparable to a contingency fee agreement, an agreement whereby a lawyer's client agrees to pay the lawyer, in fees, a certain percentage of the sum, if any, awarded to the litigant by the court. Such agreements may show, if they are legally enforceable, that the sums claimed are actually payable by the applicant. Agreements of this nature – giving rise to obligations solely between lawyer and client – cannot bind the Court, which must assess the level of costs and expenses to be awarded with reference not only to whether the costs are actually incurred but also to whether they have been reasonably incurred (see, for example, *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 55, ECHR 2000-XI).

112. The applicants in the present case agreed to pay AMD 1,200,000 to their representatives in the event the Court found in their favour. Such agreements are enforceable under Armenian law. In particular, the Advocacy Act does not set out any limitations on the type of agreement an advocate may enter into with his client, such agreements being regulated by the general provisions of the Civil Code. The Court, therefore, recognises the lawfulness of the arrangement entered into between the applicants and their representatives (see *Asatryan v. Armenia*, no. 3571/09, § 79, 27 April 2017).

113. Having regard to the nature and complexity of the present case, the Court considers that the costs and expenses have been actually and necessarily incurred and are reasonable as to quantum. Moreover, they are related to the violations found. The Court therefore awards the applicants EUR 2,200 under this head.

C. Default interest

114. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT

1. *Declares*, by six votes to one, the application admissible;
2. *Holds*, by five votes to two, that there has been a violation of Article 2 of the Convention in respect of the death of Manvel Saribekyan;
3. *Holds*, by six votes to one, that there has been a violation of Article 2 of the Convention in respect of the inadequacy of the investigation into the death of Manvel Saribekyan;
4. *Holds*, by six votes to one, that there has been a violation of Article 3 of the Convention in respect of the torture of Manvel Saribekyan;
5. *Holds*, unanimously, that there has been no violation of Article 3 of the Convention in respect of the applicants;
6. *Holds*, unanimously, that there is no need to examine the complaint under Article 13 of the Convention;

7. *Holds*, unanimously, that there is no need to examine the complaint under Article 14 of the Convention;
8. *Holds*, by six votes to one,
- (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:
 - (i) EUR 60,000 (sixty thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 2,200 (two thousand two hundred euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
9. *Dismisses*, unanimously, the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 30 January 2020, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Angelika Nußberger
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Hüseyinov is annexed to this judgment.

A.N.
C.W.

DISSENTING OPINION OF JUDGE HÜSEYNOV

The reason for my dissenting from the majority opinion is that, in my view, the present application should have been declared inadmissible as having been introduced outside the six-month time limit.

The respondent Government did not raise in their observations an admissibility objection on that ground, but this could not prevent the Court from examining the matter of its own. The Court has repeatedly stressed that the six-month rule set out in Article 35 § 1 of the Convention is a public-policy one which the Court can, and indeed must, apply even of its own motion (see *Merabishvili v. Georgia* [GC], no. 72508/13, § 247, 28 November 2017, and *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 138, 20 March 2018).

The majority did touch upon the matter, but confined themselves to stating that “the final domestic decision was taken on 3 January 2011 when the investigator at the Military Prosecutor’s Office in Baku terminated the two investigations relating to Manvel Saribekyan ... and that, consequently, the application, introduced some five months later, was lodged in time” (see paragraph 49 of the judgment). Thus, the date when the Azerbaijani investigator terminated the criminal investigation into incitement to suicide (as no third-party involvement in his death had been found) as well as the investigation against him (owing to his passing) was taken by the majority as the starting date for the running of the six-month period. The majority did not provide any explanation as to why the above decision was to be considered a “final decision” within the meaning of Article 35 § 1 of the Convention. In particular, it is not clear why the applicants had to await the outcome of those investigations in order to complain before the Court that their son had been tortured while in detention.

It is evident that the term “final decision” in Article 35 § 1 refers exclusively to the final decision in the process of exhaustion of all domestic remedies. In other words, the term “final decision” becomes meaningless if no domestic remedy is available. In this context, considering the decision of 3 January 2011 as the starting point for the running of the six-month period might imply that there was an effective remedy in Azerbaijan. However, the judgment clearly states that there was no remedy in Azerbaijan “capable of providing redress in respect of [the applicants’] Convention complaints and offering reasonable prospects of success” (see paragraph 48 of the judgment). In a situation where it is clear from the outset that no effective remedy is available in the country, there is no need for an applicant to await any domestic decision in order to lodge a Convention complaint. In such situations, the six-month period runs from the date on which the act complained of took place or the date on which the applicant was directly affected by or became aware of such an act or had knowledge of its adverse effects (see *Varnava and Others v. Turkey* [GC], nos. 16064/90 and

8 others, § 157, ECHR 2009, and *Aydarov and Others v. Bulgaria* (dec.), no. 33586/15, § 90, 2 October 2018).

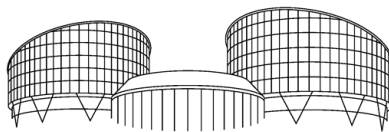
Thus, in this case, it was clear from the outset that there were no effective remedies for the applicants to try in Azerbaijan, and therefore time, for the purposes of calculating the six-month limit, should run from the act (the alleged murder on 4 October 2010), or from the date of knowledge of the alleged violation (4 or 5 November 2010).

The applicants' son was found dead on 4 October 2010. Incidentally, on 6 October 2010 the Armenian Foreign Minister Eduard Nalbandyan, addressing the Armenian Parliament, accused the Azerbaijani authorities of the killing of an Armenian man found hanged in Azerbaijani custody. He described the death of 20-year-old MS as "horrendous" and the result of "terrorist" and "medieval" methods. On the same day the Minister of Defence of Armenia stated that Manvel Saribekyan had been killed intentionally (report by RFE/RL's Armenian Service on 7 October 2010).

The body of Manvel Saribekyan was handed over to the Armenian authorities on 4 November 2010. On 5 November 2010 a criminal investigation was immediately launched in Armenia concerning aggravated murder. Thus, at the latest, the applicants became aware of the alleged violations on 4 or 5 November 2010. Moreover, it is stated in the judgment that during the investigation in Armenia the applicants attested that the body of their son "bore several marks of injuries and torture" (see paragraph 20 of the judgment). Hence, at the latest by early November the applicants knew of the fact of the violation or violations, and they also knew (or should have known) that no remedy existed in Azerbaijan in respect thereof. Nevertheless they only submitted their application to the Court on 10 June 2011, that is to say, after seven months.

Annex 25

Badalyan v. Azerbaijan, ECtHR, Application No. 51295/11, Judgment (22 July 2021)



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF BADALYAN v. AZERBAIJAN

(Application no. 51295/11)

JUDGMENT

Art 3 • Degrading treatment • Absence of satisfactory and convincing explanation showing applicant's serious mental injuries not due to conditions of and treatment undergone during detention
Art 5 § 1 • Unlawful detention of applicant at undisclosed site for twenty-two months

STRASBOURG

22 July 2021

FINAL

22/10/2021

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

BADALYAN v. AZERBAIJAN JUDGMENT

In the case of Badalyan v. Azerbaijan,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Síofra O’Leary, *President*,

Mārtiņš Mits,

Stéphanie Mourou-Vikström,

Lətif Hüseyinov,

Jovan Ilievski,

Ivana Jelić,

Arnfinn Bårdsen, *judges*,

and Martina Keller, *Deputy Section Registrar*,

Having regard to:

the application against the Republic of Azerbaijan lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Armenian national, Mr Artur Badalyan (“the applicant”), on 8 August 2011;

the decision to give notice to the Azerbaijani Government (“the respondent Government”) of the application;

the observations submitted by the respondent Government and the observations in reply submitted by the applicant;

the comments submitted by the Armenian Government, who had exercised their right to intervene in the proceedings before the Court in accordance with Article 36 § 1 of the Convention;

Having deliberated in private on 15 June 2021,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The application concerns alleged ill-treatment during detention in violation of Article 3 of the Convention and unlawful detention in violation of Article 5.

THE FACTS**I. THE PARTIES**

2. The applicant was born in 1978 and lives in Haghartsin in the Tavush region of Armenia. He was represented by Mr E. Marukyan and Ms T. Matinyan, lawyers practising in Vanadzor.

3. The Azerbaijani Government were represented by their Agent, Mr Ç. Əsgərov.

BADALYAN v. AZERBAIJAN JUDGMENT

II. UNDISPUTED FACTS

4. On 9 May 2009 the applicant disappeared and was captured by the Azerbaijani forces. His relatives contacted the Armenian authorities, after which he was registered as a missing person in Armenia and a search for him was undertaken. However, his whereabouts remained unknown to his family and the Armenian authorities until 5 November 2010 when he was registered by the International Committee of the Red Cross (ICRC) as an Armenian captive held in Azerbaijan. Thereafter the applicant was regularly visited by the ICRC in detention until 17 March 2011 when he was released to the Armenian authorities through the mediation of the ICRC as part of an exchange of captives. The exchange was made in the Agdam region.

III. FACTS AS SUBMITTED BY THE APPLICANT

5. On 9 May 2009 the applicant, allegedly a civilian with no military assignment, went with a group of friends to the village of Navur near the town of Berd, close to the border with Azerbaijan, to pick mushrooms in the forest. According to witness statements from others in the group, the applicant disappeared. He claims that, until then, he had always been completely healthy, with no physical or psychological problems.

6. On 11 May 2009 the applicant was registered as a missing person by the Armenian police, which conducted an investigation with the help of a local military unit. They searched the relevant area and interviewed villagers. Allegedly, the mushrooms picked by the applicant were discovered about 5-6 kilometres from the Azerbaijani border, but nothing else was found. On 7 July 2009 the Department of Criminal Investigation in Tavush opened a criminal investigation into the applicant's disappearance. The investigation was suspended two months later as no person suspected of having committed an offence had been identified. As from October 2010 the State Commission on Issues of War Prisoners, Hostages and the Missing Persons was seized with the applicant's case; on 8 November 2010 it received information from the ICRC that it was visiting the applicant in detention in Baku.

7. Following his arrest by the Azerbaijani forces, the applicant was held captive for 22 months in different military facilities. He claims that he was not given enough food and was often not allowed to go to the toilet, thus having to care for his needs in the cell. Moreover, he was subjected to harsh torture and mental anguish, as he was deemed to be a military prisoner, and was regularly harassed to divulge information. He was often beaten on his legs, so that he could not feel or move them. Electric wires were frequently attached to his fingers and the power switched on, causing severe pains. His cell door was hit with metallic objects, as a result of which he now suffers from a hearing disorder.

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8. Furthermore, he was not informed of the reasons for his detention in a language that he understood, he was never brought before an officer of the law and he was deprived of the possibility to challenge the lawfulness of his detention. He alleges that, as a civilian, he should have been released immediately by the Azerbaijani authorities.

9. The applicant claims that, during his captivity in Azerbaijan, his health condition was never recorded or documented.

10. On 18 March 2011, the day after his release, the applicant was hospitalised and examined in Armenia. According to a certificate issued by the military medical department of the Ministry of Defence, he was diagnosed with neurasthenia, a psychopathological condition, with symptoms of depression. When he was admitted he suffered from, among other things, fear, stress, anxiety and depression and complained of fatigue as well as pains in his arms and legs. He was discharged on 29 March, after eleven days, apparently in an improved state, with a recommendation that he be placed under supervision of a therapist or psychologist.

11. On 26 May 2011 the applicant's lawyer contacted the ICRC in Yerevan, asking for information about the applicant's detention and about the date when the ICRC was informed of his captivity. The ICRC replied the following day that, due to its institutional policy of confidentiality, it was not in a position to provide the requested information.

12. The applicant was hospitalised again on 27 June 2011, at the Centre for Mental Health Stress of the Medical Rehabilitation Centre in Yerevan. He was examined and treated by a neurologist, a proctologist, and a psychologist.

According to a psychiatric evaluation of 29 June, the applicant complained about headaches, insomnia, weakness and fear. He also stated that he heard voices in his ears which talked to him and ordered him what to do and say. He claimed that "the Azerbaijanis" had put cameras and telephones in his home in order to contact and control him. During his detention he had also been forced to swallow some balls which placed devices of control in his stomach. He was afraid to approach his wife, whom he did not trust. According to his relatives, he had an unstable mood and would occasionally be aggressive towards his wife and children and other relatives.

Following his treatment, the applicant was diagnosed with a chronic delusional disorder and a protracted reactive paranoia as well as a spinal disc hernia. He left the centre after a month, on 27 July, at his own request. According to the centre, his pathological syndrome had been slightly reduced.

13. The applicant received further treatment at the centre for similar symptoms and complaints during the following four years for periods of 3-4 weeks at a time: 13 February – 5 March 2012, 28 February – 22 March 2013, 13 May – 6 June 2014 and 22 May – 16 June 2015. While a slight

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improvement in the applicant's condition was observed during the second and third periods of treatment, following the hospitalisation in 2015 he was diagnosed with a worsening state of schizophrenia of a paranoid character and was recommended compulsory inpatient care.

14. In October 2011, following expert examinations, the applicant was granted state disability benefits on account of his mental health condition. He was considered unfit for work and unable to control himself. His entitlement to disability benefits was confirmed in 2012, 2013, 2014 and 2015, the latter decision being valid until 15 December 2016.

IV. FACTS AS SUBMITTED BY THE RESPONDENT GOVERNMENT

15. The respondent Government claimed that the applicant illegally crossed the border into Azerbaijan before he was captured. At the time, he expressed a wish to be transferred to a third country, as his conditions of life in Armenia were severe. Therefore, his sojourn in Azerbaijan was prolonged while the relevant authorities started the process of a transfer via the ICRC. However, at a later stage, he changed his mind and wanted to return to Armenia.

16. Allegedly, the applicant was detained as a member of the Armenian armed forces and a saboteur. He was held as a prisoner of war pursuant to the 1949 Geneva Convention relative to the Treatment of Prisoners of War and his release came about as part of an exchange of prisoners of war between Azerbaijan and Armenia.

17. The Government claimed that the applicant was under medical control throughout his captivity in Azerbaijan and that he was not ill-treated. The medical documents submitted by them which consist of medical journals and certificates show that the applicant underwent a medical examination and had his blood and urine tested between 19 and 29 November 2009, that his teeth were examined on 6 November 2010 and that further medical examinations were made on 28 February and 3 March 2011. No physical health problems were found. Furthermore, a psychiatric examination was conducted on 7 March 2011. In this respect a transcript from a medical journal with the heading "Doctor's note" contains two sentences stating that no psychopathological symptoms had been detected and that there had been no signs of mental illness.

V. FACTS AS SUBMITTED BY THE ARMENIAN GOVERNMENT,
THIRD-PARTY INTERVENER

18. Upon the applicant's return to Armenia, the criminal investigation initiated in July 2009 (see paragraph 6 above) was re-opened. According to a decision of 23 March 2011 by a senior investigator of the Tavush police investigation department, the applicant was interviewed by the police on

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19 March 2011. He stated that, on 9 May 2009, he and his friends had gone in different directions into a forest in search of mushrooms. At around 3 p.m. he had been approached by four strangers who had first asked for a cigarette in Armenian and then proceeded to tie up his hands while talking Azerbaijani. They had forcibly moved him across the Azerbaijani border and handed him over to the Azerbaijani authorities. The applicant further stated that he knew the forest very well and that he had not crossed the border but had been kidnapped on Armenian territory. In statements given to the police, the friends that had accompanied the applicant to the forest declared that they had all been unarmed. Concluding that a criminal offence under the Armenian Criminal Code had been committed, the senior investigator decided to transfer the criminal case and file to the National Security Service.

THE LAW

I. PRELIMINARY ISSUE: THE COURT'S JURISDICTION AND THE APPLICABILITY OF THE CONVENTION IN GENERAL

A. The parties' submissions

19. The Azerbaijani Government maintained that the applicant was captured as a member of the Armenian armed forces and, as military captives on both sides, should be considered as a prisoner of war. The 1994 ceasefire agreement between Armenia and Azerbaijan could not be considered a peace agreement. Furthermore, the relations between the countries were tense, borders were closed and frequent armed incidents occurred. Consequently, the events complained of were to be examined under international humanitarian law and the applicant – while in detention – should have addressed the ICRC which has a specific mandate under the Geneva Conventions of 12 August 1949. As the present application belonged to the sphere of international humanitarian law, it could not be the subject of the Court's jurisdiction.

20. The applicant submitted that he is and was a civilian and not a member of or in any other way affiliated with the Armenian armed forces. The Azerbaijani Government had not produced any evidence supporting their contention. Moreover, there was no state of war or resort to hostile acts from any side during the period of the applicant's detention that could bring the situation into the sphere of international humanitarian law. The parties were bound by the 1994 ceasefire agreement.

21. The applicant further pointed out that, even in international armed conflicts, the Convention continued to apply, international human rights law and international humanitarian law being complementary. While the ICRC had been given a mandate to act in armed conflicts, for instance by

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providing humanitarian assistance to victims, it could not be considered a dispute resolution body, able to take decisions on complaints such as those raised by the applicant.

22. Agreeing with the applicant, the Armenian Government submitted that there was no armed conflict taking place when the applicant was captured by Azerbaijani forces. It is the situation on the ground that determines whether there is an armed conflict and thus whether a captive could be considered a prisoner of war. The respondent Government had failed to submit any factual data to support their contention that there was an armed conflict on the border between Armenia and Azerbaijan at the relevant time. Moreover, the friends that had accompanied the applicant on the day of his capture had declared that they had all been unarmed. Accordingly, international humanitarian law was not applicable in the present case. Furthermore, even if the applicant's detention had occurred in the context of an international armed conflict, this would not have suspended the application of international human rights law, in particular the Convention, or the jurisdiction of the Court.

B. The Court's assessment

23. The Court notes that it has already examined and dismissed a similar objection by the respondent Government in *Saribekyan and Balyan v. Azerbaijan* (no. 35746/11, §§ 36-41, 30 January 2020). It considers that the present case does not disclose a material difference and sees no reason to decide otherwise. Therefore, it finds that no facts have been presented which indicate that the Convention is not applicable in the present case or that the Court has no jurisdiction. The respondent Government's objection must therefore be rejected.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

24. The applicant argued that he had been ill-treated while detained and relied on Article 3 of the Convention, which reads as follows:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

A. Admissibility*1. The parties' submissions*

25. The Azerbaijani Government asserted that the applicant had the right to challenge in the Azerbaijani courts the procedural acts and decisions of the prosecuting authority. However, neither he nor his relatives or the Armenian authorities had complained about the alleged violations of his rights or even attempted to address the Azerbaijani authorities after the

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detention, not even through diplomatic channels. The applicant had thus failed to exhaust effective remedies.

26. The applicant stated that there was no available effective remedy for him to exhaust in Azerbaijan and that it had been impossible for him to contact a lawyer in Azerbaijan who could have made submissions on his behalf before that country's legal instances. He referred to the conclusions drawn by the Court in the case of *Sargsyan v. Azerbaijan* ([GC], no. 40167/06, §§ 117 and 119, ECHR 2015).

27. The Armenian Government submitted that, due to the unresolved conflict between Armenia and Azerbaijan, there were obstacles of a practical and diplomatic nature for Armenians to gain access to any remedy in Azerbaijan, let alone an effective one. The respondent Government had not specified any domestic authority that could have been addressed or any proceedings that could have been initiated in the applicant's case. Referring to the case of *Saribekyan and Balyan v. Azerbaijan* (cited above, §§ 21, 27, 28 and 73), the Armenian Government further pointed out that, as that case showed, a request by the Armenian Prosecutor-General to the same official in Azerbaijan under the Commonwealth of Independent States (CIS) Convention of 22 January 1993 on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases would not have been an effective remedy as the request would have remained unanswered.

2. *The Court's assessment*

28. Under Article 35 § 1 of the Convention, States are dispensed from answering before an international body for their acts before they have had an opportunity to put matters right through their own legal system and those who wish to invoke the supervisory jurisdiction of the Court as concerns complaints against a State are thus obliged to use first the remedies provided by the national legal system (see, among other authorities, *Akdivar and Others v. Turkey*, 16 September 1996, § 65, *Reports of Judgments and Decisions* 1996-IV, and *Sargsyan v. Azerbaijan*, cited above, § 116).

29. The Court also reiterates that it is incumbent on the Government pleading non-exhaustion to satisfy it that the remedy was an effective one available in theory and in practice at the relevant time, that is to say that it was accessible, was capable of providing redress in respect of the applicant's complaints and offered reasonable prospects of success. Once this burden of proof has been satisfied it falls to the applicant to establish that the remedy advanced by the Government was in fact used or was for some reason inadequate and ineffective in the particular circumstances of the case, or that there existed special circumstances absolving him or her from the requirement (see, among many other authorities, *Molla Sali v. Greece* [GC], no. 20452/14, § 89, 19 December 2018, and the references therein).

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30. While the present case does not concern events relating to the conflict between Armenia and Azerbaijan as such, the Court considers nevertheless that certain observations made to describe the general context of relations between Armenia and Azerbaijan in the *Sargsyan* case are relevant also in the present case. Neither at time of the relevant events, nor at any point after that, there have been diplomatic relations between Armenia and Azerbaijan. Furthermore, borders are closed and postal services are not viable between the two countries. In such a situation it must be recognised that there may be obstacles to the proper functioning of the system of the administration of justice. In particular, there may be considerable practical difficulties in bringing and pursuing legal proceedings in the other country (*Sargsyan v. Azerbaijan*, cited above, § 117).

31. In the present case, the respondent Government have not shown that the applicant, whose whereabouts remained unknown to his family for one year and almost six months (see paragraph 4 above), had any opportunity to communicate with the outside world and contact a lawyer while in detention in Azerbaijan. While it is true that he was eventually released and could return to Armenia, the respondent Government have not provided any example of a domestic case or remedy which would show that individuals in the applicant's situation are able to seek redress before the Azerbaijani authorities. On the contrary, the refusal of those authorities to give any assistance or even to reply to the request of the Armenian Prosecutor-General under the 1993 CIS Convention in the similar case of *Saribekyan and Balyan* (cited above) rather points to the unavailability of effective remedies in Azerbaijan for a person in the applicant's situation.

32. Consequently, reiterating its conclusions in *Saribekyan and Balyan*, the Court considers that the respondent Government have failed to discharge the burden of proving the availability to the applicant of a remedy capable of providing redress in respect of his Convention complaints and offering reasonable prospects of success. The Government's objection concerning the exhaustion of domestic remedies is therefore dismissed.

33. Furthermore, the Court considers, in the light of the parties' submissions, that the complaint under Article 3 of the Convention raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court concludes therefore that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a). No other ground for declaring the complaint inadmissible has been established. It must therefore be declared admissible.

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B. Merits*1. The parties' submissions*

34. The applicant maintained that he had been taken into custody in good health and found to be injured at the time of release and that it was therefore, in accordance with the established practice of the Court following *Ribitsch v. Austria*, 4 December 1995, § 34, Series A no. 336, incumbent on the respondent State to provide a plausible explanation of how the injuries had been caused, failing which an issue under Article 3 would arise. The respondent State should therefore have conducted an effective investigation into the allegations of ill-treatment. The applicant had been unable to obtain any evidence because during the 22 months of detention, his health conditions were never recorded or documented.

35. The respondent Government emphasised that the applicant's allegations of ill-treatment were supported only by medical documents provided by Armenian agencies. No causal link had been demonstrated to show that he had been tortured. The ICRC had conducted regular visits to the applicant and managed to supervise his detention conditions. No reports on ill-treatment had been submitted either to or by that organisation. Thus, the applicant could not have been treated in a manner causing such a degree of suffering so as to amount to a violation of Article 3 of the Convention.

36. The Armenian Government emphasised that prior to his being captured, the applicant had not suffered from any kind of mental diseases. They submitted that he had been declared fit for military service in 1997 and served until 1999. They insisted that there existed documented evidence on the applicant's serious neuropsychological disorder subsequent to his release, including schizophrenia of a paranoid type, pain in his arms and legs and that there was an absence of any plausible explanation by the respondent Government as to how these health problems had been caused. This proved that the applicant had been subjected to treatment that had amounted to an obvious and grave violation of Article 3 of the Convention. The Armenian Government also made submissions concerning discrimination of Armenians in Azerbaijan and emphasised the wider context of the general policy of the authorities of Azerbaijan.

*2. The Court's assessment***(a) General principles**

37. The Court has set out the general principles in, *inter alia*, *Ireland v. the United Kingdom*, 18 January 1978, §§ 162-163, Series A no. 25; *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, §§ 139-42, 10 January 2012; *Idalov v. Russia* [GC], no. 5826/03, §§ 91-95, 22 May 2012; *Georgia v. Russia (I)* [GC], no. 13255/07, § 192, ECHR 2014, and

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recently reiterated them in *Georgia v. Russia (II)* [GC], no. 38263/08, § 240, 21 January 2021, as follows:

“... Article 3 enshrines one of the most fundamental values of democratic societies. The Convention prohibits in absolute terms torture and inhuman or degrading treatment or punishment, irrespective of the victim’s conduct (see, for example, *Labita v. Italy* [GC], no. 26772/95, § 119, ECHR 2000-IV). Ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum is relative: it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim (see, among other authorities, *Ireland v. the United Kingdom*, 18 January 1978, § 162, Series A no. 25).

Ill-treatment that attains such a minimum level of severity usually involves actual bodily injury or intense physical or mental suffering. However, even in the absence of these, where treatment humiliates or debases an individual, showing a lack of respect for or diminishing his or her human dignity, or arouses feelings of fear, anguish or inferiority capable of breaking an individual’s moral and physical resistance, it may be characterised as degrading and also fall within the prohibition of Article 3 (see, among other authorities, *Vasyukov v. Russia*, no. 2974/05, § 59, 5 April 2011).

In the context of deprivation of liberty the Court has consistently stressed that, to fall under Article 3, the suffering and humiliation involved must in any event go beyond that inevitable element of suffering and humiliation connected with detention. The State must ensure that a person is detained in conditions which are compatible with respect for human dignity, that the manner and method of the execution of the measure do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, his health and well-being are adequately secured (see *Kudła v. Poland* [GC], no. 30210/96, §§ 92-94, ECHR 2000-XI, and *Popov v. Russia*, no. 26853/04, § 208, 13 July 2006).

When assessing conditions of detention, account has to be taken of the cumulative effects of these conditions, as well as of specific allegations made by the applicant (see *Dougoz v. Greece*, no. 40907/98, § 46, ECHR 2001-II). The length of the period during which a person is detained in the particular conditions also has to be considered (see, among other authorities, *Alver v. Estonia*, no. 64812/01, § 50, 8 November 2005).”

38. Furthermore, the Court has established the following general principles in respect of the standard and burden of proof relating to allegations of ill-treatment contrary to Article 3 of the Convention (see *Bouyid v. Belgium* [GC], no. 23380/09, §§ 82-83, ECHR 2015):

“82. Allegations of ill-treatment contrary to Article 3 must be supported by appropriate evidence. To assess this evidence, the Court adopts the standard of proof “beyond reasonable doubt” but adds that such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (see, among other authorities, *Ireland v. the United Kingdom*, 18 January 1978, § 161 *in fine*, Series A no. 25; *Labita*, cited above, § 121; *Jalloh v. Germany* [GC], no. 54810/00, § 67, ECHR 2006-IX; *Ramirez Sanchez v. France* [GC], no. 59450/00, § 117, ECHR 2006-IX; and *Gäfgen*, cited above, § 92).

83. On this latter point the Court has explained that where the events in issue lie wholly, or in large part, within the exclusive knowledge of the authorities, as in the

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case of persons within their control in custody, strong presumptions of fact will arise in respect of injuries occurring during such detention. The burden of proof is then on the Government to provide a satisfactory and convincing explanation by producing evidence establishing facts which cast doubt on the account of events given by the victim (see *Salman*, cited above, § 100; *Rivas v. France*, no. 59584/00, § 38, 1 April 2004; and also, among other authorities, *Turan Cakir v. Belgium*, no. 44256/06, § 54, 10 March 2009; *Mete and Others v. Turkey*, no. 294/08, § 112, 4 October 2011; *Gäffgen*, cited above, § 92; and *El-Masri*, cited above, § 152). In the absence of such explanation, the Court can draw inferences which may be unfavourable for the Government (see, among other authorities, *El-Masri*, cited above, § 152). That is justified by the fact that persons in custody are in a vulnerable position and the authorities are under a duty to protect them (see, among other authorities, *Salman*, cited above, § 99).”

(b) Application of those principles to the facts of the case

39. The Court observes that it is undisputed that the applicant was in the respondent State’s captivity during a period of 22 months, from 9 May 2009 until 17 March 2011 (see paragraph 4 above). It also observes that what has been presented to the court as documentary evidence is principally medical information.

40. As to the applicant’s health situation before his detention, the respondent Government have not contested that he was declared fit for military service in 1997 and that he served until 1999. However, that was still ten years prior to the events in case and the applicant has not presented medical documents concerning his health condition between 1999 and his detention by the Azerbaijani authorities.

41. With regard to the situation during the applicant’s detention, the respondent Government have pointed to medical exams having been carried out. As to the applicant’s mental health, the respondent Government have, for the first time in their additional comments to the applicant’s response to their observations before the Court, adduced a transcript from a medical journal, dated 7 March 2011, a little over a week before the applicant’s release, stating that no psychopathological symptoms or signs of mental illness had been detected (see paragraph 17 above).

42. Turning to the applicant’s health situation upon his release, medical reports provided show that he suffered from chronic delusional disorder and delayed reactive paranoia and that he was treated for 29 days in 2011 (see paragraph 12 above). His mental health condition deteriorated further and in 2015 he was diagnosed with paranoid schizophrenia (see paragraph 13 above). The applicant was found to qualify for disability benefits (see paragraph 14 above).

43. The Court observes that the applicant has submitted that his mental condition at the time of his release was a psychological sign of ill-treatment of both a physical and psychological nature and that he has not presented proof of physical injuries. However, before the Court, it has not been disputed that the mental health issues described above, if they were the

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result of the manner in which the person diagnosed with them has been treated while in detention, are indicative of ill-treatment contrary to Article 3 of the Convention (see paragraph 37 above).

44. In the light of the materials placed before it, the Court finds that the applicant has established a *prima facie* case that his symptoms of considerable mental health injuries, detected immediately after his release, were in relation to his time in the respondent State's captivity, whether the later deterioration was a direct consequence of this or not. Furthermore, it notes that the applicant has given a detailed and consistent account of the facts complained of and has provided the only pieces of evidence available to him, notably medical records from examinations upon his release. Therefore, the respondent Government must, in accordance with the general principles cited above (see paragraph 38), provide a satisfactory and convincing explanation by producing evidence establishing facts which cast doubt on the account of events given by the victim.

45. The respondent Government, who alone have access to any other information capable of corroborating or refuting allegations, have in response to the applicant's allegations argued that: (i) the applicant had been captured and held alive and safe, and released safely through negotiations with the cooperation of the ICRC; (ii) the applicant's allegations of ill-treatment were supported only by medical documents provided by Armenian agencies; (iii) there was no causal link to suggest that the applicant had been tortured; (iv) being held in captivity for such a long time as 22 months under constant torture, bad feeding and deprivation of sleep, as alleged by the applicant, would have resulted in much more severe health consequences than those presented by him; and (v) the ICRC had conducted regular visits to supervise the applicant's detention conditions without any reports on ill-treatment having been submitted to them or by them.

46. As to the latter argument, the Court observes that the ICRC for confidentiality reasons did not release information about the circumstances of the applicant's detention at his lawyer's request (see paragraph 11 above). With regard to the other arguments, the Court does not consider that they either amount to a satisfactory and convincing explanation supported by evidence as required under the Convention (see paragraphs 44 and 38 above). The Court notes in this regard that the Government did not benefit from the evidence that investigation might have produced since the Government have not shown that any meaningful investigation of the applicant's allegations ever took place.

47. The Court further notes that the Government did not provide, including in the proceedings before the Court, information about the places of the applicant's detention, the conditions of his detention and the daily regime to which he was subjected while in detention. The fact that no information about the applicant's whereabouts ever reached his family prior to his registration as a captive by the ICRC, almost a year and six months

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after his initial detention (see paragraph 4 above), is also a fact from which inferences can be drawn regarding the manner in which he was treated and its consequences for his mental health.

48. In the light of the above, the Court finds that the respondent Government have failed to provide a satisfactory and convincing explanation to show that the applicant's serious mental injuries identified immediately upon his release and diagnosed later were neither entirely, mainly or partly caused by the conditions of his detention and the treatment he underwent while in the respondent State's captivity. It therefore concludes that there has been a violation of Article 3 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 5 OF THE CONVENTION

49. The applicant argued that he had been deprived of his liberty in breach of Article 5 § 1 of the Convention and that there had been a violation of procedural rights pursuant to paragraphs 2 to 4 of that provision, which, in so far as relevant, reads as follows:

“1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

(a) the lawful detention of a person after conviction by a competent court;

(b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

(d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;

(e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;

(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

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4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful. ...”

A. Admissibility

50. The respondent Government’s objection to the admissibility of the application on the ground that domestic remedies had not been exhausted, and the applicant’s and the Armenian Government’s arguments made in response, included also the complaint under Article 5 of the Convention (see paragraphs 25-27 above).

51. For the same reasons as provided in respect of that objection with regard to Article 3 of the Convention (see paragraphs 28-32 above), and noting, in addition, that the respondent Government have not shown that there existed any decision ordering the applicant’s detention against which he could have appealed, the Court dismisses the objection also with regard to the complaint under Article 5.

52. Furthermore, the Court considers, in the light of the parties’ submissions, that the complaint under Article 5 of the Convention raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court concludes therefore that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a). No other ground for declaring the complaint inadmissible has been established. It must therefore be declared admissible.

B. Merits*1. The parties’ observations*

53. The applicant emphasised that the respondent Government had not denied the facts concerning the applicant’s unlawful detention; his never having been informed of the reasons for his arrest in a language which he understood; his not having been brought before a judge; and his not having had any effective procedure to challenge the lawfulness of his detention, but had stated that those measures had not been taken because the applicant had been treated as a prisoner of war. The applicant could not, however, be considered as a prisoner of war.

54. The respondent Government submitted that the applicant had been detained as a prisoner of war and held according to the 1949 Geneva Convention on prisoners of war. His claim that he had lost his way while looking for mushrooms (compare the applicant’s version of the events in paragraph 5 above) in an area at the border to a State with which military conflict had occurred was highly doubtful. If he had not been a military captive, he would have been arrested and sentenced for a number of crimes such as illegal border crossing and espionage.

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55. The Armenian Government maintained that even if the safeguards provided by the norms of international humanitarian law applied to the case, there was no evidence to indicate compliance with those norms, either. There had been a violation of the applicant's right to liberty and security guaranteed by Article 5 of the Convention notwithstanding.

2. *The Court's assessment*

56. As to the general principles, the relevant passage from the *El-Masri v. the former Yugoslav Republic of Macedonia* judgment ([GC], no. 39630/09, ECHR 2012), recently reiterated in *Georgia v. Russia (II)*, cited above, § 241, reads as follows:

“230. The Court notes at the outset the fundamental importance of the guarantees contained in Article 5 for securing the right of individuals in a democracy to be free from arbitrary detention at the hands of the authorities. It is for that reason that the Court has repeatedly stressed in its case-law that any deprivation of liberty must not only have been effected in conformity with the substantive and procedural rules of national law but must equally be in keeping with the very purpose of Article 5, namely to protect the individual from arbitrariness (see *Chahal*, cited above, § 118). This insistence on the protection of the individual against any abuse of power is illustrated by the fact that Article 5 § 1 circumscribes the circumstances in which individuals may be lawfully deprived of their liberty, it being stressed that these circumstances must be given a narrow interpretation having regard to the fact that they constitute exceptions to a most basic guarantee of individual freedom (see *Quinn v. France*, 22 March 1995, § 42, Series A no. 311).”

57. The Court notes that the respondent Government have not put forward any materials or concrete information to show that the applicant was to be regarded as a prisoner of war. It is also for that reason that the Court above has dismissed the respondent Government's argument that the Convention as a whole is inapplicable (see paragraphs 19 and 23 above). No other arguments have been advanced to the effect that Article 5 of the Convention does not apply to the applicant's case, and the respondent Government have not argued that his detention was in conformity with any of the sub-paragraphs in Article 5 § 1 or that the applicant was afforded any of the procedural guarantees in the following paragraphs. In the circumstances of the instant case, the foregoing observations suffice for the Court to conclude that there has been a violation of that provision, too.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

58. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

59. The applicant claimed 8,500 euros (EUR) in respect of pecuniary damage. Furthermore, he claimed EUR 44,000 in respect of non-pecuniary damage relating to the violation of Article 3 of the Convention, and EUR 32,000 in respect of non-pecuniary damage inflicted upon him by way of the violation of Article 5. The applicant did not submit any claim in respect of costs and expenses.

60. The respondent Government contested the claim in respect of pecuniary damage on the grounds that there had been no causal link to any violation of the applicant's rights and that the applicant had not submitted any reasonable evidence of the alleged financial loss. They maintained that the applicant's calculation of minimum wages had no relevance to his case since the applicant had not earned any money and had been unemployed at the time in question. As to the claim in respect of non-pecuniary damage, they submitted that it was unsubstantiated and unreasonable. They also emphasised that the applicant had deliberately taken a risk by crossing the border into Azerbaijan and argued that a finding of a violation would constitute sufficient reparation.

61. The Court does not consider that it has sufficient information to discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. On the other hand, it awards the applicant EUR 30,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Default interest

62. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT

1. *Declares*, unanimously, the application admissible;
2. *Holds*, by six votes to one, that there has been a violation of Article 3 of the Convention;
3. *Holds*, unanimously, that there has been a violation of Article 5 of the Convention;
4. *Holds*, by six votes to one,
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance

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with Article 44 § 2 of the Convention, EUR 30,000 (thirty-thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses*, unanimously, the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 22 July 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller
Deputy Registrar

Siofra O'Leary
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the joint separate opinion of Judges Mourou-Vikström and Jelić is annexed to this judgment.

S.O'L.
M.K.

CONCURRING OPINIONS OF
JUDGES MOUROU-VIKSTRÖM AND JELIČ

(Translation)

We fully agree with the Chamber's finding of a double violation and with the reasoning adopted in reaching that conclusion.

The Chamber held that in the absence of any trace of physical injuries on the applicant after his release, the psychiatric disorders with which he was diagnosed had to be regarded as the result of the physical ill-treatment and emotional humiliation and trauma suffered during the months he had spent in detention.

Nevertheless, we consider it important to clarify one specific point concerning schizophrenia, a condition whose underlying causes are not yet fully known to researchers.

We note that the applicant was released on 17 March 2011.

His mental health problems were confirmed at two different stages:

- On 29 June 2011 the applicant underwent a psychiatric evaluation, which resulted in a diagnosis of chronic delusional disorder and protracted reactive paranoia. His mental health deteriorated over the years.

- In 2015 he was diagnosed with paranoid schizophrenia.

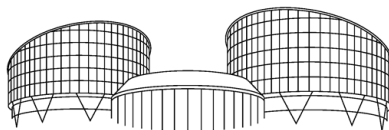
In our view, depending on how the Chamber judgment is read, in particular paragraph 44, there may still be some doubt as to the link established between the detection of schizophrenia and the ill-treatment suffered in detention.

Extreme caution is required when examining the causal links between ill-treatment and a condition as complex as schizophrenia. The trigger factors are the subject of in-depth studies dealing with such aspects as genetics and use of psychotropic substances. It cannot be established from the medical data currently available that this mental illness may result from emotional trauma, however violent and destabilising such trauma may have been. However, where the condition is pre-existing, it may enter acute phases following exposure of the subject to intense psychological trauma.

This clarification is, of course, not intended to take the place of a medical opinion on the applicant's state of health, but rather to maintain a very cautious approach and remove any ambiguity in the Chamber's position regarding the factors that may trigger the symptoms of schizophrenia, a condition that remains the subject of heated debate among experts.

Annex 26

Khojoyan and Vardazaryan v. Azerbaijan, ECtHR, Application No. 62161/14,
Judgment (4 November 2021)



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF KHOJOYAN AND VARDAZARYAN v. AZERBAIJAN

(Application no. 62161/14)

JUDGMENT

Art 2 (substantive and procedural) • Life • Lack of reasonable explanation against allegations of infliction of injuries posing a serious and imminent risk to life of an Armenian national in detention • Lack of effective investigation into treatment, including whether ethnic hatred played a role
Art 3 (substantive) • Treatment in detention amounting to torture • Inhuman and degrading treatment • No sufficiently special feature of applicants' mental suffering as relatives of the victim
Art 5 § 1 • Unlawful detention

STRASBOURG

4 November 2021

FINAL

28/02/2022

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

KHOJOYAN AND VARDAZARYAN v. AZERBAIJAN JUDGMENT

In the case of Khojoyan and Vardazaryan v. Azerbaijan,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Síofra O’Leary, *President*,

Mārtiņš Mits,

Ganna Yudkivska,

Lətif Hüseynov,

Jovan Ilievski,

Lado Chanturia,

Arnfinn Bårdsen, *judges*,

and Victor Soloveytchik, *Section Registrar*,

Having regard to:

the application against the Republic of Azerbaijan lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by three Armenian nationals, Ms Hasmik Khojoyan, Ms Heghine Vardazaryan and Mr Haykaz Khojoyan (“the applicants”), on 4 September 2014;

the decision to give notice to the Azerbaijani Government (“the Government”) of the application;

the observations submitted by the respondent Government and the observations in reply submitted by the applicants;

the comments submitted by the Armenian Government, who had exercised their right to intervene in the proceedings according to Article 36 § 1 of the Convention;

the notification provided to the Court of Ms Tehmina Khojoyan’s intention to pursue the application following her father’s, Mr Haykaz Khojoyan’s, death in 2019;

Having deliberated in private on 28 September 2021,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns alleged violations of Articles 2, 3, 5, 13 and 14 of the Convention in connection with the captivity and treatment of the applicants’ father in the respondent State.

THE FACTS

2. The applicants were born in 1964, 1967 and 1959, respectively. They were represented by Ms K. Gevorkyan, and, originally, Mr V. Grigoryan, lawyers practicing in Yerevan and London, respectively, assisted by Ms L. Alaverdyan, a professor of law in Yerevan, and, with time, Ms J. Gavron and Ms J. Sawyer, lawyers practicing in London. Mr Haykaz Khojoyan died in 2019 and his daughter, Tehmina Khojoyan, assisted by the

KHOJOYAN AND VARDAZARYAN v. AZERBAIJAN JUDGMENT

same representatives, informed the Court of her intention to pursue the application in his place. For reasons of convenience, the term “the applicants” will continue to be employed in reference to the three original applicants in the present judgment.

3. The Azerbaijani Government (“the Government”) were represented by their Agent, Mr Ç. Əsgərov.

I. UNDISPUTED FACTS

4. On the morning of 28 January 2014 the applicants’ father, Mr Mamikon Khojoyan (hereinafter also “Mr Khojoyan”), born in 1937 and a resident of the village of Verin Karmiraghbyur in the Tavush region of Armenia, close to the border to Azerbaijan, left his home. Later the same day, he appeared in a video online, surrounded by a group of people in civilian clothes and a person in Azerbaijani military uniform. On 30 January he was interviewed by Azerbaijani ANS TV. The Azerbaijani online news agency News.az reported the same day that Mr Khojoyan was in detention and that the Ministry of National Security had stated that he was a guide of an Armenian sabotage group and had held a gun when he was apprehended. On 31 January Mr Khojoyan appeared in another Azerbaijani TV broadcast which was uploaded on Youtube. The Court has received the three videos and links to their appearance on Youtube from the applicants.

5. On 4 March 2014, through the mediation of the International Committee of the Red Cross (ICRC), Mr Khojoyan was handed over to the Armenian authorities.

6. On 5 March 2014 Azerbaijani TV relayed an official statement from Azerbaijani authorities that Mr Khojoyan had been injured while captured as an armed guide of an Armenian subversive group and had been taken to Baku where he had received medical treatment, including the removal of a bullet from his arm.

7. No criminal investigation was undertaken by the Azerbaijani authorities, either in relation to the events surrounding Mr Khojoyan’s crossing of the border and his alleged subversive motives or with regard to his treatment in detention.

II. FACTS AS SUBMITTED BY THE APPLICANTS

8. The applicants stated that their father was a farmer all his life. On 28 January 2014, when he left his home, he told his family that he was going to collect grapes in the fields. In the Armenian criminal investigation (see paragraph 10 below), several villagers, heard as witnesses, confirmed that they had seen him on that day with a bucket in his hand, stating to some of them that he was going to collect grapes.

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9. According to the applicants, in the online video appearing later the same day, 28 January 2014, Mr Khojoyan showed no signs of injury and moved around without difficulty. In particular, there was no blood on his clothes, which made it highly implausible that, as alleged by the respondent Government, he had received a bone-piercing bullet wound on his arm at the time of his capture. However, during the TV interview of 30 January, his right arm was in a cast. Furthermore, in the TV broadcast from 31 January, he had difficulties standing upright and had injuries on his left eye and right hand; it was stated that he was receiving medical treatment. As to the videos submitted by the respondent Government (see paragraph 18 below), the applicants stated that the individual appearing in them was not Mr Khojoyan.

10. On 6 March 2014 the General Department of Criminal Investigation in Yerevan opened a criminal investigation under section 2, points 4, 6 and 12, of Article 112 of the Criminal Code of Armenia concerning intentional infliction of bodily harm with particular cruelty and with motives of national, racial or religious hate or fanaticism. During the ensuing investigation, the second and third applicants and several other witnesses were heard. The second applicant stated that her father had not had any injuries or wounds when leaving his home in the morning of 28 January and that, when she had visited him in the hospital after his return, he had been extremely frightened and his speech had been incoherent. He had told her that he had been taken to Baku, where he had been severely beaten, forced to sleep on a concrete floor, had salt poured into his wounds, received injections and had his head burned with incandescent metal. The third applicant confirmed this account, adding that there were many injuries on his father's body which had been inflicted during his detention in Azerbaijan and that his father's health had deteriorated badly. His consciousness was clouded and he was unable to communicate to his family what exactly had been done to him. A police investigator attempted to interview Mr Khojoyan, but he was unable to speak, allegedly due to his severe health condition.

11. Immediately after the handover, Mr Khojoyan was taken to hospital, first in the Tavush region and then, from 6 March 2014, in Yerevan. Examinations revealed multiple injuries to his head, ribs, arms and other parts of his body which, the applicants claim, were signs of torture. On 10 March 2014 he had plastic surgery on his right arm.

12. Later, forensic medical experts conducted an examination of Mr Khojoyan. In their report of 27 March 2014 the following conclusions were drawn:

“Contusion wounds to the top of the head and the right arm, injuries to the left outer ear, right cheek, right shoulder-joint, chest and right knee joint, many scratches on the right thigh, a wound on the right arm, scars remaining from the wounds, haemorrhage of the left arm and left forearm, fractures on the ribs on two sides as well as the elbow,

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and an open multi-fragmental fracture of the right arm bone have, all taken together, caused grievous bodily harm dangerous to life. The contusions on the head and right arm, the injuries to the outer ear, left arm and left forearm, and the haemorrhage of both thighs were inflicted by blunt firm objects, which caused minor bodily injuries, with short deterioration of health which, taking into account the duration of consequences having a direct causal link with the injuries, lasted not less than six days and not more than 21 days. The scratches on the right cheek, right shoulder joint, chest, right knee joint and right thigh were inflicted by blunt firm objects and did not, taken together and separately, contain features amounting to minor harm to health. The cut wound on the right arm was inflicted by a sharp cutting instrument, which caused minor injury to health, with a short duration which, taking into account the duration of consequences having a direct causal link with the injuries, lasted not less than six days and not more than 21 days. Numerous fractures on two sides of the ribs, inflicted by blunt firm objects and accompanied by a chest deformation, caused grievous bodily harm dangerous to life. Bone fractures on the radius and the ulna were inflicted by blunt firm objects and caused harm to health of medium gravity, with a lasting deterioration of health which, taking into account the immediate link with the injuries, lasted more than 21 days. The bullet which went through the right arm caused an open multi-fragmental fracture of the arm bone and was a result of a shot from a firearm loaded with a bullet, which is evidenced by the wounds, which have turned into scars, on the front and back surfaces of the arm and which caused grievous bodily harm dangerous to life. Having regard to the surgical treatment of the wounds to the arm as well as the absence of medical documents, it is not possible to determine the location of the entrance and exit holes of the shot or the direction and the distance of the shot. There are no signs of sexual acts in the anus, and there are no marks of sperm in the swab examination of the anus, but the absence of the latter does not rule out the possibility of sexual acts in the anus.”

13. A chemical forensic examination was also undertaken. Presented in a report of 7 April 2014, the examination showed the existence of petroleum and the psychotropic medicine Apaurin in Mr Khojuyan’s blood and urine.

14. Mr Khojuyan was discharged from hospital on 3 April 2014 and died in his home on 20 May 2014.

15. A post-mortem forensic report of 17 June 2014 confirmed the description of injuries given in the report of 27 March. According to the report, those injuries and the petroleum and Apaurin detected in Mr Khojuyan’s blood and urine were not in direct causal link to his death. The cause of death was, according to the report, a general intoxication of the organism; it was stated that Mr Khojuyan had suffered from a number of injuries and diseases during his life which had all resulted in his death and were in direct causal link with it.

16. By a decision of 4 July 2014 the criminal investigation was suspended, as there was no possibility to conduct any investigation on the territory of Azerbaijan.

17. The applicants submitted psychologists’ statements of 26 July 2016 on the consequences for the applicants of the events relating to their father, concluding that they had experienced deep distress, anguish and depression and other psychological problems. The statements also record that the first

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and second applicants had expressed that their father had had mental health problems for three years before his capture in Azerbaijan.

III. FACTS AS SUBMITTED BY THE RESPONDENT GOVERNMENT

18. The respondent Government claimed that Mr Khojoyan illegally crossed the border to Azerbaijan before he was captured. Trying to flee, he was wounded and captured by the Azerbaijani armed forces. He was brought to the medical division of the local military unit where he received medical assistance. On the following day, 29 January 2014, he was transferred to the main clinical hospital of the armed forces in Baku where he had radiographic and orthopaedic examinations which showed that he had a wound on his right arm from a bullet that had pierced the bone but did not reveal any other physical anomalies. The bullet was then surgically removed. Blood and biochemical tests, electrocardiogram and an examination of possible infectious diseases were also administered on 29 and 30 January. According to Mr Khojoyan's medical journal, he received, following the initial examinations and surgery, periodical medical examinations and treatment every 2-7 days, which were not limited to follow-up of the arm injury, but included other assessments of his health situation. Furthermore, the ICRC reportedly made regular visits to the applicant and supervised his conditions of detention. The Government rejected the applicants' claim that Mr Khojoyan had been ill-treated during his detention and also sent to the Court two video recordings that they stated "related to the treatment of the applicant's relative".

19. Allegedly, the applicant was detained as a member of the Armenian armed forces and a saboteur. He was held as a prisoner of war pursuant to the 1949 Geneva Convention relative to the Treatment of Prisoners of War and his release came about as part of an exchange of prisoners of war between Azerbaijan and Armenia.

IV. FACTS AS SUBMITTED BY THE ARMENIAN GOVERNMENT, THIRD-PARTY INTERVENER

20. Referring to an article published on 28 January 2014 by Azerbaijani news website Haqqin.az, the Armenian Government submitted that the Head of the Azerbaijani State Commission for Prisoners of War, Hostages and Missing Persons had stated that Mr Khojoyan had been captured in the village of Alibeyli in the Tovuz province of Azerbaijan and transferred to the armed forces. He was described as a civilian. However, according to the article, local residents had stated that he had been armed.

THE LAW

21. The applicants complained under Articles 2, 3, 5, 13 and 14 of the Convention. They alleged, in particular, that their father had been subjected to ill-treatment, physical violence and drug injections which had posed a danger to his life and which had not been investigated, that he had been unlawfully deprived of his liberty, that they had not had an effective legal remedy and that the alleged violations had occurred as a result of discrimination based on ethnic origin.

I. PRELIMINARY ISSUE: THE COURT'S JURISDICTION

A. The parties' and third-party's submissions

22. The Azerbaijani Government maintained that the applicants' father was captured as a member of the Armenian armed forces and, as military captives on both sides, should be considered as a prisoner of war. The 1994 ceasefire agreement between Armenia and Azerbaijan could not be considered a peace agreement. Furthermore, the relations between the countries were tense, borders were closed and frequent armed incidents occurred. Consequently, the events complained of were to be examined under international humanitarian law and the applicants – and their father while in detention – should have addressed the ICRC which has a specific mandate under the Geneva Conventions of 12 August 1949. As the present application belonged to the sphere of international humanitarian law, it could not be the subject of the Court's jurisdiction.

23. The applicants submitted that their father was a civilian and not involved in any capacity in the conflict between Armenia and Azerbaijan. He was not the guide of a saboteur group or armed when he was captured. The Azerbaijani Government had not produced any evidence supporting their contentions. The applicants further pointed out that, even in international armed conflicts, the Convention continued to apply. While the ICRC had been given a mandate to act in armed conflicts, it did not have the authority or the capacity to provide a remedy to deal with complaints such as those raised by the applicants.

24. The Armenian Government, third-party intervener, submitted that there was no armed conflict taking place when the applicant was captured by Azerbaijani forces. It is the situation on the ground that determines whether there is an armed conflict and thus whether a captive could be considered a prisoner of war. Furthermore, Mr Khojoyan was a 77-year-old man with memory problems. Shortly before his disappearance, fellow villagers had met him and had been told that he was going to collect grapes. The first video appearing online after his capture in Azerbaijan showed that he was surrounded by civilians. Thus, the claims by the respondent

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Government that he was a member of the armed forces and a saboteur, that he had a gun or other weapon on him and that he should be considered a prisoner of war were completely groundless and unsubstantiated. In any event, the application of international humanitarian law never excluded the parallel application of human rights law and, in the instant case, priority should be given to the latter, more specifically the norms of the Convention.

B. The Court's assessment

25. The Court notes that it has already examined and dismissed similar objections by the respondent Government in *Saribekyan and Balyan v. Azerbaijan* (no. 35746/11, §§ 36-41, 30 January 2020). It considers that the present case does not disclose a material difference and sees no reason to decide otherwise. The respondent Government's objection must therefore be rejected.

II. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION**A. Admissibility***1. The parties' and third-party's submissions*

26. The Azerbaijani Government asserted that the applicants had the right to challenge in the Azerbaijani courts the procedural acts and decisions of the prosecuting authority. However, neither they nor the Armenian authorities had complained about the alleged violations of rights or even attempted to address the Azerbaijani authorities after the detention, not even through diplomatic channels. The applicants had thus failed to exhaust effective remedies. Furthermore, the Azerbaijani Government submitted that Article 2 of the Convention did not apply to the applicants' father and no causal link had been demonstrated to suggest that he had been killed or led to certain death. The Azerbaijani Government also objected to the admissibility of the application in so far as concerned Ms Tehmina Khojoyan's intention to pursue the application following Mr Haykaz Khojoyan's death. They argued that individuals bringing applications before the Court had to be able to show that they were "directly affected" by the measure complained of and that, having regard to the fact that Mr Haykaz Khojoyan and his siblings themselves were next of kin who had introduced an application raising complaints related to the death of their relative, their children, grandchildren of Mr Mamikon Khojoyan, which included Ms Tehmine Khojovan, did not have a sufficient link with the deceased to be considered victim in the present case.

27. The applicants maintained that there were no remedies available to them within the jurisdiction of Azerbaijan. They asserted that neither they nor their father had been informed of the existence of any procedural act or

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decision to challenge or of any procedure for pursuing a case in Azerbaijan, either at the time of the events in the case or during the proceedings before the Court. In this context, they pointed out that, after the respondent Government had referred to a criminal investigation concerning Mr Khojuyan in their original observations, the Government had stated, after having been requested by the Court to submit the materials of that investigation, that that reference had been included through a technical mistake, as there had not been any investigation. Furthermore, the applicants claimed that the use of any diplomatic channels could not be considered a remedy under Article 35 of the Convention and that, in any event, they were not available in the context of Azerbaijan and Armenia, the latter being shown by the past refusal of Azerbaijani authorities to respond to Armenian requests under the Commonwealth of Independent States (CIS) Convention of 22 January 1993 on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases. As has been mentioned above (see paragraph 23), the applicants also stated that the ICRC could not provide a domestic remedy under Article 35. They generally referred to the Court's conclusions in the cases of *Akdivar and Others v. Turkey* (16 September 1996, §§ 66-69, *Reports of Judgments and Decisions* 1996-IV) and *Sargsyan v. Azerbaijan* ([GC], no. 40167/06, § 117, ECHR 2015). Furthermore, the applicants submitted that owing to the risk at which their father's life had been put, Article 2 of the Convention was applicable in the case. In addition, the applicants maintained that Mr Haykaz Khojuyan's children had a legitimate interest in continuing to pursue his case and requested that his daughter, Tehmina Khojuyan, be permitted to do so.

28. Agreeing with the applicants, the Armenian Government submitted that the ICRC did not have a mandate to provide a remedy for the applicants. In this respect, the Armenian Government pointed out that the respondent Government had not provided any documentation on ICRC visits to the applicants' father. Moreover, due to the unresolved conflict between Armenia and Azerbaijan, there were obstacles of a practical and diplomatic nature for Armenians to gain access to any remedy in Azerbaijan, let alone an effective one. The respondent Government had not specified any domestic authority that could have been addressed or any proceedings that could have been initiated in the applicant's case. They had also failed to show that any investigation had been conducted in Azerbaijan and could not therefore claim that the applicants should have challenged the procedural acts and decisions of the prosecuting authority. Referring to the case of *Saribekyan and Balyan*, cited above, §§ 21, 27, 28 and 73, the Armenian Government further pointed out that, as that case showed, a request by the Armenian Prosecutor-General to the same official in Azerbaijan under the above-mentioned CIS Convention (see paragraph 27) would not have been an effective remedy as the request would have remained unanswered. Relevant to the question of the admissibility of

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Article 2 of the Convention, the Armenian Government submitted that Mr Khojuyan had been injected with substances and imposed injuries which, together with diseases from which he suffered, had led to his death.

2. *The Court's assessment*

(a) Exhaustion of domestic remedies

29. As concerns the respondent Government's objection to the admissibility of the application on the grounds that domestic remedies have not been exhausted as required by Article 35 of the Convention, the Court notes that it has already examined and dismissed similar objections by the respondent Government in *Saribekyan and Balyan*, cited above, §§ 36-41. It considers that the present case does not disclose a material difference and sees no reason to decide otherwise. The respondent Government's objection must therefore be rejected.

(b) The three original applicants' standing to lodge the application

30. Furthermore, the Court observes that the respondent Government have not objected to the applicants' standing to lodge the application. It considers however that it must *ex officio* assess the issue of compatibility *ratione personae* (see, for example, *Sejdić and Finci v. Bosnia and Herzegovina* [GC], nos. 27996/06 and 34836/06, § 27, ECHR 2009). In that context, the Court observes that, in so far as Mr Khojuyan survived his detention (see paragraph 34 below), the complaint lodged under Article 2 of the Convention resembles the complaints relating to ill-treatment under Article 3. As concerns the latter, the Court reiterates that due to the strictly personal nature of the right under Article 3 of the Convention, applicants who complain about treatment concerning exclusively their late relative must show a strong moral interest, besides the mere pecuniary interest in the outcome of the domestic proceedings, or other compelling reasons, such as an important general interest which requires their case to be examined (see, for example, *Kaburov v. Bulgaria* (dec.), no. 9035/06, § 57, 19 June 2012).

31. In the instant case, the Court finds that regard must be had to the applicants' father having died two and a half months after the events complained of (contrast, for example, *Selami and Others v. the former Yugoslav Republic of Macedonia*, no. 78241/13, §§ 55 and 62, 1 March 2018, where over eight years had passed). Moreover, he was hospitalised immediately after the handover and died one and a half months after his discharge from hospital. In addition, the Court notes that the applicants' submissions about his severe health condition, which entailed, *inter alia*, clouded consciousness and inability to communicate (see paragraph 10 above) have not been contested, which would indicate that he was effectively precluded from lodging an application with the Court himself.

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32. On the basis of the foregoing considerations, the fact that Mr Mamikon Khojoyan did not submit an application himself cannot be held against the applicants. The Court accordingly considers that Ms Hasmik Khojoyan, Mr Haykaz Khojoyan and Ms Heghine Vardazaryan had the requisite legal interest as next of kin to introduce an application raising complaints related to their father's life allegedly having been put at risk.

(c) Ms Tehmina Khojoyan's pursuance of the application

33. As concerns Mr Haykaz Khojoyan's daughter, Ms Tehmina Khojoyan, the Court – noting that the assessment of who may continue an application following an applicant's death does not coincide with the assessment of who may apply to the Court in the first place (see, for example, *Hristozov and Others v. Bulgaria*, nos. 47039/11 and 358/12, § 73, ECHR 2012 (extracts)) – considers that she, as his heir and close relative, has a legitimate interest in pursuing the application in his place following his death in 2019, even though Mr Haykaz Khojoyan was already an “indirect” victim with regard to the complaint under Article 2 of the Convention. The Court accordingly rejects the respondent Government's objection to her pursuing the application on the ground that she does not hold “victim” status pursuant to Articles 34 and 35 of the Convention and does not find, either, that there are grounds for striking out the application in accordance with Article 37.

(d) Applicability of Article 2 of the Convention

34. With regard to the applicability of Article 2 of the Convention, the Court reiterates that that provision also comes into play in situations where the person concerned was the victim of an activity or conduct, whether public or private, which by its nature put his or her life at real and imminent risk and he or she has suffered injuries that appear life-threatening as they occur, even though he or she ultimately survived (see, for example, *Makaratzis v. Greece* [GC], no. 50385/99, §§ 49 and 54, ECHR 2004-XI; and *Tërshana v. Albania*, no. 48756/14, § 132, 4 August 2020). In the instant case, the Court takes note that medical examinations upon Mr Khojoyan's release revealed multiple injuries to his head, ribs, arms and other parts of his body (see paragraph 11 above). The report of the forensic medical experts of 27 March 2014 later pointed out a large number of serious injuries, including contusions on the head and fractures on the ribs inflicted by blunt firm objects, and injuries from a shot to Mr Khojoyan's arm, which the experts concluded had caused “grievous bodily harm dangerous to life” (see paragraph 12 above). The Court notes that the report was supported by photos to show the injuries. The chemical forensic examination showed the existence of petroleum and a psychotropic

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medicine in Mr Khojoyan's blood and urine (see paragraph 13 above). On the basis of the said medical evidence, in the context of its examination of the admissibility of the complaint, the Court considers that the life of Mr Khojoyan, at the time a 77-year old man, had been put at serious and imminent risk allegedly through actions imputable to the respondent Government and that Article 2 is accordingly applicable, even though his injuries did not lead to his immediate death. Whether the respondent Government is responsible for Mr Khojoyan's life having been put at that risk, is a matter which belongs to the merits.

(e) Conclusion

35. Lastly, the Court considers, in the light of the parties' submissions, that this complaint raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court concludes therefore that it is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention.

B. Merits

1. The parties' and third-party's submissions

36. The applicants submitted that potentially lethal force had been used against their father and that he had been subjected to other physical injuries of a gravity to threaten his life, in violation of Article 2 of the Convention. The applicants also maintained that there had been a breach of the procedural limb of Article 2 in so far as the respondent Government had not investigated Mr Khojoyan's death. Article 2 reads as follows:

“1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

(a) in defence of any person from unlawful violence;

(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(c) in action lawfully taken for the purpose of quelling a riot or insurrection.”

37. The respondent Government submitted that nothing suggested that the applicant's father had been killed by the respondent State or its agents. They also maintained that the authorities of the respondent State had not been in any position to initiate any investigation into the death of the applicant's father in his home almost three months after he had been handed over.

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38. The Armenian Government, third-party intervener, concurred with the applicant's submissions and submitted that although their father had not directly been killed by State agents of the respondent Government, he had been injected with substances and imposed injuries that, together with diseases he suffered from, had led to his death.

2. *The Court's assessment*

39. The general principles regarding the right to life under Article 2 of the Convention can be found in, among many other authorities, *Salman v. Turkey* [GC], no. 21986/93, §§ 97-100, ECHR 2000-VII; and *Aktaş v. Turkey*, 24351/94, §§ 289-291, 24 April 2003. The general principles concerning the requirement of an effective official investigation when someone has died in suspicious circumstances can be found in, for example, *Iorga v. Moldova*, no. 12219/05, § 26, 23 March 2010, with further references; *Šilih v. Slovenia* [GC], no. 71463/01, §§ 154 and 158, 9 April 2009; and *Tahsin Acar v. Turkey* [GC], no. 26307/95, §§ 221-223 and 225, ECHR 2004-III, with further references. Furthermore, the Court refers to its case-law concerning the applicability of Article 2 and, accordingly, the said general principles, to cases where the individual survived, cited above (see paragraph 34).

40. As regards the burden of proof, the Court points out that it follows from the general principles referred to in the preceding paragraph that, while it generally requires proof "beyond reasonable doubt", in situations where knowledge of the events in issue lie wholly, or in large part, with the authorities, as in the case of persons in detention, strong presumptions of fact will arise in respect of injuries and death occurring during that detention. It is then for the respondent Government to provide a satisfactory and convincing explanation.

41. Turning to the facts of the case, it is undisputed that Mr Khojoyan was in captivity in the respondent State from 28 January 2014 to 4 March 2014 (see paragraphs 4-5 above). As to his state of health before his capture there were no indications of physical injuries when he left from his home, as would also appear to be confirmed by the video of 28 January 2014 (see paragraph 9 above).

42. There is disagreement among the parties about what happened on the day when Mr Khojoyan was captured and the parties have also adduced different contradictory medical reports in order to shed light on the circumstances of his detention.

43. Both parties have adduced materials that show that a gunshot wound had been inflicted on one of Mr Khojoyan's arms (see paragraphs 12 and 18 above). While it is undisputed that he had been shot by Azerbaijani forces, the respondent Government's position was that that happened at a moment when he had tried to flee.

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44. However, the Court considers that the evidence before it and, notably, the video of 28 January 2014, on which no gunshot wound is visible on Mr Khojuyan, appears sufficient to exclude the possibility that he had been shot before the filming of that video and, therefore, before his capture. The Court notes that the respondent Government have not contested the veracity of the video or otherwise commented on it. While the Court cannot exclude that Mr Khojuyan tried to flee at some point after that and that the potentially lethal force that led to the gunshot wound was considered by the Azerbaijani forces to be necessary to recapture him, it nevertheless finds that the account of these events provided by the respondent Government is too general and lacks important details. In particular, there is no explanation as to how Mr Khojuyan managed to attempt an escape after having been captured and why it was considered necessary to use firearms to prevent a 77-year old man from fleeing.

45. The Court therefore finds that the respondent Government have not provided a plausible explanation about the circumstances in which Mr Khojuyan was shot in the arm. In that connection the Court also observes, firstly, that the gunshot wound was described as “grievous bodily harm dangerous to life” in the report of 27 March 2014 (see paragraph 12 above) and bears in mind that it has on several occasions emphasised that events that are potentially lethal and put applicants’ lives at risk may raise issues under Article 2 of the Convention (see, for example, *Alkan v. Turkey*, no. 75588/01, § 29, 13 October 2009; and *Kotelnikov v. Russia*, no. 45104/05, § 98, 12 July 2016). In addition, as the applicants’ father in the instant case had been shot at, the general risk involved in the use of firearms must in this case also be taken into account (see, for example, *mutatis mutandis, Cangöz and Others v. Turkey*, no. 7469/06, § 106, 26 April 2016). The failure by the respondent Government to furnish a plausible explanation about the gunshot wound and the use of firearms is therefore also a relevant element to be taken into consideration.

46. The applicants have also adduced documents to show that the medical examinations immediately after the handover revealed multiple other injuries to Mr Khojuyan’s head, ribs, arms and other parts of his body (see paragraph 11 above). In the forensic report of 27 March 2014, it was similarly stated that a large number of wounds had been observed. It was also concluded that several of the injuries had been inflicted by blunt, firm, objects (see paragraph 12 above). Moreover, the applicants have adduced the report of a chemical forensic examination, dated 7 April 2014, according to which petroleum and Apaurin had been found in Mr Khojuyan’s blood and urine (see paragraph 13 above). In the post-mortem forensic report of 17 June 2014 it was stated that Mr Khojuyan had suffered from a number of injuries and diseases during his life which, taken together, had led to his death. The cause of death was, according to the report, a general intoxication of the organism (see paragraph 15 above).

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47. The respondent Government have adduced documents to show that surgery was carried out in respect of the gunshot wound and that blood and biochemical tests, electrocardiogram and an examination of possible infectious diseases were also made, and that Mr Khojuyan thereafter was attended to through periodical medical examinations and treatment until the day before his release (see paragraph 18 above).

48. The Court takes particular note that the medical evidence presented by the applicants was supplemented with photographs showing Mr Khojuyan's state at the time of his release, and which substantiate their claim that he suffered from multiple injuries to different parts of his body when he was released from detention. It considers that these injuries must have been visible to the Azerbaijani authorities, including those who conducted the handing over of 4 March 2014. Against this background, the lack of investigations by Azerbaijani authorities (see paragraphs 50-54 below) regarding the origin of these injuries gives cause for concern. The Court also notes that the submissions of the respondent Government in respect of the medical evidence presented by the applicants have been very brief. They have not commented on the substance of any of the medical documents, including the conclusion drawn by the forensic medical experts that many of the serious injuries they identified had been inflicted by "blunt, firm, objects" (see paragraph 12 above).

49. The Court infers from the respondent Government's lack of providing any reasonable explanations, that there are merits to the applicants' allegations that Mr Khojuyan's injuries had been inflicted on him while in detention and further refers to its above finding that the injuries – which included multiple injuries to his head, ribs, arms and other parts of his body – had posed a serious and imminent risk to his life (see paragraph 34). It therefore concludes that there has been a violation of Article 2 of the Convention in its substantive limb.

50. As regards the complaint regarding the procedural limb of that provision, in so far as Mr Khojuyan died in Armenia, around two and a half months after he had been returned from the respondent State, and after he had been hospitalised in Armenia, the Court does not find that liability can be allocated to the respondent State on account of it not having instituted *ex officio* an investigation into Mr Khojuyan's death in May 2014. In the instant case, there are also no grounds for allocating liability to the authorities of the respondent State on the basis of any failure in response to a request for assistance to investigation (see, *mutatis mutandis*, *Güzelyurtlu and Others v. Cyprus and Turkey* [GC], no. 36925, § 236, 29 January 2019).

51. The Court considers, however, that the treatment of Mr Khojuyan while in detention was dangerous by its very nature and put him at real and imminent risk, and that the risk appeared real and imminent and his injuries appeared life-threatening when they occurred. When such a matter comes to the attention of the authorities, this imposes on the State *ipso facto* an

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obligation under Article 2 to carry out an effective investigation (see, for example, *Nicolae Virgiliu Tănase v. Romania* [GC], no. 41720/13, § 145, 25 June 2019).

52. In this case, referring in particular to the medical reports concerning Mr Khojoyan's health at the time of release and its above conclusions with regard to the substantive limb of Article 2 (see paragraphs 46 and 48), the Court finds that the authorities of the respondent State should have undertaken an investigation as there were sufficiently clear indications that Mr Khojoyan's life had been put at risk during his detention.

53. The Court also takes into account that Mr Khojoyan was an Armenian citizen who was detained on the ground that he was a member of an armed group/a "saboteur". In this connection, the Court cannot overlook the general context of hostility and tension between Azerbaijan and Armenia (see, for example, *Saribekyan and Balyan*, cited above, §§ 39-40). In the Court's view, these circumstances also indicated that an investigation should have been carried out by the authorities of the respondent State on their own motion, including as to whether ethnic hatred had played a role in the treatment of Mr Khojoyan which had put his life at risk (see, *mutatis mutandis*, *Saribekyan and Balyan*, cited above, §§ 72 and 86).

54. The Court accordingly finds that there has been a violation of Article 2 of the Convention also in its procedural limb.

III. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION IN RESPECT OF MR KHOJOYAN

A. Admissibility

55. The Azerbaijani Government's objections to the admissibility of the application on the grounds that domestic remedies had not been exhausted and that Ms Tehmina Khojoyan had no right to pursue the application following Mr Haykaz Khojoyan's death extended also to the complaint under Article 3 of the Convention regarding Mr Khojoyan. The applicants and the Armenian Government, third-party intervener, made the same submissions as they had made with regard to Article 2.

56. The Court finds that its reasoning on the admissibility of the complaint under Article 2 of the Convention with regard to the requirement of exhaustion of domestic remedies; with regard to the three original applicants' standing; with regard to Ms Tehmina Khojoyan's intention to pursue the application; and with regard to it not being manifestly ill-founded, applies equally to the complaint under Article 3 regarding Mr Khojoyan (see paragraphs 29-33 and 35 above) and that the latter complaint is accordingly admissible.

B. Merits

1. *The parties' and third-party's submissions*

57. The applicants submitted that their father had been subjected to torture being under exclusive control of the respondent Government and by the latter's agents by injuring him with a firearm, inflicting severe pain on his body and suffering on him and causing him multiple injuries to various parts of his body during his detention, detaining him in inhuman conditions, and failing to provide necessary and qualified medical assistance. They relied on Article 3 of the Convention, which reads as follows:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

58. The applicants also submitted that there had been a breach of the procedural limb of Article 3 in so far as there had been no investigation into the circumstances of the alleged ill-treatment of their father.

59. The respondent Government denied any allegations of ill-treatment conducted in respect of the applicants' father. They emphasised that the ICRC had conducted regular visits and that information about his injuries and medical treatment had immediately been given to the public and the ICRC. There had been no investigation as there had been no allegations of ill-treatment while Mr Khojoyan had been in detention.

60. The Armenian Government, third-party intervener, concurred with the submissions of the applicants and submitted that it had been established beyond reasonable doubt that Mr Khojoyan had been tortured.

2. *The Court's assessment*

61. The Court has set out the general principles regarding Article 3 of the Convention in, *inter alia*, *Ireland v. the United Kingdom*, 18 January 1978, §§ 162-163, Series A no. 25; *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, §§ 139-42, 10 January 2012; *Idalov v. Russia* [GC], no. 5826/03, §§ 91-95, 22 May 2012; *Georgia v. Russia (I)* [GC], no. 13255/07, § 192, ECHR 2014, and recently reiterated them in *Georgia v. Russia (II)* [GC], no. 38263/08, § 240, 21 January 2021.

62. Furthermore, the general principles in respect of the standard and burden of proof relating to allegations of ill-treatment contrary to Article 3 of the Convention may be found in, among other authorities, *Bouyid v. Belgium* [GC], no. 23380/09, §§ 82-83, ECHR 2015).

63. In the instant case, the Court has found above that the respondent Government have not convincingly accounted for the circumstances relating to Mr Khojoyan's detention. It has in that context examined the evidence adduced by the parties concerning the circumstances of Mr Khojoyan's captivity, in particular the medical documents (see paragraphs 46-48 above), and considers that the applicants by virtue of it have established a *prima*

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facie case also that Mr Khojoyan was ill-treated during his time in the respondent State's captivity. The Court has also in that connection taken particular note of the findings in the report 27 March 2014 to the effect that multiple injuries had been inflicted on Mr Khojoyan's head, ribs, arms and other parts of his body (see paragraph 11 above) and also the conclusion that several of the injuries had been inflicted by blunt, firm, objects (see paragraph 12 above). In the Court's assessment the respondent Government have not either with regard to the complaint under Article 3 of the Convention by way of their response provided a satisfactory and convincing explanation. They have not produced evidence establishing facts which cast doubt on the account of events given by the applicants as concerns the treatment of Mr Khojoyan and the Court infers from that failure that there are merits to the applicants' allegations to the effect that he suffered ill-treatment during his captivity.

64. As to whether the treatment of Mr Khojoyan amounted to torture, as also alleged by the applicants, the Court must have regard to the distinction embodied in Article 3 of the Convention between this notion and that of inhuman or degrading treatment. Thus, it must ascertain whether a special stigma to deliberate inhuman treatment causing very serious and cruel suffering can be attached to the conduct of authorities (see, among other authorities, *Ilaşcu and Others v. Moldova and Russia* [GC], no. 48787/99, § 426, ECHR 2004-VII). The "severity" of treatment is, like the "minimum severity" required for the application of Article 3, relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical or mental effects and, in some cases, the sex, age and state of health of the victim (see, among other authorities, *Selmouni v. France* [GC], no. 25803/94, § 100, ECHR 1999-V). Keeping in mind these criteria, and taking into account the facts that have led the Court to conclude that Article 2 was violated (see, in particular, paragraphs 43-49 above), the Court finds that the ill-treatment to which Mr Khojoyan, at the time a 77 year-old man, was subjected during his captivity from 28 January to 4 March 2014, amounted to torture.

65. As to the applicants' complaint concerning the failure to investigate the torture of Mr Khojoyan, the Court notes that the substance of that complaint has been examined by the Court under the procedural aspect of Article 2 of the Convention (see paragraphs 51-52 above).

66. The Court does not therefore consider it necessary to make a separate finding under Article 3 of the Convention concerning the lack of investigation into Mr Khojoyan's torture.

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IV. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION IN RESPECT OF THE APPLICANTS PERSONALLY

A. Admissibility

67. The respondent Government's objection to the admissibility of the application on the grounds that domestic remedies had not been exhausted as required by Article 35 of the Convention included the applicants' complaint under Article 3 in respect of them personally. As did their objection to Ms Tehmina Khojuyan's intention to pursue the application in the late Mr Haykaz Khojuyan's stead.

68. The Court finds that its reasoning on the admissibility of the complaints under Articles 2 and 3 of the Convention in respect of Mr Khojuyan with regard to the requirement of exhaustion of domestic remedies; with regard to Ms Tehmina Khojuyan's intention to pursue the application; and with regard to it not being manifestly ill-founded, also applies to the complaint under Article 3 in respect of the applicants personally (see paragraphs 29, 33, 35 and 56 above) and that the latter is accordingly admissible.

B. Merits*1. The parties' and third-party's submissions*

69. The applicants argued that there had been a violation in respect of them personally as they had been deprived of information about their father, while at the same time they had witnessed his injuries and state of health by way of reports on television and the Internet.

70. The respondent Government denied any allegations of ill-treatment conducted in respect of the applicants' father. They emphasised that the ICRC had conducted regular visits and that information about his injuries and medical treatment had immediately been given to the public and the ICRC. There had been no investigation as there had been no allegations of ill-treatment while Mr Khojuyan had been in detention.

71. The Armenian Government, third-party intervener, submitted that the applicants had suffered mental pain and anguish when seeing their father with one hand in gypsum and one eye in blood, before later having become even more distressed and harmed by the severity of the treatment to which he had been subjected.

2. The Court's assessment

72. As concerns the Court's case-law with regard to mental suffering of a victim's relatives, it refers to *Janowiec and Others v. Russia* [GC], nos. 55508/07 and 29520/09, § 177, ECHR 2013; and *Bitiyeva and Others v. Russia*, no. 36156/04, § 105, 23 April 2009, with further references.

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73. With regard to the facts of this case, the Court notes that information about Mr Khojoyan's captivity emerged on the same day as he disappeared (see paragraph 4 above). The Court does not call into question the hardship of the applicants when they learned of their father's captivity and in the light of the information dispersed by television and the Internet. Nor does the Court doubt the suffering relating to Mr Khojoyan's detention's not having been investigated by the respondent State or relating to his health subsequent to his release.

74. At the same time the Court observes that the applicants were not witnesses as such, and that the other aspects of their own claim under Article 3 of the Convention largely relate to the same aspects that have led the Court to conclude that there were violations of Articles 2 and 3 in respect of Mr Khojoyan's rights under those provisions, including that no investigation of how he had been treated was carried out (see paragraphs 48 and 50-54 above). In accordance with its case-law on such claims (see for example, *Saribekyan and Balyan*, cited above, § 90) it thus considers that there is no sufficiently special feature in the case which gives the suffering of the applicants a dimension and character distinct from the emotional distress which may be regarded as inevitably caused to relatives of a victim of a serious human rights violation.

75. For the above reasons, the Court concludes that there has been no violation of Article 3 of the Convention in respect of the applicants personally.

V. ALLEGED VIOLATION OF ARTICLE 5 OF THE CONVENTION

A. Admissibility

76. The Court reiterates at the outset that the rights enshrined in Article 5 of the Convention belong to the category of non-transferable rights. However, a next of kin might exceptionally have standing to lodge a complaint under Article 5 § 1 if connected to a complaint under Article 2 relating to the victim's death or disappearance engaging the State's liability (see, for example, *Khayrullina v. Russia*, no. 29729/09, § 91, 19 December 2017). In the circumstances of the instant case, taking note that the complaints under Article 2, 3 and 5 of the Convention are interlinked and given the particular circumstances of the case that have led the Court to conclude that the applicants had standing to lodge the complaints under Articles 2 and 3 with regard to Mr Khojoyan (see paragraphs 31 and 56 above), the Court concludes that the applicants had standing to lodge a complaint also under Article 5. As concerns Ms Tehmina Khojoyan's intention to pursue the application lodged by Mr Haykaz Khojoyan, the Court refers to its reasoning above (see paragraphs 33, 56 and 68), which it finds applies also to this complaint.

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77. The respondent Government's objection to the admissibility of the application on the grounds that domestic remedies had not been exhausted as required by Article 35 of the Convention included the applicants' complaint under Article 5. On the same grounds as provided in respect of the complaints under Articles 2 and 3 (see paragraphs 29, 56 and 68 above) and noting, in addition, that the respondent Government have not presented any decision ordering Mr Khojuyan's detention against which he could have appealed, the Court rejects the objection with regard to the complaint under Article 5.

78. Lastly, the Court considers that this complaint is not, either, manifestly ill-founded or inadmissible for any other reason (see paragraphs 35, 56 and 68 above).

B. Merits*1. The parties' and third-party's submissions*

79. The applicants maintained that the deprivation of Mr Khojuyan's liberty had not fallen within any of the sub-paragraphs of Article 5 § 1 of the Convention, nor had he been afforded the procedural guarantees as set out in paragraph 2 and 3 of that provision, which in so far as relevant, reads as follows:

"1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

(a) the lawful detention of a person after conviction by a competent court;

(b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

(d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;

(e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;

(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other

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officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial. ...”

80. The respondent Government submitted that the applicants’ father had been detained as a prisoner of war and held according to the 1949 Geneva Convention on prisoners of war. They submitted that the applicants’ claim that Mr Khojuyan had lost his way while looking for grapes in the area at the border with the State with which military conflict had occurred, was highly doubtful.

81. The Armenian Government, third-party intervener, concurred with the applicants’ submissions and submitted that the respondent Government had not disputed that Mr Khojuyan had been deprived of his liberty or produced any evidence of him having been afforded his procedural rights in that connection.

2. The Court’s assessment

82. As to general principles, the relevant passage from *El-Masri*, cited above, § 241, reads as follows:

“230. The Court notes at the outset the fundamental importance of the guarantees contained in Article 5 for securing the right of individuals in a democracy to be free from arbitrary detention at the hands of the authorities. It is for that reason that the Court has repeatedly stressed in its case-law that any deprivation of liberty must not only have been effected in conformity with the substantive and procedural rules of national law but must equally be in keeping with the very purpose of Article 5, namely to protect the individual from arbitrariness (see *Chahal*, cited above, § 118). This insistence on the protection of the individual against any abuse of power is illustrated by the fact that Article 5 § 1 circumscribes the circumstances in which individuals may be lawfully deprived of their liberty, it being stressed that these circumstances must be given a narrow interpretation having regard to the fact that they constitute exceptions to a most basic guarantee of individual freedom (see *Quinn v. France*, 22 March 1995, § 42, Series A no. 311).”

83. In applying those principles to the facts of this case, the Court notes that the respondent Government have not put forward any materials or concrete information to show that Mr Khojuyan was to be regarded as a prisoner of war. It is also for that reason that the Court above has dismissed the respondent Government’s argument that the Convention as a whole is inapplicable (see paragraphs 22 and 25). No other arguments have been advanced to the effect that Article 5 of the Convention does not apply to the case in respect of Mr Khojuyan, and the respondent Government have not argued that his detention was in conformity with any of the sub-paragraphs in Article 5 § 1 or that Mr Khojuyan was afforded any of the procedural guarantees in the following paragraphs. Nor have they adduced any decision ordering Mr Khojuyan’s detention that could have been appealed against. In the circumstances of the instant case, the foregoing observations suffice for the Court to conclude that there has been a violation of that provision, too.

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VI. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

84. The applicants submitted that they had not been given at their disposal any domestic remedy for their complaints under Articles 2, 3 and 5 of the Convention, contrary to Article 13, and that they and their father had suffered discrimination in the enjoyment of their rights under Articles 2, 3 and 5 of the Convention on the ground of their Armenian origin, contrary to Article 14.

85. The Court notes that the complaints under Articles 13 and 14 of the Convention are based on the same facts as those under Articles 2, 3 and 5. Moreover, the Court has regard to the reasoning which led it to find violations of Articles 2 – in its substantive as well as procedural aspects – and 3, notably that the respondent Government had not discharged their burden of proof with regard to the applicants' allegations that Mr Khojayan had been subjected to ill-treatment which had amounted to torture and had put his life at immediate risk, and that the respondent State's authorities did not carry out any investigation in respect of Mr Khojayan's treatment while in captivity, notwithstanding that the situation so required (see paragraphs 41-54 and 63-66 above). Moreover, the Court bears in mind its having taken into account the general context of hostility and tension between Azerbaijan and Armenia as part of that reasoning (see paragraph 53 above). Against that background, the Court considers that it has examined the main questions raised in the present application and that there is no need to give a separate ruling on the admissibility and merits of the remaining complaints (see, for instance, *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 158, ECHR 2014).

VII. APPLICATION OF ARTICLE 41 OF THE CONVENTION

86. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

87. The applicants claimed non-pecuniary damage fixed at the Court's discretion.

88. The respondent Government submitted that the applicants' father had deliberately crossed the border into Azerbaijan and known that he was facing the risk of being captured. Moreover, they reiterated that they could not bear any responsibilities for his later death in Armenia. Therefore, they considered that a finding of a violation would constitute sufficient

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reparation in respect of any non-pecuniary damage allegedly suffered by the applicants.

89. Having regard to its finding of violations of Articles 2, 3 and 5 of the Convention and ruling on an equitable basis, the Court awards EUR 40,000 in compensation for non-pecuniary damage jointly to Ms Hasmik Khojyan, Ms Heghine Vardazaryan and Ms Tehmina Khojyan, who pursued the application lodged by Mr Haykaz Khojyan.

B. Costs and expenses

90. The applicants also claimed EUR 6,667.64 and 8,085.44 pound sterling (GBP) for the costs and expenses incurred before the Court.

91. In support of their claim, the applicants presented time-sheets showing outstanding professional fees for Mr Vahe Grigoryan amounting to GBP 4,362.50; for Mr Jarlath Clifford amounting to GBP 1,775.00; for Ms Kristina Gevorkyan amounting to EUR 3,883; and for Ms Larisa Alaverdyan amounting to EUR 1,600. They further claimed EUR 120 for four hours work by a case and project support officer at the European Human Rights Advocacy Centre. Moreover, they submitted invoices for stationary issued by Banner and Supplies Team to Middlesex University and for telefax use issued by j2 Global to the European Human Rights Advocacy Centre. They also submitted “fee notes” relating to translations carried out by Ms Tamara Barbakadze and Ms Margarita Galstyan, issued to the European Human Rights Advocacy Centre and amounting to GBP 1,631.70 and an invoice for postal expenses amounting to 54,000 Armenian drams. Furthermore, they submitted contracts in respect of expert opinions on the psychological state of Ms Heghine Vardazaryan, Ms Hasmik Khojyan and Mr Haykaz Khojyan, entered into between the experts and the Foundation Against the Violation of Law, and receipts to show that the contracts had been paid.

92. The respondent Government submitted that the applicants had failed to submit any contracts with their lawyers and that the indicated costs for the lawyers were exaggerated and not reasonable. They submitted that it had not been necessary to engage and pay four different lawyers from Armenia and the United Kingdom. They also submitted that translation cost and costs allegedly incurred for psychological opinions could not be considered as reasonably and necessarily incurred. The respondent Government considered that the applicants could claim EUR 3,000 in total under this head.

93. According to the Court’s case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. A representative’s fees are actually incurred if the applicant has paid them or is liable to pay them. In this case the applicants did not submit

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documents showing that they had paid or were under a legal obligation to pay the fees charged by their representatives or the expenses incurred by them or others in the course of the proceedings. In the absence of such documents, the Court finds no basis on which to accept that the costs and expenses claimed by the applicants have actually been incurred by them (see, similarly, *Merabishvili v. Georgia* [GC], no. 72508/13, §§ 371-72, 28 November 2017).

94. It follows that the claim for costs and expenses must be rejected.

C. Default interest

95. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT

1. *Declares*, by a majority, the complaint under Article 2 of the Convention admissible;
2. *Declares*, unanimously, the complaints under Articles 3 and 5 of the Convention regarding Mr Mamikon Khojuyan and the complaints under Article 3 regarding the applicants personally admissible;
3. *Holds*, by five votes to two, that there has been a violation of the substantive limb of Article 2 of the Convention in respect Mr Mamikon Khojuyan;
4. *Holds*, by five votes to two, that there has been a violation of the procedural limb of Article 2 of the Convention in respect of Mr Mamikon Khojuyan;
5. *Holds*, by six votes to one, that there has been a violation of the substantive limb of Article 3 of the Convention on account of Mr Khojuyan's torture;
6. *Holds*, by five votes to two, that there is no need to examine separately the complaint under the procedural aspect of Article 3 of the Convention regarding Mr Mamikon Khojuyan;
7. *Holds*, unanimously, that there has been no violation of Article 3 of the Convention in respect of the applicants personally;

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8. *Holds*, unanimously, that there has been a violation of Article 5 of the Convention in respect of Mr Mamikon Khojoyan;
9. *Holds*, unanimously, that there is no need to examine the admissibility and merits of the remaining complaints;
10. *Holds*, by six votes to one,
 - (a) that the respondent State is to pay Ms Hasmik Khojoyan, Ms Heghine Vardazaryan and Ms Tehmina Khojoyan, jointly, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 40,000 (forty-thousand euros), plus any tax that may be chargeable to the applicants, in respect of non-pecuniary damage;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
11. *Dismisses*, unanimously, the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 4 November 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

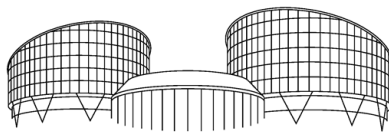
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Victor Soloveytschik
Registrar

Síofra O'Leary
President

Annex 27

Petrosyan v. Azerbaijan, ECtHR, Application No. 32427/16, Judgment
(4 November 2021)



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF PETROSYAN v. AZERBAIJAN

(Application no. 32427/16)

JUDGMENT

Art 2 (substantive and procedural) • Life • No convincing account of circumstances surrounding death of Armenian national while in detention • Lack of effective investigation, including whether ethnic hatred played a role
Art 3 (substantive) • Inhuman and degrading treatment • Sufficient proof of applicant's son being subjected to severe physical violence in detention prior to his death • Moral suffering of applicant reaching a dimension and character distinct from emotional distress inevitably caused to relatives, given delay and condition of repatriated body, in addition to the lack of effective investigation

STRASBOURG

4 November 2021

FINAL

28/02/2022

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

PETROSYAN v. AZERBAIJAN JUDGMENT

In the case of Petrosyan v. Azerbaijan,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Síofra O’Leary, *President*,

Mārtiņš Mits,

Ganna Yudkivska,

Lətif Hüseynov,

Jovan Ilievski,

Lado Chanturia,

Arnfinn Bårdsen, *judges*,

and Victor Soloveytchik, *Section Registrar*,

Having regard to:

the application against the Republic of Azerbaijan lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Armenian national, Mr Artush Petrosyan (“the applicant”), on 25 April 2016;

the decision to give notice to the Azerbaijani Government (“the Government”) of the application;

the observations submitted by the respondent Government and the observations in reply submitted by the applicant;

the comments submitted by the Armenian Government, who had exercised their right to intervene in the proceedings in accordance with Article 36 § 1 of the Convention;

Having deliberated in private on 28 September 2021,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The application concerns complaints under Articles 2, 3, 5, 8, 13 and 14 in connection with the death of the applicant’s son while in captivity.

THE FACTS**I. THE PARTIES**

2. The applicant was born in 1957 and lives in Chinari in the Tavush region of Armenia. He was represented by Ms K. Gevorkyan, Mr A. Zeynalyan and Ms L. Alaverdyan, lawyers practising in Yerevan, and Mr V. Grigoryan, a lawyer practicing in London.

3. The Azerbaijani Government were represented by their Agent, Mr Ç. Əsgərov.

PETROSYAN v. AZERBAIJAN JUDGMENT

II. UNDISPUTED FACTS

4. The applicant's son, Mr Karen Petrosyan, was born in 1981 and was living with the applicant and other members of the family in Chinari, close to the border to Azerbaijan. On 7 August 2014 he crossed the border into Azerbaijan and was captured by the Azerbaijani armed forces.

5. On the same day two video recordings of Mr Petrosyan were broadcast by Azerbaijani media. In the first one, he was seen being offered tea by a local resident of the village of Aghbulag and having a conversation with some of the other villagers. In the second recording, he was being interrogated, while standing on his knees with his hands cuffed and being restrained by soldiers. The interrogating army general accused him of being a soldier, having killed civilians, incited hatred and caused aggression. Being shown photographs of him in military uniform, allegedly found on his mobile phone together with phone numbers of his military commanders, he stated that he was a military serviceman.

6. On 8 August 2014 the Azerbaijani Ministry of Defence announced in a news report that Mr Petrosyan had died unexpectedly, according to preliminary information due to "acute cardio-pulmonary and myocardial failure". Experts at the Ganja regional division of the Centre for Forensic Examination and Pathological Anatomy of the Ministry of Defence had reportedly determined the cause of his death. The news report further stated that Mr Petrosyan had been a member of an Armenian reconnaissance and sabotage group. While four other members of the group had allegedly been killed when they had crossed the Azerbaijani-Armenian border in Azerbaijan's Tovuz region, Mr Petrosyan had been detained as a result of the military action.

7. Efforts were made by Armenia and the International Committee of the Red Cross (ICRC) to have Mr Petrosyan's body returned. Representatives of the US State Department and the French Ministry for Foreign Affairs expressed their concern about the failure to return the body and give information on the circumstances surrounding the death.

8. According to Azerbaijani media reports on 22 August 2014, the Azerbaijani Ministry for Foreign Affairs reacted to the international criticism by claiming, *inter alia*, that Mr Petrosyan's death had been "transparently investigated by medical experts and the ICRC [had been] immediately informed".

9. On 11 September 2014 the applicant lodged an application with the Court (no. 61737/14). He complained under Articles 3 and 8 of the Convention that his son had died in Azerbaijani detention on 8 August 2014 after having unintentionally crossed the border and having been apprehended by the Azerbaijani military. As the son's body had not yet been repatriated, the applicant further requested that Rule 39 be applied and the Government of Azerbaijan be ordered to take measures to prevent

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damage to the corpse, to return it immediately and to explain the delay in returning it. On 30 September 2014 the Court (the Acting President of the Section) decided not to indicate interim measures to the respondent Government, but requested them, under Rule 54 § 2 (a) of the Rules of Court, to explain the Azerbaijani authorities' official position in connection with the repatriation of the body of Mr Petrosyan and to provide information on the reasons for the delay in returning the body to his relatives.

10. By a letter of 19 September 2014 the Azerbaijani Government referred to the information contained in the news report of 8 August 2014 (see paragraph 6 above) and the photographs and phone numbers allegedly found on Mr Petrosyan's mobile phone (paragraph 5). They further stated that the Azerbaijani Ministry of Defence had offered Armenia an exchange, with the assistance of the ICRC, of five Armenian captives, all members of the same family, and the body of Mr Petrosyan for two Azerbaijanis in Armenian detention and the body of one Azerbaijani killed by the Armenian armed forces (all captured and killed, respectively, in July 2014). According to the Azerbaijani Government, the Armenian Ministry of Defence had replied through the ICRC that they would return only the body of the killed Azerbaijani in exchange for the five Armenian captives and Mr Petrosyan's body. The Azerbaijani side had rejected this, insisting on an "all-for-all" approach.

11. On 10 October 2014 Mr Petrosyan's body was repatriated in a severely decomposed state.

12. On 17 November 2015 the Court struck out the applicant's application lodged on 11 September 2014 (see paragraph 9 above). As the applicant had not responded to a letter from the Court and otherwise been inactive with regard to following up the application, he was regarded as no longer wishing to pursue his application, within the meaning of Article 37 § 1 (a) of the Convention.

III. FACTS AS SUBMITTED BY THE APPLICANT

13. In the morning of 7 August 2014, while collecting firewood in a nearby grazing area, the applicant's son lost his bearings, crossed the border and ended up in the village of Aghbulag in Azerbaijan. The first video recording broadcast by Azerbaijani media on the same day (see paragraph 5 above) showed him in civilian clothing, bearing no arms. Later the Azerbaijani military came to the village, arrested him and took him away. The second recording from the same day allegedly showed that Mr Petrosyan, now dressed in military gear, had wounds on his face and was forced to state that he was a military serviceman.

14. On 13 August 2014 the Department of Criminal Investigation in the Tavush province of Armenia opened a criminal investigation under

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section 2, points 3, 5, 7 and 13, of Article 104 of the Criminal Code of Armenia concerning murder combined with kidnapping or hostage-taking, committed with particular cruelty and with motives of national, racial or religious hate or fanaticism.

15. In response to the claim by the Azerbaijani Ministry for Foreign Affairs on 22 August 2014 that an investigation of Mr Petrosyan's death had been performed (see paragraph 8 above), the applicant stated that no results of such investigation had been made public or communicated to him.

16. On 9 December 2014 the results of a forensic medical examination, commenced on 11 October and completed on 3 December at the Republican Scientific-Practical Centre of Forensic Medicine of the Armenian Ministry of Health in Yerevan, were presented in an expert opinion by three forensic medical experts. The following conclusions were drawn:

“The following bodily injuries were observed as a result of the post-mortem examination of Karen Petrosyan's corpse: large zones of contusions on the chest/thorax, lumbar region, both carpa/wrists, soft tissues and muscles of the lower limbs; fractures of 2nd and 6th ribs in a vertical line from the left nipple; and fractures of 1st, 4th, 5th, 6th and 10th ribs in a vertical line from the front of the armpit. All injuries were inflicted while he was still alive by hard and blunt objects of small surface. It was impossible to detect with certainty the cause of Karen Petrosyan's death, as the cadaver was presented for examination in a state of severe suppurative alterations, when the soft tissues were almost not preserved and the internal organs were missing, which constitutes a ground for concluding that K. Petrosyan might have suffered numerous bodily traumas when alive, which in combination with those detected as a result of the current re-examination, could have caused his death, and which were consistent with life-threatening serious bodily injuries and could have directly caused his death, in particular, such injuries could be considered closed, blunt cranial trauma with severe brain pathology – skull fracture, closed, blunt injuries to the cervical, thoracic, abdominal regions, cut, cut-pierced wounds, and firearm injuries with damage to vessels, nerves, which could cause severe haemorrhagic bleeding and traumatic shock. So far as the bodily injuries detected on Karen Petrosyan's corpse during post-mortem examination are concerned, all injuries had characteristics of being inflicted within a short period while he was still alive. Hence, it is impossible to assess the degree of harm caused by each of them taken separately, especially as each of them, taken separately, had eventually been a source of traumatic shock, and in particular, the multiple trauma to the ribs usually causing severe pleuropulmonary shock, which according to the degree of dangerousness for health, is classified as bodily injury causing serious health damage. Hence, all bodily injuries detected during the re-examination of K. Petrosyan's corpse taken separately, as well as in combination, could be qualified as life-threatening serious bodily injuries that could have directly caused death. The commission finds it expedient to note that the state of putrefaction of K. Petrosyan's body, in which state it was transferred to the Republican Scientific-Practical Centre of Forensic Medicine of the Republic of Armenia Ministry of Health, is untypical of cadavers interred for two months under natural conditions. Rather, this condition is more typical of situations where the cadaver has been subjected to artificial conditions, that lead to it being impossible to detect with certainty the cause of death as well as to collect evidence on other possible factors of external intervention, such as poisoning, electric shock, mechanical choking, rape (oral or anal), presence of semen in the latter case, etc. In this regard, it must be noted that more precise clarification of the results of the second post-mortem

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examination of Karen Petrosyan's exhumed corpse would be possible if the expert opinion of the initial post-mortem examination and photos of the corpse were available; the latter are usually a compulsory component of post-mortem examinations under such circumstances as in the current case.

The forensic chemical examination conducted during the current post-mortem examination revealed that alcohol, drugs of the opioid alkaloid series, psychotropic substances, gasoline as well as diesel fuel were not detected in the specimens taken from the internal organs and muscles. In this regard, the commission conducting the examination notes that the forensic chemical examination of the second autopsy may not have detected residues of alcohol in the body due to advanced putrefaction. ..."

17. Furthermore, on 19 March 2015 a forensic psychological examination of Mr Petrosyan's behaviour and state of mind during the events was made on the basis of video recordings of his encounter with residents of Aghbulag village as well as his subsequent detention and questioning.

18. On 9 April 2015 the forensic experts who had conducted the Armenian forensic examination (see paragraph 16 above) gave a supplementary opinion based on the case materials, answering questions put to them by the applicant's representatives on 23 February. The supplementary opinion contained, *inter alia*, the following observations:

"According to the results of the post-mortem examination of Karen Petrosyan's corpse, a separation of spinal vertebrae was observed only in the cervical region, which can be interpreted to indicate that putrefaction was particularly manifest in the neck area. ...

... In this case, we have almost complete skeletisation of the skull and neck area of K. Petrosyan's corpse. Besides, the cadaver was covered with soil, which indicates that it was placed in soil before being passed over to the Republic of Armenia. The above stated give reason to conclude that K. Petrosyan's corpse was in a state of rapid putrefaction – decomposition – and, in particular, that this was disproportionately taking place in different parts of the corpse. Naturally, if the corpse had been buried in a coffin deep in the soil, with his clothing on, or if it had been embalmed, decomposition would have been slow and not as intense as it is in this case. ... Hence, it must be concluded that Karen Petrosyan's corpse was in an environment where it was exposed to oxygen immediately after his death; it was either laid unburied on the ground or in a shallow grave without any coffin or clothing covering his body or in a partially buried state with some parts of his body protruding to the surface of the soil.

...

During the forensic post-mortem examination of K. Petrosyan's corpse, his hyoid bone was not found. ...

It is impossible to determine whether the separation of cervical spinal vertebrae – "decapitation" – took place during K. Petrosyan's lifetime or after he passed away, which means that his "decapitation" in life should not be excluded, as the presence of a wound in that part of the body after death would have caused more intense and accelerated decomposition. This could have resulted in decay of the inter-vertebral ligaments and cartilage and separation of the vertebrae. ...

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There is no method applied during initial forensic examination or autopsy that involves separation of the head from the body.

...”

19. On 22 August 2015 the Armenian Prosecutor-General, at the applicant’s request, asked for legal assistance from the Azerbaijani Prosecutor-General in the investigation of the death of the applicant’s son, referring to the Commonwealth of Independent States (CIS) Convention of 22 January 1993 on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases. Specifically, information was requested as to whether any criminal case had been instituted in regard to Mr Petrosyan’s illegal border crossing and subsequent death and whether a post-mortem examination of his body had been performed. If such proceedings had been conducted, documents concerning the criminal case(s) as well as the report of forensic medical experts and tissue samples taken during the autopsy were requested.

20. On 22 October 2015 the Coordinating Council of the prosecutors-general of the member states of the CIS informed the Armenian Prosecutor-General that his request, delivered to the Azerbaijani Prosecutor-General, had been returned without consideration on the ground that there were no diplomatic relations between the two states. The applicant was informed of the Council’s letter on 24 November 2015.

21. In February 2016 the applicant applied directly to the Azerbaijani Prosecutor-General for the information and documents previously requested by the Armenian Prosecutor-General and asked that a criminal investigation be instituted in regard to his son’s death, in case such an investigation had not already been made. No answer has been forthcoming from the Azerbaijani Prosecutor-General.

22. According to the applicant, information about Armenian detainees having been beheaded in Azerbaijan had emerged in the aftermath of the military clashes that took place in early April 2016 (sometimes referred to as the “Four-Day War”). He referred to other applications lodged with the Court, in particular application no. 19243/16, *K.S. and N.A. v. Azerbaijan* and 21 other applications.

IV. FACTS AS SUBMITTED BY THE RESPONDENT GOVERNMENT

23. The respondent Government claimed that Mr Petrosyan had crossed the Azerbaijani-Armenian border at about 1.30 p.m. on 7 August 2014. A member of a five-man subversive group, he had been apprehended by the Azerbaijani armed forces while the other four members had been killed. A lot of weapons had been found on the members of the group.

24. On 8 August 2014, the day of Mr Petrosyan’s death, a forensic medical examination of his body was conducted at the above-mentioned forensic examination centre in Ganja (see paragraph 6). It was performed by

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a forensic medical expert between 5.50 and 7.05 p.m. The result of the examination was presented by the expert in an opinion of 25 August, which took into account also a forensic chemical examination of Mr Petrosyan's blood and parts of his internal organs carried out on 11 August. In introductory notes, the expert stated that the request for a forensic examination had been made by the chief of staff of a military unit after the body of Mr Petrosyan had been brought to a different military unit at 7.40 a.m. on 8 August and there had received cardiac massage, artificial lung ventilation, an intravenous injection of adrenalin and defibrillation but could still not be revived. Following the examination, the expert drew the following conclusions:

“The following bodily injuries were observed during the post-mortem examination of [Mr Petrosyan's] corpse: scratches on the forehead, left cheek and chin, the backsides of the chest and the left thigh, a bruise next to the left eye, scratches and bruises on middle and lower parts of both shins, wounds on the upper lip, fractures of the fifth, sixth and seventh left ribs. All injuries were inflicted while he was still alive and did not cause his death. They could have been inflicted by hard and blunt objects or by hitting against such objects. As to the time of formation of the injuries, the scratches on the chest and the left thigh appeared minutes before the death, while the other injuries [...] occurred 2-3 days before the death

Having regard to the fact that, during the forensic examination of the corpse of [Mr Petrosyan], no injuries that could have led to death were established, that, during the forensic chemical examination, no methyl, ethyl, propyl, butyl or amyl alcohols, formaldehyde, chloroform, hydrochloride, tetrachloromethane, dichloroethane, toluene, phenol, cresol, phosphorus organic pesticides, Sevin, barbituric acid derivatives, Noxyron, alkaloids (including opium), phenothiazine, pyrazolone, 1,4-benzodiazepine derivatives or salicylates were detected in the blood and internal organs, and that, during the internal examination of the corpse, cardiac (post-myocarditis) diffusive microscopic sclerosis in the heart, acute inflammation, oedema of stroma, pulmonary oedema, patchy emphysema, signs of venous hyperaemia in the liver, signs of parenchymal proteinosis in the kidney and cerebral oedema were established, the cause of death was acute cardiovascular and respiratory failure occurring after the myocarditis, as a result of diffusive microscopic sclerosis in the cardiac muscle.

According to the dynamics of the post-mortem changes, death occurred 10-12 hours before the examination of the corpse in the morgue.

...”

THE LAW

25. The applicant complained in the application lodged on 25 April 2016 under Articles 2, 3, 5, 8, 13 and 14 of the Convention that his son had been tortured and killed in illegal detention, that his son's body had not been repatriated in a timely manner, that there had been no effective investigation and that the alleged violations had occurred as a result of discrimination based on ethnic origin.

I. ADMISSIBILITY

A. The matter having already been examined

1. *The parties' and third-party's submissions*

(a) The respondent Government

26. The respondent Government submitted that the matter of the application had already been examined by the Court in the course of its processing of the application in the case of *A.P. v. Azerbaijan* ((dec.), no. 61737/14, 17 November 2015) and that it was therefore inadmissible in accordance with Article 35 § 2 (b) of the Convention.

(b) The applicant

27. The applicant argued that his previous application (see paragraphs 9-12 above) had never formed the subject of any formal examination by the Court and could not therefore preclude examination of the instant case. He also maintained that the strike-out decision that had been made in respect of his former application had been a result of technical miscommunication.

(c) The Armenian Government, third-party intervener

28. The Armenian Government supported in general the applicant's submissions.

2. *The Court's assessment*

29. In the present case, the Court does not find it necessary to consider to which degree the matter of the instant application was, if at all, "examined" in the sense that that term is employed in Article 35 § 2 (b) of the Convention by way of the proceedings relating to application no. 61737/14 (see paragraphs 9 and 12 above). It suffices in the circumstances for it to note that, in the light of the very different situation that existed at the time when the applicant requested interim measure – when there was little other information than that his son had died in Azerbaijan – and that at the time when the current application was lodged with the Court on 25 April 2016 – when his son's body had been repatriated and examined – the application contained "relevant new information" and that it accordingly cannot in any event be declared inadmissible pursuant to that provision.

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B. The six-month time limit*1. The parties' and third-party's submissions***(a) The respondent Government**

30. The respondent Government submitted that the six-month deadline in Article 35 § 1 of the Convention had to be calculated from 9 April 2015, when the last forensic report had been produced. The acts complained of had ended on 10 October 2014 when the applicant's son had been repatriated. The request for legal assistance from the Prosecutor's Office of Azerbaijan had been sent by the Prosecutor-General of Armenia on 22 August 2015, four and a half months after the date of the forensic examination. The applicant should not have had recourse to the CIS Convention and should have been aware of the absence of an effective remedy available to him in the respondent State.

(b) The applicant

31. The applicant submitted that the six-month period should be calculated from 10 April 2016. He submitted that the deadline had started at the time when he could reasonably have become aware of the lack of an effective remedy, and that the establishment of that point in time had to be made by having regard to: (i) the respondent Government's having refused to provide legal assistance to Armenian authorities, of which he had been informed on 24 November 2015; (ii) a failure of the respondent Government to provide any reasons to the Court in their submissions of 19 September 2015, of which he had become aware on 18 April 2016; and (iii) publication of evidence adduced in the aftermath of the war in April 2016 concerning killing of Armenian detainees on 10 April 2016 (see paragraph 22 above).

(c) The Armenian Government, third-party intervener

32. The Armenian Government joined the submissions of the applicant and added that the respondent Government were inconsistent in their observations to the Court in different cases, as they in other cases had argued the availability of effective remedies whereas as they in this case argued that there had been none.

2. The Court's assessment

33. The Court set out the relevant principles concerning the application of the six-month time-limit in Article 35 § 1 of the Convention in its judgment in the case of *Varnava and Others v. Turkey* ([GC], nos. 16064/90 and 8 others, §§ 156-159, ECHR 2009) as follows:

“156. The object of the six-month time-limit under Article 35 § 1 is to promote legal certainty, by ensuring that cases raising issues under the Convention are dealt

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with in a reasonable time and that past decisions are not continually open to challenge. It marks out the temporal limits of supervision carried out by the organs of the Convention and signals to both individuals and State authorities the period beyond which such supervision is no longer possible (see, among other authorities, *Walker v. the United Kingdom* (dec.), no. 34979/97, ECHR 2000-I).

157. As a rule, the six-month period runs from the date of the final decision in the process of exhaustion of domestic remedies. Where it is clear from the outset however that no effective remedy is available to the applicant, the period runs from the date of the acts or measures complained of, or from the date of knowledge of that act or its effect on or prejudice to the applicant (see *Dennis and Others v. the United Kingdom* (dec.), no. 76573/01, 2 July 2002). Nor can Article 35 § 1 be interpreted in a manner which would require an applicant to seise the Court of his complaint before his position in connection with the matter has been finally settled at the domestic level. Where, therefore, an applicant avails himself of an apparently existing remedy and only subsequently becomes aware of circumstances which render the remedy ineffective, it may be appropriate for the purposes of Article 35 § 1 to take the start of the six-month period from the date when the applicant first became or ought to have become aware of those circumstances (see *Edwards v. the United Kingdom* (dec.), no. 46477/99, 7 June 2001).

158. Consequently, where a death has occurred, applicant relatives are expected to take steps to keep track of the investigation's progress, or lack thereof, and to lodge their applications with due expedition once they are, or should have become, aware of the lack of any effective criminal investigation (see *Bulut and Yavuz v. Turkey* (dec.), no. 73065/01, 28 May 2002, and *Bayram and Yıldırım v. Turkey* (dec.), no. 38587/97, ECHR 2002-III). The same principles have been applied, mutatis mutandis, to disappearance cases (see *Eren and Others v. Turkey* (dec.), no. 42428/98, 4 July 2002, and *Üçak and Kargılı and Others v. Turkey* (dec.), nos. 75527/01 and 11837/02, 28 March 2006). ...”

34. In applying those principles to the facts of this case, the Court observes that, as was not contested by the respondent Government, there was no available remedy to the applicant in the respondent State. The six-month period accordingly ran from the date of the “acts or measures complained of”, or from the date of knowledge of that act or its effect on or prejudice to the applicant.

35. In that connection, the Court notes that the acts or measures complained of in this case relate in part to alleged failures of the respondent State's authorities to investigate the circumstances of the applicant's son's detention and death, which would in turn shed light on the facts relevant to the allegations of substantive violations. That is the case with the complaints under Articles 2 and 3 of the Convention both as concerns the applicant's son and the applicant's own suffering, and those under Articles 13 and 14 in so far as they are connected to the complaints under the former provisions. The Court notes that, as to those matters, information material to the complaints under Articles 2 and 3 principally emerged by way of the forensic examinations and the report and opinion given in respect of those on 9 December 2014 and 9 April 2015 (see paragraphs 16 and 18 above, respectively). In the Court's assessment, the applicant could, after

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the crucial information therein had become known, reasonably await the outcome of the initiative taken by the Prosecutor-General of Armenia on 22 August 2015 towards the authorities of the respondent State, of which the applicant was informed on 24 November 2015, before applying to the Court (see, *mutatis mutandis*, *Varnava and Others*, cited above, § 170; and contrast, for example, *Bulut and Yavuz v. Turkey* (dec.), no. 73065/01, 28 May 2002).

36. In this connection, the Court reiterates that with regard to the duty on applicants to lodge an application with the Court with due expedition once they are, or should have become, aware of the lack of any effective criminal investigation, it has stated that identifying the exact point in time that this stage occurs, necessarily depends on the circumstances of the case and that it is difficult to determine it with precision. So long as there is some meaningful contact between relatives and authorities concerning complaints and requests for information, or some indication, or realistic possibility, of progress in investigative measures, considerations of undue delay by the applicants will not generally arise (see *Mocanu and Others v. Romania* [GC], nos. 10865/09 and 2 others, §§ 266 and 268, ECHR 2014 (extracts); and *Varnava and Others*, cited above, § 165). In the instant case, the Court observes that the initiative taken by the Armenian Prosecutor-General towards the Azerbaijani Prosecutor-General in August 2015 had been at the applicant's request (see paragraph 19 above). After he had been informed of the outcome in November 2015 (see paragraph 20 above), the applicant applied directly to the Azerbaijani Prosecutor-General for information and documents as well as with a request that a criminal investigation be instituted in case it had not already been made (see paragraph 21 above). Furthermore, while the lack of diplomatic relations between Armenia and Azerbaijan must have been known to the applicant in 2015 and 2016, the Court bears in mind that the lack of diplomatic relations does not absolve a Contracting State from the obligation under Article 2 to cooperate in criminal investigations (see, for example, *Saribekyan and Balyan v. Azerbaijan*, no. 35746/11, § 73, 30 January 2020, and the references therein).

37. As concerns the applicant's complaints lodged under Articles 5 and 8 of the Convention, the matters complained of are the alleged deprivation of the applicant's son's liberty and failure to provide procedural guarantees in that respect, and the alleged diffusion of a video-recording of his interrogation. Notwithstanding that the video-recording might have been available on the Internet for a longer period of time, in this context all of the foregoing must be considered as "acts or measures" that are alleged to have taken place on 7 and 8 August 2014, more than six months before the application was lodged on 25 April 2016.

38. It follows that the application cannot be declared inadmissible for having been lodged outside of the six-month deadline in Article 35 § 1 of

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the Convention as concerns the complaints under Articles 2 and 3 and 13 and 14 in conjunction with 2 and 3. The complaints under Articles 5 and 8 and those under 13 and 14 in so far as they relate to Articles 5 and 8 must however be declared inadmissible for having been filed too late.

C. Abuse of the right to individual application*1. The parties' and third-party's submissions***(a) The respondent Government**

39. The respondent Government submitted that the applicant had deliberately provided the Court with false information about investigative measures in Armenia not having been concluded in order to extend the deadline set for submission of the completed application. They submitted that attention should be paid to the completed application having been submitted to the Court thirty-one months after his former application had been lodged and five months after that application had been struck out.

(b) The applicant

40. The applicant submitted that there had been an error in a translation of one of the documents (in so far as the translation had indicated that a post-mortem examination had "commenced" on 3 December 2014, whereas it had been "completed" that day), but that the correct information emerged from other documents and that the error did not amount to any abuse of his right to individual petition. The time spent on completing the application, which was correctly restated by the respondent Government, did not, either, indicate any abuse.

2. The Court's assessment

41. The Court reiterates that rejection of an application on grounds of abuse of the right of application is an exceptional measure (see *Miroļubovs and Others v. Latvia*, no. 798/05, § 62, 15 September 2009). In the instant case, it does not find that the error in the translation reflects any attempt to mislead the Court or that there are any other grounds for considering that the applicant has attempted to do so. Nor does the Court find that there are any other elements that could indicate abuse. The Court accordingly dismisses the respondent Government's preliminary objection on that point.

D. The Court's conclusion on admissibility

42. The Court already found that the complaints under Articles 5 and 8 and Articles 13 and 14 as far as they relate to the former articles have been lodged outside of the six-month time-limit and are therefore inadmissible.

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As regards the remainder of the application, it considers, in the light of the parties' submissions, that it raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court concludes therefore that that part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. Moreover, the Court finds that the applicant has the requisite legal interest as next of kin to introduce an application raising complaints related to his son's death (see, for example, *Varnava and Others*, cited above, § 111) and that no other ground for declaring it inadmissible has been established. The applicant's complaints under Articles 2 and 3, and those under 13 and 14 in so far as they relate to those under 2 and 3, must therefore be declared admissible.

II. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

A. The parties' and third-party's submissions

1. *The applicant*

43. The applicant submitted that his son had been killed by decapitation while under the control of the respondent State's military authorities, and that there had been a violation of Article 2 of the Convention, which reads:

"1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection."

The applicant further submitted that there had been no effective investigation carried out in respect of his son's death.

2. *The respondent Government*

44. The respondent Government submitted that the applicant's son had died not because of any alleged ill-treatment on the part of Azerbaijani authorities, but because of a sickness.

3. *The Armenian Government, third-party intervener*

45. The Armenian Government supported the applicant's submissions and invited the Court's attention to the relevant international responses to

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the events of August 2014. They also contested the validity of the evidence submitted by the respondent Government.

B. The Court's assessment*1. General principles*

46. Article 2 of the Convention, which safeguards the right to life and sets out the circumstances when deprivation of life may be justified, ranks as one of the most fundamental provisions in the Convention. Together with Article 3, it also enshrines one of the basic values of the democratic societies making up the Council of Europe. The circumstances in which deprivation of life may be justified must therefore be strictly construed. The object and purpose of the Convention as an instrument for the protection of individual human beings also requires that Article 2 be interpreted and applied so as to make its safeguards practical and effective.

47. In the light of the importance of the protection afforded by Article 2, the Court must subject deprivations of life to the most careful scrutiny, taking into consideration not only the actions of State agents but also all the surrounding circumstances. Detained persons are in a vulnerable position and the authorities are under a duty to protect them. Consequently, where an individual is taken into police custody in good health and is found to be injured on release, it is incumbent on the State to provide a plausible explanation of how those injuries were caused. The obligation on the authorities to account for the treatment of a detained individual is particularly stringent where that individual dies or disappears thereafter.

48. In assessing evidence, the Court has generally applied the standard of proof "beyond reasonable doubt". However, such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar un rebutted presumptions of fact. Where the events in issue lie wholly, or in large part, within the exclusive knowledge of the authorities, as in the case of persons within their control in detention, strong presumptions of fact will arise in respect of injuries and death occurring during that detention. Indeed, the burden of proof may be regarded as resting on the authorities to provide a satisfactory and convincing explanation (see, among many other authorities, *Salman v. Turkey* [GC], no. 21986/93, §§ 97-100, ECHR 2000-VII; and *Aktaş v. Turkey*, 24351/94, §§ 289-291, 24 April 2003).

49. Moreover, the obligation to protect the right to life under Article 2, read in conjunction with the State's general duty under Article 1 to "secure to everyone within [its] jurisdiction the rights and freedoms defined in [the] Convention", requires by implication that there should be an effective official investigation when someone has died in suspicious circumstances. This obligation is not confined to cases where it has been established that a person has been killed by an agent of the State. The mere fact that the

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authorities have been informed of the death will give rise *ipso facto* to an obligation under Article 2 of the Convention to carry out an effective investigation into the circumstances in which it occurred (see, for instance, *Iorga v. Moldova*, no. 12219/05, § 26, 23 March 2010, with further references).

50. The essential purpose of an official investigation is to secure the effective implementation of the domestic laws which protect the right to life and, in those cases involving State agents or bodies, to ensure their accountability for deaths occurring under their responsibility. What form of investigation will achieve those purposes may vary in different circumstances. For an investigation into an alleged unlawful killing by State agents to be effective, it may generally be regarded as necessary for the persons responsible for carrying out the investigation to be independent from those implicated in the events. This means not only a lack of hierarchical or institutional connection but also a practical independence. The investigation must also be effective in the sense that it is capable of leading to the identification and punishment of those responsible. This is not an obligation of result, but of means. The authorities must have taken the reasonable steps available to them to secure the evidence concerning the incident. Any deficiency in the investigation which undermines its ability to identify the perpetrator(s) will risk falling foul of this standard. Furthermore, there must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory. The degree of public scrutiny required may well vary from case to case. In all cases, however, the next-of-kin of the victim must be involved in the procedure to the extent necessary to safeguard his or her legitimate interests (see, for instance, *Tahsin Acar v. Turkey* [GC], no. 26307/95, §§ 221-223 and 225, ECHR 2004-III, with further references).

2. *Whether the respondent State was responsible for the death of Karen Petrosyan*

51. The Court observes that on 7 August 2014 Karen Petrosyan crossed the border into Azerbaijan and was captured by the Azerbaijani armed forces. It is undisputed that he thereafter died while being detained by the authorities of the respondent State. It follows that it is incumbent on the respondent State to provide a convincing explanation of the circumstances leading to the death of the applicant's son. They have in response argued (i) that Mr Petrosyan had died because of a sickness and (ii) that the scratches and bruises on his body and the fractures of the ribs had occurred before he had entered the territory of Azerbaijan.

52. The respondent Government have adduced a report from a forensic examination carried out on 8 August 2014, the day of Karen Petrosyan's death, concluding that the cause of death had been an acute cardiovascular and respiratory failure occurring after a myocarditis, as a result of diffusive

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microscopic sclerosis in the cardiac muscle. In the report it was noted that several bodily injuries had been observed; it was stated that all of them had been inflicted while he had been still alive and had not caused his death. According to the report, the injuries could have been inflicted by hard and blunt objects or by hitting against such objects, and as to the time of formation of the injuries, the report stated that the scratches on the chest and the left thigh had appeared minutes before the death, while the other injuries had occurred 2-3 days before the death (see paragraph 24 above).

53. The Court notes that, contrary to usual practice, the forensic report was not followed by photographs, which undermines the reliability of the conclusions regarding the alleged cardiac origin of the condition that had allegedly caused the death. There is no information that the applicant's son, who was 32 years old at the time of his death, had a history of cardiac illness or had other health problems. No such allegation was made by the respondent Government.

54. As regards the injuries, the Court notes that the respondent Government relied on the above report which stated that apart from the scratches on the chest and the left thigh, Mr Petrosyan's injuries had occurred 2-3 days before his death, in other words, prior to his entering Azerbaijan. The Government failed to comment on the question whether this version of the events was compatible with the video footage showing the applicant being offered tea and conversing with villagers in Aghbulag (see paragraph 5 above). Also, they failed to comment on the applicant's allegation that in the first video footage, taken before the arrival of the military officers who apprehended the applicant's son, no injuries are visible on his face and that such injuries are visible on the second video (see paragraphs 5 and 13 above).

55. The applicant has adduced a report from a forensic examination commenced on 11 October 2014, where it was concluded that it was impossible to detect with certainty the cause of Karen Petrosyan's death, as the corpse had been presented for examination in a state of severe suppurative alterations. Also that report reflected observations of bodily injuries and stated that all bodily injuries detected during the re-examination of the corpse taken separately, as well as in combination, could be qualified as life-threatening serious bodily injuries that could have directly caused death (see paragraph 16 above). In a supplementary opinion of the forensic experts they stated that, as to a separation of cervical spinal vertebrae that had been observed, it was impossible to determine whether that had taken place during Karen Petrosyan's lifetime or after he had passed away, and that that meant that his "decapitation" in life should not be excluded, as the presence of a wound in that part of the body after death would have caused more intense and accelerated decomposition (see paragraph 18 above). The respondent Government made no submissions in response to what appeared from the forensic reports presented by the applicant.

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56. The Court notes that the examinations carried out in Armenia were carried out months after Karen Petrosyan's death and could not establish the causes of death. However, some of its findings, in particular regarding the fractures of ribs, appear compatible with the findings of the forensic report of the autopsy carried out in Azerbaijan hours after the death. Both reports referred to considerable bodily injuries.

57. Having regard to the above, and drawing inferences from the failure to provide more detailed information, including photographs of the body, the Court finds that the explanation given by the respondent Government regarding the number and type of the injuries suffered by the applicant's son before his death and regarding the cause of his death is not supported by sufficiently convincing elements.

58. The Court finds, therefore, that the Government have not convincingly accounted for the circumstances of the death of Karen Petrosyan and that the respondent State's responsibility for his death is engaged. It follows that there has been a violation of Article 2 in its substantive limb.

3. *The alleged failure to investigate*

59. The Court observes that save for the forensic examination, it has not been informed by the respondent State of any investigation into the circumstances surrounding Karen Petrosyan's death.

60. Given the information that may be inferred from the medical reports (see, in particular, paragraphs 52-56 above), the Court finds that it cannot be called into question that an investigation should have been carried out. Moreover, the Court takes into account that, according to the respondent Government, Karen Petrosyan was an Armenian citizen who was detained on the ground that he was a member of an armed "subversive" group (see paragraph 23 above). In this connection, the Court cannot overlook the general context of hostility and tension between Azerbaijan and Armenia (see, for example, *Saribekyan and Balyan*, cited above, §§ 39-40). In the Court's view, these circumstances also indicated that an investigation should have been carried out by the authorities of the respondent State on their own motion, including as to whether ethnic hatred had played a role in the treatment of Karen Petrosyan (see, *mutatis mutandis*, *Saribekyan and Balyan*, cited above, §§ 72 and 86).

61. For those reasons, the Court finds that there has been a violation of Article 2 of the Convention also in its procedural limb.

III. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

A. The parties' and third-party's submissions

1. *The applicant*

62. The applicant submitted that his son's rights under Article 3 of the Convention had been violated and alleged in that context that his son had been executed by decapitation, subjected to severe pain and suffering causing him multiple injuries to various parts of his body, and that he had been video recorded when humiliated.

63. Furthermore, the applicant submitted that his own rights under Article 3 of the Convention had been violated owing to the means that had been used to take his son's life, the failure to disclose the circumstances and events surrounding his son's death, the dispersion of videos on the Internet, the absence of the hyoid bone and information about ritual decapitations, and the time spent on returning the body and the body's state upon return.

2. *The respondent Government*

64. The respondent Government submitted that a delay in repatriation of the applicant's son's body had occurred because of the actions of the authorities of the Republic of Armenia which had refused to exchange the bodies of deceased prisoners.

3. *The Armenian Government, third-party intervener*

65. The Armenian Government supported the applicant's submissions.

B. The Court's assessment

1. *General principles*

66. Article 3 of the Convention prohibits in absolute terms torture or inhuman or degrading treatment or punishment. No provision is made, as in other substantive clauses of the Convention and its Protocols, for exceptions and no derogation from it is possible under Article 15. In respect of a person deprived of his liberty, recourse to physical force which has not been made strictly necessary by his or her own conduct diminishes human dignity and is in principle an infringement of the right set forth in Article 3 of the Convention.

67. Having regard to the strict standards applied in the interpretation of Article 3 of the Convention, ill-treatment must attain a minimum level of severity before it will be considered to fall within the provision's scope. The assessment of this minimum is relative and depends on all of the circumstances of the case including the duration of its treatment, the physical or mental effects and, in some cases, the age, sex and health of the

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individual. The practice of the Convention organs requires compliance with a standard of proof “beyond reasonable doubt” that ill-treatment of such severity occurred.

68. In determining whether a particular form of ill-treatment should be qualified as torture, consideration must be given to the distinction, embodied in Article 3, between this notion and that of inhuman or degrading treatment. As noted in previous cases, it appears that it was the intention that the Convention should, by means of this distinction, attach a special stigma to deliberate inhuman treatment causing very serious and cruel suffering. In addition to the severity of the treatment, there is a purposive element, as recognised in Article 1 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which defines torture in terms of the intentional infliction of severe pain or suffering with the aim, inter alia, of obtaining information, inflicting punishment or intimidating (see, among other authorities, *Aktaş v. Turkey*, cited above, §§ 310-313).

69. As regards the mental suffering of a victim’s relatives, the Court has consistently acknowledged the profound psychological impact of a serious human rights violation on the victim’s family members who are applicants before the Court. However, in order for a separate violation of Article 3 of the Convention to be found in respect of the victim’s relatives, there should be special factors in place giving their suffering a dimension and character distinct from the emotional distress inevitably stemming from the aforementioned violation itself. The relevant factors include the proximity of the family tie, the particular circumstances of the relationship, the extent to which the family member witnessed the events in question and the involvement of the applicants in the attempts to obtain information about the fate of their relative (see, among other authorities, *Janowiec and Others v. Russia* [GC], nos. 55508/07 and 29520/09, § 177, ECHR 2013). While a family member of a “disappeared person” can claim to be a victim of treatment contrary to Article 3, the same principle would not usually apply to situations where the person taken into custody has later been found dead. In such cases the Court would normally limit its findings to Article 2. However, if a period of initial disappearance is long it may in certain circumstances give rise to a separate issue under Article 3 (see *Bitiyeva and Others v. Russia*, no. 36156/04, § 105, 23 April 2009, with further references).

2. *The treatment of Karen Petrosyan*

70. The Court has found above that the respondent Government have not convincingly accounted for the circumstances of the death of Karen Petrosyan and the injuries that he sustained (see paragraphs 51-58). In that context it has taken note that the forensic reports submitted by both parties reported a large number of bodily injuries and that the statement in the

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report adduced by the respondent Government to the effect that the injuries had been inflicted “2-3 days before” death are difficult to reconcile with the videos of the applicant that were dispersed (see paragraph 54 above).

71. On the basis of the information available to it, it is not possible for the Court to establish exactly what happened to Karen Petrosyan while in detention. In the light of the injuries that were identified and the lack of plausible explanations as to how they had been inflicted on him, the Court finds however that it has been sufficiently proved that he was victim of severe physical violence prior to his death, to a degree that amounted to a violation of Article 3 of the Convention in respect of him.

3. The suffering sustained by the applicant

72. The Court notes that the applicant was informed of his son’s death on the day after he had been captured (see paragraphs 4-6 above). The applicant was not a witness and the diffusion of the video of his son’s interrogation cannot on its own entail that a violation of Article 3 of the Convention took place in respect of the applicant. As to the respondent Government’s failure to investigate the circumstances of the applicant’s son’s death, the Court also considers that this aspect does not in itself amount to a separate violation of Article 3 distinct from that which has been found above with regard to the procedural limb of Article 2 (see paragraphs 59-61).

73. However, the Court has previously considered that individuals who have been presented with mutilated bodies of close family members could claim to be a victim, within the meaning of Article 34 of the Convention, of a violation of Article 3 (see, for instance, *Akpınar and Altun v. Turkey*, no. 56760/00, §§ 84-87, 27 February 2007).

74. In this case, the applicant’s son’s body was not repatriated until two months after his death. In the meantime, the applicant had taken different measures, including applying to this Court (see paragraph 9 above). When the corpse was finally returned, it was in a severely decomposed state, internal organs were missing, a separation of cervical spinal vertebrae was observed and the hyoid bone was not found (see paragraphs 16 and 18 above).

75. In the light of those particular circumstances, which in this case come in addition to the failure to investigate the circumstances of the applicant’s son’s death, the Court concludes that the moral suffering endured by the applicant may be said to have reached a dimension and character distinct from the emotional distress which may be regarded as inevitably caused to relatives of a victim of a serious human rights violation. It accordingly finds that there has been a violation of Article 3 of the Convention also in respect of the applicant.

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IV. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

A. The parties' submissions

76. The applicant submitted that the respondent State's refusal to cooperate with Armenian authorities in investigating into the circumstances of his son's death, and alleged prior ill-treatment, had deprived him of any possible remedies with regard to the alleged violations of his and his son's rights under Articles 2 and 3 of the Convention, contrary to Article 13 which reads as follows:

"Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

77. The respondent Government submitted, in the context of their admissibility objections, that it was known that the authorities of the Republic of Azerbaijan avoided any contacts with Armenia until the solution of the conflicts between the two States and establishment of inter-State relations.

78. The Armenian Government supported the applicant's submissions.

B. The Court's assessment

79. The Court notes that it is undisputed that there were no remedies in Azerbaijan for individuals in the applicant's situation (see paragraph 34 above). However, it has regard to the reasoning which led it to find a violation of Article 2 in its procedural aspect, notably that the respondent State's authorities did not carry out any investigation in respect of Karen Petrosyan's death while in captivity, notwithstanding that the situation so required (see paragraphs 59-61 above).

80. In these circumstances, the Court considers that there is no need to examine the case also under Article 13 of the Convention.

V. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION

81. The applicant argued that the violations of his son's rights under Articles 2 and 3 of the Convention had been carried out on the basis of discrimination because of his Armenian origin, contrary to Article 14, which reads as follows:

"The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

82. The respondent Government submitted that, while they condemned any acts constituting crime under generally recognised international law, the

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applicant had failed to show what kind of difference in treatment had constituted the acts complained of and what was the other category of individuals (e.g. ethnicity) that the applicant compared himself with.

83. The Armenian Government submitted that the applicant's son had been arbitrarily detained and tortured in the prison as a result of his ethnic Armenian origin and that this had to be viewed in the wider context of the general policy of the authorities of Azerbaijan towards Armenia.

84. The Court notes that the applicants' complaints under Article 14 of the Convention are essentially based on the same facts that have already been examined under Articles 2 and 3, put in the wider context of the relations between Azerbaijan and Armenia. However, as part of its findings above (see paragraph 60), the Court has already taken into account the general context of hostility and tension between Azerbaijan and Armenia, and concluded that that context also indicated that an investigation into the death of the applicant's son should have been carried out.

85. For those reasons, the Court considers that there is no need to examine the case also under Article 14 of the Convention.

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

86. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

87. The applicant claimed just satisfaction in respect of non-pecuniary damage, fixed at the Court's discretion.

88. The Government submitted that the applicant had failed to claim an amount and that there was therefore no call for awarding just satisfaction in respect of non-pecuniary damage.

89. The Court finds that the applicant has undoubtedly suffered non-pecuniary damage as a result of the violations found. Ruling on an equitable basis, the Court awards him EUR 40,000 in this respect.

B. Costs and expenses

90. The applicant also claimed EUR 120 for the costs and expenses incurred before the Court. He submitted postal slips to support the claim.

91. The Government submitted that only two of the postal slips were dated subsequent to the application to the Court and accepted the claim in respect of those, which amounted to EUR 8,37 (4,950 Armenian drams).

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92. The Court considers that the costs and expenses have been actually and necessarily incurred and are reasonable as to quantum. Recovery is however limited to the expenses that relate to the instant case before the Court. The Court therefore awards the applicant EUR 8,37 under this head.

C. Default interest

93. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT

1. *Declares*, by a majority, the complaints concerning Articles 5 and 8 inadmissible and the remainder of the application admissible;
2. *Holds*, by six votes to one, that there has been a violation of Article 2 of the Convention in respect of its procedural as well as its substantive limb;
3. *Holds*, by six votes to one, that there has been a violation of Article 3 of the Convention in respect of Karen Petrosyan;
4. *Holds*, by six votes to one, that there has been a violation of Article 3 of the Convention in respect of the applicant;
5. *Holds*, unanimously, that there is no need to examine the complaints under Articles 13 and 14 of the Convention;
6. *Holds*, by six votes to one,
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:
 - (i) EUR 40,000 (forty-thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 8,37 (eight euros and thirty-seven cents), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

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Done in English, and notified in writing on 4 November 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

{signature_p_2}

Victor Soloveytkhik
Registrar

Síofra O'Leary
President

Annex 28

Baku Court of Appeal, Appeal Decision No. 1(103)-1641/2021 (26 November 2021)
(certified translation from Azerbaijani)

[COAT OF ARMS:]
THE REPUBLIC OF AZERBAIJAN

RESOLUTION

on behalf of the Republic of Azerbaijan

Baku city

File No. 1(103)-1641/2021

11.26.2021

BAKU COURT OF APPEAL

At a public trial session that took place in the in the presence of Judges – the chairman and rapporteur X10 Akbarov, and judges Elmar Eldar oglu Rahimov and Faig Adil oglu Gasimov, court session secretary – Gasimov Fakhri Vidadi oglu, public prosecutor – Prosecutor X7, translator X1, Sentenced Defendant1 and his Defense Lawyer9, Sentenced Defendant4 and his Defense Lawyer3, Sentenced Defendant6 and his Defense Lawyer1, Sentenced Defendant7 and his Defense Lawyer2, Sentenced Defendant8 and his Defense Lawyer7, Sentenced Defendant9 (Vartani) and his Defense Lawyer X4, Sentenced Defendant10 and his Defense Lawyer6, Offender X6 and his Defense Lawyer11, Sentenced Defendant12 and his Defense Lawyer14, Sentenced Defendant13 and his Defense Lawyer12, Sentenced Defendant2 and his Defense Lawyer5, Sentenced Defendant3 and his Defense Lawyer4, Sentenced Defendant5 and his Defense Lawyer X2 there have been reviewed the statements of appeal submitted by the offenders' Defense lawyers in regards to resolution of the Baku Court for Grave Crimes dated July 23, 2021, concerning Defendant1, Defendant2, Defendant3, Defendant4, Defendant5, Defendant6, Defendant7, Defendant8, Defendant9 (Vartani), Defendant10, X6, Defendant12 and Defendant13 who were sentenced under articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan:

IT HAS BEEN IDENTIFIED:

The Baku Court for Grave Crimes by its resolution dated July 23, 2021 (under the chairmanship of judge Azad Madjidov and with the participation of judges Zeynal Aghayev and Sabuhi Huseynov) has ruled as follows:

To find the Defendant1, born in the Gyumri city of the Republic of Armenia on April 20, 1998, a citizen of the Republic of Armenia, single, secondary education, employed as a delivery courier in Vesta shop of Gyumri city, registered at 10/7 Shirakatsi street, Gyumri city, Republic of Armenia, arrested under a court order and currently held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant1 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant1 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant1 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated. The actual term of the prison sentence was counted from December 13, 2020 and must be served in a general regime penal colony. Upon serving the sentence, he must be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan.

To find the Defendant2, born in the Lanchik village, Ani district, Shirak province of the Republic of Armenia on August 30, 1995, a citizen of the Republic of Armenia, single, secondary education, unemployed, without previous criminal background according to his own statement, registered at 2/3 Moldovakan street, Yerevan city, Republic of Armenia, arrested under a court order;

guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant2 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant2 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant2 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated. The actual term of the prison sentence was counted from December 13, 2020 and must be served in a general regime penal colony. Upon serving the sentence, he must be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan.

To find the Defendant3, born in the Gyumri city of the Republic of Armenia on July 11, 1992, a citizen of the Republic of Armenia, married, secondary education, employed as a cheese-maker in a cheese making workshop, registered at flat 3, 1/1 Lalayan street, Gyumri city, Republic of Armenia, arrested under a court order;

guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant3 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant3 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant3 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated. The actual term of the prison sentence was counted from December 13, 2020 and must be served in a general regime penal colony. Upon serving the sentence, he must be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan.

To find the Defendant4, born in the Artik town of the Republic of Armenia on December 23, 1996, a citizen of the Republic of Armenia, single, secondary education, employed as a security guard at Metropol Hotel in Yerevan, without previous criminal background according to his own statement, registered at flat 9, 1 Lambat street, Artik town of Shirak province, Republic of Armenia, arrested under a court order and currently held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant4 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant4 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant4 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated. The actual term of the prison sentence was counted from December 13, 2020 and must be served in a general regime penal colony. Upon serving the sentence, he must be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan.

To find the Defendant5, born in the Azatan village, Gyumri district, Shirak province of the Republic of Armenia on January 21, 1997, a citizen of the Republic of Armenia, single, secondary education, without previous criminal background according to his own statement, registered at 40, 42nd street, Azatan village, Gyumri district, Shirak province, Republic of Armenia, arrested under a court order;

guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant5 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal

Code of the Republic of Azerbaijan. Defendant5 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant5 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated. The actual term of the prison sentence was counted from December 13, 2020 and must be served in a general regime penal colony. Upon serving the sentence, he must be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan.

To find the Defendant6, born in the Lanchik village, Shirak district of the Republic of Armenia on April 1, 1999, a citizen of the Republic of Armenia, single, secondary education, unemployed, without previous criminal background according to his own statement, registered at 17, 4th street, Lanchik village, Shirak district, Republic of Armenia, arrested under a court order and currently held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant6 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant6 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant6 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated. The actual term of the prison sentence was counted from December 13, 2020 and must be served in a general regime penal colony. Upon serving the sentence, he must be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan.

To find the Defendant7, born in the Isahakyan village of the Gyumri district, Shirak province of the Republic of Armenia on January 30, 1998, a citizen of the Republic of Armenia, single, secondary education, unemployed, without previous criminal background according to his own statement, registered at 1, 7th street, Isahakyan village, Gyumri district, Shirak province, Republic of Armenia, arrested under a court order and currently held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant7 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant7 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant7 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated. The actual term of the prison sentence was counted from December 13, 2020 and must be served in a general regime penal colony. Upon serving the sentence, he must be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan.

To find the Defendant8, born in the Zuygaghbyur village of the Shirak province of the Republic of Armenia on May 24, 1989, a citizen of the Republic of Armenia, married, with two children, secondary education, unemployed, without previous criminal background according to his own statement, registered at 34, 8th street, Zuygaghbyur village, Shirak province, Republic of Armenia, arrested under a court order and currently held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant8 to 5 (five) years in prison in accordance with article 228.3 of the Criminal

Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant8 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant8 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated. The actual term of the prison sentence was counted from December 13, 2020 and must be served in a general regime penal colony. Upon serving the sentence, he must be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan.

To find the Defendant9 (Vartani), born in the Gog'hovit village of the Shirak province of the Republic of Armenia on April 16, 1996, a citizen of the Republic of Armenia, single, secondary education, unemployed, without previous criminal background according to his own statement, registered at 3, 1st street, Gog'hovit village, Shirak province, Republic of Armenia, arrested under a court order and currently held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant9 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant9 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant9 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated. The actual term of the prison sentence was counted from December 13, 2020 and must be served in a general regime penal colony. Upon serving the sentence, he must be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan.

To find the Defendant10, born in the Azatan village of the Akhuryan district, Shirak province of the Republic of Armenia on May 11, 1983, a citizen of the Republic of Armenia, married, with three children, secondary education, unemployed, without previous criminal background according to his own statement, registered at 28, 29th street, Azatan village, Akhuryan district, Shirak province, Republic of Armenia, arrested under a court order and currently held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant10 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant10 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant10 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated. The actual term of the prison sentence was counted from December 13, 2020 and must be served in a general regime penal colony. Upon serving the sentence, he must be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan.

To find X9, born in the Gyumri city of the Shirak province of the Republic of Armenia on January 30, 1998, a citizen of the Republic of Armenia, single, secondary education, employed as a cashier at Karona supermarket in Gyumri city, without previous criminal background according to his own statement, registered at 11 Missi Kambinat street, Gyumri, Republic of Armenia, arrested under a court order and currently held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence X9 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of

the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. X9 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of X9 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated. The actual term of the prison sentence was counted from December 13, 2020 and must be served in a general regime penal colony. Upon serving the sentence, he must be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan.

To find the Defendant12, born in the Jajur village of the Shirak district of the Republic of Armenia on December 6, 1992, a citizen of the Republic of Armenia, single, higher education, employed as a security guard at the railroad station of Gyumri city, without previous criminal background according to his own statement, registered at 122, 1st street, Jajur village, Shirak district, Republic of Armenia, arrested under a court order and currently held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant12 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant12 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant12 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated. The actual term of the prison sentence was counted from December 13, 2020 and must be served in a general regime penal colony. Upon serving the sentence, he must be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan.

To find the Defendant13, born in the Isahakyan village of the Gyumri district of the Republic of Armenia on July 22, 1991, a citizen of the Republic of Armenia, single, secondary education, unemployed, without previous criminal background according to his own statement, registered at 5, 6th street, Isahakyan village, Gyumri district, Republic of Armenia, arrested under a court order and currently held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant13 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant13 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant13 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated. The actual term of the prison sentence was counted from December 13, 2020 and must be served in a general regime penal colony. Upon serving the sentence, he must be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan.

The court of the first instance adopted this ruling as it was found that the Defendant1 illegally crossed the state border of the Republic of Azerbaijan as a member of a pre-formed organized group and, as members of an organized group, acquired, kept, carried and transported armed weapons, components, ammunition, explosive substances and devices. In particular, he, together with other citizens of the Republic of Armenia who were members of a pre-formed organized group, illegally and without any relevant documents crossed the state border of the Republic of Azerbaijan outside of state border control check points on November 27, 2020, were supplied with firearms, ammunition, explosive substances, military equipment and army supplies, and illegally acquired,

carried and transported armed weapons, components, ammunition, explosive substances and devices during the period until December 13, 2020.

The Defendant2 illegally crossed the state border of the Republic of Azerbaijan as a member of a pre-formed organized group and, as members of an organized group, acquired, kept, carried and transported armed weapons, components, ammunition, explosive substances and devices. In particular, he, together with other citizens of the Republic of Armenia who were members of a pre-formed organized group, illegally and without any relevant documents crossed the state border of the Republic of Azerbaijan outside of state border control check points on November 27, 2020, were supplied with firearms, ammunition, explosive substances, military equipment and army supplies, and illegally acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices during the period until December 13, 2020.

The Defendant3 illegally crossed the state border of the Republic of Azerbaijan as a member of a pre-formed organized group and, as members of an organized group, acquired, kept, carried and transported armed weapons, components, ammunition, explosive substances and devices. In particular, he, together with other citizens of the Republic of Armenia who were members of a pre-formed organized group, illegally and without any relevant documents crossed the state border of the Republic of Azerbaijan outside of state border control check points on November 27, 2020, were supplied with firearms, ammunition, explosive substances, military equipment and army supplies, and illegally acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices during the period until December 13, 2020.

The Defendant4 illegally crossed the state border of the Republic of Azerbaijan as a member of a pre-formed organized group and, as members of an organized group, acquired, kept, carried and transported armed weapons, components, ammunition, explosive substances and devices. In particular, he, together with other citizens of the Republic of Armenia who were members of a pre-formed organized group, illegally and without any relevant documents crossed the state border of the Republic of Azerbaijan outside of state border control check points on November 27, 2020, were supplied with firearms, ammunition, explosive substances, military equipment and army supplies, and illegally acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices during the period until December 13, 2020.

The Defendant5 illegally crossed the state border of the Republic of Azerbaijan as a member of a pre-formed organized group and, as members of an organized group, acquired, kept, carried and transported armed weapons, components, ammunition, explosive substances and devices. In particular, he, together with other citizens of the Republic of Armenia who were members of a pre-formed organized group, illegally and without any relevant documents crossed the state border of the Republic of Azerbaijan outside of state border control check points on November 27, 2020, were supplied with firearms, ammunition, explosive substances, military equipment and army supplies, and illegally acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices during the period until December 13, 2020.

The Defendant6 illegally crossed the state border of the Republic of Azerbaijan as a member of a pre-formed organized group and, as members of an organized group, acquired, kept, carried and transported armed weapons, components, ammunition, explosive substances and devices. In particular, he, together with other citizens of the Republic of Armenia who were members of a pre-formed organized group, illegally and without any relevant documents crossed the state border of the Republic of Azerbaijan outside of state border control check points on November 27, 2020, were supplied with firearms, ammunition, explosive substances, military equipment and army supplies, and illegally acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices during the period until December 13, 2020.

The Defendant7 illegally crossed the state border of the Republic of Azerbaijan as a member of a pre-formed organized group and, as members of an organized group, acquired, kept, carried and transported armed weapons, components, ammunition, explosive substances and devices. In particular, he, together with other citizens of the Republic of Armenia who were members of a pre-formed organized group, illegally and without any relevant documents crossed the state border of the Republic of Azerbaijan outside of state border control check points on November 27, 2020, were supplied with firearms, ammunition, explosive substances, military equipment

and army supplies, and illegally acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices during the period until December 13, 2020.

The Defendant8 illegally crossed the state border of the Republic of Azerbaijan as a member of a pre-formed organized group and, as members of an organized group, acquired, kept, carried and transported armed weapons, components, ammunition, explosive substances and devices. In particular, he, together with other citizens of the Republic of Armenia who were members of a pre-formed organized group, illegally and without any relevant documents crossed the state border of the Republic of Azerbaijan outside of state border control check points on November 27, 2020, were supplied with firearms, ammunition, explosive substances, military equipment and army supplies, and illegally acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices during the period until December 13, 2020.

The Defendant9 (Vartani) illegally crossed the state border of the Republic of Azerbaijan as a member of a pre-formed organized group and, as members of an organized group, acquired, kept, carried and transported armed weapons, components, ammunition, explosive substances and devices. In particular, he, together with other citizens of the Republic of Armenia who were members of a pre-formed organized group, illegally and without any relevant documents crossed the state border of the Republic of Azerbaijan outside of state border control check points on November 27, 2020, were supplied with firearms, ammunition, explosive substances, military equipment and army supplies, and illegally acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices during the period until December 13, 2020.

The Defendant10 illegally crossed the state border of the Republic of Azerbaijan as a member of a pre-formed organized group and, as members of an organized group, acquired, kept, carried and transported armed weapons, components, ammunition, explosive substances and devices. In particular, he, together with other citizens of the Republic of Armenia who were members of a pre-formed organized group, illegally and without any relevant documents crossed the state border of the Republic of Azerbaijan outside of state border control check points on November 27, 2020, were supplied with firearms, ammunition, explosive substances, military equipment and army supplies, and illegally acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices during the period until December 13, 2020.

X5 illegally crossed the state border of the Republic of Azerbaijan as a member of a pre-formed organized group and, as members of an organized group, acquired, kept, carried and transported armed weapons, components, ammunition, explosive substances and devices. In particular, he, together with other citizens of the Republic of Armenia who were members of a pre-formed organized group, illegally and without any relevant documents crossed the state border of the Republic of Azerbaijan outside of state border control check points on November 27, 2020, were supplied with firearms, ammunition, explosive substances, military equipment and army supplies, and illegally acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices during the period until December 13, 2020.

The Defendant12 illegally crossed the state border of the Republic of Azerbaijan as a member of a pre-formed organized group and, as members of an organized group, acquired, kept, carried and transported armed weapons, components, ammunition, explosive substances and devices. In particular, he, together with other citizens of the Republic of Armenia who were members of a pre-formed organized group, illegally and without any relevant documents crossed the state border of the Republic of Azerbaijan outside of state border control check points on November 27, 2020, were supplied with firearms, ammunition, explosive substances, military equipment and army supplies, and illegally acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices during the period until December 13, 2020.

The Defendant13 illegally crossed the state border of the Republic of Azerbaijan as a member of a pre-formed organized group and, as members of an organized group, acquired, kept, carried and transported armed weapons, components, ammunition, explosive substances and devices. In particular, he, together with other citizens of the Republic of Armenia who were members of a pre-formed organized group, illegally and without any relevant documents crossed the state border of the Republic of Azerbaijan outside of state border control check points on November 27, 2020, were supplied with firearms, ammunition, explosive substances, military equipment

and army supplies, and illegally acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices during the period until December 13, 2020.

Defendant6's Defense Lawyer1 appealed for revocation of the resolution of the Baku Court for Grave Crimes dated July 23, 2021 in respect of Defendant6 and requested for a judgment of acquittal to be adopted as the defendant's guilt was not established.

Defendant1's Defense Lawyer9 appealed for revocation of the resolution of the Baku Court for Grave Crimes dated July 23, 2021 in respect of Defendant1 and requested for a judgment of acquittal to be adopted as the defendant's guilt was not established.

Defendant9 (Vartani)'s Defense Lawyer8 appealed for revocation of the resolution of the Baku Court for Grave Crimes dated July 23, 2021 in respect of Defendant9 (Vartani) and requested for a judgment of acquittal to be adopted as the defendant's guilt was not established.

Defendant3's Defense Lawyer4 appealed for revocation of the resolution of the Baku Court for Grave Crimes dated July 23, 2021 in respect of Defendant3 and requested for a judgment of acquittal to be adopted as the defendant's guilt was not established.

Defendant4's Defense Lawyer3 appealed for revocation of the resolution of the Baku Court for Grave Crimes dated July 23, 2021 in respect of Defendant4 and requested for a judgment of acquittal to be adopted as the defendant's guilt was not established.

Defendant2's Defense Lawyer5 appealed for a judgment of acquittal to be adopted as the defendant's guilt under article 42.1.4 of the Criminal Code of the Republic of Azerbaijan was not established.

Defendant10's Defense Lawyer6 appealed for revocation of the resolution of the Baku Court for Grave Crimes dated July 23, 2021 in respect of Defendant10 and requested for a judgment of acquittal to be adopted as the defendant's guilt was not established.

Defendant8's Defense Lawyer7 appealed for a judgment of acquittal to be adopted as the defendant's guilt under articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan was not established.

Defendant13's Defense Lawyer12 appealed for revocation of the resolution of the Baku Court for Grave Crimes dated July 23, 2021 in respect of Defendant13 and requested for a judgment of acquittal to be adopted as the defendant's under article 42.1.2 of the Criminal Code of the Republic of Azerbaijan was not established.

Defendant12's Defense Lawyer10 appealed for revocation of the resolution of the Baku Court for Grave Crimes dated July 23, 2021 in respect of Defendant12 and requested for a judgment of acquittal to be adopted as the defendant's guilt was not established.

Defendant7's Defense Lawyer2 appealed for revocation of the resolution of the Baku Court for Grave Crimes dated July 23, 2021 in respect of Defendant7 and requested for a judgment of acquittal to be adopted as the defendant's guilt was not established.

Defendant5's Defense Lawyer8 appealed for revocation of the resolution of the Baku Court for Grave Crimes dated July 23, 2021 in respect of Defendant5 and requested for a judgment of acquittal to be adopted as the defendant's guilt was not established.

Offender X3's Defense Lawyer11 appealed for revocation of the resolution of the Baku Court for Grave Crimes dated July 23, 2021 in respect of X3 and requested for a judgment of acquittal to be adopted as the defendant's guilt was not established.

The panel of judges discussed the arguments provided in the appeals, examined the criminal case materials, took notes from the public prosecutor who requested for the appeals to be dismissed and the original court ruling to be upheld, and from the sentenced defendants and their Defense lawyers who requested for their appeals to be allowed, and came to a conclusion that the appeals must be dismissed and the original court ruling must be upheld for the following reasons.

It is requested in individual appeals submitted by the Defense lawyers that the original resolution is revoked and a judgement of acquittal is adopted. The panel of judges has found that the commission of criminal activities under articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan by Defendant1, Defendant2, Defendant3, Defendant4, Defendant5, Defendant6, Defendant7, Defendant8, Defendant9 (Vartani), Defendant10, X6, Defendant12 and Defendant13 was fully proven by testimonies of victims, reports of witness, the minutes of preliminary investigation and legal actions, expert opinions, the material evidence and other evidence that was used for the case.

The panel of judges has found that the Defendant1, Defendant2, Defendant3, Defendant4, Defendant5, Defendant6, Defendant7, Defendant8, Defendant9 (Vartani), Defendant10, X6, Defendant12 and Defendant13 have been proven guilty on the basis of witness statements and available evidences, which were fully and thoroughly examined by the court of the first instance in an unbiased manner. Based on the evidences which were established by the panel of judges to be completely reliable, the court of the first instance made a lawful and reasonable conclusion in regards to the criminal offences committed by the Defendant1, Defendant2, Defendant3, Defendant4, Defendant5, Defendant6, Defendant7, Defendant8, Defendant9 (Vartani), Defendant10, X6, Defendant12 and Defendant13 as provided for by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan.

According to the refence No. 2/7963 of the Head Department II of the State Security Service dated December 16, 2020, which is attached to the criminal case, after a ceasefire regime was announced in accordance with the joint declaration signed by the Presidents of the Republic of Azerbaijan and the Russian Federation, and the Prime Minister of the Republic of Armenia, on November 10, 2020, certain terrorist and diversionist groups illegally crossed the border from Armenia and occupied combat positions in the north-western forested areas of the Hadrut settlement of the Khodjavand district of the Republic of Azerbaijan. In this regard, the authorities of the Republic of Azerbaijan provided conditions for withdrawal of armed Armenian formations from the area, while military servants of the Russian peace-making forces made air tours of the area in extreme weather conditions and used loudspeakers to call on Armenian armed forces to withdraw from the area. However, although due measures were taken to evacuate Armenian soldiers from the area, Armenian armed forces kept hiding in the forests and did not leave. Instead, they built combat positions and committed terrorist and diversionist activities against civil service officers and military servants of the Republic of Azerbaijan in the area. In consideration of the above-mentioned, the State Security Service carried out an anti-terrorist operation in the area on December 13, 2020, and detained 62 Armenian terrorists who were in the hiding. Besides, two more Armenian terrorists – X18 and X13 were detained as a result of continuing anti-terrorist operation on December 14.

It follows from reference No. 2/7992 of the Head Department II of the State Security Service dated February 10, 2021, that members of the armed group of Armenians who were detained as a result of the anti-terrorist operation carried out by the State Security Service had been led by Arsen Gazaryan and illegally entered the Lachin district of the Republic of Azerbaijan from Armenia on November 27, 2020. From Lachin they came to the Khodjavand district and occupied positions in the mountainous and forested areas of the north-western part of Hadrut settlement. The armed groups of Armenians positioned in those areas were led by X14 and X11. Armenian militants arrived and positioned themselves in those areas for the purposes of carrying out terrorist and sabotage activities against civilians and military servants of the Republic of Azerbaijan.

According to the conclusion of the forensic ballistic examination No. 3/307; 3/308 dated April 15, 2021; the 7.62mm caliber AKM rifle No. BK 9861 dating from 1964 and marked with the number 1; the 7.62mm caliber AKM rifle No. QE 478 dating from 1970 and marked with the number 2; the 7.62mm caliber AKM rifle No. 138400 dating from 1974 and marked with the number 3; the 7.62mm caliber AKM rifle No. IB 9115 dating from 1968 and marked with the number 4; the 7.62mm caliber AKM rifle No. HB 6474 dating from 1967 and marked with the number 5; the 7.62mm caliber AKM rifle No. EE 9182 dating from 1967 and marked with the number 6; the 7.62mm caliber AKM rifle No. VT 5798 dating from 1960 and marked with the number 7; the 7.62mm caliber AKM rifle No. LB 3610 dating from 1961 and marked with the number 8; the 7.62mm caliber AKM rifle No. HP 1893 dating from 1970 and marked with the number 9; the 7.62mm caliber AKM rifle No. IT 4590 dating from 1967 and marked with the number 10; the 7.62mm caliber AKM rifle No. PH 8807 dating from 1964 and marked with the number 11; the 7.62mm caliber AKM rifle No. 808270 dating from 1974 and marked with the number 12; the 7.62mm caliber AKM rifle No. LU 6287 dating from 1967 and marked with the number 13; the 7.62mm caliber AKM rifle No.

SHB 1808 dating from 1961 and marked with the number 14; the 7.62mm caliber AKM rifle No. EP 0276 dating from 1964 and marked with the number 15; the 7.62mm caliber AKM rifle No. XQ 1861 dating from 1960 and marked with the number 16; the 7.62mm caliber AKM rifle No. EP 6913 dating from 1969 and marked with the number 17; the 7.62mm caliber AKM rifle No. KU 735 dating from 1966 and marked with the number 18; the 7.62mm caliber AKM rifle No. HP 5620 dating from 1966 and marked with the number 19; the 7.62mm caliber AKM rifle No. AA 8238 dating from 1968 and marked with the number 20; the 7.62mm caliber AKM rifle No. OL 9894 dating from 1968 and marked with the number 21; the 7.62mm caliber AKM rifle No. OL 9940 dating from 1968 and marked with the number 22; the 7.62mm caliber AKM rifle No. PC 1709 dating from 1962 and marked with the number 23; the 7.62mm caliber AKM rifle No. EP 2590 dating from 1969 and marked with the number 24; the 7.62mm caliber AKM rifle No. LI 7190 dating from 1967 and marked with the number 25; the 7.62mm caliber AKM rifle No. KT 353 dating from 1970 and marked with the number 26; the 7.62mm caliber AKM rifle No. QM 2148 dating from 1964 and marked with the number 27; the 7.62mm caliber AKM rifle No. HC 1630 dating from 1961 and marked with the number 28; the 7.62mm caliber AKM rifle No. AE 8030 dating from 1961 and marked with the number 29; the 7.62mm caliber AKM rifle No. KSH 9419 dating from 1964 and marked with the number 30; the 7.62mm caliber AKM rifle No. BE 648 dating from 1968 and marked with the number 31; the 7.62mm caliber AKM rifle No. QA 6467 dating from 1964 and marked with the number 32; the 7.62mm caliber AKM rifle No. HP 4836 dating from 1961 and marked with the number 33; the 7.62mm caliber AKM rifle No. OT 7193 dating from 1965 and marked with the number 34; the 7.62mm caliber AKM rifle No. AH 4456 dating from 1960 and marked with the number 35; the 7.62mm caliber AKM rifle No. AP 3792 dating from 1970 and marked with the number 36; the 7.62mm caliber AKM rifle No. AO 9591 dating from 1970 and marked with the number 37; the 7.62mm caliber AKM rifle No. TB 7920 dating from 1972 and marked with the number 38; the 7.62mm caliber AKM rifle No. 00747 dating from 1968 and marked with the number 39; the 7.62mm caliber AKM rifle No. NO 388 dating from 1969 and marked with the number 40; the 7.62mm caliber AKM rifle No. OL 8992 dating from 1968 and marked with the number 41; the 7.62mm caliber AKM rifle No. PX 8419 dating from 1961 and marked with the number 42; the 7.62mm caliber AKM rifle No. AC 285 dating from 1967 and marked with the number 43; the 7.62mm caliber AKM rifle No. LN 045 dating from 1971 and marked with the number 44; the 7.62mm caliber AKM rifle No. UB 509 dating from 1972 and marked with the number 45; the 7.62mm caliber AKM rifle No. ZSH 4821 dating from 1960 and marked with the number 46; the 7.62mm caliber AKM rifle No. II 2994 dating from 1972 and marked with the number 47; the 7.62mm caliber AKM rifle No. UA 3731 dating from 1964 and marked with the number 48; the 7.62mm caliber AKM rifle No. HP 1279 dating from 1970 and marked with the number 49; the 7.62mm caliber AKM rifle No. HA 3331 dating from 1970 and marked with the number 50; the 7.62mm caliber AKM rifle No. ML 6678 dating from 1965 and marked with the number 51; were rifled automatic firearms. It was not possible to open fire from the rifles No. AH 4456 marked with the number 35, No. 00747 marked with the number 39, and No. ZŞ 4821 marked with the number 46, as those missed breech blocks which are of functional importance. For this reason, these 3 (three) rifles are unserviceable at the moment. Other weapons are suitable for operation as their parts and mechanisms are in interaction. Incompletely burned smokeless powder particles were found in 51 (fifty-one) 7.62mm caliber AKM assault rifles submitted for examination, which proves the fact that fire(s) had been opened from these rifles.

The panel of judges also considers that it follows from clause 4 of the Geneva Convention relative to the Treatment of Prisoners of War dated August 12, 1949, that prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy:

1. Members of the armed forces of a Party to the conflict as well as members of militias or volunteer corps forming part of such armed forces.
2. Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:

- (a) That of being commanded by a person responsible for his subordinates;
- (b) That of having a fixed distinctive sign recognizable at a distance;
- (c) That of carrying arms openly;
- (d) That of conducting their operations in accordance with the laws and customs of war.

3. Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power.

4. Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labor units or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model.

5. Members of crews, including masters, pilots and apprentices, of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favorable treatment under any other provisions of international law.

6. Inhabitants of a non-occupied territory, who on the approach of the enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

B. The following shall likewise be treated as prisoners of war under the present Convention:

1. Persons belonging, or having belonged, to the armed forces of the occupied country, if the occupying Power considers it necessary by reason of such allegiance to intern them, even though it has originally liberated them while hostilities were going on outside the territory it occupies, in particular where such persons have made an unsuccessful attempt to rejoin the armed forces to which they belong and which are engaged in combat, or where they fail to comply with a summons made to them with a view to internment.

As it can be seen, contrary to the declaration officially signed by the Republic of Armenia on November 10, 2020, the defendants did not appear to be military servants of the Armed Forces of Armenia or members of irregular armed or voluntary troops under the Armed Forces, but were a criminal group which illegally crossed into the territory of the Republic of Azerbaijan on November 27, 2020 for the purposes of committing heavy and especially grave crimes. As they are sentenced of committing, until they were detained on December 13, 2020, criminal activities in the Hodjavand district that was under control of the Armed Forces of the Republic of Azerbaijan this excludes the application of clause 1 of Article 4 of the Geneva Convention relative to the Treatment of Prisoners of War dated August 12, 1949.

The guilt of the defendants in committing the crimes under articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan has been fully established and the punishment envisioned by these articles was lawfully applied.

The objective of the punishment is not that it is more severe than the crime itself. Instead, as provided by article 41.2 of the Criminal Code of the Republic of Azerbaijan, punishment shall be applied for the purpose of restoring social justice, and also for the purpose of reforming a convicted person and preventing the commission of further crimes.

For this reason, the appeals should not be allowed and the original resolution of the Baku Court for Grave Crimes dated July 23, 2021, in regards to sentencing of Defendant1, Defendant2, Defendant3, Defendant4, Defendant5, Defendant6, Defendant7, Defendant8, Defendant9 (Vartani), Defendant10, X6, Defendant12 and Defendant13 under articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan shall be upheld and remain unchanged.

Based on the above-mentioned and guided by the provisions of articles 397.1, 397.2, 398.1.1 and 407.2 of the Code of Criminal Procedure of the Republic of Azerbaijan, the panel of judges

RULED:

To dismiss individuals appeals submitted by the defendant's Defense lawyers.

To uphold and keep unchanged the original resolution of the Baku Court for Grave Crimes dated July 23, 2021, in regards to sentencing of Defendant1, Defendant2, Defendant3, Defendant4, Defendant5, Defendant6,

Defendant7, Defendant8, Defendant9 (Vartani), Defendant10, X6, Defendant12 and Defendant13 under articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan.

This resolution shall come into force from the time it has been announced.

This resolution can be appealed by means of filing a cassational appeal or a cassational protest to the Supreme Court of the Republic of Azerbaijan within the period envisioned by article 410 of the Code of Criminal Procedure of the Republic of Azerbaijan.



Azərbaycan Respublikası adından

QƏRAR

Bakı şəhəri

İş № 1(103)-1641/2021

26.11.2021

BAKI APELLYASIYA MƏHKƏMƏSİ

X10 Əkbərovun sədrliyi və məruzəsilə, Elmar Eldar oğlu Rəhimov və Faiq Adil oğlu Qasımovdan ibarət tərkibdə, məhkəmə iclas katibi Qasımov Fəxri Vidadi oğlunun katibliyi, Dövlət ittihamçısı X7, tərcüməçi X1, məhkum edilmiş şəxs Təqsirləndirilən şəxs1 və onun müdafiəçisi Müdafiəçi9, məhkum edilmiş şəxs Təqsirləndirilən şəxs4 və onun müdafiəçisi Müdafiəçi3, məhkum edilmiş şəxs Təqsirləndirilən şəxs6 və onun müdafiəçisi Müdafiəçi1, məhkum edilmiş şəxs Təqsirləndirilən şəxs7 və onun müdafiəçisi Müdafiəçi2, məhkum edilmiş şəxs Təqsirləndirilən şəxs8 və onun müdafiəçisi Müdafiəçi7, məhkum edilmiş şəxs Təqsirləndirilən şəxs9 (Vartanoviç) və onun müdafiəçisi X4, məhkum edilmiş şəxs Təqsirləndirilən şəxs10 və onun müdafiəçisi Müdafiəçi6, məhkum edilmiş şəxs X6 və onun müdafiəçisi Müdafiəçi11, məhkum edilmiş şəxs Təqsirləndirilən şəxs12 və onun müdafiəçisi Müdafiəçi14, məhkum edilmiş şəxs Təqsirləndirilən şəxs13 və onun müdafiəçisi Müdafiəçi12, məhkum edilmiş şəxs Təqsirləndirilən şəxs2 müdafiəçisi Müdafiəçi5, Təqsirləndirilən şəxs3 müdafiəçisi Müdafiəçi4, Təqsirləndirilən şəxs5 müdafiəçisi X2 iştirakları ilə, Bakı Ağır Cinayətlər Məhkəməsinin Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9 (Vartanoviç), Təqsirləndirilən şəxs10, X6, Təqsirləndirilən şəxs12 və Təqsirləndirilən şəxs13 Azərbaycan Respublikası CM-nin 228.3 və 318.2-ci maddələri ilə məhkum edilmələrinə dair 23 iyul 2021-ci il tarixli hökmündən məhkum edilmiş şəxslərin müdafiəçiləri tərəfindən ayrı-ayrılıqda verilmiş apellyasiya şikayətlərinə açıq məhkəmə iclasında baxaraq,

MÜƏYYƏN ETDİ:

Bakı Ağır Cinayətlər Məhkəməsinin (sədrlik edən hakim Azad Məcidov hakimlər Zeynal Ağayev və Səbuhi Hüseynov) 23 iyul 2021-ci il tarixli hökmü ilə

20 aprel 1998-ci il tarixdə Ermənistan Respublikası, Gümrü şəhərində anadan olmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, Gümrü şəhərində "Vesta" mağazasında kuryer işləmiş, deməsinə görə əvvəllər məhkum olunmamış, Ermənistan Respublikası, Gümrü şəhəri, Şirakasi küçəsi, ev 10/7-də qeydiyyatda olan, barəsində həbs qətimkan tədbiri seçilmiş, hal-hazırda Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan

Təqsirləndirilən şəxs1 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinərək ona Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 05 (beş) il müddətə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 04 (dörd) il müddətə azadlıqdan məhrum etmə cəzası təyin edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən təyin olunmuş cəzaları qismən toplamaq yolu ilə qəti olaraq 06 (altı) il müddətə azadlıqdan məhrum etmə cəzasına məhkum edilmişdir. Azərbaycan Respublikası CM-nin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilmişdir. Cəzaçəkmə müddətinin əvvəli 13 dekabr 2020-ci il tarixdən hesablanmaqla cəzasını ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi müəyyən edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən təyin olunmuş əsas cəzasını çəkib qurtardıqdan sonra Azərbaycan Respublikasının hüduqlarından kənara məcburi çıxarılması hökm edilmişdir.

30 avqust 1995-ci il tarixdə Ermənistan Respublikası, Şiraki vilayəti, Ani rayonu, Lancik kəndində anadan olmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, işləməyən, deməsinə görə əvvəllər məhkum olunmamış, Ermənistan

Respublikası, İrəvan şəhəri, Mordovaqan küçəsi 2/3, mənzil 3-də qeydiyyatda olan, barəsində həbs qətimkan tədbiri seçilmiş

Təqsirləndirilən şəxs2 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinərək ona Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 05 (beş) il müddətə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 04 (dörd) il müddətə azadlıqdan məhrum etmə cəzası təyin edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən təyin olunmuş cəzaları qismən toplamaq yolu ilə qəti olaraq 06 (altı) il müddətə azadlıqdan məhrum etmə cəzasına məhkum edilmişdir. Azərbaycan Respublikası CM-nin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilmişdir. Cəzaçəkmə müddətinin əvvəli 13 dekabr 2020-ci il tarixdən hesablanmaqla cəzasını ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi müəyyən edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən təyin olunmuş əsas cəzasını çəkib qurtardıqdan sonra Azərbaycan Respublikasının hüduqlarından kənara məcburi çıxarılması hökm edilmişdir.

11 iyul 1992-ci il tarixdə Ermənistan Respublikası, Gümrü şəhərində anadan olmuş, Ermənistan Respublikasının vətəndaşı, evli, orta təhsilli, pendir sexində pendir hazırlayan işləyən, deməsinə görə əvvəllər məhkum olunmamış, Ermənistan Respublikası, Gümrü şəhəri, Lalayan küçəsi 1/1, mənzil 3-də qeydiyyatda olan, barəsində həbs qətimkan tədbiri seçilmiş

Təqsirləndirilən şəxs3 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinərək ona Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 05 (beş) il müddətə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 04 (dörd) il müddətə azadlıqdan məhrum etmə cəzası təyin edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən təyin olunmuş cəzaları qismən toplamaq yolu ilə qəti olaraq 06 (altı) il müddətə azadlıqdan məhrum etmə cəzasına məhkum edilmişdir. Azərbaycan Respublikası CM-nin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilmişdir. Cəzaçəkmə müddətinin əvvəli 13 dekabr 2020-ci il tarixdən hesablanmaqla cəzasını ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi müəyyən edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən təyin olunmuş əsas cəzasını çəkib qurtardıqdan sonra Azərbaycan Respublikasının hüduqlarından kənara məcburi çıxarılması hökm edilmişdir.

23 dekabr 1996-cı il tarixdə Ermənistan Respublikası, Artek şəhərində anadan olmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, İrəvan şəhəri "Metropol" hotelində mühafizəçi işləmiş, deməsinə görə əvvəllər məhkum olunmamış, Ermənistan Respublikası, Şiraki Artek şəhəri, Ləmbat küçəsi, ev 1, mənzil 9-da qeydiyyatda olan, barəsində həbs qətimkan tədbiri seçilmiş, hal-hazırda Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan

Təqsirləndirilən şəxs4 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinərək ona Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 05 (beş) il müddətə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 04 (dörd) il müddətə azadlıqdan məhrum etmə cəzası təyin edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən təyin olunmuş cəzaları qismən toplamaq yolu ilə qəti olaraq 06 (altı) il müddətə azadlıqdan məhrum etmə cəzasına məhkum edilmişdir. Azərbaycan Respublikası CM-nin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilmişdir. Cəzaçəkmə müddətinin əvvəli 13 dekabr 2020-ci il tarixdən hesablanmaqla cəzasını ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi müəyyən edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən təyin olunmuş əsas cəzasını çəkib qurtardıqdan sonra Azərbaycan Respublikasının hüduqlarından kənara məcburi çıxarılması hökm edilmişdir.

21 yanvar 1997-ci il tarixdə Ermənistan Respublikası, Şiraki vilayəti, Gümrü rayonu, Azatan kəndində anadan olmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, deməsinə görə əvvəllər məhkum olunmamış, işləməyən, Ermənistan Respublikası, Şiraki vilayəti, Gümrü rayonu, Azatan kəndi, 42-ci küçə, ev 40-da qeydiyyatda olan, barəsində həbs qətimkan tədbiri seçilmiş

Təqsirləndirilən şəxs5 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinərək ona Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 05 (beş) il müddətə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 04 (dörd) il müddətə

azadlıqdan məhrum etmə cəzası təyin edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən təyin olunmuş cəzaları qismən toplamaq yolu ilə qəti olaraq 06 (altı) il müddətə azadlıqdan məhrum etmə cəzasına məhkum edilmişdir. Azərbaycan Respublikası CM-nin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilmişdir. Cəzaçəkmə müddətinin əvvəli 13 dekabr 2020-ci il tarixdən hesablanmaqla cəzasını ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi müəyyən edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən təyin olunmuş əsas cəzasını çəkib qurtardıqdan sonra Azərbaycan Respublikasının hüduqlarından kənara məcburi çıxarılması hökm edilmişdir.

01 aprel 1999-cu il tarixdə Ermənistan Respublikası, Şiraki rayonu, Lançik kəndində anadan olmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, işləməyən, deməsinə görə əvvəllər məhkum olunmamış, Ermənistan Respublikası, Şiraki rayonu, Lançik kəndi, 4-cü küçə, ev 17-də qeydiyyatda olan, barəsində həbs qətimkan tədbiri seçilmiş, hal-hazırda Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan

Təqsirləndirilən şəxs6 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinərək ona Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 05 (beş) il müddətə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 04 (dörd) il müddətə azadlıqdan məhrum etmə cəzası təyin edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən təyin olunmuş cəzaları qismən toplamaq yolu ilə qəti olaraq 06 (altı) il müddətə azadlıqdan məhrum etmə cəzasına məhkum edilmişdir. Azərbaycan Respublikası CM-nin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilmişdir. Cəzaçəkmə müddətinin əvvəli 13 dekabr 2020-ci il tarixdən hesablanmaqla cəzasını ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi müəyyən edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən təyin olunmuş əsas cəzasını çəkib qurtardıqdan sonra Azərbaycan Respublikasının hüduqlarından kənara məcburi çıxarılması hökm edilmişdir.

30 yanvar 1998-ci il tarixdə Ermənistan Respublikası, Şiraki vilayəti, Gümrü rayonu, İshaqyan kəndində anadan olmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, işləməyən, deməsinə görə əvvəllər məhkum olunmamış, Ermənistan Respublikası, Şiraki vilayəti, Gümrü rayonu, İshaqyan kəndi, 7-ci küçə, ev 1-də qeydiyyatda olan, barəsində həbs qətimkan tədbiri seçilmiş, hal-hazırda Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan

Təqsirləndirilən şəxs7 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinərək ona Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 05 (beş) il müddətə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 04 (dörd) il müddətə azadlıqdan məhrum etmə cəzası təyin edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən təyin olunmuş cəzaları qismən toplamaq yolu ilə qəti olaraq 06 (altı) il müddətə azadlıqdan məhrum etmə cəzasına məhkum edilmişdir. Azərbaycan Respublikası CM-nin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilmişdir. Cəzaçəkmə müddətinin əvvəli 13 dekabr 2020-ci il tarixdən hesablanmaqla cəzasını ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi müəyyən edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən təyin olunmuş əsas cəzasını çəkib qurtardıqdan sonra Azərbaycan Respublikasının hüduqlarından kənara məcburi çıxarılması hökm edilmişdir.

24 may 1989-cu il tarixdə Ermənistan Respublikası, Şiraki vilayəti, Zuqağbuyur kəndində anadan olmuş, Ermənistan Respublikasının vətəndaşı, evli, himayəsində iki uşağı olan, orta təhsilli, işləməyən, deməsinə görə əvvəllər məhkum olunmamış, Ermənistan Respublikası, Şiraki vilayəti, Zuqağbuyur kəndi, 8-ci küçə, ev 34-də qeydiyyatda olan, barəsində həbs qətimkan tədbiri seçilmiş, hal-hazırda Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan

Təqsirləndirilən şəxs8 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinərək ona Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 05 (beş) il müddətə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 04 (dörd) il müddətə azadlıqdan məhrum etmə cəzası təyin edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən təyin olunmuş cəzaları qismən toplamaq yolu ilə qəti olaraq 06 (altı) il müddətə azadlıqdan məhrum etmə cəzasına məhkum edilmişdir. Azərbaycan Respublikası CM-nin

214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilmişdir. Cəzaçəkmə müddətinin əvvəli 13 dekabr 2020-ci il tarixdən hesablanmaqla cəzasını ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi müəyyən edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən təyin olunmuş əsas cəzasını çəkib qurtardıqdan sonra Azərbaycan Respublikasının hüduqlarından kənara məcburi çıxarılması hökm edilmişdir.

16 aprel 1996-cı il tarixdə Ermənistan Respublikası, Şiraki vilayəti, Qoqovid kəndində anadan olmuş, Ermənistan Respublikasının vətəndaşı, subay, orta Stəhsilli, işləməyən, deməsinə görə əvvəllər məhkum olunmamış, Ermənistan Respublikası, Şiraki vilayəti, Qoqovid kəndi 1-ci küçə ev 3-də qeydiyyatda olan, barəsində həbs qətimkan tədbiri seçilmiş, hal hazırda Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan

Təqsirləndirilən şəxs9 (Vartanoviç) Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinərək ona Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 05 (beş) il müddətə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 04 (dörd) il müddətə azadlıqdan məhrum etmə cəzası təyin edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən təyin olunmuş cəzaları qismən toplamaq yolu ilə qəti olaraq 06 (altı) il müddətə azadlıqdan məhrum etmə cəzasına məhkum edilmişdir. Azərbaycan Respublikası CM-nin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilmişdir. Cəzaçəkmə müddətinin əvvəli 13 dekabr 2020-ci il tarixdən hesablanmaqla cəzasını ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi müəyyən edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən təyin olunmuş əsas cəzasını çəkib qurtardıqdan sonra Azərbaycan Respublikasının hüduqlarından kənara məcburi çıxarılması hökm edilmişdir.

11 may 1983-cü il tarixdə Ermənistan Respublikası, Şiraki vilayəti, Axuranski Akuryan rayonu, Azatan kəndində anadan olmuş, Ermənistan Respublikasının vətəndaşı, evli, himayəsində üç uşağı olan, orta təhsilli, işləməyən, deməsinə görə əvvəllər məhkum olunmamış, Ermənistan Respublikası, Şiraki vilayəti, Axuranski rayonu, Azatan kəndi, 29-cu küçə, ev 28-də qeydiyyatda olan, barəsində həbs qətimkan tədbiri seçilmiş, hal hazırda Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan

Təqsirləndirilən şəxs10 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinərək ona Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 05 (beş) il müddətə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 04 (dörd) il müddətə azadlıqdan məhrum etmə cəzası təyin edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən təyin olunmuş cəzaları qismən toplamaq yolu ilə qəti olaraq 06 (altı) il müddətə azadlıqdan məhrum etmə cəzasına məhkum edilmişdir. Azərbaycan Respublikası CM-nin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilmişdir. Cəzaçəkmə müddətinin əvvəli 13 dekabr 2020-ci il tarixdən hesablanmaqla cəzasını ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi müəyyən edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən təyin olunmuş əsas cəzasını çəkib qurtardıqdan sonra Azərbaycan Respublikasının hüduqlarından kənara məcburi çıxarılması hökm edilmişdir.

30 yanvar 1998-ci il tarixdə Ermənistan Respublikası, Şiraki vilayəti, Gümrü şəhərində anadan olmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, Gümrü şəhərində "Karona" adlı supermarketdə kassir işləmiş, deməsinə görə əvvəllər məhkum olunmamış, Ermənistan Respublikası, Gümrü şəhəri, Missi Kambinat küçəsi, ev 11-də qeydiyyatda olan, barəsində həbs qətimkan tədbiri seçilmiş, hal-hazırda Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan

X9 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinərək ona Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 05 (beş) il müddətə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 04 (dörd) il müddətə azadlıqdan məhrum etmə cəzası təyin edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən təyin olunmuş cəzaları qismən toplamaq yolu ilə qəti olaraq 06 (altı) il müddətə azadlıqdan məhrum etmə cəzasına məhkum edilmişdir. Azərbaycan Respublikası CM-nin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilmişdir. Cəzaçəkmə müddətinin əvvəli 13 dekabr 2020-ci il tarixdən hesablanmaqla cəzasını ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi müəyyən edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən təyin

olunmuş əsas cəzasını çəkib qurtardıqdan sonra Azərbaycan Respublikasının hüdudlarından kənara məcburi çıxarılması hökm edilmişdir.

06 dekabr 1992-ci il tarixdə Ermənistan Respublikası, Şiraki rayonu, Cacur kəndində anadan olmuş, Ermənistan Respublikasının vətəndaşı, subay, ali təhsilli, Gümrü şəhəri "Dəmiryol" vağzalında mühafizəçi işləmiş, deməsinə görə əvvəllər məhkum olunmamış, Ermənistan Respublikası, Şiraki rayonu, Cacur kəndi, 1-ci küçə, ev 122-də qeydiyyatda olan, barəsində həbs qətimkan tədbiri seçilmiş, hal-hazırda Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan

Təqsirləndirilən şəxs12 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinərək ona Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 05 (beş) il müddətə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 04 (dörd) il müddətə azadlıqdan məhrum etmə cəzası təyin edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən təyin olunmuş cəzaları qismən toplamaq yolu ilə qəti olaraq 06 (altı) il müddətə azadlıqdan məhrum etmə cəzasına məhkum edilmişdir. Azərbaycan Respublikası CM-nin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilmişdir. Cəzaçəkmə müddətinin əvvəli 13 dekabr 2020-ci il tarixdən hesablanmaqla cəzasını ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi müəyyən edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən təyin olunmuş əsas cəzasını çəkib qurtardıqdan sonra Azərbaycan Respublikasının hüdudlarından kənara məcburi çıxarılması hökm edilmişdir.

22 iyul 1991-ci il tarixdə Ermənistan Respublikası, Gümrü rayonu, İlahakyan kəndində anadan olmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, işləməyən, deməsinə görə əvvəllər məhkum olunmamış, Ermənistan Respublikası, Gümrü rayonu, İlahakyan kəndi, 6-cı küçə, ev 5-də qeydiyyatda olan, barəsində həbs qətimkan tədbiri seçilmiş, hal-hazırda Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan

Təqsirləndirilən şəxs13 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinərək ona Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 05 (beş) il müddətə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 04 (dörd) il müddətə azadlıqdan məhrum etmə cəzası təyin edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən təyin olunmuş cəzaları qismən toplamaq yolu ilə qəti olaraq 06 (altı) il müddətə azadlıqdan məhrum etmə cəzasına məhkum edilmişdir. Azərbaycan Respublikası CM-nin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilmişdir. Cəzaçəkmə müddətinin əvvəli 13 dekabr 2020-ci il tarixdən hesablanmaqla cəzasını ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi müəyyən edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən təyin olunmuş əsas cəzasını çəkib qurtardıqdan sonra Azərbaycan Respublikasının hüdudlarından kənara məcburi çıxarılması hökm edilmişdir.

Birinci instansiya məhkəməsinin hökmünə görə Təqsirləndirilən şəxs1 qabaqcadan əlbir olan bir qrup şəxs halında Azərbaycan Respublikasının dövlət sərhədini qanunsuz olaraq keçmiş, həmçinin mütəşəkkil dəstə halında qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğular əldə edib, saxlayıb, daşıyıb, gəzdirmişdir. Belə ki, o, Ermənistan Respublikasının digər vətəndaşları ilə birlikdə qabaqcadan əlbir olan bir qrup şəxs halında 27 noyabr 2020-ci il tarixdə Azərbaycan Respublikasının dövlət sərhədini müvafiq sənədlər olmadan dövlət sərhədinin nəzarət-buraxılış məntəqələrindən kənarda keçməklə mütəşəkkil dəstə halında 13 dekabr 2020-ci il tarixədək olan müddət ərzində odlu silah, döyüş sursatı, partlayıcı maddələr, hərbi texnika və əsgəri ləvazimatla təchiz olunub, qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğular əldə edib, saxlayıb, daşıyıb, gəzdirmişlər.

Təqsirləndirilən şəxs2 qabaqcadan əlbir olan bir qrup şəxs halında Azərbaycan Respublikasının dövlət sərhədini qanunsuz olaraq keçmiş, həmçinin mütəşəkkil dəstə halında qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğular əldə edib, saxlayıb, daşıyıb, gəzdirmişdir. Belə ki, o, Ermənistan Respublikasının digər vətəndaşları ilə birlikdə qabaqcadan əlbir olan bir qrup şəxs halında 27 noyabr 2020-ci il tarixdə Azərbaycan Respublikasının dövlət sərhədini müvafiq sənədlər olmadan dövlət sərhədinin nəzarət-buraxılış məntəqələrindən kənarda keçməklə mütəşəkkil dəstə halında 13 dekabr 2020-ci il tarixədək olan müddət ərzində odlu silah, döyüş sursatı, partlayıcı maddələr, hərbi texnika və

tarixədək olan müddət ərzində odlu silah, döyüş sursatı, partlayıcı maddələr, hərbi texnika və əsgəri ləvazimatla təchiz olunub, qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğular əldə edib, saxlayıb, daşıyıb, gəzdirmişlər.

Təqsirləndirilən şəxs9 (Vartanoviç) qabaqcadan əlbir olan bir qrup şəxs halında Azərbaycan Respublikasının dövlət sərhədini qanunsuz olaraq keçmiş, həmçinin mütəşəkkil dəstə halında qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğular əldə edib, saxlayıb, daşıyıb, gəzdirmişdir. Belə ki, o, Ermənistan Respublikasının digər vətəndaşları ilə birlikdə qabaqcadan əlbir olan bir qrup şəxs halında 27 noyabr 2020-ci il tarixdə Azərbaycan Respublikasının dövlət sərhədini müvafiq sənədlər olmadan dövlət sərhədinin nəzarət-buraxılış məntəqələrindən kənarında keçməklə mütəşəkkil dəstə halında 13 dekabr 2020-ci il tarixədək olan müddət ərzində odlu silah, döyüş sursatı, partlayıcı maddələr, hərbi texnika və əsgəri ləvazimatla təchiz olunub, qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğular əldə edib, saxlayıb, daşıyıb, gəzdirmişlər.

Təqsirləndirilən şəxs10 qabaqcadan əlbir olan bir qrup şəxs halında Azərbaycan Respublikasının dövlət sərhədini qanunsuz olaraq keçmiş, həmçinin mütəşəkkil dəstə halında qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğular əldə edib, saxlayıb, daşıyıb, gəzdirmişdir. Belə ki, o, Ermənistan Respublikasının digər vətəndaşları ilə birlikdə qabaqcadan əlbir olan bir qrup şəxs halında 27 noyabr 2020-ci il tarixdə Azərbaycan Respublikasının dövlət sərhədini müvafiq sənədlər olmadan dövlət sərhədinin nəzarət-buraxılış məntəqələrindən kənarında keçməklə mütəşəkkil dəstə halında 13 dekabr 2020-ci il tarixədək olan müddət ərzində odlu silah, döyüş sursatı, partlayıcı maddələr, hərbi texnika və əsgəri ləvazimatla təchiz olunub, qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğular əldə edib, saxlayıb, daşıyıb, gəzdirmişlər.

X5baqcadan əlbir olan bir qrup şəxs halında Azərbaycan Respublikasının dövlət sərhədini qanunsuz olaraq keçmiş, həmçinin mütəşəkkil dəstə halında qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğular əldə edib, saxlayıb, daşıyıb, gəzdirmişdir. Belə ki, o, Ermənistan Respublikasının digər vətəndaşları ilə birlikdə qabaqcadan əlbir olan bir qrup şəxs halında 27 noyabr 2020-ci il tarixdə Azərbaycan Respublikasının dövlət sərhədini müvafiq sənədlər olmadan dövlət sərhədinin nəzarət-buraxılış məntəqələrindən kənarında keçməklə mütəşəkkil dəstə halında 13 dekabr 2020-ci il tarixədək olan müddət ərzində odlu silah, döyüş sursatı, partlayıcı maddələr, hərbi texnika və əsgəri ləvazimatla təchiz olunub, qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğular əldə edib, saxlayıb, daşıyıb, gəzdirmişlər.

Təqsirləndirilən şəxs12 qabaqcadan əlbir olan bir qrup şəxs halında Azərbaycan Respublikasının dövlət sərhədini qanunsuz olaraq keçmiş, həmçinin mütəşəkkil dəstə halında qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğular əldə edib, saxlayıb, daşıyıb, gəzdirmişdir. Belə ki, o, Ermənistan Respublikasının digər vətəndaşları ilə birlikdə qabaqcadan əlbir olan bir qrup şəxs halında 27 noyabr 2020-ci il tarixdə Azərbaycan Respublikasının dövlət sərhədini müvafiq sənədlər olmadan dövlət sərhədinin nəzarət-buraxılış məntəqələrindən kənarında keçməklə mütəşəkkil dəstə halında 13 dekabr 2020-ci il tarixədək olan müddət ərzində odlu silah, döyüş sursatı, partlayıcı maddələr, hərbi texnika və əsgəri ləvazimatla təchiz olunub, qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğular əldə edib, saxlayıb, daşıyıb, gəzdirmişlər.

Təqsirləndirilən şəxs13 qabaqcadan əlbir olan bir qrup şəxs halında Azərbaycan Respublikasının dövlət sərhədini qanunsuz olaraq keçmiş, həmçinin mütəşəkkil dəstə halında qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğular əldə edib, saxlayıb, daşıyıb, gəzdirmişdir. Belə ki, o, Ermənistan Respublikasının digər vətəndaşları ilə birlikdə qabaqcadan əlbir olan bir qrup şəxs halında 27 noyabr 2020-ci il tarixdə Azərbaycan Respublikasının dövlət sərhədini müvafiq sənədlər olmadan dövlət sərhədinin nəzarət-buraxılış məntəqələrindən kənarında keçməklə mütəşəkkil dəstə halında 13 dekabr 2020-ci il tarixədək olan müddət ərzində odlu silah, döyüş sursatı, partlayıcı maddələr, hərbi texnika və əsgəri ləvazimatla təchiz olunub, qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğular əldə edib, saxlayıb, daşıyıb, gəzdirmişlər.

Hökmdən məhkum edilmiş şəxs Təqsirləndirilən şəxs6 müdafiəçisi Müdafiəçi1 apellyasiya şikayəti verib Bakı Ağır Cinayətlər Məhkəməsinin 23 iyul 2021-ci il tarixli hökmünün ləğv edilərək, Təqsirləndirilən şəxs6 təqsirliliyi sübuta yetirilmədiyindən onun barəsində bəraət hökmü çıxarılmasını xahiş etmişdir.

Hökmədən məhkum edilmiş şəxs Təqsirləndirilən şəxs1 müdafiəçisi Müdafiəçi9 apellyasiya şikayəti verib Bakı Ağır Cinayətlər Məhkəməsinin 23 iyul 2021-ci il tarixli hökmünün ləğv edilərək, Təqsirləndirilən şəxs1 barəsində bəraət hökmü çıxarılmasını xahiş etmişdir.

Hökmədən məhkum edilmiş şəxs Təqsirləndirilən şəxs9 (Vartanoviç) müdafiəçisi Müdafiəçi8 apellyasiya şikayəti verib Bakı Ağır Cinayətlər Məhkəməsinin 23 iyul 2021-ci il tarixli hökmünün Təqsirləndirilən şəxs9 (Vartanoviç) aid hissədə ləğv edilərək, onun barəsində bəraət hökmü çıxarılmasını xahiş etmişdir.

Hökmədən məhkum edilmiş şəxs Təqsirləndirilən şəxs3 müdafiəçisi Müdafiəçi4 apellyasiya şikayəti verib Bakı Ağır Cinayətlər Məhkəməsinin 23 iyul 2020-ci il tarixli hökmü ilə məhkum olunmuş Təqsirləndirilən şəxs3 barəsində olan hökmün ləğv edilərək, onun barəsində bəraət hökmü çıxarılmasını xahiş etmişdir.

Hökmədən məhkum edilmiş şəxs Təqsirləndirilən şəxs4 müdafiəçisi Müdafiəçi3 apellyasiya şikayəti verib Bakı Ağır Cinayətlər Məhkəməsinin 23 iyul 2021-ci il tarixli hökmü ilə məhkum olunmuş Təqsirləndirilən şəxs4 barəsində olan hökmün ləğv edilərək, onun barəsində bəraət hökmü çıxarılmasını xahiş etmişdir.

Hökmədən məhkum edilmiş şəxs Təqsirləndirilən şəxs2 müdafiəçisi Müdafiəçi5 apellyasiya şikayəti verib məhkum edilmiş şəxs Təqsirləndirilən şəxs2 təqsirliliyi sübuta yetirilməməsi ilə əlaqədar AR CPM-nin 42.1.4-cü maddəsinə müvafiq olaraq barəsində bəraət hökmü çıxarılmasını xahiş etmişdir.

Hökmədən məhkum edilmiş şəxs Təqsirləndirilən şəxs10 müdafiəçisi Müdafiəçi6 apellyasiya şikayəti verib Bakı Ağır Cinayətlər Məhkəməsinin 23 iyul 2021-ci il tarixli hökmünün ləğv edilərək, Təqsirləndirilən şəxs10 barəsində bəraət hökmü çıxarılmasını xahiş etmişdir.

Hökmədən məhkum edilmiş şəxs Təqsirləndirilən şəxs8 müdafiəçisi Müdafiəçi7 apellyasiya şikayəti verib Təqsirləndirilən şəxs8 barəsində Bakı Ağır Cinayətlər Məhkəməsinin 23 iyul 2021-ci il tarixli hökmünün ləğv edilərək, AR CM-nin 228.3 və 318.2-ci maddələri ilə Təqsirləndirilən şəxs8 barəsində bəraət hökmü çıxarılmasını xahiş etmişdir.

Hökmədən məhkum edilmiş şəxs Təqsirləndirilən şəxs13 müdafiəçisi Müdafiəçi12 apellyasiya şikayəti verib Bakı Ağır Cinayətlər Məhkəməsinin 23 iyul 2021-ci il tarixli hökmünün Təqsirləndirilən şəxs13 haqqında olan hissədə ləğv edilərək, onun AR CPM-nin 42.1.2-ci maddəsinə əsasən əməlində cinayət tərkibi olmadığına görə barəsində bəraət hökmü çıxarılmasını xahiş etmişdir.

Hökmədən məhkum edilmiş şəxs Təqsirləndirilən şəxs12 müdafiəçisi Müdafiəçi10 apellyasiya şikayəti verib Bakı Ağır Cinayətlər Məhkəməsinin 23 iyul 2021-ci il tarixli hökmünün Təqsirləndirilən şəxs12 aid hissədə ləğv edilərək, onun barəsində bəraət hökmü çıxarılmasını xahiş etmişdir.

Hökmədən məhkum edilmiş şəxs Təqsirləndirilən şəxs7 müdafiəçisi Müdafiəçi2 apellyasiya şikayəti verib Bakı Ağır Cinayətlər Məhkəməsinin 23 iyul 2021-ci il tarixli hökmünün ləğv edilərək, Təqsirləndirilən şəxs7 barəsində bəraət hökmü çıxarılması barədə qərar qəbul edilməsini xahiş etmişdir.

Hökmədən məhkum edilmiş şəxs Təqsirləndirilən şəxs5 müdafiəçisi X8 apellyasiya şikayəti verib Bakı Ağır Cinayətlər Məhkəməsinin 23 iyul 2021-ci il tarixli hökmünün ləğv edilərək, Təqsirləndirilən şəxs5 barəsində bəraət hökmü çıxarılmasını xahiş etmişdir.

Hökmədən məhkum edilmiş şəxs X3 müdafiəçisi Müdafiəçi11 apellyasiya şikayəti verib Bakı Ağır Cinayətlər Məhkəməsinin 23 iyul 2021-ci il tarixli hökmünün X3 haqqında olan hissədə ləğv edilərək, onun AR CPM-nin 42.1.2-ci maddəsinə əsasən əməlində cinayət tərkibi olmadığına görə barəsində bəraət hökmü çıxarılmasını xahiş etmişdir.

Məhkəmə kollegiyası apellyasiya şikayətinin dəlillərini müzakirə edərək, cinayət işinin materiallarını araşdırıb, dövlət ittihamçısının apellyasiya şikayətlərinin təmin edilmədən, hökmün dəyişdirilmədən saxlanması, məhkum edilmiş şəxslərin və müdafiəçilərinin müdafiə tərəfin ayrılıqda verilmiş apellyasiya şikayətlərinin təmin edilməsi barədə çıxışlarını dinləyərək hesab edir ki, aşağıdakı əsaslara görə apellyasiya şikayətləri təmin edilməməli, hökm dəyişdirilmədən saxlanılmalıdır.

Müdafiə tərəfin hər birinin apellyasiya şikayətlərində hökmün ləğv edilərək məhkum edilmiş şəxslər barəsində bəraət hökmü çıxarılması xahiş olunmuşdur. Məhkəmə kollegiyası qeyd edir ki, məhkum edilmiş şəxslər Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9 (Vartanoviç), Təqsirləndirilən şəxs10, X6, Təqsirləndirilən şəxs12 və Təqsirləndirilən şəxs13 Azərbaycan Respublikası CM-nin 228.3 və 318.2-ci maddələri ilə nəzərdə tutulmuş cinayət əməllərini törətmələri məhkum edilmiş şəxslərin və

şahidlərin ittihamı təsdiq edən ifadələri, məhkəmədə elan edilib araşdırılmış ilkin təhqiqat və istintaq hərəkətlərinin protokolları, ekspert rəyləri, habelə iş üzrə maddi sübut kimi tanınıb cinayət işinin materiallarına əlavə edilmiş təhlil olunan sübutlar, həmçinin iş üzrə toplanmış digər sübutlarla tam təsdiq edilir.

Məhkəmə kollegiyası hesab edir ki, ibtidai araşdırma zamanı qanuni üsullarla toplanmış və birinci instansiya məhkəməsində məhkəmə iclasında tam, hərtərəfli və obyektiv araşdırılmış mötəbər sübutlara birgə qiymət verən və həmin sübutlara əsaslanan birinci instansiya məhkəməsi iş üçün mühüm əhəmiyyət kəsb edən bütün halları aydınlaşdırmaqla məhkum edilmiş şəxslər Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9 (Vartanoviç), Təqsirləndirilən şəxs10, X6, Təqsirləndirilən şəxs12 və Təqsirləndirilən şəxs13 ittiham olunmuş cinayət əməllərini törətmələri haqda işin faktiki hallarına uyğun olan nəticəyə gəlmiş və onların hər birinin həmin əməlini Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə düzgün tövsif etmişdir.

Cinayət işi materiallarında olan Dövlət Təhlükəsizliyi Xidmətinin İdarəsindən daxil olmuş 16 dekabr 2020-ci il tarixli 2/7963 sayılı arayışın məzmunundan görünür ki, 10 noyabr 2020-ci il tarixdə Azərbaycan Respublikası, Rusiya Federasiyası prezidentlərinin və Ermənistan baş nazirinin imzaladığı bəyanata əsasən atəşkəsin elan olunmasından sonra bəzi erməni silahlılarından ibarət dəstələrin Azərbaycanın Xocavənd rayonunun Hadrut qəsəbəsinin şimal-qərb hissəsindəki meşəlik ərazidə fəaliyyət göstərmələri müəyyən edilmişdir. Bununla əlaqədar, Azərbaycan Respublikası sözlügedən erməni silahlı dəstələrinin ərazidən çıxarılması üçün şərait yaratmış, Rusiya sülhməramlı qüvvələrinin hərbi qulluqçuları ağır hava şəraitində həmin əraziyə gələrkə səs gücləndirici vasitələrlə meşəlik ərazidə olan erməni silahlı dəstələrinə müraciət etmiş və onların ərazidən təxliyəsi üçün zəruri tədbirlərin görüldüyünü bildirmişdir. Buna baxmayaraq, meşə zolağında gizlənmiş erməni silahlı dəstələri ərazini tərk etməmiş, əksinə döyüş mövqələri yaratmış və son günlər qeyd olunan ərazidə Azərbaycan Respublikası tərəfdən mülki xidmətləri həyata keçirən şəxslərə və hərbi qulluqçulara qarşı terror-təxribat və diversiya əməllərini törətmişlər. Göstərilənləri nəzərə alaraq, 2020-ci ilin dekabr ayının 13-də Dövlət Təhlükəsizliyi Xidməti tərəfindən ərazidə anti-terror əməliyyatı keçirilmiş, həmin ərazidə gizlənmiş 62 nəfər erməni terrorçusu ələ keçirilmişdir. Bundan başqa həmin ərazilərdə davam etdirilən antiterror əməliyyatları zamanı 2020-ci ilin dekabr ayının 14-də erməni terrorçu dəstəsinin daha 2 nəfər üzvü - X18 və X13 saxlanılmışlar.

Belə ki, Azərbaycan Respublikası Dövlət Təhlükəsizliyi Xidmətinin idarəsindən daxil olmuş 10 fevral 2021-ci il tarixli 2/7992 sayılı arayışın məzmunundan görünür ki, 13 dekabr 2020-ci il tarixdə Dövlət Təhlükəsizliyi Xidməti tərəfindən həyata keçirilmiş anti-terror əməliyyatları zamanı ələ keçirilmiş ermənilərdən ibarət silahlı dəstənin üzvləri Arsen Qazaryan adlı şəxsin başçılığı ilə 27 noyabr 2020-ci il tarixdə qanunsuz yollarla Ermənistandan Azərbaycan Respublikasının Laçın rayonuna daxil olmuş və oradan da Xocavənd rayonuna gələrək Hadrut qəsəbəsinin şimal-qərb hissəsində olan dağlıq-meşəlik ərazilərdə mövqələr tutmuşlar. Həmin mövqələrdə yerləşmiş erməni silahlılarına X14 və X11 başçılıq etmişdir. Erməni silahlılarının həmin mövqələrə gələrək orada yerləşmələrində məqsəd Azərbaycan Respublikasının mülki şəxslərinə və hərbi qulluqçularına qarşı terror-təxribat hərəkətləri törətmək olmuşdur.

Cinayət işi materiallarında olan Azərbaycan Respublikası Ədliyyə Nazirliyi Məhkəmə Ekspertizası Mərkəzinin 15 aprel 2021-ci il tarixli, 3/307; 3/308 nömrəli məhkəmə-ballistik ekspertizasının rəyindən görünür ki, tədqiqata təqdim edilmiş "1" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «BK 9861» №-li, 1964-cü ildə istehsal edilmiş AKM markalı, "2" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «QE 478» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "3" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «138400» №-li, 1974-cü ildə istehsal edilmiş AKM markalı, "4" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «IB 9115» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "5" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «HB 6474» №-li, 1967-ci ildə istehsal edilmiş AKM markalı, "6" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «EE 9182» №-li, 1967-ci ildə istehsal edilmiş AKM markalı, "7" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «VT 5798» №-li, 1960-cı ildə istehsal edilmiş AKM markalı, "8" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «LB 3610» №-li, 1961-ci ildə istehsal edilmiş AKM markalı, "9" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «HP 1893» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "10" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «İT 4590» №-li, 1967-ci ildə istehsal edilmiş AKM markalı, "11" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «PH 8807» №-li, 1964-ci ildə istehsal edilmiş AKM markalı, "12" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «808270» №-li, 1974-cü ildə istehsal edilmiş AKM markalı, "13" rəqəmlənmiş silah 7,62 mm kalibrli «LU 6287» №-li, 1967-ci ildə istehsal edilmiş AKM

markalı; "14" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «ŞB 1808» №-li, 1961-ci ildə istehsal edilmiş AKM markalı, "15" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « EP 0276» №-li, 1964-cü ildə istehsal edilmiş AKM markalı, "16" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «XQ 1861» №-li, 1960-cı ildə istehsal edilmiş AKM markalı, "17" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «EP 6913» №-li, 1969-cu ildə istehsal edilmiş AKM markalı, "18" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «KU 735» №-li, 1966-cı ildə istehsal edilmiş AKM markalı, "19" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «HP 5620» №-li, 1966-cı ildə istehsal edilmiş AKM markalı, "20" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «AƏ 8238» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "21" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «OL 9894» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "22" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «OL 9940» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "23" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «PC 1709» №-li, 1962-ci ildə istehsal edilmiş AKM markalı, "24" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «EP 2590» №-li, 1969-cu ildə istehsal edilmiş AKM markalı, "25" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «Lİ 7190» №-li, 1967-ci ildə istehsal edilmiş AKM markalı, "26" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «KT 353» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "27" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « QM 2148» №-li, 1964-ci ildə istehsal edilmiş AKM markalı, "28" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «HC 1630» №-li, 1961-ci ildə istehsal edilmiş AKM markalı, "29" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «AE 8030» №-li, 1961-ci ildə istehsal edilmiş AKM markalı, "30" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «KŞ 9419» №-li, 1964-cü ildə istehsal edilmiş AKM markalı, "31" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «BE 648» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "32" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «QƏ 6467» №-li, 1964-cü ildə istehsal edilmiş AKM markalı, "33" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «HP 4836» №-li, 1961-ci ildə istehsal edilmiş AKM markalı, "34" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «OT 7193» №-li, 1965-ci ildə istehsal edilmiş AKM markalı, "35" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «AH 4456» №-li, 1960-cı ildə istehsal edilmiş AKM markalı, "36" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «AP 3792» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "37" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «ƏO 9591» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "38" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «TB 7920» №-li, 1972-ci ildə istehsal edilmiş AKM markalı, "39" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «00747» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "40" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «NO 388» №-li, 1969-cu ildə istehsal edilmiş AKM markalı, "41" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «OL 8992» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "42" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «PX 8419» №-li, 1961-ci ildə istehsal edilmiş AKM markalı, "43" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «AC 285» №-li, 1967-ci ildə istehsal edilmiş AKM markalı, "44" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «LN 045» №-li, 1971-ci ildə istehsal edilmiş AKM markalı, "45" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «UB 509» №-li, 1972-ci ildə istehsal edilmiş AKM markalı, "46" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «ZŞ 4821» №-li, 1960-cı ildə istehsal edilmiş AKM markalı, "47" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «İL 2994» №-li, 1972-ci ildə istehsal edilmiş AKM markalı, "48" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «UƏ 3731» №-li, 1964-cü ildə istehsal edilmiş AKM markalı, "49" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «HP 1279» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "50" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «HA 3331» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "51" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «ML6678» №-li, 1965-ci ildə istehsal edilmiş AKM markalı avtomatik-yivli-odlu döyüş silahlarıdır. Silahlardan "35" rəqəmi ilə işarələnmiş "AH 4456" nömrəli, "39" rəqəmi ilə işarələnmiş "00747" nömrəli və "46" rəqəmi ilə işarələnmiş "ZŞ 4821" nömrəli silahların funksional əhəmiyyət daşıyan hissəsi olan çaxmaqları yerində olmadığından, həmin silahlardan atəş açmaq mümkün olmamışdır. Bu səbəbdən həmin 3 (üç) ədəd silah hal hazırda təyinatı üzrə istifadəyə yararsızdılar. Digər silahların hissə və mexanizmləri qarşılıqlı əlaqəyə girir, istifadəyə (atəşə) yararlıdırlar. Tədqiqata təqdim edilmiş 51 (əlli bir) ədəd 7,62 mm kalibrli, "AKM" markalı, avtomat silahların lülə kanalında atəşin əlavə faktoru olan tam yanmamış tüstüsüz bənt hissəcikləri aşkar edilmiş, bu da onu göstərir ki, həmin silahlardan atəş (atəşlər) açılmışdır.

Həmçinin Məhkəmə Kollegiyası qəddir ki, "Hərbi əsirlər ilə rəftara dair" 1949-cu il 12 avqust tarixli Cenevrə konvensiyasının 4-cü maddəsindən görünür ki, düşmən əlinə keçmiş, aşağıdakı kateqoriyalardan birinə mənsub olan şəxslər bu Konvensiyanın mənasına görə hərbi əsir sayılırlar:

(1) Münaqişə tərəfinin silahlı qüvvələrinin üzvlərinə, eləcə də silahlı qüvvələrin tərkibinə daxil olan qeyri-nizami birləşmələrin və ya digər könüllü dəstələrinin üzvlərinə.

(2) Münaqişənin tərəfinə mənsub olan, öz ərazisində və ya ondan kənardə, hətta bu ərazi işğal edilə belə, fəaliyyət göstərən mütəşəkkil müqavimət hərəkatlarının üzvləri də daxil olmaqla,

digər qeyri-nizami birləşmələrin və könüllü dəstələrinin üzvlərinə, bu şərtlə ki, həmin qeyri-nizami birləşmələr və könüllü dəstələri, o cümlədən mütəşəkkil müqavimət hərəkətləri aşağıdakı şərtlərə uyğun gəlsinlər:

- (a) tabeliyində olanlara görə məsuliyyət daşıyan başçısı vardır;
- (b) uzaqdan seçilən müəyyən fərqləndirici nişanı vardır;
- (c) açıq şəkildə silah gəzdirlirlər;
- (d) öz əməliyyatlarını müharibə qanunlarına və adətlərinə uyğun aparırlar.

(3) Himayədə olan şəxsləri saxlayan Dövlətin tanımadığı hökumətə və ya hakimiyyət orqanına özlərini tabe hesab edən nizami silahlı qüvvələrin üzvlərinə.

(4) Silahlı qüvvələrin bilavasitə üzvləri olmayan, lakin həmin qüvvələr tərəfindən verilmiş icazəsi və əlavə edilmiş nümunəyə oxşar şəxsiyyət vəsiqəsi olmaq şərti ilə onları müşayiət edən şəxslərə, məsələn, hərbi təyyarə heyətlərinin mülki üzvlərinə, hərbi müxbirlərə, təchizatçılara, üzərlərinə silahlı qüvvələrin məişət xidmətini həyata keçirmək vəzifəsi qoyulmuş əmək dəstələrinin və ya xidmətlərinin üzvlərinə.

(5) Münaqişə tərəflərinin beynəlxalq hüququn hər hansı digər müddələrinə görə daha əlverişli rəftardan faydalana bilməyən ticarət donanması gəmilərinin heyət üzvlərinə, o cümlədən kapitanlarına, losmanlarına və gəmi şagirdlərinə, mülki təyyarələrinin heyət üzvlərinə.

(6) Yaxınlaşmaqda olan düşməne müqavimət göstərmək məqsədilə özləri silaha sarılan, nizami silahlı dəstələr yaratmağa macal tapmayan işğal edilməmiş ərazinin sakinlərinə, bu şərtlə ki, onlar silahı açıq şəkildə gəzdirsinlər və müharibə qanunlarına və adətlərinə riayət etsinlər.

B. Aşağıdakı şəxslərlə də bu Konvensiyaya uyğun olaraq, hərbi əsirlər kimi rəftar edilməlidir:

1. İşğal edilmiş ölkənin silahlı qüvvələrinə mənsub olan və ya mənsub olmuş şəxslər - əgər işğalçı Dövlət döyüş əməliyyatları onun işğal etdiyi ərazinin hüduqlarından kənarında baş verərkən hətta həmin şəxsləri əvvəlcə azad etsə də, onları bu mənsubiyyətinə görə internə etməyi, – xüsusən həmin şəxslər mənsub olduqları və hərbi əməliyyatlarda iştirak edən silahlı qüvvələrlə yenidən birləşmək üçün uğursuz cəhd göstərdikləri və ya internə edilmək çağırışına tabe olmadıqları halda, – zəruri sayarsa”.

Göründüyü kimi, hətta Ermənistan Respublikasının özünün belə 10 noyabr 2020-ci il tarixli bəyanatda ifadə olunmuş rəsmi mövqeyinin ziddinə olaraq Ermənistan silahlı qüvvələrinin hərbi qulluqçusu və yaxud silahlı qüvvələrin tərkibində olan qeyri-nizami silahlı birləşmənin, könüllü dəstənin üzvü kimi deyil, cinayətkar qrupun tərkibində 27 noyabr 2020-ci il tarixdə qanunsuz olaraq yuxarıda qeyd olunan ağır və xüsusilə ağır cinayətləri törətmək məqsədi ilə Azərbaycan Respublikasının ərazisinə keçib 13 dekabr 2020-ci il tarixdə anti-terror əliyyatının gedişində saxlanılanadək bəyanata görə Azərbaycan Respublikasının Silahlı Qüvvələrinin nəzarəti altında olan Xocavənd rayonu ərazisində həmin cinayətləri törətməkdə təqsirləndirilməsi onun “Hərbi əsirlər ilə rəftara dair” 1949-cu il 12 avqust tarixli Cenevrə konvensiyasının 4-cü maddəsinin 1-ci bəndində göstərilən şəxslərə aid edilməsini istisna edir.

Məhkum edilmiş şəxslərin AR CM-nin 228.3 və 318.2-ci maddələri ilə nəzərdə tutulmuş cinayət əməllərini törətmələri tam olaraq öz təsdiqini tapmış, təqsirli bilindikləri maddələrin sanksiyası həddində onlara layiqli cəza təyin edilmişdir.

Belə ki, cəzanın məqsədi şəxsə təqsirli bilindiği cinayət əməlinə münasibətdə daha ağır cəza təyin etmək deyil, əksinə Azərbaycan Respublikası Cinayət Məcəlləsinin 41.2-ci maddəsinə əsasən sosial ədaləti bərpa etmək, məhkumu islah etmək və həm məhkumlar, həm də başqa şəxslər tərəfindən yeni cinayətlərin törədilməsinin qarşısını almaqdır.

Odur ki, apellyasiya şikayətləri təmin edilməməli, Bakı Ağır Cinayətlər Məhkəməsinin Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9 (Vartanoviç), Təqsirləndirilən şəxs10, X6, Təqsirləndirilən şəxs12 və Təqsirləndirilən şəxs13 Azərbaycan Respublikası CM-nin 228.3 və 318.2-ci maddələri ilə məhkum edilmələrinə dair 23 iyul 2021-ci il tarixli hökmü dəyişdirilmədən saxlanılmalıdır.

Yuxarıdakılara əsasən, AR CPM-nin 397.1, 397.2, 398.1.1-ci və 407.2-ci maddəsinə rəhbər tutaraq məhkəmə kollegiyası

Q ə r a r a a l ı r :

Məhkum edilmiş şəxslərin müdafiəçiləri tərəfindən ayrı-ayrılıqda verilmiş apellyasiya şikayətləri təmin edilməsin.

Bakı Ağır Cinayətlər Məhkəməsinin Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9 (Vartanoviç), Təqsirləndirilən

şəxs10, X6, Təqsirləndirilən şəxs12 və Təqsirləndirilən şəxs13 Azərbaycan Respublikası CM-nin 228.3 və 318.2-ci maddələri ilə məhkum edilmələrinə dair 23 iyul 2021-ci il tarixli hökmü verilmiş apellyasiya şikayətlərinə münasibətdə dəyişdirilmədən saxlanılsın.

Qərar qəbul olunduğu andan qüvvəyə minir.

Qərardan Azərbaycan Respublikası CPM-nin 408-410-cu maddələrində nəzərdə tutulmuş qaydada və müddətlərdə Azərbaycan Respublikası Ali Məhkəməsinə kassasiya şikayəti və protesti verilə bilər.

Annex 29

Baku Court of Appeal, Appeal Decision No. 1(103)-1768/2021 (30 November 2021)
(certified translation from Azerbaijani)



[COAT OF ARMS OF THE REPUBLIC OF AZERBAIJAN]

RESOLUTION
on behalf of the Republic of Azerbaijan

Baku city

File No. 1(103)-1768/2021

11.30.2021

BAKU COURT OF APPEAL

At a public trial session that took place in the presence of
Judges – the chairman and rapporteur Faig Adil oglu Gasimov, and judges Elmar Eldar oglu Rahimov and Kamran Huseyn oglu Akbarov,

Court session secretary – X1,

Public prosecutor – Prosecutor X11 of the Unit of Public Prosecution in Courts of Appeal under the Department of Public Prosecution of the General Prosecutor Administration of the Republic of Azerbaijan;

Defence Lawyers – X2, X12, X14, X7, X10, Defence Lawyer 1, Defence Lawyer 10, X3, X6, X8, X4, Defence Lawyer 4, Defence Lawyer 13,

Defendants – Defendant1, Defendant2, Defendant3, Defendant4, Defendant5 Mushegovich, Defendant6, Defendant7, Defendant8, Defendant9, Defendant10, Defendant11, Defendant12 and Defendant13,

there have been reviewed the statements of appeal submitted by the defence lawyers Defence Lawyer13, Defence Lawyer9, Defence Lawyer1, Defence Lawyer10, Telman Abdiyev, Defence Lawyer3, Defence Lawyer12, Defence Lawyer4, Defence Lawyer2, Defence Lawyer5, Defence Lawyer6, Defence Lawyer7 and Defence Lawyer8 in regards to resolution of the Baku Court for Grave Crimes dated July 22, 2021, concerning Defendant1, Defendant2, Defendant3, Defendant4, Defendant5 Mushegovich, Defendant6, Defendant7, Defendant8, Defendant9, Defendant10, Defendant11, Defendant12 and Defendant13 who were sentenced under articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan:

IT HAS BEEN IDENTIFIED:

The Baku Court for Grave Crimes by its resolution dated July 22, 2021 (under the chairmanship of X26 Herov oglu and with the participation of **judges** X9 and X5) has ruled as follows:

born in the Gyumri city of the Republic of Armenia on xx xxx, 1992, a citizen of the Republic of Armenia, married, with two minor children, secondary education, unemployed, registered in Keti village of the Gyumri city of the Republic of Armenia, was committed for trial as a defendant on March 17, 2021, and on the same day placed under arrest by the decision of the Sabayil District Court of Baku city;

The Defendant1,

born in the Akhuryan village of the Gyumri city of the Republic of Armenia on xx xxx, 1990, a citizen of the Republic of Armenia, married, with two minor children, higher education, unemployed, registered at 10 Shirazi street, Akhuryan village, Gyumri city, Republic of Armenia, was committed for trial as a defendant on March 18, 2021, and on the same day placed under arrest by the decision of the Sabayil District Court of Baku city;

The Defendant2

born in the Panik village of the Artik District of the Shirak province of the Republic of Armenia on xx xxxx, 1996, a citizen of the Republic of Armenia, single, higher education, employed as a gas department officer, registered at 2, 28th street, Panik village, Artik District, Shirak province, Republic of Armenia, was committed for trial as a defendant on March 18, 2021, and on the same day placed under arrest by the decision of the Sabayil District Court of Baku city;

The Defendant3,

born in the Vardaghbyur village of the Ashotsk District of the Republic of Armenia on xx xxxx, 1991, a citizen of the Republic of Armenia, single, secondary education, employed as a delivery courier, registered in Vardaghbyur village, Ashotsk District, Republic of Armenia, was committed for trial as a defendant on March 18, 2021, and on the same day placed under arrest by the decision of the Sabayil District Court of Baku city;

The Defendant4,

born in the Artik town of the Shirak province of the Republic of Armenia on xx xxx, 1996, a citizen of the Republic of Armenia, single, secondary education, unemployed, registered at 4 Shahumyan street, Artik town, Shirak province, Republic of Armenia, was committed for trial as a defendant on March 18, 2021, and on the same day placed under arrest by the decision of the Sabayil District Court of Baku city;

The Defendant5 Mushegovich,

born in the Gyumri city of the Republic of Armenia on February 7, 1998, a citizen of the Republic of Armenia, single, secondary education, unemployed, registered at 159/158 Ghandilyan street, Gyumri, Republic of Armenia, was committed for trial as a defendant on March 18, 2021, and on the same day placed under arrest by the decision of the Sabayil District Court of Baku city;

The Defendant6,

born in the Gog'hovit village of the Shirak province of the Republic of Armenia on xx xxxxxx, 1992, a citizen of the Republic of Armenia, married, with two minor children, secondary education, unemployed, registered at 18, 5th street, Gog'hovit village, Shirak province, Republic of Armenia, was committed for trial as a defendant on March 18, 2021, and on the same day placed under arrest by the decision of the Sabayil District Court of Baku city;

The Defendant7,

born in the Azatan village of the Gyumri city of the Republic of Armenia on xx xxxx, 1996, a citizen of the Republic of Armenia, single, secondary education, unemployed, registered at 8, 22nd street, Azatan village, Gyumri city, Republic of Armenia, was committed for trial as a defendant on March 18, 2021, and on the same day placed under arrest by the decision of the Sabayil District Court of Baku city;

The Defendant8,

born in the Gyumri city of the Republic of Armenia on xx xxxx, 1998, a citizen of the Republic of Armenia, married, with one child, secondary education, employed as a cheese-maker at Igit factory in the Gyumri city, registered at 128/181 Kazak post street, Gyumri city, Republic of Armenia, was committed for trial as a defendant on March 18, 2021, and on the same day placed under arrest by the decision of the Sabayil District Court of Baku city;

The Defendant9,

born in the Aygabats village of the Gyumri city of the Republic of Armenia on August 1, 1996, a citizen of the Republic of Armenia, single, secondary education, unemployed, registered at 27, 8th street, Aygabats village, Gyumri city, Republic of Armenia, was committed for trial as a defendant on March 19, 2021, and on the same day placed under arrest by the decision of the Sabayil District Court of Baku city;

The Defendant10,

born in the Zuygaghbyur village of the Ashotsk district of the Shirak province of the Republic of Armenia on xx xxx, 1984, a citizen of the Republic of Armenia, single, secondary education, unemployed, registered at 37, 6th street, Zuygaghbyur village, Ashotsk district, Shirak province, Republic of Armenia, was committed for trial as a defendant on March 19, 2021, and on the same day placed under arrest by the decision of the Sabayil District Court of Baku city;

The Defendant11,

born in the Artik town of the Shirak province of the Republic of Armenia on xx xxxxxx, 1996, a citizen of the Republic of Armenia, single, secondary education, unemployed, registered at flat 1, 27 Lembad street, Artik town, Shirak province, Republic of Armenia, was committed for trial as a defendant on March 19, 2021, and on the same day placed under arrest by the decision of the Sabayil District Court of Baku city;

The Defendant12,

born in the Gyumri city of the Republic of Armenia on xx xxxx, 1998, a citizen of the Republic of Armenia, single, secondary education, unemployed, registered at flat 21, 7 Paruir Sevak street, Gyumri city, Republic of Armenia, was committed for trial as a defendant on March 19, 2021, and on the same day placed under arrest by the decision of the Sabayil District Court of Baku city;

The Defendant13, - each individually:

were all individually found guilty of committing criminal offences under articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentenced to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant1, Defendant2, Defendant3, Defendant4, Defendant5 Mushegovich, Defendant6, Defendant7, Defendant8, Defendant9, Defendant10, Defendant11, Defendant12, Defendant13 were sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan and must serve their prison sentence in a general regime penal colony. As imprisonment before trial is also included into the prison sentence, the actual terms of

the prison sentence were counted from December 13, 2020. The defendants must be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of defendants for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated.

According to the court ruling, the citizens of the Republic of Armenia – Defendant1, Defendant2, Defendant3, Defendant4, Defendant5 Mushegovich, Defendant6, Defendant7, Defendant8, Defendant9, Defendant10, Defendant11, Defendant12 and Defendant13 as members of a pre-formed organized group formed with other individuals illegally crossed the state border of the Republic of Azerbaijan and, as members of the pre-formed organized group, acquired, kept, carried and transported firearms, components, ammunition, explosive substances and devices.

In particular, the citizens of the Republic of Armenia – Defendant1, Defendant2, Defendant3, Defendant4, Defendant5 Mushegovich, Defendant6, Defendant7, Defendant8, Defendant9, Defendant10, Defendant11, Defendant12 and Defendant13 as members of a pre-formed organized group formed with other individuals illegally and without any relevant documents crossed the state border of the Republic of Azerbaijan outside of state border control check points on November 27, 2020, were supplied with AKM assault rifles, cartridges, explosive substances, military equipment and army supplies, and illegally acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices during the period until December 13, 2020.

The defence lawyers Defence Lawyer13, Defence Lawyer9, Defence Lawyer1, Defence Lawyer10, Telman Abdiyev, Defence Lawyer3, Defence Lawyer12, Defence Lawyer4, Defence Lawyer2, Defence Lawyer5, Defence Lawyer6, Defence Lawyer7 and Defence Lawyer8 defending the defendants Defendant1, Defendant2, Defendant3, Defendant4, Defendant5 Mushegovich, Defendant6, Defendant7, Defendant8, Defendant9, Defendant10, Defendant11, Defendant12 and Defendant13 did not agree with this ruling and submitted identical appeals for revocation of the Baku Court for Grave Crimes resolution dated July 22, 2021, and requested for a judgment of acquittal to be adopted in regards to articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan.

The defence lawyers Defence Lawyer13, Defence Lawyer9, Defence Lawyer1, Defence Lawyer10, Telman Abdiyev, Defence Lawyer3, Defence Lawyer12, Defence Lawyer4, Defence Lawyer2, Defence Lawyer5, Defence Lawyer6, Defence Lawyer7 and Defence Lawyer8 defending the defendants Defendant1, Defendant2, Defendant3, Defendant4, Defendant5 Mushegovich, Defendant6, Defendant7, Defendant8, Defendant9, Defendant10, Defendant11, Defendant12 and Defendant13 reasoned their appeals by the fact that the panel of judges stated in the resolution that “Criminal persecution of defendants for violation of articles 214.2.1, 214.2.3, and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated and the word combination “organized group” shall be removed from the charges brought against the defendants”. In that case it is unlawful to find guilty and sentence the defendants Defendant1, Defendant2, Defendant3, Defendant4, Defendant5 Mushegovich, Defendant6, Defendant7, Defendant8, Defendant9, Defendant10, Defendant11, Defendant12 and Defendant13 under provisions of articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan as the word

combination “organized group” is a key element of these articles. Besides, article 279.2 of the Criminal Code of the Republic of Azerbaijan was removed from the sentence and the defendants were sentenced under article 228.3. If the defendants Defendant1, Defendant2, Defendant3, Defendant5 Mushegovich, Defendant6, Defendant7, Defendant10, Defendant11 were not found guilty under article 279.2 and this article was removed from the charge, article 228.3 should have been removed from the charge either. In particular, the removal of article 279.2 from the charge by itself proved the fact that the weapons were provided to the defendants in a legal manner. The defendants Defendant1, Defendant2, Defendant3, Defendant5 Mushegovich, Defendant6, Defendant7, Defendant10, Defendant11 did not acquire and carry the fire arms (and combat ammunition) illegally but were provided with the fire arms as they were drafted to the military service by official state authorities of the Republic of Armenia and the country’s military and political administration, and it was under their pressure and influence that they crossed the state border of the Republic of Azerbaijan. It was concluded by the panel of judges that the military and political administration of the Republic of Armenia forcibly drafted their citizens to the military service by threatening them with criminal prosecution. However, the statement of reasons and the final decision are completely contradictory to each other.

The defence lawyers Defence Lawyer13, Telman Abdiyev, Defence Lawyer4, Defence Lawyer7 and Defence Lawyer8 defending the Defendant8, Defendant9, Defendant4 did not agree with this ruling and submitted appeals for revocation of the Baku Court for Grave Crimes resolution dated July 22, 2021, and requested for dismissal of the case as the defendants were not proven guilty under article 39.2 of the Criminal Code of the Republic of Azerbaijan.

Defendant 8’s Defence Lawyer4 reasoned his appeal by the fact that the Defendant8 was not a member of any illegal military groups as proven by removal of charges under article 279.2 of the Criminal Code of the Republic of Azerbaijan from the charge against the defendant. In this context, he shall be considered a member of a legal military group, i.e. a military servant and there are no elements of a crime in his activities under article 228.3 of the Criminal Code of the Republic of Azerbaijan. The Lachin corridor was established and transferred under the control of Russian peace-making forces in order to maintain a connection between Nagorno Karabakh and Armenia, in accordance with clause 6 of the Declaration signed on 11.10.2021 by the President of the Republic of Azerbaijan, the Prime Minister of the Republic of Armenia and the President of the Russian Federation. That corridor has been open since 11.10.2020 to this day and provides for an unimpeded movement of the Armenian population between Armenia and Nagorno Karabakh. On this basis, there are no elements of a crime in the activities of the Defendant8 as envisioned by article 318.2 of the Criminal Code of the Republic of Azerbaijan. It should also be mentioned that according to item 4 of the Geneva Convention relative to the Treatment of Prisoners of War dated 08.12.1949, the Defendant8 shall be treated as a prisoner of war.

Defendant 9’s Defence Lawyer13 reasoned his appeal by the fact that the Defendant9 pleaded not guilty during the trial and said in his statement that he went to the Gyumri military registration and enlistment office on November 27, 2020, where he was provided with military uniform clothing and an automatic rifle and dispatched to the Lachin district. That was because he, just like other defendants, was threatened that he would be put under arrest in his country if he did not report for service. They obeyed to the order of Azerbaijani soldiers to ground their arms and surrendered by grounding their arms as they thought that resistance was useless. No evidence that would disprove the Defendant9’s statement was found in the criminal case and during the trial.

X13's Defence Lawyer X27 reasoned his appeal by the fact that X24 pleaded not guilty and said in his statement that he went to the Sumru military registration and enlistment office on November 27, 2020, where he was provided with military uniform clothing and an automatic rifle and dispatched to the Lachin district. That was because he, just like other defendants, was threatened that he would be put under arrest in his country if he did not report for service. They obeyed to the order of Azerbaijani soldiers to ground their arms and surrendered by grounding their arms as they thought that resistance was useless. No evidence that would disprove the X13's statement was found in the criminal case and during the trial. The Defendant X13 was not proven guilty under articles 228.3 and 318.2.

The defence lawyers Defence Lawyer7 and Defence Lawyer8 defending the defendants Defendant12 and Defendant 13 did not agree with this ruling and submitted identical individual appeals for revocation of the Baku Court for Grave Crimes resolution dated July 22, 2021, and requested to release the defendants Defendant12 and Defendant 13 of punishment and adopt a relevant resolution concerning their deportation from the territory of the Republic of Azerbaijan.

They reasoned their appeal by the fact that the defendants Defendant12 and Defendant 13 considered the resolution unsubstantiated and unfair. In particular, they testified during the trial that at the time of their detainment they had the status of official military servants and were under command of their military commander. They did not know that they illegally crossed the border of the Republic of Azerbaijan. That was because the Russian peace-makers in the area did not make any notifications in that regard and did not prevent them from travel. For this reason, the sentenced persons consider that they did not intentionally trespass the border of the Republic of Azerbaijan.

The public prosecutor did not protest the appeal in the manner envisioned by the criminal procedure legislation.

Following a review of the criminal case materials, discussion of the arguments provided in the appeals and taking notes from the participants in the trial, the panel of judges has ruled that the appeals must be rejected and resolution of the court of the first instance be upheld and remain unchanged.

According to article 397 of the Code of Criminal Procedure of the Republic of Azerbaijan, the court of appeal shall verify that the court of first instance accurately established the facts of the case and applied the provisions of criminal law and of this Code. The facts established by the court of first instance shall be verified by the court of appeal only within the limits of the complaint or appeal. The first instance court's compliance with the provisions of the criminal law and of this Code shall be verified by the court of appeal regardless of the evidence for the complaint or appeal.

According to article 24.1 of the Criminal Code of the Republic of Azerbaijan, an individual may be found guilty of committing a crime only if the action (activity or inactivity) was committed intentionally or by negligence.

The panel of judges did not agree with the reasoning of the appeals and found that the criminal actions of the defendants were fully proven by testimonies of victims, reports of witness, the minutes of investigative and legal actions, expert opinions and other objective circumstances.

According to article 32.3 of the Criminal Code of the Republic of Azerbaijan, a person who has organized the commission of a crime or has directed its commission, and also a person who has created an organized group or a criminal community (criminal organization) or has guided them, shall be deemed an organizer.

According to article 32.5 of the Criminal Code of the Republic of Azerbaijan, a person who has assisted in the commission of a crime by advice, instructions on committing the crime, or removal obstacles to it, and also a person who has promised beforehand to conceal the criminal, means and

instruments of commission of the crime, traces of the crime, or objects obtained criminally, and equally a person who has promised beforehand to acquire such objects, shall be deemed to be an accessory.

The panel of judges has found that any available evidence concerning the involvement of the defendants in the commission of the crime were fully and thoroughly examined by the court of the first instance in an unbiased manner at the time of the preliminary investigation and, based on these evidence, court made a lawful and reasonable conclusion in regards to the criminal offences committed by the defendants Defendant1, Defendant2, Defendant3, Defendant4, Defendant5 Mushegovich, Defendant6, Defendant7, Defendant8, Defendant9, Defendant10, Defendant11, Defendant12 and Defendant13 under articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and their actions have been rightfully interpreted under the mentioned articles. Although the defendants pleaded not guilty, their guilt was fully proven by the testimonies of victims and criminal case materials. No circumstances were identified that would provide for the absence of elements of a crime in the defendants' actions, and there were no grounds for releasing the defendants from punishment, dismissal of the case and acquittal in accordance with the provisions of article 42 of the Code of Criminal Procedure of the Republic of Azerbaijan.

In particular, it follows from the conclusion of the forensic ballistic examination No. 3/307; 3/308 dated April 15, 2021, which is attached to the case materials, that the 7.62mm calibre AKM rifle No. BK 9861 dating from 1964 and marked with the number 1, the 7.62mm calibre AKM rifle No. QE 478 dating from 1970 and marked with the number 2, the 7.62mm calibre AKM rifle No. 138400 dating from 1974 and marked with the number 3, the 7.62mm calibre AKM rifle No. IB 9115 dating from 1968 and marked with the number 4, the 7.62mm calibre AKM rifle No. HB 6474 dating from 1967 and marked with the number 5, the 7.62mm calibre AKM rifle No. EE 9182 dating from 1967 and marked with the number 6, the 7.62mm calibre AKM rifle No. VT 5798 dating from 1960 and marked with the number 7, the 7.62mm calibre AKM rifle No. LB 3610 dating from 1961 and marked with the number 8, the 7.62mm calibre AKM rifle No. HP 1893 dating from 1970 and marked with the number 9, the 7.62mm calibre AKM rifle No. IT 4590 dating from 1967 and marked with the number 10, the 7.62mm calibre AKM rifle No. PH 8807 dating from 1964 and marked with the number 11, the [^].62mm (*looks like an error, should be 7.62*) calibre AKM rifle No. 808270 dating from 1974 and marked with the number 12, the 7.62mm calibre AKM rifle No. LU 6287 dating from 1967 and marked with the number 13, the 7.62mm calibre AKM rifle No. SHB 1808 dating from 1961 and marked with the number 14, the 7.62mm calibre AKM rifle No. EP 0276 dating from 1964 and marked with the number 15, the 7.62mm calibre AKM rifle No. XQ 1861 dating from 1960 and marked with the number 16, the 7.62mm calibre AKM rifle No. EP 6913 dating from 1969 and marked with the number 17, the 7.62mm calibre AKM rifle No. KU 735 dating from 1966 and marked with the number 18, the 7.62mm calibre AKM rifle No. HP 5620 dating from 1966 and marked with the number 19, the 7.62mm calibre AKM rifle No. AA 8238 dating from 1968 and marked with the number 20, the 7.62mm calibre AKM rifle No. OL 9894 dating from 1968 and marked with the number 21, the 7.62mm calibre AKM rifle No. OL 9940 dating from 1968 and marked with the number 22, the 7.62mm calibre AKM rifle No. PC 1709 dating from 1962 and marked with the number 23, the 7.62mm calibre AKM rifle No. EP 2590 dating from 1969 and marked with the number 24, the 7.62mm calibre AKM rifle No. LI 7190 dating from 1967 and marked with the number 25, the 7.62mm calibre AKM rifle No. KT 353 dating from 1970 and marked with the number 26, the 7.62mm calibre AKM rifle No. QM 2148 dating from 1964 and marked with the

number 27, the 7.62mm calibre AKM rifle No. HC 1630 dating from 1961 and marked with the number 28, the 7.62mm calibre AKM rifle No. AE 8030 dating from 1961 and marked with the number 29, the 7.62mm calibre AKM rifle No. KSH 9419 dating from 1964 and marked with the number 30, the 7.62mm calibre AKM rifle No. BE 648 dating from 1968 and marked with the number 31, the 7.62mm calibre AKM rifle No. QA 6467 dating from 1964 and marked with the number 32, the 7.62mm calibre AKM rifle No. HP 4836 dating from 1961 and marked with the number 33, the 7.62mm calibre AKM rifle No. OT 7193 dating from 1965 and marked with the number 34, the 7.62mm calibre AKM rifle No. AH 4456 dating from 1960 and marked with the number 35, the 7.62mm calibre AKM rifle No. AP 3792 dating from 1970 and marked with the number 36, the 7.62mm calibre AKM rifle No. AO 9591 dating from 1970 and marked with the number 37, the 7.62mm calibre AKM rifle No. TB 7920 dating from 1972 and marked with the number 38, the 7.62mm calibre AKM rifle No. 00747 dating from 1968 and marked with the number 39, the 7.62mm calibre AKM rifle No. NO 388 dating from 1969 and marked with the number 40, the 7.62mm calibre AKM rifle No. OL 8992 dating from 1968 and marked with the number 41, the 7.62mm calibre AKM rifle No. PX 8419 dating from 1961 and marked with the number 42, the 7.62mm calibre AKM rifle No. AC 285 dating from 1967 and marked with the number 43, the 7.62mm calibre AKM rifle No. LN 045 dating from 1971 and marked with the number 44, the 7.62mm calibre AKM rifle No. UB 509 dating from 1972 and marked with the number 45, the 7.62mm calibre AKM rifle No. ZSH 4831 dating from 1960 and marked with the number 46, the 7.62mm calibre AKM rifle No. UA 3731 dating from 1964 and marked with the number 48, the 7.62mm calibre AKM rifle No. HA 3331 dating from 1970 and marked with the number 50, the 7.62mm calibre AKM rifle No. ML 6678 dating from 1965 and marked with the number 51, were rifled automatic firearms. It was not possible to open fire from the rifles No. AH 4456 marked with the number 35, No. 00747 marked with the number 39, and No. ZŞ 4821 marked with the number 46, as those missed breech blocks which are of functional importance. For this reason, these 3 (three) rifles are unserviceable at the moment. Other weapons are suitable for operation as their parts and mechanisms are in interaction.

One of the cartridges analysed under the criminal case D-49153 was a 7.62mm calibre factory-manufactured cartridge for use in Kalashnikov assault rifles AK (AKM, AKS, AKMS), PRK (PRKS) hand machine guns, SKS carbines and other rifled automatic firearms. As rifles No. AH 4456 marked with the number 35, No. 00747 marked with the number 39, and No. ZŞ 4821 marked with the number 46, which were also submitted for examination, missed functionally important breech blocks, they were deemed unserviceable and examination was not performed on them.

The marks on the cartridges that were submitted for examination and the marks on bullets fired experimentally from 48 (forty-eight) 7.62 mm calibre AKM rifles do not match each other based on their location, form, measurements and microrelief specifications. As cartridges submitted for examination under the criminal cases D-49150 and 49159 did not match the calibre of rifles, no examination has been carried out.

Incompletely burned smokeless powder particles were found in 51 (fifty-one) 7.62mm calibre AKM assault rifles submitted for examination, which proves the fact that fire(s) had been opened from these rifles.

The panel of judges agreed with the conclusion of the court of the first instance and noted that the preliminary investigation authorities brought charges against the defendants shortly after they had been detained as it was correctly concluded that a ceasefire regime and termination of any hostilities in the Nagorno Karabakh conflict area were announced in accordance with the first clause of the Declaration that was jointly signed by the Presidents of the Republic of Azerbaijan and the Russian Federation, and the Prime Minister of the Republic of Armenia, on November 10, 2020. Thus, although the war was ended after Armenia had signed the surrender document, certain terrorist and diversionist groups stayed and occupied combat positions in the north-western and other forested areas of the Hadrut settlement of the Hodjavant district of the Republic of Azerbaijan. In this regard, the authorities of the Republic of Azerbaijan provided conditions for withdrawal of armed Armenian formations from the area, while military servants of the Russian peace-making forces made air tours of the area in extreme weather conditions and used loudspeakers to call on Armenian armed forces to withdraw from the area. However, although due measures were taken to evacuate Armenian soldiers from the area, Armenian armed forces kept hiding in the forested area and did not leave. Instead, they built combat positions and committed terrorist and diversionist activities against civil service officers and military servants of the Republic of Azerbaijan in the area. In consideration of the above-mentioned, the State Security Service carried out an anti-terrorist operation in the area on December 13, 2020, and detained 62 Armenian terrorists who were hiding in the area. Besides, two more Armenian terrorists – X25 and X19 were detained as a result continuing anti-terrorist operation on December 14.

It was concluded at the time of detainment that the defendants were military servants and soldiers of the Republic of Armenia who had been involved in military operations of the 44-day war between Azerbaijan and Armenia that lasted between September 27, 2020, and November 10, 2020. However, it was established during the preliminary investigation that the detainees were not military servants who stayed in the mountainous and forested area during the war between Azerbaijan and Armenia, but were, as proven by their own testimonies and other reliable and irrefutable evidence collected at the time of investigation, the individuals who were supplied with firearms and illegally crossed the internationally recognized border between Armenia and the Republic of Azerbaijan on November 26-27, 2020, and committed criminal acts therein even although the war had been ended with the signing of the surrender document by the Republic of Armenia on the basis of the joint declaration signed by the Presidents of the Republic of Azerbaijan and the Russian Federation, and the Prime Minister of the Republic of Armenia, on November 10, 2020. Thus, the activities committed by the citizens of the Republic of Armenia are proven as established during the preliminary investigation.

Thus, a group of armed citizens of the Republic of Armenia, who were organized by the official state authorities and military/political administration of the Republic of Armenia for the purposes of committing terrorist activities in the territory of the Republic of Azerbaijan, were disarmed as a result of an anti-terrorist operation carried out by the special service authorities of the Republic of Azerbaijan and a criminal proceeding was instituted in their regard. It follows from testimonies made by the defendants at the time of court investigation that they were engaged in this crime under the pressure and influence of the official state authorities and military/political administration of the Republic of Armenia. In particular, the defendants were threatened that they would be arrested if they did not report to the authorities at the time of drafting. As their background check was carried out, it was found that these

persons were either unemployed or had to go to the neighbouring countries for work at different periods of time. The official authorities of the Republic of Armenia have long chosen the path of engaging their citizens in criminal activities to mask the deepening social problems in the country. In this regard, a considerable proportion of the criminal responsibility falls on the official state authorities and military/political administration of the Republic of Armenia. It is demonstrated by the above-mentioned facts that these persons were not willing to fight. The political/military administration of Armenia threatened their citizens with a legal action and forcibly drafted them to the military service.

Although sentence assigned to the defendants is not disputed in the resolution, the panel of judges considers that the court of the first instance assigned a fair punishment to the defendants Defendant1, Defendant2, Defendant3, Defendant4, Defendant5 Mushegovich, Defendant6, Defendant7, Defendant8, Defendant9, Defendant10, Defendant11, Defendant12 and Defendant13 in accordance with the provisions of resolution 4 of the "Court Experience in Awarding Criminal Punishment" advisory of the Plenary Assembly of the Supreme Court of the Republic of Azerbaijan dated June 25, 2003.

According to resolution 4 of the "Court Experience in Awarding Criminal Punishment" advisory of the Plenary Assembly of the Supreme Court of the Republic of Azerbaijan dated June 25, 2003, the number of mitigating circumstances is not limited by article 59 of the Criminal Code and circumstances which are not included therein can also be applied as mitigating circumstances. The application of such mitigating circumstances should be substantiated in the resolution.

It follows from the resolution that the fact that Defendant1, Defendant2, Defendant7 and Defendant9 were in the charge of minor children was taken into consideration by the court of the first instance as a mitigating circumstance.

Therefore, the panel of judges has ruled that the circumstances specified in the appeals submitted by the defendant's defence lawyers may not serve as a substantiation for revocation of the resolution adopted in respect of Defendant1, Defendant2, Defendant3, Defendant4, Defendant5 Mushegovich, Defendant6, Defendant7, Defendant8, Defendant9, Defendant10, Defendant11, Defendant12 and Defendant13.

According to article 8.1 of the Criminal Code of the Republic of Azerbaijan, punishment and other legal measures applicable to a person who has committed a criminal offence shall be just, that is, they shall correspond to the nature and degree of the social danger of the offence, the circumstances of its commission, and the personality of the guilty party.

According to article 41.2 of the Criminal Code of the Republic of Azerbaijan, punishment shall be applied for the purpose of restoring social justice, and also for the purpose of reforming a convicted person and preventing the commission of further crimes.

The panel of judges discussed the lawfulness and fairness of the punishment assigned under articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan to Defendant1, Defendant2, Defendant3, Defendant4, Defendant5 Mushegovich, Defendant6, Defendant7, Defendant8, Defendant9, Defendant10, Defendant11, Defendant12 and Defendant13 by the Baku Court for Grave Crimes on September 8, 2021, and arrived to the conclusion that the resolution was lawful and substantiated and no substantial or procedural norms had been violated when the resolution was adopted.

It was noted in clause 51(b) of the European Court for Human Rights case of Van de Hurk vs The Netherlands that a fair court investigation required for substantiation of the decisions taken by the court. This means that a detailed explanation shall be provided to any arguments made by the parties.

Based on the above-mentioned, the panel of judges has found that the appeals shall be dismissed as unsubstantiated and the resolution of the Baku Court for Grave Crimes dated July 22, 2021, shall be upheld and remain unchanged.

Based on the above-mentioned and guided by the provisions of articles 397.1, 397.2, 398.1.1 and 407 of the Code of Criminal Procedure of the Republic of Azerbaijan, the panel of judges of the Baku Court of Appeal

RULED:

To reject the appeals submitted by the defence lawyers Defence Lawyer13, Defence Lawyer9, Defence Lawyer1, Defence Lawyer10, Telman Abdiyev, Defence Lawyer3, Defence Lawyer12, Defence Lawyer4, Defence Lawyer2, Defence Lawyer5, Defence Lawyer6, Defence Lawyer7 and Defence Lawyer8 defending the defendants Defendant1, Defendant2, Defendant3, Defendant4, Defendant5 Mushegovich, Defendant6, Defendant7, Defendant8, Defendant9, Defendant10, Defendant11, Defendant12 and Defendant13.

In respect of the appeals submitted by the defence lawyers Defence Lawyer13, Defence Lawyer9, Defence Lawyer1, Defence Lawyer10, Telman Abdiyev, Defence Lawyer3, Defence Lawyer12, Defence Lawyer4, Defence Lawyer2, Defence Lawyer5, Defence Lawyer6, Defence Lawyer7 and Defence Lawyer8, to keep unchanged the resolution of the Baku Court for Grave Crimes dated July 22, 2021 concerning the sentencing of Defendant1, Defendant2, Defendant3, Defendant4, Defendant5 Mushegovich, Defendant6, Defendant7, Defendant8, Defendant9, Defendant10, Defendant11, Defendant12 and Defendant13 under articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan.

The final resolution shall come into force from the time it has been announced.

This resolution can be appealed by means of filing a cassational appeal or a cassational protest to the Supreme Court of the Republic of Azerbaijan within the period envisioned by articles 408-410 of the Code of Criminal Procedure of the Republic of Azerbaijan.

Chairman:

Judges:

Faig Gasymov

Elmar Rahimov

Kamran Akbarov



Azərbaycan Respublikası adından

QƏRAR

Bakı şəhəri

İş № 1(103)-1768/2021

30.11.2021

BAKI APELLYASIYA MƏHKƏMƏSİ

Hakimlər - Faiq Adil oğlu Qasimovun sədrliyi və məruzəsilə,
Elmar Eldar oğlu Rəhimov və Kamran Hüseyn oğlu Əkbərovdan ibarət tərkibdə,
Məhkəmə iclas katibi – X1,
Dövlət ittihamçısı - Azərbaycan Respublikası Baş Prokurorluğunun dövlət ittihamının müdafiəsi üzrə idarənin apellyasiya məhkəmələrində dövlət ittihamının müdafiəsi üzrə şöbəsinin prokuroru X11,

Müdafiəçilər – X2, X12, X14, X7, X10, Müdafiəçi1, Müdafiəçi10, X3, X6, X8, X4, Müdafiəçi4, Müdafiəçi13,

Təqsirləndirilən şəxslər – Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5 Muşeqoviçin, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9, Təqsirləndirilən şəxs10, Təqsirləndirilən şəxs11, Təqsirləndirilən şəxs12 və Təqsirləndirilən şəxs13 iştirakları ilə

Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5 Muşeqoviçin, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9, Təqsirləndirilən şəxs10, Təqsirləndirilən şəxs11, Təqsirləndirilən şəxs12 və Təqsirləndirilən şəxs13 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə məhkum edilmələrinə dair Bakı Ağır Cinayətlər Məhkəməsinin 22 iyul 2021-ci il tarixli hökmündən iş üzrə məhkumların müdafiəçiləri Müdafiəçi13, Müdafiəçi9, Müdafiəçi1, Müdafiəçi10, Telman Abdiyev, Müdafiəçi3, Müdafiəçi12, Müdafiəçi4, Müdafiəçi2, Müdafiəçi5, Müdafiəçi6, Müdafiəçi7 və Müdafiəçi8 tərəfindən verilmiş apellyasiya şikayətlərinə açıq məhkəmə iclasında baxaraq,

MÜƏYYƏN ETDİ:

Bakı Ağır Cinayətlər Məhkəməsinin 22 iyul 2021-ci il tarixli hökmü ilə (X26 Herov oğlunun sədrliyi ilə, **hakimlər** X9 və X5 ibarət tərkibdə)

xx xxx 1992-ci il tarixdə Ermənistan Respublikası, Gümrü şəhərində doğulmuş, Ermənistan Respublikasının vətəndaşı, evli, himayəsində iki azyaşlı uşağı olan, orta təhsilli, işləməyən, Ermənistan Respublikası, Gümrü şəhəri, Ketikəndində qeydiyyatda olan, 17 mart 2021-ci il tarixdə təqsirləndirilən şəxs qismində cəlb edilmiş və həmin tarixdə Bakı şəhəri, Səbail rayon Məhkəməsinin qərarına əsasən barəsində həbs qətimkan tədbiri seçilmiş,

Təqsirləndirilən şəxs1

xx xxxx 1990-cı il tarixdə Ermənistan Respublikası, Gümrü şəhəri, Axuryan kəndində doğulmuş, Ermənistan Respublikasının vətəndaşı, evli, himayəsində iki azyaşlı uşağı olan, ali təhsilli, işləməyən, Ermənistan Respublikası, Gümrü şəhəri, Axuryan kəndi, Şirazi küçəsi, ev 10 ünvanında qeydiyyatda olan, 18 mart 2021-ci il tarixdə təqsirləndirilən şəxs qismində cəlb edilmiş və həmin tarixdə Bakı şəhəri, Səbail rayon Məhkəməsinin qərarına əsasən barəsində həbs qətimkan tədbiri seçilmiş,

Təqsirləndirilən şəxs2

xx xxxxx 1996-cı il tarixdə Ermənistan Respublikası, Şiraki vilayəti, Artik rayonu, Panik kəndində doğulmuş, Ermənistan Respublikasının vətəndaşı, subay, ali təhsilli, qaz idarəsində işləyən, Ermənistan Respublikası, Şiraki vilayəti, Artik rayonu, Panik kəndi, 28-ci küçə, ev 2-də qeydiyyatda olan, 18 mart 2021-ci il tarixdə təqsirləndirilən şəxs qismində cəlb edilmiş və həmin tarixdə Bakı şəhəri, Səbail rayon Məhkəməsinin qərarına əsasən barəsində həbs qətimkan tədbiri seçilmiş,

Təqsirləndirilən şəxs3

xx xxxx 1991-ci il tarixdə Ermənistan Respublikası, Aşot rayonu, Vartaxtu kəndində doğulmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, kuryer işləyən, Ermənistan Respublikası, Aşot rayonu, Vartaxtu kəndində qeydiyyatda olan, 18 mart 2021-ci il tarixdə təqsirləndirilən şəxs qismində cəlb edilmiş və həmin tarixdə Bakı şəhəri, Səbail rayon Məhkəməsinin qərarına əsasən barəsində həbs qətimkan tədbiri seçilmiş,

Təqsirləndirilən şəxs4

xx xxx 1996-cı il tarixdə Ermənistan Respublikası, Şiraki vilayəti, Artik şəhərində doğulmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, işləməyən, Ermənistan Respublikası, Şiraki vilayəti, Artik şəhəri, Şaumyan küçəsi, 4 ünvanında qeydiyyatda olan, 18 mart 2021-ci il tarixdə təqsirləndirilən şəxs qismində cəlb edilmiş və həmin tarixdə Bakı şəhəri, Səbail rayon Məhkəməsinin qərarına əsasən barəsində həbs qətimkan tədbiri seçilmiş,

Təqsirləndirilən şəxs5 Muşeqoviç

07 fevral 1998-ci il tarixdə Ermənistan Respublikası, Gümrü şəhərində doğulmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, işləməyən, Ermənistan Respublikası, Gümrü şəhəri, Qandelyan küçəsi, ev 159/158 ünvanında qeydiyyatda

olan, 18 mart 2021-ci il tarixdə təqsirləndirilən şəxs qismində cəlb edilmiş və həmin tarixdə Bakı şəhəri, Səbail rayon Məhkəməsinin qərarına əsasən barəsində həbs qətimkan tədbiri seçilmiş

Təqsirləndirilən şəxs6

xx xxxxxx 1992-ci il tarixdə Ermənistan Respublikası, Şiraki vilayəti, Qokhovid kəndində doğulmuş, Ermənistan Respublikası vətəndaşı, evli, himayəsində iki azyaşlı uşağı olan, orta təhsilli, işləməyən, Ermənistan Respublikası, Gümrü şəhəri, Qokhovid kəndi, 5-ci küçə, ev 18 ünvanında qeydiyyatda olan, 18 mart 2021-ci il tarixdə təqsirləndirilən şəxs qismində cəlb edilmiş və həmin tarixdə Bakı şəhəri, Səbail rayon Məhkəməsinin qərarına əsasən barəsində həbs qətimkan tədbiri seçilmiş,

Təqsirləndirilən şəxs7

xx xxxx 1996-cı il tarixdə Ermənistan Respublikası, Gümrü şəhəri, Azatan kəndində doğulmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, işləməyən, Ermənistan Respublikası, Gümrü şəhəri, Azatan kəndi, 22-ci küçə, ev 8 ünvanında qeydiyyatda olan, 18 mart 2021-ci il tarixdə təqsirləndirilən şəxs qismində cəlb edilmiş və həmin tarixdə Bakı şəhəri, Səbail rayon Məhkəməsinin qərarına əsasən barəsində həbs qətimkan tədbiri seçilmiş,

Təqsirləndirilən şəxs8

xx xxxx 1998-ci il tarixdə Ermənistan Respublikası, Gümrü şəhərində doğulmuş, Ermənistan Respublikasının vətəndaşı, evli, himayəsində azyaşlı uşağı olan, orta təhsilli, Gümrü şəhərində lqit zavodunda pendir bişirən işləyən, Ermənistan Respublikası, Gümrü şəhəri, Kazak postu küçəsi, ev 128/181 ünvanında qeydiyyatda olan, 18 mart 2021-ci il tarixdə təqsirləndirilən şəxs qismində cəlb edilmiş və həmin tarixdə Bakı şəhəri, Səbail rayon Məhkəməsinin qərarına əsasən barəsində həbs qətimkan tədbiri seçilmiş,

Təqsirləndirilən şəxs9

01 avqust 1996-cı il tarixdə Ermənistan Respublikası, Gümrü şəhəri, Ayqabac kəndində doğulmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, işləməyən, Ermənistan Respublikası, Gümrü şəhəri, Ayqabac kəndi, 8-ci küçə, ev 27 ünvanında qeydiyyatda olan, 19 mart 2021-ci il tarixdə təqsirləndirilən şəxs

qismində cəlb edilmiş və həmin tarixdə Bakı şəhəri, Səbail rayon Məhkəməsinin qərarına əsasən barəsində həbs qətimkan tədbiri seçilmiş,

Təqsirləndirilən şəxs10

xx xxx 1984-cü il tarixdə Ermənistan Respublikası, Şiraki vilayəti, Aşot rayonu, Zuikağbur kəndində doğulmuş, Ermənistan Respublikası vətəndaşı, subay, orta təhsilli, işləməyən, Ermənistan Respublikası, Şiraki vilayəti, Aşot rayonu, Zuikağbur kəndi, 6-cı küçə, ev 37 ünvanında qeydiyyatda olan, 19 mart 2021-ci il tarixdə təqsirləndirilən şəxs qismində cəlb edilmiş və həmin tarixdə Bakı şəhəri, Səbail rayon Məhkəməsinin qərarına əsasən barəsində həbs qətimkan tədbiri seçilmiş,

Təqsirləndirilən şəxs11

xx xxxxxx 1996-cı il tarixdə Ermənistan Respublikası, Şiraki vilayəti, Artik şəhərində doğulmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, işləməyən, Ermənistan Respublikası, Şiraki vilayəti, Artik şəhəri, Ləmbad küçəsi, ev 27, mənzil 1 ünvanında qeydiyyatda olan, 19 mart 2021-ci il tarixdə təqsirləndirilən şəxs qismində cəlb edilmiş və həmin tarixdə Bakı şəhəri, Səbail rayon Məhkəməsinin qərarına əsasən barəsində həbs qətimkan tədbiri seçilmiş,

Təqsirləndirilən şəxs12 və

xx xxxx 1998-ci il tarixdə Ermənistan Respublikası, Gümrü şəhərində doğulmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, işləməyən, Ermənistan Respublikası, Gümrü şəhəri, Paruir Sevak küçəsi, ev 7, mənzil 21 ünvanında qeydiyyatda olan, 19 mart 2021-ci il tarixdə təqsirləndirilən şəxs qismində cəlb edilmiş və həmin tarixdə Bakı şəhəri, Səbail rayon Məhkəməsinin qərarına əsasən barəsində həbs qətimkan tədbiri seçilmiş,

Təqsirləndirilən şəxs13 – hər biri ayrı-ayrılıqda:

Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələrində nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinib, Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 5 (beş) il müddətə, Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 4 (dörd) il müddətə azadlıqdan məhrum etmə cəzasına məhkum edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən, Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5 Muşeqoviçə, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9, Təqsirləndirilən şəxs10, Təqsirləndirilən şəxs11, Təqsirləndirilən şəxs12 və Təqsirləndirilən şəxs13 təyin olunmuş cəzaları qismən toplamaq yolu ilə qəti olaraq 6 (altı) il müddətə azadlıqdan məhrum etmə cəzası təyin edilmişdir. Yuxarıda qeyd edilən təqsirləndirilən şəxslərin təyin olunmuş cəzanı ümumi rejimli cəzaçəkmə müəssisəsində

çəkmələri, ibtidai həbs müddəti cəzaçəkmə müddətinə daxil edilməklə onlara təyin edilmiş azadlıqdan məhrum etmə cəzasının başlanğıcının 13 dekabr 2020-ci il tarixdən hesablanması, Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən, onların əsas cəza növünü çəkdiədən sonra Azərbaycan Respublikasının hüdudlarından kənara məcburi çıxarılması və Azərbaycan Respublikası Cinayət Məcəlləsinin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə onlara qarşı irəli sürülmüş ittihamın ümumi ittihamdan xaric edilməsi qət edilmişdir.

Hökmə əsasən Ermənistan Respublikasının vətəndaşları Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5 Muşeqoviç, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9, Təqsirləndirilən şəxs10, Təqsirləndirilən şəxs11, Təqsirləndirilən şəxs12, Təqsirləndirilən şəxs13 qeyriləri ilə birlikdə qabaqcadan əlbir olan bir qrup şəxs halında mütəşəkkil dəstə halında Azərbaycan Respublikasının dövlət sərhədini qanunsuz olaraq keçmiş, həmçinin qeyriləri ilə qabaqcadan əlbir olan bir qrup şəxs halında mütəşəkkil dəstə halında qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğuları əldə edib, saxlayıb, daşıyıb, gəzdirmişlər.

Belə ki, Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5 Muşeqoviç, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9, Təqsirləndirilən şəxs10, Təqsirləndirilən şəxs11, Təqsirləndirilən şəxs12, Təqsirləndirilən şəxs13 qeyriləri ilə birlikdə qabaqcadan əlbir olan bir qrup şəxs halında mütəşəkkil dəstə halında 27 noyabr 2020-ci il tarixdə Azərbaycan Respublikasının dövlət sərhədini müvafiq sənədlər olmadan dövlət sərhədinin nəzarət-buraxılış məntəqələrindən kənarda keçməklə, qabaqcadan əlbir olan bir qrup şəxs halında mütəşəkkil dəstə halında 13 dekabr 2020-ci il tarixədək olan müddət ərzində odlu silah hesab olunan AKM tipli avtomat silahlarla, həmin silahlardan atəş açmaq üçün istifadə olunan döyüş sursatı hesab edilən patronlarla, partlayıcı maddələr, hərbi texnika və əsgəri ləvazimatla təchiz olunub, qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğular əldə edib, saxlayıb, daşıyıb, gəzdirmişlər.

Hökmdən narazı qalan məhkumlar Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs5 Muşeqoviçin, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs10, Təqsirləndirilən şəxs11 müdafiəçiləri Müdafiəçi13, Müdafiəçi9, Müdafiəçi1, Müdafiəçi10, Telman Abdiyev, Müdafiəçi3, Müdafiəçi12, Müdafiəçi4, Müdafiəçi2, Müdafiəçi5, Müdafiəçi6, Müdafiəçi7 və Müdafiəçi8 ayrı-ayrılıqda eyni məzmunlu apellyasiya şikayətləri verərək Bakı Ağır Cinayətlər Məhkəməsinin 22 iyul 2021-ci il tarixli il tarixli hökmünün ləğv olunmasını, AR CM-nin 228.3 və 318.2-ci maddələri ilə məhkumlar barəsində bəraət hökmünün çıxarılmasını xahiş etmişlər.

Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs5 Muşeqoviçin, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs10, Təqsirləndirilən şəxs11 müdafiəçiləri Müdafiəçi13, Müdafiəçi9, Müdafiəçi1, Müdafiəçi10, Telman Abdiyev, Müdafiəçi3, Müdafiəçi12, Müdafiəçi4, Müdafiəçi2, Müdafiəçi5, Müdafiəçi6, Müdafiəçi7 və Müdafiəçi8 apellyasiya şikayətlərini onunla əsaslandırılmışlar ki, məhkəmə kollegiya hökmdə göstərir ki, "Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs5 Muşeqoviçə, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs10, Təqsirləndirilən şəxs11 qarşı irəli sürülmüş Azərbaycan Respublikası CM-nin 214.2.1, 214.2.3 və 279.2-ci maddələri, həmçinin "mütəşəkkil dəstə" ifadəsi təqsirləndirilən şəxslərin hamısına verilmiş ittihamlardan xaric edilməlidir" Belə olan halda, Cinayət Məcəlləsinin 228.3-cü maddəsində və 318.2-ci maddəsində nəzərdə tutulmuş əsas əlamətlərindən biri "mütəşəkkil dəstə" ifadəsi ittihamlardan xaric edildiyindən, həmin maddə ilə Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs5 Muşeqoviçin, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs10, Təqsirləndirilən şəxs11 təqsirli bilinib onlara cəza təyin edilməsi qanunsuzdur. Bundan əlavə, Azərbaycan

Respublikası Cinayət Məcəlləsinin 279.2-ci maddəsi ümumi ittihamdan xaric edildiyi halda məhkumlar 228.3-cü maddə ilə təqsirli bilinərək ona cəza təyin edilmişdir. 279.2-ci maddə üzrə Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs5 Muşeqoviçin, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs10, Təqsirləndirilən şəxs11 təqsirləri sübut edilməmiş və həmin maddə ümumi ittihamdan çıxarılırsa həmin Məcəllənin 228.3-cü maddəsi də ittihamdan xaric edilməli idi. Belə ki, həmin Məcəllənin 279.2-ci maddəsinin ittihamdan xaric edilməsi özü-özlüyündə məhkumlara verilmiş silahların qanuni yolla ona verilməsinin sübutudur. Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs5 Muşeqoviçin, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs10, Təqsirləndirilən şəxs11 odlu silahın (digər döyüş sursatları) əldə etməsi və daşması qanunsuz olaraq deyil, onlar məhz Ermənistan Respublikasının rəsmi dövlət orqanlarının, həmin ölkənin hərbi-siyasi rəhbərliyi tərəfindən hərbi xidmətə getməsi adı ilə silahlandırılmış və onların təzyiqli və təsiri nəticəsində Azərbaycan Respublikasının mühafizə olunan dövlət sərhədini keçmişlər. Məhkəmə kollegiyasının özünün gəldiyi nəticəyə görə də, Ermənistan siyasi-hərbi rəhbərliyi öz vətəndaşlarını cinayət məsuliyyətinə cəlb etməklə hədələyib məcburi şəkildə “hərbi xidmətə” göndərmişlər. Lakin, məhkəmənin əsaslandırıcı hissə ilə gəldiyi nəticə tamamilə ziddiyyətlidir.

Hökmdən narazı qalan Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9, Təqsirləndirilən şəxs4 müdafiəçiləri Müdafiəçi13, Telman Abdiyev, Müdafiəçi4, Müdafiəçi7 və Müdafiəçi8 ayrı-ayrılıqda apellyasiya şikayətləri verərək Bakı Ağır Cinayətlər Məhkəməsinin 22 iyul 2021-ci il tarixli hökmünün ləğv edilməsini, CM-nin 39.2-ci maddəsinə əsasən təqsirliyi sübuta yetirilmədiyini üçün cinayət işinə xitam verilməsini xahiş etmişlər.

Təqsirləndirilən şəxs8 müdafiəçisi Müdafiəçi4 apellyasiya şikayətini onunla əsaslandırılmış ki, Azərbaycan Respublikası Cinayət Məcəlləsinin 279.2-ci maddəsi ilə ona qarşı irəli sürülmüş ittihamın ümumi ittihamdan xaric edilməsi onu təsdiq edir ki, Təqsirləndirilən şəxs8 hər hansı qanunsuz hərbi birləşmə tərkibində olmamışdır. Bu əsasla o, qanuni hərbi birləşmə tərkibində olmuş sayılır, yəni hərbi qulluqçudur və onun əməllərində Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3-cü maddəsində nəzərdə tutulmuş cinayət tərkibi yoxdur. Azərbaycan Respublikasının Prezidenti, Ermənistan Respublikasının baş naziri və Rusiya Federasiyasının Prezidenti tərəfindən imzalanmış 10.11.2020-ci il tarixli Bəyanatın 6-cı bəndinə əsasən Dağlıq Qarabağla Ermənistan arasında əlaqəni təmin edilməsi üçün Laçın dəhlizi yaradılmış və Rusiya sülhməramlı kontingentin nəzarətinə verilmişdir. Həmin dəhliz 10.11.2020-ci ildən bu günə kimi açıqdır və onun vasitəsilə Ermənistanla Dağlıq Qarabağın erməni əhalisinin yaşadığı hissəsi arasında maneəsiz gediş-gəliş təmin edilir. Bu əsasla da Təqsirləndirilən şəxs8 əməllərində Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsində nəzərdə tutulmuş cinayət tərkibi yoxdur. Eyni zamanda qeyd olunmalıdır ki, “Hərbi əsirlər ilə rəftara dair” 12.08.1949-cu il tarixli Cenevrə konvensiyasının 4-cü maddəsinin mənasına görə Təqsirləndirilən şəxs8 hərbi əsir sayılmalıdır.

Təqsirləndirilən şəxs9 müdafiəçisi Müdafiəçi13 apellyasiya şikayətini onunla əsaslandırılmışdır ki, məhkəmə iclasında dindirilən Təqsirləndirilən şəxs9 elan edilmiş ittihamlar üzrə özünü təqsirli bilməyərək ifadəsində göstərmişdir ki, 27 noyabr 2020-ci il tarixdə Gümrü hərbi komissarlığına getmiş, hərbi forma və avtomat silahla təmin edilərək Laçın rayonuna göndərilmişdir. Çünki, o, eləcə də digər təqsirləndirilən şəxslər hərbi çağırış zamanı çağırışa getməyəcəkləri halda, öz ölkələrində həbs olunacaqları ilə hədələnmişlər. Onlar silahı yerə qoymaq barədə Azərbaycan əsgərlərinin təklifinə əməl etmiş və müqavimətin mənasız olduğunu anlayaraq silahı yerə qoyaraq təslim olmuşlar. Təqsirləndirilən şəxs9 ifadəsinin təkzib edən cinayət işində və məhkəmə prosesi zamanı hər hansı sübut aşkar edilməmişdir.

X13 müdafiəçisi X27 apellyasiya şikayətini onunla əsaslandırılmışdır ki, X24 elan edilmiş ittihamlar üzrə özünü təqsirli bilməyərək ifadəsində göstərmişdir ki, 27 noyabr 2020-ci il tarixdə Gümrü hərbi komissarlığına getmiş, hərbi forma və avtomat silahla təmin

edilərək Laçın rayonur göndərilmişdir. Çünki, o, eləcə də digər təqsirləndirilən şəxslər hər çağırış zamanı çağırışa getməyəcəkləri halda, öz ölkələrində hət olunacaqları ilə hədələmişlər. Onlar silahı yerə qoymaq barəc Azərbaycan əsgərlərinin təklifinə əməl etmiş və müqavimətin mənasız olduğunu anlayaraq silahı yerə qoyaraq təslim olmuşlar. Təqsirləndirilən şəxs X13 ifadəsinin təkzib edən cinayət işində və məhkəmə prosesi zamanı hər hansı sübut aşkar edilməmişdir. Təqsirləndirilən şəxs X13 228.3 və 318.2-ci maddələrinə əsasən təqsirliyi sübuta yetirilmir.

Hökmdən narazı qalan məhkumlar Təqsirləndirilən şəxs12 və Təqsirləndirilən şəxs13 müdafiəçiləri Müdafiəçi7 və Müdafiəçi8 ayrı-ayrılıqda eyni məzmunlu apellyasiya şikayətləri verərək Bakı Ağır Cinayətlər Məhkəməsinin 22 iyul 2021-ci il tarixli hökmünün ləğv edilməsini, məhkumlar Təqsirləndirilən şəxs12 və Təqsirləndirilən şəxs13 cəzadan azad edilib, Azərbaycan Respublikası ərazisindən deport edilmələri ilə bağlı müvafiq qərar verilməsini xahiş etmişlər.

Apellyasiya şikayətlərini onunla əsaslandırmışlar ki, məhkumlar Təqsirləndirilən şəxs12 və Təqsirləndirilən şəxs13 həmin hökmü əsassız və ədalətsiz hesab edirlər. Belə ki, məhkumlar məhkəməyə verdikləri ifadədə göstərmişlər ki, onlar, Azərbaycan Respublikasının ərazisində tutulduğu an rəsmi hərbi statusunda olmuş və komandirlərinin əmrini yerinə yetirmişlər. Azərbaycan Respublikasının Dövlət sərhədini qanunsuz keçdiyini bilməmişlər. Çünki, həmin vaxt ərazidə olan Rus Sülhməramlılarında bu barədə onlara nə bir xəbərdarlıq etmiş, nə də mane olmamışlardır. Bu səbəbdən məhkumlar hesab edirlər ki, onların əməllərində Azərbaycan Respublikasının qorunan sərhədini pozmağa qəsd olmamışdır

Hökmdən cinayət-prossesual qanunvericiliyində nəzərdə tutulmuş qaydada dövlət ittihamçısı tərəfindən apellyasiya protesti verilməmişdir.

Məhkəmə kollegiyası işin materiallarını öyrənib, apellyasiya şikayətlərinin dəlillərini müzakirə edib, ittiham tərəfinin çıxışını dinləyərək, hesab edir ki, aşağıda göstərilən əsaslara görə apellyasiya şikayətləri təmin edilməməli, birinci instansiyaya məhkəməsinin hökmü dəyişdirilmədən saxlanılmalıdır.

Belə ki, Azərbaycan Respublikası CPM-nin 397-ci maddəsinə görə apellyasiya instansiyası məhkəməsi birinci instansiyaya məhkəməsi tərəfindən işin faktiki hallarının müəyyən edilməsini, habelə cinayət qanununun və bu Məcəllənin normalarının tətbiq edilməsini düzgünlüyünü yoxlayır. Birinci instansiyaya məhkəməsi tərəfindən müəyyən edilmiş faktiki hallar apellyasiya instansiyası məhkəməsi tərəfindən yalnız apellyasiya şikayətinin və ya apellyasiya protestinin hüdudlarında yoxlanılır. Birinci instansiyaya məhkəməsi tərəfindən cinayət qanununa və bu Məcəllənin normalarına riayət edilməsi apellyasiya instansiyası məhkəməsi tərəfindən apellyasiya şikayətinin və ya apellyasiya protestinin dəlillərindən asılı olmayaraq yoxlanılır.

Azərbaycan Respublikası Cinayət Məcəlləsinin 24.1-ci maddəsinə əsasən əməli (hərəkət və ya hərəkətsizliyi) yalnız qəsdən və ya ehtiyatsızlıqdan törətmiş şəxs cinayət törətməkdə təqsirli sayılır.

Məhkəmə kollegiyası apellyasiya şikayətinin dəlilləri ilə razılaşmayaraq qeyd edir ki, təqsirləndirilən şəxslərin ittiham olunduqları cinayət əməllərinin onlar tərəfindən törədilməsi zərərçəkmiş şəxslərin, şahidlərin ifadələri, istintaq və məhkəmə hərəkətlərinin protokolları, ekspert rəyi və işin digər obyektiv halları ilə tam təsdiq olunur.

Azərbaycan Respublikası Cinayət Məcəlləsinin 32.3-cü maddəsinə əsasən cinayətin törədilməsini təşkil etmiş və ya həmin cinayətin törədilməsinə rəhbərlik etmiş, eləcə də mütəşəkkil dəstə və ya cinayətkar birlik (cinayətkar təşkilat) yaratmış və ya bunlara rəhbərlik etmiş şəxs cinayətin təşkilatçısı sayılır.

Həmin Məcəllənin 32.5-ci maddəsinə əsasən cinayətin törədilməsinə məsləhətləri, göstərişləri və məlumatları ilə cinayət törədilməsi üçün alət və ya vasitələr vermək və ya maneələri aradan qaldırmaqla yardım etmiş şəxs, habelə cinayət törətmiş şəxsi, cinayət alətlərini və ya vasitələrini, cinayətin izlərini, yaxud cinayət yolu ilə əldə edilmiş pul vəsaitlərini və ya digər əmlakı gizlətməyi, belə pul vəsaitlərini və ya digər əmlakı əldə

etməyi, onlara sahiblik və ya onlardan istifadə etməyi, yaxud sərəncam verməyi qabaqcadan vəd etmiş şəxs köməkçi sayılır.

Məhkəmə kollegiyası hesab edir ki, ibtidai araşdırma zamanı qanuni üsullarla toplanmış sübutları, təqsirləndirilən şəxslərin cinayətlərin törədilməsində iştirakını məhkəmə iclasında tam, hərtərəfli və obyektiv araşdırmış birinci instansiya məhkəməsi iş üçün əhəmiyyət kəsb edən bütün halları tam aydınlaşdıraraq həmin sübutlara əsasən Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5 Muşeqoviçin, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9, Təqsirləndirilən şəxs10, Təqsirləndirilən şəxs11, Təqsirləndirilən şəxs12 və Təqsirləndirilən şəxs13 Azərbaycan Respublikası CM-in 228.3 və 318.2-ci maddələrində nəzərdə tutulan cinayət əməllərini törətmələri haqqında işin faktiki hallarına uyğun olan əsaslı və qanuni nəticəyə gəlmiş və onların əməllərini Azərbaycan Respublikası Cinayət Məcəlləsinin qeyd edilən maddələri ilə düzgün tövsif etmiş, onların təqsiri onların özlərini təqsirli bilməməsinə baxmayaraq, iş üzrə dindirilmiş zərərçəkmiş şəxslərin ifadələri və cinayət işinin materialları ilə tam təsdiq olunmuş, onların əməlinin cinayət olmasını aradan qaldıran hallar, habelə onun cinayət məsuliyyətindən və cəzadan azad edilməsi, cinayət işi üzrə icraata xitam verilməsi, o cümlədən Azərbaycan Respublikası Cinayət Prosesual Məcəlləsinin 42-ci maddəsində nəzərdə tutulmuş bəraət verilməsi üçün əsaslar müəyyən edilməmişdir.

Belə ki, İş materiallarına əlavə edilmiş məhkəmə-ballistik ekspertizasının 15 aprel 2021-ci il tarixli 3/307; 3/308 nömrəli rəyindən görünür ki, tədqiqata təqdim edilmiş "1" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « BK 9861» №-li, 1964-cü ildə istehsal edilmiş AKM markalı, "2" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « QE 478» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "3" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « 138400» №-li, 1974-cü ildə istehsal edilmiş AKM markalı, "4" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «İB 9115» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "5" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « HB 6474» №-li, 1967-ci ildə istehsal edilmiş AKM markalı, "6" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « EE 9182» №-li, 1967-ci ildə istehsal edilmiş AKM markalı, "7" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «VT 5798» №-li, 1960-cı ildə istehsal edilmiş AKM markalı, "8" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «LB 3610» №-li, 1961-ci ildə istehsal edilmiş AKM markalı, "9" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « HP 1893» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "10" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « İT 4590» №-li, 1967-ci ildə istehsal edilmiş AKM markalı, "11" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «PH 8807» №-li, 1964-ci ildə istehsal edilmiş AKM markalı, "12" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «808270» №-li, 1974-cü ildə istehsal edilmiş AKM markalı, "13" rəqəmlənmiş silah 7,62 mm kalibrli «LU 6287» №-li, 1967-ci ildə istehsal edilmiş AKM markalı; "14" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « ŞB 1808» №-li, 1961-ci ildə istehsal edilmiş AKM markalı, "15" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «EP 0276» №-li, 1964-cü ildə istehsal edilmiş AKM markalı, "16" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « XQ 1861» №-li, 1960-ci ildə istehsal edilmiş AKM markalı, "17" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «EP 6913» №-li, 1969-cı ildə istehsal edilmiş AKM markalı, "18" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « KU 735» №-li, 1966-cı ildə istehsal edilmiş AKM markalı, "19" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «HP 5620» №-li, 1966-cı ildə istehsal edilmiş AKM markalı, "20" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « AƏ 8238» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "21" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « OL 9894» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "22" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « OL 9940» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "23" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «PC 1709» №-li, 1962-ci ildə istehsal edilmiş AKM markalı, "24" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « EP 2590» №-li, 1969-cı ildə istehsal edilmiş AKM markalı, "25" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « Lİ 7190» №-li, 1967-ci ildə istehsal edilmiş AKM markalı, "26" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « KT 353» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "27" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « QM 2148» №-li, 1964-ci ildə

istehsal edilmiş AKM markalı, "28" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « HC 1630» №-li, 1961-ci ildə istehsal edilmiş AKM markalı, "29" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « AE 8030» №-li, 1961-ci ildə istehsal edilmiş AKM markalı, "30" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « KŞ 9419» №-li, 1964-cü ildə istehsal edilmiş AKM markalı, "31" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «BE 648» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "32" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «QƏ 6467» №-li, 1964-cü ildə istehsal edilmiş AKM markalı, "33" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « HP 4836» №-li, 1961-ci ildə istehsal edilmiş AKM markalı, "34" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « OT 7193» №-li, 1965-ci ildə istehsal edilmiş AKM markalı, "35" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «AH 4456» №-li, 1960-cı ildə istehsal edilmiş AKM markalı, "36" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « AP 3792» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "37" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « ƏO 9591» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "38" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « TB 7920» №-li, 1972-ci ildə istehsal edilmiş AKM markalı, "39" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «00747» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "40" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « NO 388» №-li, 1969-cü ildə istehsal edilmiş AKM markalı, "41" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « OL 8992» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "42" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « PX 8419» №-li, 1961-ci ildə istehsal edilmiş AKM markalı, "43" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «AC 285» №-li, 1967-ci ildə istehsal edilmiş AKM markalı, "44" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « LN 045» №-li, 1971-ci ildə istehsal edilmiş AKM markalı, "45" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « UB 509» №-li, 1972-ci ildə istehsal edilmiş AKM markalı, "46" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli« ZŞ 4821» №-li, 1960-ci ildə istehsal edilmiş AKM markalı, "47" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «İİ 2994» №-li, 1972-ci ildə istehsal edilmiş AKM markalı, "48" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « UƏ 3731» №-li, 1964-cü ildə istehsal edilmiş AKM markalı, "49" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « HP 1279» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "50" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « HA 3331» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "51" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « ML6678» №-li, 1965-ci ildə istehsal edilmiş AKM markalı avtomatik-yivli-odlu döyüş silahlarıdır. Silahlardan "35" rəqəmi ilə işarələnmiş "AH 4456" nömrəli, "39" rəqəmi ilə işarələnmiş "00747" nömrəli və "46" rəqəmi ilə işarələnmiş "ZŞ 4821" nömrəli silahların funksional əhəmiyyət daşıyan hissəsi olan çaxmaqları yerində olmadığından, həmin silahlardan atəş açmaq mümkün olmadı. Bu səbəbdən həmin 3 (üç) ədəd silah hal-hazırda təyinatı üzrə istifadəyə yararsızdılar. Digər silahların hissə və mexanizmləri qarşılıqlı əlaqəyə girir, istifadəyə (atəşə) yararlıdırlar.

- Tədqiqata təqdim edilmiş D-49153 cinayət işi üzrə tədqiqat obyektinə olmuş gilizlərdən 1 (bir) ədədi 7,62 mm kalibrli olmaqla, zavod üsulu ilə istehsal edilmiş, həmin kalibrə malik "Kalaşnikov" konstruksiyalı "AK" ("AKM", "AKS", "AKMS") markalı avtomat silahlarda, "RPK" ("RPKS") markalı əl pulemyotlarında, "SKS" karabinində və s. yivli odlu döyüş silahlarında döyüş sursatı kimi istifadə edilmək üçün nəzərdə tutulmuş patronun atəşlə ayrılmış hissəsidir - gilizdir. Həmin gilizin tədqiqata təqdim edilmiş "35" rəqəmi ilə işarələnmiş "AH 4456" nömrəli, "39" rəqəmi ilə işarələnmiş "00747" nömrəli və "46" rəqəmi ilə işarələnmiş "ZŞ 4821" nömrəli silahların funksional əhəmiyyət daşıyan hissəsi olan çaxmaqları yerində olmadığından, onlarla eyniləşmə tədqiqatı aparılmadı.

Təqdim edilmiş giliz üzərində olan izlərlə, təqdim edilmiş 48 (qırx səkkiz) ədəd 7,62 mm kalibrli, «AKM» markalı silahlardan eksperimental atılmış gilizlərin üzərindəki izlər öz yerləşmə sahələrinə, formalarına, ölçülərinə və mikrorelyef quruluşlarının xüsusiyyətlərinə görə bir-birilərinə uyğun gəlmirlər. D-49150 və D-49159 cinayət işi üzrə tədqiqat obyektinə olan gilizlər təqdim edilmiş silahlara kalibrinə görə uyğun gəlmədiyindən tədqiqat aparılmadı.

- Tədqiqata təqdim edilmiş 51 (əlli bir) ədəd 7,62 mm kalibrli, "AKM" markalı, avtomat silahların lülə kanalında atəşin əlavə faktoru olan tam yanmamış tüstüsüz barıt hissəcikləri aşkar edildi, bu da onu göstərir ki, həmin silahlardan atəş (atəşlər) açılmışdır.

Məhkəmə kollegiyası birinci instansiya məhkəməsinin gəlidiyi qənaəti ilə razılaşaraq qeyd edir ki, iş üzrə təqsirləndirilən şəxslər saxlanıldıqdan müəyyən müddət sonra ibtidai istintaq orqanı onlara ittiham elan edilməsi ilə bağlı haqlı olaraq belə qənaətə gəlmişdir ki, 10 noyabr 2020-ci il tarixdə Azərbaycan Respublikası, Rusiya Federasiyası Prezidentlərinin və Ermənistan Respublikası baş nazirinin birgə imzaladıqları bəyanata əsasən, həmin bəyanatın birinci bəndindən göründüyü kimi, Dağlıq Qarabağ münafişəsi zonasında atəşin və bütün hərbi əməliyyatların tam dayandırılması elan olunmuşdur. Beləliklə, Ermənistan Respublikasının kapitulyasiya aktını imzalalaması ilə müharibə qurtarsa da, bəzi erməni terrorçu-diversant dəstələri Azərbaycan Respublikasının Xocavənd rayonunun Hadrut qəsəbəsinin şimal-qərb hissəsindəki və digər meşəlik ərazilərdə qalaraq döyüş mövqeləri tutmuşlar. Bununla əlaqədar, Azərbaycan Respublikası sözügedən erməni silahlı dəstələrinin ərazidən çıxarılması üçün şərait yaratmış, həmçinin Rusiya sülhməramlı qüvvələrinin hərbi qulluqçuları ağır hava şəraitində həmin əraziyə gələrək səsgücləndirici vasitələrlə meşəlik ərazidə olan erməni silahlı dəstələrinə müraciət etmiş və onların ərazidən təxliyəsi üçün zəruri tədbirlərin görülməsinə baxmayaraq, meşə zolağında gizlənmiş erməni silahlı dəstələri ərazini tərk etməmiş, əksinə döyüş mövqeləri yaratmış və qeyd olunan ərazidə Azərbaycan Respublikası tərəfdən mülki xidmətləri həyata keçirən şəxslərə və hərbi qulluqçulara qarşı terror-təxribat və diversiya əməllərini törətmişlər. Göstərilənləri nəzərə alaraq, 2020-ci ilin dekabr ayının 13-də Dövlət Təhlükəsizliyi Xidməti tərəfindən ərazidə antiterror əməliyyatı keçirilmiş, həmin ərazidə gizlənmiş 62 nəfər erməni terrorçusu ələ keçirilmişdir. Bundan başqa həmin ərazilərdə davam etdirilən antiterror əməliyyatları zamanı 2020-ci ilin dekabr ayının 14-də erməni terrorçu dəstəsinin daha 2 nəfər üzvü - X25 və X19 saxlanılmışdır.

Saxlanılan zaman təqsirləndirilən şəxslərin Azərbaycan-Ermənistan arasında 27 sentyabr 2020-ci il tarixdən 10 noyabr 2020-ci il tarixədək olan 44 günlük müharibə zamanı həmin müharibədə iştirak etmiş Ermənistan Respublikasının hərbciləri-əsgərləri olması qənaətinə gəlinmiş, lakin hazırkı cinayət işinin ibtidai istintaqı zamanı saxlanılan şəxslərin yuxarıda qeyd olunan Azərbaycan-Ermənistan arasında baş vermiş müharibə zamanı dağlıq-meşəlik ərazilərdə qalmış hərbcilər yox, onların özlərinin də ifadələrində göstərdiyi kimi, həmçinin istintaq zamanı toplanmış digər mötəbər və təkzibedilməz sübutlara əsasən, saxlanılan şəxslərin hamısı müharibə bitdikdən sonra, yəni 10 noyabr 2020-ci il tarixdə Azərbaycan Respublikası, Rusiya Federasiyası Prezidentlərinin və Ermənistan Respublikası baş nazirinin birgə imzaladıqları bəyanata əsasən Ermənistan Respublikası kapitulyasiya aktını imzalalaması ilə müharibənin qurtarmasına baxmayaraq, 26-27 noyabr 2020-ci il tarixdə odlu silahlarla təchiz edilməklə qanunsuz olaraq Ermənistandan Azərbaycan Respublikasının beynəlxalq hüquqla tanınan ərazilərinə keçməklə məlum cinayət hadisələrini törətmişlər. Bununla da, aparılmış ibtidai istintaqla qeyd olunan Ermənistan Respublikası vətəndaşlarının əməlləri tam sübuta yetirilir.

Belə ki, Ermənistan Respublikasının rəsmi dövlət orqanlarının, həmin ölkənin hərbi-siyasi rəhbərliyinin təşkilatçılığı ilə bir qrup şəxs tərəfindən Azərbaycan Respublikasının ərazisində terrorçuluq törədilməsi məqsədilə silahlandırılmış Ermənistan Respublikasının vətəndaşları Azərbaycan Respublikasının xüsusi xidmət orqanlarının keçirdikləri antiterror əməliyyatı nəticəsində tərkisilahl edilmiş və barələrində cinayət təqibi aparılmışdır. Təqsirləndirilən şəxslərin məhkəmə istintaqı zamanı verdikləri ifadələrdən də görünür ki, onlar Ermənistan Respublikasının rəsmi dövlət orqanlarının, həmin ölkənin hərbi-siyasi rəhbərliyinin təzyiqi və təsiri nəticəsində bu cinayətə cəlb olunmuşlar. Belə ki, təqsirləndirilən şəxslər hərbi çağırış zamanı dövlət orqanları tərəfindən çağırışa gəlmədikləri həbs ediləcəkləri ilə hədələnmişlər. Həmçinin təqsirləndirilən şəxslərin anket məlumatları dəqiqləşdirilərkən müəyyən olunmuşdur ki, həmin şəxslər ya işsizdirlər, ya da iş tapmaq üçün müxtəlif vaxtlarda qonşu ölkələrin ərazilərində yaşamaq məcburiyyətində qalmışlar. Ermənistan Respublikasının rəsmi dairələri uzun illər ölkədə yaranmış və

dərinləşmiş sosial problemləri ört-basdır etmək üçün vətəndaşları cinayət əməlləri törətməyə sövqətmə yolunu seçmişlər. Belə olan halda, cinayət məsuliyyətinin böyük bir hissəsi Ermənistan Respublikasının rəsmi şəxsləri və hərbi-siyasi rəhbərliyinin üzərinə düşür. Qeyd edilən faktlar onu göstərir ki, həmin şəxslər döyüşmək istəməyiblər. Ermənistan siyasi-hərbi rəhbərliyi öz vətəndaşlarını cinayət məsuliyyətinə cəlb etməklə hədələyib məcburi şəkildə "hərbi xidmətə" göndərmişdir.

Hökmdə məhkumlar tərəfindən onlara təyin edilmiş cəza məsələsi mübahisələndirilməyə də məhkəmə kollegiyası hesab edir ki, birinci instansiya məhkəməsi "Məhkəmələr tərəfindən cinayət cəzalarının təyin edilməsi təcrübəsi haqqında" Azərbaycan Respublikası Ali Məhkəməsi Plenumunun 25 iyun 2003-cü il 4 nömrəli qərarında qeyd olunmuş tələbləri nəzərə alaraq Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5 Muşeqoviç, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9, Təqsirləndirilən şəxs10, Təqsirləndirilən şəxs11, Təqsirləndirilən şəxs12 və Təqsirləndirilən şəxs13 ədalətli cəza təyin etmişdir.

"Məhkəmələr tərəfindən cinayət cəzalarının təyin edilməsi təcrübəsi haqqında" Azərbaycan Respublikası Ali Məhkəməsi Plenumunun 25 iyun 2003-cü il 4 nömrəli qərarının 4-cü bəndinə əsasən Cinayət Məcəlləsinin 59-cu maddəsi ilə cəzanı yüngülləşdirən halların sayı məhdudlaşdırılmadığından cəza təyini zamanı həmin maddədə nəzərdə tutulmamış hallar da cəzanı yüngülləşdirici hallar qismində nəzərə alın bilər. Belə halların cəzanın yüngülləşdirici hal kimi qəbul edilməsi hökmdə əsaslandırılmalıdır.

Hökmdən görüldüyü kimi birinci instansiya məhkəməsi Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs7 və Təqsirləndirilən şəxs9 himayəsində azyaşlı uşaqlarının olmasını məhkumların cəzasını yüngülləşdirən hallar kimi nəzərə almışdır.

Məhkəmə kollegiyası hesab edir ki, məhkumların müdafiəçilərinin apellyasiya şikayətlərinin dəlilləri kimi göstərdikləri hallar Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5 Muşeqoviçin, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9, Təqsirləndirilən şəxs10, Təqsirləndirilən şəxs11, Təqsirləndirilən şəxs12 və Təqsirləndirilən şəxs13 bəndlərində çıxarılmış hökmün ləğv edilməsinə əsas ola bilməz.

Azərbaycan Respublikası Cinayət Məcəlləsinin 8.1-ci maddəsinə əsasən cinayət törətmiş şəxs haqqında tətbiq edilən cəza və ya digər cinayət-hüquqi xarakterli tədbirlər ədalətli olmalıdır, yəni cinayətin xarakterinə və ictimai təhlükəlilik dərəcəsinə, onun törədilməsi hallarına və cinayət törətməkdə təqsirli bilinən şəxsin şəxsiyyətinə uyğun olmalıdır.

Azərbaycan Respublikası Cinayət Məcəlləsinin 41.2-ci maddəsinin tələblərinə əsasən, cəza sosial ədalətin bərpası, məhkumun islah edilməsi və həm məhkumlar, həm də başqa şəxslər tərəfindən yeni cinayətlərin törədilməsinin qarşısını almaq məqsədilə tətbiq edilir.

Beləliklə, məhkəmə kollegiyası Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5 Muşeqoviçin, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9, Təqsirləndirilən şəxs10, Təqsirləndirilən şəxs11, Təqsirləndirilən şəxs12 və Təqsirləndirilən şəxs13 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə məhkum edilmələrinə dair Bakı Ağır Cinayətlər Məhkəməsinin 08 sentyabr 2021-ci il tarixli hökmünün qanuniliyi və əsaslılığını yoxlayaraq hesab edir ki, hökm qanuni və əsaslıdır, hökm qəbul edilərkən hər hansı bir maddi və ya prosessual hüquq normasının tələbləri pozulmamışdır.

İnsan Hüquqları üzrə Avropa Məhkəməsi Van de Hark Niderlanda qarşı işində məhkəmə 51(b)-ci bəndində qeyd etmişdir ki, ədalətli məhkəmə araşdırması hüququ tələb edir ki, məhkəmə çıxardığı qərarları əsaslandırсын. Bu o demək deyil ki, tərəflərin irəli sürdüyü hər bir arqumentə ətraflı cavab verilməlidir.

Şərh olunanlara əsasən məhkəmə kollegiyası hesab edir ki, apellyasiya şikayətləri əsassız olduğundan təmin edilməməli, Bakı Ağır Cinayətlər Məhkəməsinin 22 iyul 2021-ci il tarixli hökmü qanuni və əsaslı olduğundan dəyişdirilmədən saxlanılmalıdır.

Yuxarıda göstərilənləri, Azərbaycan Respublikası Cinayət Prosesual Məcəlləsinin 397.1, 397.2, 398.1.1 və 407-ci maddələrini rəhbər tutaraq Bakı Apellyasiya Məhkəməsinin Cinayət kollegiyası

QƏRARA ALDI:

Məhkumlar Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5 Muşeqoviçin, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9, Təqsirləndirilən şəxs10, Təqsirləndirilən şəxs11, Təqsirləndirilən şəxs12 və Təqsirləndirilən şəxs13 müdafiəçiləri Müdafiəçi13, Müdafiəçi9, Müdafiəçi1, Müdafiəçi10, Telman Abdiyev, Müdafiəçi3, Müdafiəçi12, Müdafiəçi4, Müdafiəçi2, Müdafiəçi5, Müdafiəçi6, Müdafiəçi7 və Müdafiəçi8 tərəfindən verilmiş apellyasiya şikayətləri təmin edilməsin.

Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5 Muşeqoviçin, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9, Təqsirləndirilən şəxs10, Təqsirləndirilən şəxs11, Təqsirləndirilən şəxs12 və Təqsirləndirilən şəxs13 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə məhkum edilmələrinə dair Bakı Ağır Cinayətlər Məhkəməsinin 22 iyul 2021-ci il tarixli hökmü məhkumların müdafiəçiləri Müdafiəçi13, Müdafiəçi9, Müdafiəçi1, Müdafiəçi10, Telman Abdiyev, Müdafiəçi3, Müdafiəçi12, Müdafiəçi4, Müdafiəçi2, Müdafiəçi5, Müdafiəçi6, Müdafiəçi7 və Müdafiəçi8 tərəfindən verilmiş apellyasiya şikayətlərinə münasibətdə dəyişdirilmədən saxlanılsın.

Yekun qərar qəbul edildiyi andan qüvvəyə minir.

Yekun qərardan Azərbaycan Respublikası CPM-in 408-410-cu maddələrində nəzərdə tutulmuş qaydada və müddətlərdə Azərbaycan Respublikası Ali Məhkəməsinə kassasiya şikayəti və ya kassasiya protesti verilə bilər.

Sədrlik edən:

Faiq Qasimov

Hakimlər:

Elmar Rəhimov

Kamran Əkbərov

Annex 30

Baku Court of Appeal, Appeal Decision No. 1(103)-1656/2021 (1 December 2021)
(certified translation from Azerbaijani)

[COAT OF ARMS OF THE REPUBLIC OF AZERBAIJAN]

RESOLUTION

on behalf of the Republic of Azerbaijan

Baku city

File No. 1(103)-1656/2021

12.01.2021

BAKU COURT OF APPEAL

At a public trial session that took place in the building of the Baku Court of Appeal in the presence of

**Judges – the chairman and rapporteur Vagif Anvar oglu Mursagulov, and judges X6 and X20,
Court session secretary – X4,**

Public prosecutor – Prosecutor X5 of the Head Department for the Protection of X1 of the Republic of Azerbaijan;

Sentenced Defendant1 and his Defense Lawyer12,
Sentenced Defendant2 and his Defense Lawyer20,
Sentenced Defendant3 and his Defense Lawyer18,
Sentenced Defendant4 and his Defense Lawyer8,
Offender X3 and his Defense Lawyer15,
Sentenced Defendant6 and his Defense Lawyer14,
Sentenced Defendant7 and his Defense Lawyer13,
Offender X9 and his Defense Lawyer17,
Sentenced Defendant9 and his Defense Lawyer19,
Sentenced Defendant10 and his Defense Lawyer16 Galib oglu,
Translator – X2,

there have been reviewed the statements of appeal submitted by the Offender X3's Defense Lawyer 6, Sentenced Defendant 6's Defense Lawyer 7, Sentenced Defendant 4's Defense Lawyer 1, Sentenced Defendant 7's Defense Lawyer 8, offender X9's Defense Lawyer 9, Sentenced Defendant 3's Defense Lawyer 4, Sentenced Defendant 10's Defense Lawyer 11, Sentenced Defendant 2's Defense Lawyer 3, Sentenced Defendant 9's Defense Lawyer 10, and Sentenced Defendant 1's Defense Lawyer 2 in regards to resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, concerning the following persons:

Defendant1, born in the Aygabats village of the Shirak District of the Republic of Armenia on xx xxxxxx, 1998, a citizen of the Republic of Armenia, single, with secondary education, unemployed, residing and registered at 24, 17th street, Aygabats village, Shirak District, Republic of Armenia; arrested under a court order and held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

Defendant2, born in the Ashotsk settlement of the Shirak District of the Republic of Armenia on xx xxxxxx, 1995, a citizen of the Republic of Armenia, single, with secondary education, occupation: PE teacher at secondary

school No. 11 of the Gyumri city, residing and registered at 3, 2nd street, Sarapat village, Shirak District, Republic of Armenia; arrested under a court order and held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

Defendant3, born in the Gyumri city of the Shirak District of the Republic of Armenia on January 6, 1997, a citizen of the Republic of Armenia, single, with secondary education, unemployed, residing and registered at 217/084 Sherbina street, Gyumri city, Shirak District, Republic of Armenia; arrested under a court order and held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

Defendant4, born in Gyumri city of the Republic of Armenia on xx xxxxxx, 1992, a citizen of the Republic of Armenia, married, with two minor children, secondary education, occupation: PE teacher at secondary school No. 7 of the Gyumri city, residing and registered at flat 17, 13A Yegishechorex street, Gyumri city, Republic of Armenia; arrested under a court order and held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

Defendant5, born in Gyumri city of the Republic of Armenia on xx xxxxxx, 1999, a citizen of the Republic of Armenia, single, with secondary education, unemployed, residing and registered at 9 Yesayan street, Gyumri city, Republic of Armenia; arrested under a court order and held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

Defendant6, born in Sarnaghbyur village of the Shirak District of the Republic of Armenia on xx xxxxxx, 1999, a citizen of the Republic of Armenia, single, with secondary education, unemployed, residing and registered at 36, 4th street, Sarnaghbyur village, Shirak District, Republic of Armenia;

Defendant7, Manukovich, born in Gyumri city of the Republic of Armenia on xx xxxxxx, 1998, a citizen of the Republic of Armenia, single, with secondary education, unemployed, residing and registered at 5 Lisinyan street, Gyumri city, Republic of Armenia; arrested under a court order and held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

Defendant8, born in the Isahakyan village of the Shirak province of the Republic of Armenia on xx xxxxxx, 1993, a citizen of the Republic of Armenia, married, with one minor child, secondary education, unemployed, residing and registered at 22, 7th street, Isahakyan village, Shirak province, Republic of Armenia; arrested under a court order and held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

Defendant9, born in the Salut village of the Shirak province of the Republic of Armenia on xx xxxxxx, 1992, a citizen of the Republic of Armenia, single, with secondary education, occupation: security guard at Gyumri city court, residing and registered at 9, 4th street, Salut village, Shirak province, Republic of Armenia; arrested under a court order and held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

Defendant10, born in the Mars village of the Shirak district of the Republic of Armenia on xx xxxxxx, 1996, a citizen of the Republic of Armenia, single, with secondary education, unemployed, residing and registered at 15, 1st street, Ashotsk village, Gyumri district, Republic of Armenia; arrested under a court order and held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

IT HAS BEEN IDENTIFIED:

The Baku Court for Grave Crimes by its resolution No. 1(101)-1258/2021 dated July 29, 2021 has ruled as follows: to find Defendant1 guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant1 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant1 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. As imprisonment before trial is also included into the prison sentence, the Defendant1's actual term of prison sentence was counted from December 13, 2020, and the detention order in regards to Defendant1 remained unchanged until the court decision has taken effect. Defendant1 must serve his prison sentence in a general regime penal colony and, upon serving the sentence, be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant1 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated; to find Defendant2 guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant2 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant2 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. As imprisonment before trial is also included into the prison sentence, the Defendant2's actual term of prison sentence was counted from December 13, 2020, and the detention order in regards to Defendant2 remained unchanged until the court decision has taken effect. Defendant2 must serve his prison sentence in a general regime

penal colony and, upon serving the sentence, be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant2 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated; to find Defendant3 guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant3 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant3 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. As imprisonment before trial is also included into the prison sentence, the Defendant3's actual term of prison sentence was counted from December 13, 2020, and the detention order in regards to Defendant3 remained unchanged until the court decision has taken effect. Defendant3 must serve his prison sentence in a general regime penal colony and, upon serving the sentence, be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant3 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated; to find Defendant4 guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant4 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant4 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. As imprisonment before trial is also included into the prison sentence, the Defendant4's actual term of prison sentence was counted from December 13, 2020, and the detention order in regards to Defendant4 remained unchanged until the court decision has taken effect. Defendant4 must serve his prison sentence in a general regime penal colony and, upon serving the sentence, be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant4 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated; to find Defendant5 guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant5 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant5 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. As imprisonment before trial is also included into the prison sentence, the Defendant5's actual term of prison sentence was counted from December 13, 2020, and the detention order in regards to Defendant5 remained unchanged until the court decision has taken effect. Defendant5 must serve his prison sentence in a general regime penal colony and, upon serving the sentence, be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant5 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated; to find Defendant6

guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant6 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant6 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. As imprisonment before trial is also included into the prison sentence, the Defendant6's actual term of prison sentence was counted from December 13, 2020, and the detention order in regards to Defendant6 remained unchanged until the court decision has taken effect. Defendant6 must serve his prison sentence in a general regime penal colony and, upon serving the sentence, be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant6 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated; to find Defendant7 Manukovich guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant7 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant7 Manukovich was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. As imprisonment before trial is also included into the prison sentence, the Defendant7 Manukovich's actual term of prison sentence was counted from December 13, 2020, and the detention order in regards to Defendant7 Manukovich remained unchanged until the court decision has taken effect. Defendant7 Manukovich must serve his prison sentence in a general regime penal colony and, upon serving the sentence, be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant7 Manukovich for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated; to find Defendant8 guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant8 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant8 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. As imprisonment before trial is also included into the prison sentence, the Defendant8's actual term of prison sentence was counted from December 13, 2020, and the detention order in regards to Defendant8 remained unchanged until the court decision has taken effect. Defendant8 must serve his prison sentence in a general regime penal colony and, upon serving the sentence, be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant8 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated; to find Defendant9 guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant9 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan.

Defendant9 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. As imprisonment before trial is also included into the prison sentence, the Defendant9's actual term of prison sentence was counted from December 13, 2020, and the detention order in regards to Defendant9 remained unchanged until the court decision has taken effect. Defendant9 must serve his prison sentence in a general regime penal colony and, upon serving the sentence, be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant9 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated; to find Defendant10 guilty of committing criminal offences envisioned by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence Defendant10 to 5 (five) years in prison in accordance with article 228.3 of the Criminal Code of the Republic of Azerbaijan and 4 (four) years in prison in accordance with article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant10 was sentenced to a total of 6 (six) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. As imprisonment before trial is also included into the prison sentence, the Defendant10's actual term of prison sentence was counted from December 13, 2020, and the detention order in regards to Defendant10 remained unchanged until the court decision has taken effect. Defendant10 must serve his prison sentence in a general regime penal colony and, upon serving the sentence, be subject to forced exile from the territory of the Republic of Azerbaijan in accordance with the provisions of article 52 of the Criminal Code of the Republic of Azerbaijan. Criminal persecution of Defendant10 for violation of articles 214.2.1, 214.2.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan shall be abated; It was also resolved to consider that the Baku Court for Grave Crimes made a ruling on July 2, 2021, in regards to material evidence and legal expenditures; it was resolved to take into consideration the fact that no civil suit was filed and no properties were arrested as a part of this case.

According to the court ruling, the citizens of the Republic of Armenia – Defendant1, Defendant2, Defendant3, Defendant4, Defendant5, Defendant6, Defendant7 Manukovich, Defendant8, Defendant9, Defendant10 and others as members of an organized group illegally crossed the state border of the Republic of Azerbaijan and, as members of an organized group, acquired, kept, carried and transported armed weapons, components, ammunition, explosive substances and devices.

In particular, the citizens of the Republic of Armenia – Defendant1, Defendant2, Defendant3, Defendant4, Defendant5, Defendant6, Defendant7 Manukovich, Defendant8, Defendant9, Defendant10 and others as members of an organized group illegally and without any relevant documents crossed the state border of the Republic of Azerbaijan outside of state border control check points on November 27, 2020, were supplied with firearms, ammunition, explosive substances, military equipment and army supplies, and illegally acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices during the period until December 13, 2020.

Defendant X3's Defense Lawyer6 did not agree with this ruling and appealed for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and requested for a judgment of acquittal to be adopted.

The appeal was reasoned by the fact that it was clear from the testimonies of the Defendant5 and other defendants that they came to the area following orders from their commander for the purposes of staying on duty. Besides, it is clear from the essence of charges that the illegal military grouping in this case was formed by other individuals rather than the defendants, while the defendants were drafted to the military service by the military registration and enlistment offices at their places of registration and were provided with the arms and military uniform. It was also clarified during the trial that the Defendant5 and other defendants established that they had been drafted to the military service and, as conscripts, were obliged to join [the military service]. Thus, the defendants were not members of an illegal military grouping but rather conscripts drafted to the military service in accordance with the national laws of their home country.

Defendant 6's Defense Lawyer7 did not agree with this ruling and appealed for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and, as there was no element of a crime in the defendant's actions, requested for a new judgment of acquittal to be adopted in regards to articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan.

The appeal was reasoned by the fact that as he was drafted, Defendant6 came to the military registration and enlistment office as he was required to by the laws of his home country, was officially provided with and signed to confirm receipt of the arms, a bulletproof vest and a helmet, and was notified that they would be going to an Armenian military post. It was only when he was delivered by bus to a military unit that he understood he was in Lachin. As they disembarked, they were boarded to Ural vehicles and started out with the permission of Russian peace-makers. They were used to replace the soldiers there. They were told that they should not open fire even if the soldiers were approaching. It was foggy during the 16 days they were there. They were ordered to go down on December 13 so that they could be taken back home. They did not perform any surveillance activities and even though they looked through the binoculars every now and then they could not see anything because it was foggy. There was not a military post at the location where they served, they came there for observation only and did not fire at anybody. If the Defendant6 did not come to the military registration and enlistment office he would have been charged with desertion and instituted a criminal proceeding against. The fact that Defendant6 was not guilty was also proved by testimonies made by other defendants at the trial.

Defendant 4's Defense Lawyer1 did not agree with this ruling and appealed for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and, as there was no element of a crime in the defendant's actions, requested for a new judgment of acquittal to be adopted in regards to articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan.

The appeal was reasoned by the fact that the weapons carried by Defendant4 and other defendants were not acquired illegally and they were conscripts who carried weapons, ammunition and explosive substances in accordance with the essence of their military duties. The defendants were forced to come to the military registration and enlistment office and take the weapons and this is not covered by Article 228 of the Criminal Code of the Republic of Azerbaijan. Besides, the defendant and other persons stated in their testimonies that they thought that the war had ended and they were told that they were brought to a territory held by Armenia. As a result, in the Defendant4's actions there was no element of the crime covered by Article 318 of the Criminal Code of the Republic of Azerbaijan.

Defendant 7's Defense Lawyer8 did not agree with this ruling and appealed for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and requested for a judgment of acquittal in respect of the Defendant 7 Manukovich to be adopted.

The appeal was reasoned by the fact that the Sentenced Defendant 7 Manukovich held himself innocent and stated in his testimony in court that they had been drafted by the mobilization service of the Republic of Armenia, and were then taken to a military unit and provided with 4 cartridge clips and 120 cartridges. Later on,

they were told that they would be taken to a military post to replace Armenian soldiers. He did not know that he was taken to the territory of the Republic of Azerbaijan. Besides, he was strictly instructed not to open fire.

Offender X9's Defense Lawyer9 did not agree with this ruling and appealed for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and requested for a judgment of acquittal in respect of X9 to be adopted.

The appeal was reasoned by the fact that the Sentenced Defendant 8 held himself innocent and stated in his testimony in court that they were going to replace the soldiers on the Armenian border. They were not told that they were going to place which was not the Armenian border. He did not know that that was the territory of Azerbaijan. He was not subjected to any psychological or physical pressure upon detainment. They were not ordered to open fire. At the same time, Defendant8 stated that information about them exerting pressure on the Azerbaijani Army was not correctly recorded at the time of preliminary investigation. This testifies that there were no elements of a crime in the actions of the Defendant8.

Sentenced Defendant 3's Defense Lawyer4 did not agree with this ruling and appealed for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and requested for a judgment of acquittal in respect of Defendant3 to be adopted.

Sentenced Defendant 10's Defense Lawyer11 did not agree with this ruling and appealed for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and requested for a judgment of acquittal in respect of Defendant10 to be adopted.

The appeal was reasoned by the fact that Defendant10 had been under command of the military and political administration of his home country – the Republic of Armenia, was involuntarily drafted to the occupant army and forced to execute orders under the threat of criminal prosecution. He was delivered into the territory of the Republic of Azerbaijan in a bus with the service weapons he had been provided with in accordance with the laws of the Republic of Armenia. This excludes his direct intention to commit any criminal activities.

Sentenced Defendant 2's Defense Lawyer3 did not agree with this ruling and appealed for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and, as there was no element of a crime in the defendant's actions, requested for a new judgment of acquittal to be adopted in regards to articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan.

The appeal was reasoned by the fact that the weapons carried by Defendant2 and other defendants were not acquired illegally as they were drafted to the military service and provided with weapons. The defendants were forced to come to the military registration and enlistment office and take the weapons but that was in a legal - and not in an illegal - manner. So this was not covered by Article 228 of the Criminal Code of the Republic of Azerbaijan. Besides, the defendant and other persons stated in their testimonies that they thought that the war had ended and they were told that they were brought to a territory held by Armenia. As a result, in the Defendant2's actions there was no element of the crime covered by Article 318 of the Criminal Code of the Republic of Azerbaijan.

Sentenced Defendant 9's Defense Lawyer10 did not agree with this ruling and appealed for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021 and requested for a judgment of acquittal in respect of Defendant9 to be adopted.

Sentenced Defendant 1's Defense Lawyer2 did not agree with this ruling and, as there was no element of a crime in the defendant's actions, appealed for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and adoption of a judgment of acquittal in respect of Defendant1.

At the court session, the participating Sentenced Defendant1 and his Defense Lawyer12 argued the appeal and, as there was no element of a crime in the defendant's actions, requested for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and adoption of a judgment of acquittal in respect of Defendant1.

At the court session, the participating Sentenced Defendant2 and his Defense Lawyer20 argued the appeal and, as there was no element of a crime in the defendant's actions, requested for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and adoption of a judgment of acquittal in respect of Defendant2 in regards to articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan.

At the court session, the participating Sentenced Defendant3 and his Defense Lawyer18 argued the appeal and requested for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and adoption of a judgment of acquittal in respect of Defendant3.

At the court session, the participating Sentenced Defendant4 and his Defense Lawyer X11 argued the appeal and, as there was no element of a crime in the defendant's actions, requested for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and adoption of a judgment of acquittal in respect of Defendant2 in regards to articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan.

At the court session, the participating Offender X7 and his Defense Lawyer15 argued the appeal and requested for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and adoption of a judgment of acquittal in his respect.

At the court session, the participating Sentenced Defendant6 and his Defense Lawyer14 argued the appeal and, as there was no element of a crime in the defendant's actions, requested for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and adoption of a new judgment of acquittal in his respect in regards to articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan.

At the court session, the participating Sentenced Defendant7 and his Defense Lawyer13 argued the appeal and requested for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and revocation [sic] of a judgment of acquittal in respect of Defendant7 Manukovich.

At the court session, the participating Defendant X12 and his Defense Lawyer17 argued the appeal and requested for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and adoption of a judgment of acquittal in respect of X9.

At the court session, the participating Sentenced Defendant9 and his Defense Lawyer19 argued the appeal and requested for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and adoption of a judgment of acquittal in respect of Defendant9.

At the court session, the participating Sentenced Defendant10 and his Defense Lawyer16 Galib oglu argued the appeal and requested for revocation of the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, and adoption of a judgment of acquittal in respect of Defendant10.

Participating public prosecutor X10, the Prosecutor of the Head Department for the Protection of X1 of the Republic of Azerbaijan, made a speech requesting for the appeals to be rejected and resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, be upheld and remain unchanged.

Following a review of the criminal case materials, discussion of the arguments provided in the appeals and taking notes from the participants in the trial, The Criminal Cases Division of the Baku Court of Appeal has ruled that the appeals must be rejected and resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, be upheld and remain unchanged.

In particular, the Defendant1, the Defendant2, the Defendant3, the Defendant4, X7, the Defendant6, the Defendant7, X12, the Defendant9 and the Defendant10 have been proven guilty on the basis of witness statements and available evidences, which were fully and thoroughly examined by the court of the first instance in an unbiased manner. Based on the evidences which were established by the panel of judges to be completely reliable, the court of the first instance made a lawful and reasonable conclusion in regards to the criminal offences committed by the Defendant 1, the Defendant2, the Defendant3, the Defendant4, X7, the Defendant6, the Defendant7, X12, the Defendant9 and the Defendant10 and correctly interpreted the actions of the Defendant 1, the Defendant2, the Defendant3, the Defendant4, X7, the Defendant6, the Defendant7, X12, the Defendant9 and the Defendant10 as provided for by articles 228.3 and 318.2 of the Criminal Code of the Republic of Azerbaijan.

It was established by the panel of judges that the following mitigating circumstances had been rightfully interpreted by the court of the first instance: the fact that the Defendant 1, the Defendant2, the Defendant3, the Defendant4, the Defendant5, the Defendant6, the Defendant7, the Defendant8, the Defendant9 and the Defendant10 made an illegal crossing of the state border due to their military service and political subordination, as provided for by the provisions of article 59.1.6 of the Criminal Code of the Republic of Azerbaijan; the fact that they acknowledged the offence, as provided by the provisions of article 59.2 of the Criminal Code of the Republic of Azerbaijan, and the facts that the Defendant4 was in the charge of two minor children and the Defendant8 was in the charge of one minor child, as provided for by the provisions of Article 59.1.4 of the Criminal Code of the Republic of Azerbaijan. No aggravating circumstances in respect of the defendants were found.

Apart from the above-mentioned, the panel of judges rightfully found that the Defendant 1, the Defendant2, the Defendant3, the Defendant4, the Defendant5, the Defendant6, the Defendant7, the Defendant8, the Defendant9 and the Defendant10 must serve their sentence in a general regime penal colony in accordance with the provisions of article 56.1.2 of the Criminal Code of the Republic of Azerbaijan.

According to article 58.3 of the Criminal Code of the Republic of Azerbaijan, in imposing punishment, the court shall take into consideration the nature and the degree of the social danger of the crime and the personality of the convict, including any mitigating or aggravating circumstances, and also the influence of the imposed penalty on the rehabilitation of the convicted person and on the conditions of life of his family.

It is recommended in resolution 4 of the "Court Experience in Awarding Criminal Punishment" advisory of the Plenary Assembly of the Supreme Court of the Republic of Azerbaijan dated June 25, 2003, that under these particular circumstances the criminal punishment awarded to the defendants should correspond to the circumstances of the offence and the personality of the guilty party, as provided for by the provisions of article 8.1 of the Criminal Code of the Republic of Azerbaijan.

According to article 8.1 of the Criminal Code of the Republic of Azerbaijan, punishment and other legal measures applicable to a person who has committed a criminal offence shall be just, that is, they shall correspond to the nature and degree of the social danger of the offence, the circumstances of its commission, and the personality of the guilty party.

According to article 41.2 of the Criminal Code of the Republic of Azerbaijan, punishment shall be applied for the purpose of restoring social justice, and also for the purpose of reforming a convicted person and preventing the commission of further crimes.

The panel of judges discussed the lawfulness and fairness of the punishment assigned to the Defendant 1, the Defendant2, the Defendant3, the Defendant4, the Defendant5,

the Defendant6, the Defendant7, the Defendant8, the Defendant9 and the Defendant10 and found that guided by the provisions of articles 8, 41, 58, 59 and 61 of the Criminal Code of the Republic of Azerbaijan the court of the first instance has assigned a lawful and fair punishment to the defendants in respect of their actions and personalities, with due respect to the mitigating circumstances, the nature and the degree of social danger represented by the committed offence.

Therefore, the panel of judges has ruled that the appeal submitted by the Offender X3's Defense Lawyer 6, Sentenced Defendant 6's Defense Lawyer 7, Sentenced Defendant 4's Defense Lawyer 1, Sentenced Defendant 7's Defense Lawyer 8, offender X9's Defense Lawyer 9, Sentenced Defendant 3's Defense Lawyer 4, Sentenced Defendant 10's Defense Lawyer 11, Sentenced Defendant 2's Defense Lawyer 3, Sentenced Defendant 9's Defense Lawyer 10, and Sentenced Defendant 1's Defense Lawyer 2 shall be rejected as unsubstantiated and resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, shall be upheld and remain unchanged as substantiated and fair.

Based on the above-mentioned and guided by the provisions of articles 397.1, 397.2, 398.1.1 and 410 of the Code of Criminal Procedure of the Republic of Azerbaijan, the panel of judges

RULED:

To uphold the resolution No. 1(101)-1258/2021 of the Baku Court for Grave Crimes dated July 29, 2021, unchanged.

To reject the appeal submitted by the Offender X3's Defense Lawyer 6.

To reject the appeal submitted by the Sentenced Defendant 6's Defense Lawyer 7.

To reject the appeal submitted by the Sentenced Defendant 4's Defense Lawyer 1.

To reject the appeal submitted by the Sentenced Defendant 7's Defense Lawyer 8.

To reject the appeal submitted by the offender X9's Defense Lawyer 9.

To reject the appeal submitted by the Sentenced Defendant 3's Defense Lawyer 4.

To reject the appeal submitted by the Sentenced Defendant 10's Defense Lawyer 11.

To reject the appeal submitted by the Sentenced Defendant 2's Defense Lawyer 3.

To reject the appeal submitted by the Sentenced Defendant 9's Defense Lawyer 10.

To reject the appeal submitted by the Sentenced Defendant 1's Defense Lawyer 2.

This resolution shall come into force from the time it has been announced.

This resolution can be appealed by means of filing a cassational appeal or a cassational protest to the Supreme Court of the Republic of Azerbaijan within the period envisioned by article 410 of the Code of Criminal Procedure of the Republic of Azerbaijan.

Chairman:

Vagif Mursagulov

Judges:

X6

X20



Azərbaycan Respublikası adından

QƏRAR

Bakı şəhəri

İş № 1(103)-1656/2021

01.12.2021

BAKI APELLYASIYA MƏHKƏMƏSİ

Hakimlər - Vaqif Ənvər oğlu Mursaqulovun sədrliyi və məruzəsi ilə, X6 və X20 ibarət tərkibdə,

Məhkəmə iclas katibi - X4,

Dövlət ittihamçısı - Azərbaycan Respublikası Baş X1 Müdafiəsi üzrə İdarənin prokuroru X5,

Məhkum - Təqsirləndirilən şəxs1 və onun müdafiəçisi Müdafiəçi12,

Məhkum - Təqsirləndirilən şəxs2 və onun müdafiəçisi Müdafiəçi20,

Məhkum - Təqsirləndirilən şəxs3 və onun müdafiəçisi Müdafiəçi18,

Məhkum - Təqsirləndirilən şəxs4 və onun müdafiəçisi X8,

Məhkum - X3 və onun müdafiəçisi Müdafiəçi15,

Məhkum Təqsirləndirilən şəxs6 müdafiəçisi - Müdafiəçi14

Məhkum - Təqsirləndirilən şəxs7 və onun müdafiəçisi Müdafiəçi13,

Məhkum - X9 və onun müdafiəçisi Müdafiəçi17,

Məhkum - Təqsirləndirilən şəxs9 və onun müdafiəçisi Müdafiəçi19,

Məhkum - Təqsirləndirilən şəxs10 və onun müdafiəçisi Müdafiəçi16 Qalib oğlunun,

Tərcüməçi - X2 iştirakları ilə,

xx xxxxx 1998-ci il tarixdə Ermənistan Respublikasının Şiraki rayonu Ayqabac kəndində doğulmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, işləməyən, Ermənistan Respublikası, Şiraki rayonu, Ayqabac kəndi, 17-ci küçə, ev 24-də qeydiyyatda olan və həmin ünvanda yaşamış, barəsində həbs qətimkan tədbiri seçilmiş, Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan Təqsirləndirilən şəxs1,

xx xxxx 1995-ci il tarixdə Ermənistan Respublikasının Şiraki rayonu Aşot qəsəbəsində doğulmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, Gümrü şəhəri 11 sayılı orta məktəbdə idman müəllimi işləmiş, Ermənistan Respublikası, Şiraki rayonu, Sarapat kəndi, 2-ci küçə, ev 3-də qeydiyyatda olan və həmin ünvanda yaşamış, barəsində həbs qətimkan tədbiri seçilmiş, Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan Təqsirləndirilən şəxs2,

06 yanvar 1997-ci il tarixdə Ermənistan Respublikasının Şiraki rayonu Gümrü şəhərində doğulmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, işləməyən, Ermənistan Respublikası, Şiraki rayonu, Gümrü şəhəri, Şerbina

küçəsi, 217/084-də qeydiyyatda olan və həmin ünvanda yaşamış, barəsində həbs qətimkan tədbiri seçilmiş, Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan Təqsirləndirilən şəxs3,

xx xxxxxxx 1992-ci il tarixdə Ermənistan Respublikasının Gümrü şəhərində doğulmuş, Ermənistan Respublikasının vətəndaşı, ailəli, himayəsində 2 azyaşlı uşağı olan, orta təhsilli, Gümrü şəhəri 7 saylı orta məktəbdə idman müəllimi işləmiş, Ermənistan Respublikası, Gümrü şəhəri, Yeğişəçoreks küçəsi, ev 13 A, mənzil 17 ünvanda qeydiyyatda olan və həmin ünvanda yaşamış, barəsində həbs qətimkan tədbiri seçilmiş, Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan Təqsirləndirilən şəxs4,

xx xxxxx 1999-cu il tarixdə Ermənistan Respublikasının Gümrü şəhərində doğulmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, işləməyən, Ermənistan Respublikası, Şiraki rayonu, Gümrü şəhəri, Yesayan küçəsi, ev 9-da qeydiyyatda olan, barəsində həbs qətimkan tədbiri seçilmiş, Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan Təqsirləndirilən şəxs5,

xx xxxxxxx 1999-cu il tarixdə Ermənistan Respublikasının Şiraki rayonu Sarnaxpyur kəndində doğulmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, işləməyən, Ermənistan Respublikası, Şiraki rayonu, Sarnaxpyur kəndi, 4-cü küçə, ev 36-da qeydiyyatda olan və həmin ünvanda yaşamış Təqsirləndirilən şəxs6,

xx xxxxxx 1998-ci il tarixdə Ermənistan Respublikasının Gümrü şəhərində doğulmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, işləməyən, Ermənistan Respublikası, Gümrü şəhəri, Lisinyan küçəsi, ev 5-də qeydiyyatda olan, barəsində həbs qətimkan tədbiri seçilmiş, Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan Təqsirləndirilən şəxs7 Manukoviçin,

xx xxxx 1993-cü il tarixdə Ermənistan Respublikasının Şiraki vilayəti İsakyan kəndində doğulmuş, Ermənistan Respublikasının vətəndaşı, evli, himayəsində 1 azyaşlı uşağı olan, orta təhsilli, işləməyən, Ermənistan Respublikası, Şiraki vilayəti, İsakyan kəndi, 7-ci küçə, ev 22-də qeydiyyatda olan və həmin ünvanda yaşamış, barəsində həbs qətimkan tədbiri seçilmiş, Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan Təqsirləndirilən şəxs8,

xx xxxxxxx 1992-ci il tarixdə Ermənistan Respublikasının Şiraki vilayəti Salut kəndində doğulmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, Gümrü şəhər məhkəməsində mühafizəçi işləmiş, Ermənistan Respublikası, Şiraki vilayəti, Salut kəndi, 4-cü küçə, ev 9-da qeydiyyatda olan və həmin

ünvanda yaşamış, barəsində həbs qətimkan tədbiri seçilmiş, Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan Təqsirləndirilən şəxs9 və

xx xxxx 1996-cı il tarixdə Ermənistan Respublikasının Şirak rayonunun Mars kəndində doğulmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, işləməyən, Ermənistan Respublikası, Şiraki vilayəti, Gümrü rayonu, Aşotski kəndi, 1-ci küçə, ev 15-də qeydiyyatda olan, barəsində həbs qətimkan tədbiri seçilmiş, Azərbaycan Respublikası Ədliyyə Nazirliyi Penitensiar Xidmətinin Bakı İstintaq Təcridxanasında saxlanılan Təqsirləndirilən şəxs10 barələrində olan

Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmündən məhkum X3 müdafiəçisi Müdafiəçi6, məhkum Təqsirləndirilən şəxs6 müdafiəçisi Müdafiəçi7, məhkum Təqsirləndirilən şəxs4 müdafiəçisi Müdafiəçi1, məhkum Təqsirləndirilən şəxs7 müdafiəçisi Müdafiəçi8, məhkum X9 müdafiəçisi Müdafiəçi9, məhkum Təqsirləndirilən şəxs3 müdafiəçisi Müdafiəçi4, məhkum Təqsirləndirilən şəxs10 müdafiəçisi Müdafiəçi11, məhkum Təqsirləndirilən şəxs2 müdafiəçisi Müdafiəçi3, məhkum Təqsirləndirilən şəxs9 müdafiəçisi Müdafiəçi10 və məhkum Təqsirləndirilən şəxs1 müdafiəçisi Müdafiəçi2 tərəfindən verilmiş apellyasiya şikayətlərinə Bakı Apellyasiya Məhkəməsinin binasında açıq məhkəmə iclasında baxaraq

MÜƏYYƏN

ETDİ :

Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmü ilə Təqsirləndirilən şəxs1 Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü və 318.2-ci maddələrində nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinmiş, ona Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 5 (beş) il müddətinə, Azərbaycan Respublikasının Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 4 (dörd) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən, təyin olunmuş cəzaları qismən toplamaq yolu ilə Təqsirləndirilən şəxs1 qəti olaraq 6 (altı) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilmiş, ibtidai həbs müddəti də cəzaçəkmə müddətinə daxil edilməklə Təqsirləndirilən şəxs1 təyin edilmiş azadlıqdan məhrum etmə cəzasının başlanğıcı faktiki saxlandığı 13 dekabr 2020-ci il tarixdən hesablanmış, Təqsirləndirilən şəxs1 barəsində seçilmiş həbs qətimkan tədbiri hökm qanuni qüvvəsini alanadək dəyişdirilməmiş, Təqsirləndirilən şəxs1 təyin olunmuş cəzanı ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi, Təqsirləndirilən şəxs1 əsas cəza növünü çəkdikdən sonra Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən, Azərbaycan Respublikasının hüduqlarından kənara məcburi çıxarılması, Təqsirləndirilən şəxs1 qarşı Azərbaycan Respublikasının Cinayət Məcəlləsinin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilməsi, Təqsirləndirilən şəxs2 Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü və 318.2-ci maddələrində nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinməsi, ona Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 5 (beş) il müddətinə, Azərbaycan Respublikasının Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 4 (dörd) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilməsi, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən, təyin olunmuş cəzaları qismən toplamaq yolu ilə Təqsirləndirilən şəxs2 qəti olaraq 6 (altı) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilməsi, ibtidai həbs müddəti də cəzaçəkmə müddətinə daxil edilməklə Təqsirləndirilən şəxs2 təyin edilmiş azadlıqdan məhrum etmə cəzasının başlanğıcı faktiki saxlandığı 13 dekabr 2020-ci il tarixdən hesablanması, Təqsirləndirilən şəxs2 barəsində seçilmiş həbs qətimkan tədbiri hökm qanuni qüvvəsini alanadək dəyişdirilməməsi, Təqsirləndirilən şəxs2 təyin olunmuş cəzanı ümumi rejimli

cəzaçəkmə müəssisəsində çəkməsi, Təqsirləndirilən şəxs2 əsas cəza növünü çəkdikdən sonra Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən, Azərbaycan Respublikasının hüduqlarından kənara məcburi çıxarılması, Təqsirləndirilən şəxs2 qarşı Azərbaycan Respublikasının Cinayət Məcəlləsinin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilməsi, Təqsirləndirilən şəxs3 Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü və 318.2-ci maddələrində nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinməsi, ona Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 5 (beş) il müddətinə, Azərbaycan Respublikasının Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 4 (dörd) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilməsi, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən, təyin olunmuş cəzaları qismən toplamaq yolu ilə Təqsirləndirilən şəxs3 qəti olaraq 6 (altı) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilməsi, ibtidai həbs müddəti də cəzaçəkmə müddətinə daxil edilməklə Təqsirləndirilən şəxs3 təyin edilmiş azadlıqdan məhrum etmə cəzasının başlanğıcı faktiki saxlandığı 13 dekabr 2020-ci il tarixdən hesablanması, Təqsirləndirilən şəxs3 barəsində seçilmiş həbs qətimkan tədbirinin hökm qanuni qüvvəsini alanadək dəyişdirilməməsi, Təqsirləndirilən şəxs3 təyin olunmuş cəzanı ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi, Təqsirləndirilən şəxs3 əsas cəza növünü çəkdikdən sonra Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən, Azərbaycan Respublikasının hüduqlarından kənara məcburi çıxarılması, Təqsirləndirilən şəxs3 qarşı Azərbaycan Respublikasının Cinayət Məcəlləsinin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilməsi, Təqsirləndirilən şəxs4 Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü və 318.2-ci maddələrində nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinməsi, ona Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 5 (beş) il müddətinə, Azərbaycan Respublikasının Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 4 (dörd) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilməsi, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən, təyin olunmuş cəzaları qismən toplamaq yolu ilə Təqsirləndirilən şəxs4 qəti olaraq 6 (altı) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilməsi, ibtidai həbs müddəti də cəzaçəkmə müddətinə daxil edilməklə Təqsirləndirilən şəxs4 təyin edilmiş azadlıqdan məhrum etmə cəzasının başlanğıcı faktiki saxlandığı 13 dekabr 2020-ci il tarixdən hesablanması, Təqsirləndirilən şəxs4 barəsində seçilmiş həbs qətimkan tədbiri hökm qanuni qüvvəsini alanadək dəyişdirilməməsi, Təqsirləndirilən şəxs4 təyin olunmuş cəzanı ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi, Təqsirləndirilən şəxs4 əsas cəza növünü çəkdikdən sonra Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən, Azərbaycan Respublikasının hüduqlarından kənara məcburi çıxarılması, Təqsirləndirilən şəxs4 qarşı Azərbaycan Respublikasının Cinayət Məcəlləsinin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilməsi, Təqsirləndirilən şəxs5 Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü və 318.2-ci maddələrində nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinməsi, ona Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 5 (beş) il müddətinə, Azərbaycan Respublikasının Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 4 (dörd) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilməsi, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən, təyin olunmuş cəzaları qismən toplamaq yolu ilə Təqsirləndirilən şəxs5 qəti olaraq 6 (altı) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilməsi, ibtidai həbs müddəti də cəzaçəkmə müddətinə daxil edilməklə Təqsirləndirilən şəxs5 təyin edilmiş azadlıqdan məhrum etmə cəzasının başlanğıcı faktiki saxlandığı 13 dekabr 2020-ci il tarixdən hesablanması, Təqsirləndirilən şəxs5 barəsində seçilmiş həbs qətimkan tədbirinin hökm qanuni qüvvəsini alanadək dəyişdirilməməsi, Təqsirləndirilən şəxs5 təyin olunmuş cəzanı ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi, Təqsirləndirilən şəxs5 əsas cəza növünü çəkdikdən sonra Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən, Azərbaycan Respublikasının hüduqlarından kənara məcburi çıxarılması, Təqsirləndirilən şəxs5 qarşı Azərbaycan Respublikasının Cinayət Məcəlləsinin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilməsi, Təqsirləndirilən şəxs6 Azərbaycan

Respublikasının Cinayət Məcəlləsinin 228.3-cü və 318.2-ci maddələrində nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinməsi, ona Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 5 (beş) il müddətinə, Azərbaycan Respublikasının Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 4 (dörd) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilməsi, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən, təyin olunmuş cəzaları qismən toplamaq yolu ilə Təqsirləndirilən şəxs6 qəti olaraq 6 (altı) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilməsi, ibtidai həbs müddəti də cəzaçəkmə müddətinə daxil edilməklə Təqsirləndirilən şəxs6 təyin edilmiş azadlıqdan məhrum etmə cəzasının başlanğıcı faktiki saxlandığı 13 dekabr 2020-ci il tarixdən hesablanması, Təqsirləndirilən şəxs6 barəsində seçilmiş həbs qətimkan tədbiri hökm qanuni qüvvəsini alanadək dəyişdirilməməsi, Təqsirləndirilən şəxs6 təyin olunmuş cəzanı ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi, Təqsirləndirilən şəxs6 əsas cəza növünü çəkdikdən sonra Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən, Azərbaycan Respublikasının hüduqlarından kənara məcburi çıxarılması, Təqsirləndirilən şəxs6 qarşı Azərbaycan Respublikasının Cinayət Məcəlləsinin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilməsi, Təqsirləndirilən şəxs7 Manukoviçin Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü və 318.2-ci maddələrində nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinməsi, ona Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 5 (beş) il müddətinə, Azərbaycan Respublikasının Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 4 (dörd) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilməsi, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən, təyin olunmuş cəzaları qismən toplamaq yolu ilə Təqsirləndirilən şəxs7 Manukoviçə qəti olaraq 6 (altı) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilməsi, ibtidai həbs müddəti də cəzaçəkmə müddətinə daxil edilməklə Təqsirləndirilən şəxs7 Manukoviçə təyin edilmiş azadlıqdan məhrum etmə cəzasının başlanğıcı faktiki saxlandığı 13 dekabr 2020-ci il tarixdən hesablanması, Təqsirləndirilən şəxs7 Manukoviç barəsində seçilmiş həbs qətimkan tədbiri hökm qanuni qüvvəsini alanadək dəyişdirilməməsi, Təqsirləndirilən şəxs7 Manukoviç təyin olunmuş cəzanı ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi, Təqsirləndirilən şəxs7 Manukoviçin əsas cəza növünü çəkdikdən sonra Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən, Azərbaycan Respublikasının hüduqlarından kənara məcburi çıxarılması, Təqsirləndirilən şəxs7 Manukoviçə qarşı Azərbaycan Respublikasının Cinayət Məcəlləsinin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilməsi, Təqsirləndirilən şəxs8 Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü və 318.2-ci maddələrində nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinməsi, ona Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 5 (beş) il müddətinə, Azərbaycan Respublikasının Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 4 (dörd) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilməsi, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən, təyin olunmuş cəzaları qismən toplamaq yolu ilə Təqsirləndirilən şəxs8 qəti olaraq 6 (altı) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilməsi, ibtidai həbs müddəti də cəzaçəkmə müddətinə daxil edilməklə Təqsirləndirilən şəxs8 təyin edilmiş azadlıqdan məhrum etmə cəzasının başlanğıcı faktiki saxlandığı 13 dekabr 2020-ci il tarixdən hesablanması, Təqsirləndirilən şəxs8 barəsində seçilmiş həbs qətimkan tədbiri hökm qanuni qüvvəsini alanadək dəyişdirilməməsi, Təqsirləndirilən şəxs8 təyin olunmuş cəzanı ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi, Təqsirləndirilən şəxs8 əsas cəza növünü çəkdikdən sonra Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən, Azərbaycan Respublikasının hüduqlarından kənara məcburi çıxarılması, Təqsirləndirilən şəxs8 qarşı Azərbaycan Respublikasının Cinayət Məcəlləsinin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilməsi, Təqsirləndirilən şəxs9 Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü və 318.2-ci maddələrində nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinməsi, ona Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 5 (beş) il müddətinə, Azərbaycan Respublikasının Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 4 (dörd) il müddətinə azadlıqdan məhrum etmə

cəzası təyin edilməsi, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən, təyin olunmuş cəzaları qismən toplamaq yolu ilə Təqsirləndirilən şəxs9 qəti olaraq 6 (altı) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilməsi, ibtidai həbs müddəti də cəzaçəkmə müddətinə daxil edilməklə Təqsirləndirilən şəxs9 təyin edilmiş azadlıqdan məhrum etmə cəzasının başlanğıcı faktiki saxlandığı 13 dekabr 2020-ci il tarixdən hesablanması, Təqsirləndirilən şəxs9 barəsində seçilmiş həbs qətimkan tədbirinin hökm qanuni qüvvəsini alanadək dəyişdirilməməsi, Təqsirləndirilən şəxs9 təyin olunmuş cəzanı ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi, Təqsirləndirilən şəxs9 əsas cəza növünü çəkdikdən sonra Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən, Azərbaycan Respublikasının hüdudlarından kənara məcburi çıxarılması, Təqsirləndirilən şəxs9 qarşı Azərbaycan Respublikasının Cinayət Məcəlləsinin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilməsi, Təqsirləndirilən şəxs10 Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü və 318.2-ci maddələrində nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli bilinməsi, ona Azərbaycan Respublikasının Cinayət Məcəlləsinin 228.3-cü maddəsi ilə 5 (beş) il müddətinə, Azərbaycan Respublikasının Cinayət Məcəlləsinin 318.2-ci maddəsi ilə 4 (dörd) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilməsi, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən, təyin olunmuş cəzaları qismən toplamaq yolu ilə Təqsirləndirilən şəxs10 qəti olaraq 6 (altı) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilməsi, ibtidai həbs müddəti də cəzaçəkmə müddətinə daxil edilməklə Təqsirləndirilən şəxs10 təyin edilmiş azadlıqdan məhrum etmə cəzasının başlanğıcı faktiki saxlandığı 13 dekabr 2020-ci il tarixdən hesablanması, Təqsirləndirilən şəxs10 barəsində seçilmiş həbs qətimkan tədbiri hökm qanuni qüvvəsini alanadək dəyişdirilməməsi, Təqsirləndirilən şəxs10 təyin olunmuş cəzanı ümumi rejimli cəzaçəkmə müəssisəsində çəkməsi, Təqsirləndirilən şəxs10 əsas cəza növünü çəkdikdən sonra Azərbaycan Respublikası Cinayət Məcəlləsinin 52-ci maddəsinə əsasən, Azərbaycan Respublikasının hüdudlarından kənara məcburi çıxarılması, Təqsirləndirilən şəxs10 qarşı Azərbaycan Respublikasının Cinayət Məcəlləsinin 214.2.1, 214.2.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilməsi, iş üzrə maddi sübutlar və məhkəmə xərci ilə bağlı məsələnin Bakı Ağır Cinayətlər Məhkəməsinin 02 iyul 2021-ci il tarixli hökmü ilə həll edildiyi nəzərə alınması, iş üzrə mülki iddia verilməməsi və əmlak üzərinə həbs qoyulmaması nəzərə alınması hökm edilmişdir.

Məhkəmə hökmünə əsasən Ermənistan Respublikasının vətəndaşları Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7 Manukoviç, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9, Təqsirləndirilən şəxs10 və digərləri müştəkkil dəstə halında Azərbaycan Respublikasının dövlət sərhədini qanunsuz olaraq keçmiş, həmçinin müştəkkil dəstə halında qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğular əldə edib, saxlayıb, daşıyıb, gəzdirmişlər.

Belə ki, Ermənistan Respublikasının vətəndaşları Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7 Manukoviç, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9 və Təqsirləndirilən şəxs10 qeyriləri ilə birlikdə müştəkkil dəstə halında 27 noyabr 2020-ci il tarixdə Azərbaycan Respublikasının dövlət sərhədini müvafiq sənədlər olmadan dövlət sərhədinin nəzarət-buraxılış məntəqələrindən kənarda keçməklə müştəkkil dəstə halında 13 dekabr 2020-ci il tarixədək olan müddət ərzində odlu silah, döyüş sursatı, partlayıcı maddələr, hərbi texnika və əsgəri ləvazimatla təchiz olunub, qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğular əldə edib, saxlayıb, daşıyıb, gəzdirmişlər.

Həmin hökmdən narazı qalan məhkum X3 müdafiəçisi Müdafiəçi6 apellyasiya şikayəti verərək Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünün ləğv edilməsi və onun barəsində bəraət hökmünün çıxarılmasını xahiş etmişdir.

Apellyasiya şikayəti onunla əsaslandırılmışdır ki, Təqsirləndirilən şəxs5 və digər təqsirləndirilən şəxslərin hər birinin ifadəsindən də görünür ki, onların məqsədi həmin əraziyə komandirlərinin əmrini yerinə yetirmək üçün gəlmək və orada növbədə durmaq olmuşdur. Bundan başqa, ittihamın mahiyyətindən də aydın olur ki, qanunsuz hərbi birləşməni yaradan hazırkı cinayət işi üzrə təqsirləndirilən şəxslər deyil, digər şəxslərdir, təqsirləndirilən şəxslər yaşadıkları ərazidən hərbi komissarlıqla xidmətə cəlb edilmiş və bu məqsədlə onları hərbi hissəyə cəlb edib orada silah və hərbi geyim verilmişdir. Məhkəmədə həmçinin aydın oldu ki, Təqsirləndirilən şəxs5 və qeyri təqsirləndirilən şəxslər özləri üçün müəyyən etmişlər ki, onları dövlət hərbi xidmətə çağırır və mükəlləfiyyətli olaraq da onlar həmin xidmətə getməyə borcludur. Yeni təqsirləndirilən şəxslər hər hansı qanunsuz silahlı birləşmənin deyil, məhz vətəndaşı olduqları ölkənin qanunvericiliyi ilə müəyyən edilmiş birləşmədə iştirak etmək üçün bu fəaliyyətə cəlb edilmişlər.

Həmin hökmdən narazı qalan məhkum Təqsirləndirilən şəxs6 müdafiəçisi Müdafiəçi7 apellyasiya şikayəti verərək Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünü ləğv edərək, əməlinə cinayət tərkibi olmadığına görə Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddəsi ilə bəraət verilməsi barədə yeni hökm çıxarılmasını xahiş etmişdir.

Apellyasiya şikayəti onunla əsaslandırılmışdır ki, Təqsirləndirilən şəxs6 vətəndaşı olduğu ölkənin qanunlarına tabe olaraq hərbi komissarlığın çağırışına gəlmiş, rəsmi şəkildə nömrə ilə imza ataraq silah, bronijilet, kaska və s. təhvil almış, onlara erməni postlarına gedəcəklərini bildiriblər və avtobusla hərbi hissəyə gətiriləndə anlayıb ki, Laçındadır. Onları düşürüb "Ural" maşınlarına otuzdurublar və rus sülhməramlılarının icazəsi ilə yola düşüblər. Orada olan əsgərləri əvəz ediblər. Onlara bildirmişlər ki, hətta əsgər yaxınlaşsa belə qətiyyətlə atəş açmaq olmaz. Orada olduqları 16 gün müddətində duman olub, 13 dekabrda əmr gəlib ki, aşağı düşsünlər, onları geri evə qaytaracaqlar, tərəfindən heç bir kəşfiyyət işləri aparılmamış, arabir durub baxsa da hava dumanlı olduğu üçün heç nə görməmişdir. Onların xidmət etdikləri yerdə post olmamış, müşahidə üçün gəlmişlər, heç kimə atəş açmamışlar. Təqsirləndirilən şəxs6 hərbi komissarlığa gəlməkdən imtina edəcəyi təqdirdə fərarilikdə təqsirləndirilərək cinayət işi açılacaqdı. Təqsirləndirilən şəxs6 verilmiş ittihamda təqsirsiz olması məhkəmə iclasında dindirilən digər təqsirləndirilən şəxslərin ifadələri ilə də sübuta yetirilir.

Həmin hökmdən narazı qalan məhkum Təqsirləndirilən şəxs4 müdafiəçisi Müdafiəçi1 apellyasiya şikayəti verərək Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünü ləğv edərək əməlinə cinayət tərkibi olmadığına görə Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə bəraət hökmünün çıxarılmasını xahiş etmişdir.

Apellyasiya şikayəti onunla əsaslandırılmışdır ki, Təqsirləndirilən şəxs4 və digər təqsirləndirilən şəxslər üzərlərində daşdıqları silahları qanunsuz yolla əldə etməmiş, onlar hərbi xidmətə cəlb edilmiş şəxslərdir və onların hərbi təyinatlı olmalarının mahiyyəti silah, patron, partlayıcı maddə daşımaq təşkil edir. Təqsirləndirilən şəxslər məcburi qaydada hərbi komissarlığa gəlmiş və silahlanmış və bu da AR CM-nin 228-ci maddəsinin tərkibini yaratmır. Bundan başqa, təqsirləndirilən şəxs və digərləri ifadələrində göstərmişlər, onlar müharibənin bitmiş hesab edirdilər və onları gətirdikləri ərazini Ermənistanla məxsus olduğunu bildirmişdilər. Belə olan halda hesab edir ki, Təqsirləndirilən şəxs4 əməllərində AR CM-nin 318-ci maddəsində nəzərdə tutulan cinayətin tərkibi yoxdur.

Həmin hökmdən narazı qalan məhkum Təqsirləndirilən şəxs7 müdafiəçisi Müdafiəçi8 apellyasiya şikayəti verərək Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünün ləğv edilərək, təqsirləndirilən şəxs şəxs Təqsirləndirilən şəxs7 Manukoviç barəsində bəraət hökmünün ləğv edilməsini xahiş etmişdir.

Apellyasiya şikayəti onunla əsaslandırılmışdır ki, məhkum Təqsirləndirilən şəxs7 Manukoviç özünü təqsirli bilməyərək, məhkəmə iclasında verdiyi ifadəsində göstərmişdir ki, onlar Ermənistan Respublikasının səfərbərlik xidməti tərəfindən çağırılmış, hərbi hissəyə aparılaraq onlara silah, 4 ədəd daraq və 120 ədəd güllə verilmişdir. Daha sonra

onlara verilən məlumata əsasən onlar, postda olan erməni əsgərlərini əvəz etməyə göndərilmişlər. Getdiyi yerin Azərbaycan Respublikası ərazisini olmasını bilməmişdir. Bundan başqa onlara qəti olaraq atəş açmamaları tapşırılmışdır.

Həmin hökmdən narazı qalan məhkum X9 müdafiəçisi Müdafiəçi9 apellyasiya şikayəti verərək Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünün ləğv edilərək, X9 barəsində bəraət hökmünün çıxarılmasını xahiş etmişdir.

Apellyasiya şikayəti onunla əsaslandırılmışdır ki, məhkum Təqsirləndirilən şəxs8 özünü təqsirli bilməyərək, məhkəmə iclasında ifadəsində göstərmişdir ki, onlar ermənistan sərhəddində olan əsgərləri əvəz etməyə gədirdilər. Getdiyi yerin Ermənistan sərhədi olmadığını onlara deməmişdilər. Həmin yerin Azərbaycan ərazisi olmasını bilməmişdir. Saxlanıldıqdan sonra onlara heç bir psixi və fiziki təsir göstərilməmişdir. Onlara atəş açmaq tapşırılmamışdır. Eyni zamanda Təqsirləndirilən şəxs8 bildirmişdir ki, onların məqsədinin Azərbaycan Ordusuna qarşı basqın təşkil etməkləri ibtidai istintaq zamanı düzgün yazılmamışdır. Onların elə bir məqsədi olmamışdır. Bu da ona dələlət edir ki, Təqsirləndirilən şəxs8 əməlinə cinayət tərkibi yaranmır.

Həmin hökmdən narazı qalan məhkum Təqsirləndirilən şəxs3 müdafiəçisi Müdafiəçi4 apellyasiya şikayəti verərək Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünün ləğv edilərək, Təqsirləndirilən şəxs3 barəsində bəraət hökmünün çıxarılmasını xahiş etmişdir.

Həmin hökmdən narazı qalan məhkum Təqsirləndirilən şəxs10 müdafiəçisi Müdafiəçi11 apellyasiya şikayəti verərək Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünün ləğv edilməsi, Təqsirləndirilən şəxs10 barəsində bəraət hökmünün çıxarılmasını xahiş etmişdir.

Apellyasiya şikayəti onunla əsaslandırılmışdır ki, Təqsirləndirilən şəxs10 vətəndaşı olduğu Ermənistan Respublikasının hərbi-siyasi rəhbərliyinin sərəncamında olmuş və işğalçı orduya qeyri-könüllü şəkildə gedərək cinayət məsuliyyəti təqibi altında məcbur olaraq əmrə tabe olmuş və Ermənistan Respublikasının qanunları əsasında ona həvalə edilmiş tabel silahı ilə Azərbaycan Respublikasının ərazisinə öz iradəsindən asılı olmadan, avtobusun içində daxil edilmişdir. Bu səbəbdən də onun birbaşa qəsdlə cinayət törətmək niyyətinin olması istisna olunur.

Həmin hökmdən narazı qalan məhkum Təqsirləndirilən şəxs2 müdafiəçisi Müdafiəçi3 apellyasiya şikayəti verərək Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünün ləğv edilərək əməlinə cinayət tərkibi olmadığına görə Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə bəraət hökmünün çıxarılmasını xahiş etmişdir.

Apellyasiya şikayəti onunla əsaslandırılmışdır ki, Təqsirləndirilən şəxs2 və digərləri üzərində gəzdirdikləri silahları qanunsuz yolla əldə etməmiş, onlar hərbi xidmətə cəlb olunmuş və həmin silahlar hərbi hissədə verilmişdir. Təqsirləndirilən şəxslər məcburi qaydada hərbi komissarlığa gəlmiş və silahlanmış, amma qanuni olaraq, qanunsuz deyil. Bu da AR CM- nin 228-ci maddənin tərkibini yaratmır. Bundan başqa, təqsirləndirilən şəxs və digərləri ifadələrində göstərmişdirlər ki, onlar müharibənin bitmiş hesab edirdilər və onları gətirdikləri ərazini Ermənistana aid olduğunu bildirmişdilər. Belə olan halda Təqsirləndirilən şəxs2 AR CM-nin 318-ci maddəsində nəzərdə tutulan cinayətin tərkibi yoxdur.

Həmin hökmdən narazı qalan məhkum Təqsirləndirilən şəxs9 müdafiəçisi Müdafiəçi10 apellyasiya şikayəti verərək Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünün ləğv edilərək Təqsirləndirilən şəxs9 barəsində bəraət hökmünün qəbul edilməsini xahiş etmişdir.

Həmin hökmdən narazı qalan məhkum Təqsirləndirilən şəxs1 müdafiəçisi Müdafiəçi2 apellyasiya şikayəti verərək Təqsirləndirilən şəxs1 əməlinə cinayət tərkibi olmadığına görə Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünün ləğv edilərək onun barəsində bəraət hökmünün çıxarılmasını xahiş etmişdir.

Məhkəmə iclasında iştirak edən məhkum Təqsirləndirilən şəxs1 və onun müdafiəçisi Müdafiəçi12 apellyasiya şikayətinin dəlillərini müdafiə edərək Təqsirləndirilən şəxs1 əməlinə cinayət tərkibi olmadığına görə Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünün ləğv edilərək onun barəsində bəraət hökmünün çıxarılmasını xahiş etmişlər.

Məhkəmə iclasında iştirak edən məhkum Təqsirləndirilən şəxs2 və onun müdafiəçisi Müdafiəçi20 apellyasiya şikayətinin dəlillərini müdafiə edərək Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünün ləğv edilərək əməlinə cinayət tərkibi olmadığına görə Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə bəraət hökmünün çıxarılmasını xahiş etmişlər.

Məhkəmə iclasında iştirak edən məhkum Təqsirləndirilən şəxs3 və onun müdafiəçisi Müdafiəçi18 apellyasiya şikayətinin dəlillərini müdafiə edərək Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünün ləğv edilərək, Təqsirləndirilən şəxs3 barəsində bəraət hökmünün çıxarılmasını xahiş etmişlər.

Məhkəmə iclasında iştirak edən məhkum Təqsirləndirilən şəxs4 və onun müdafiəçisi X11 apellyasiya şikayətinin dəlillərini müdafiə edərək Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünü ləğv edərək əməlinə cinayət tərkibi olmadığına görə Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddələri ilə bəraət hökmünün çıxarılmasını xahiş etmişlər.

Məhkəmə iclasında iştirak edən məhkum X7 və onun müdafiəçisi Müdafiəçi15 apellyasiya şikayətinin dəlillərini müdafiə edərək Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünün ləğv edilməsi və onun barəsində bəraət hökmünün çıxarılmasını xahiş etmişlər.

Məhkəmə iclasında iştirak edən məhkum Təqsirləndirilən şəxs6 müdafiəçisi Müdafiəçi14 apellyasiya şikayətinin dəlillərini müdafiə edərək Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünü ləğv edərək, əməlinə cinayət tərkibi olmadığına görə Azərbaycan Respublikası Cinayət Məcəlləsinin 228.3 və 318.2-ci maddəsi ilə bəraət verilməsi barədə yeni hökm çıxarılmasını xahiş etmişdir.

Məhkəmə iclasında iştirak edən məhkum Təqsirləndirilən şəxs7 və onun müdafiəçisi Müdafiəçi13 apellyasiya şikayətinin dəlillərini müdafiə edərək Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünün ləğv edilərək, təqsirləndirilən şəxs şəxs Təqsirləndirilən şəxs7 Manukoviç barəsində bəraət hökmünün ləğv edilməsini xahiş etmişlər.

Məhkəmə iclasında iştirak edən məhkum X12 və onun müdafiəçisi Müdafiəçi17 apellyasiya şikayətinin dəlillərini müdafiə edərək Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünün ləğv edilərək, X9 barəsində bəraət hökmünün çıxarılmasını xahiş etmişlər.

Məhkəmə iclasında iştirak edən məhkum Təqsirləndirilən şəxs9 və onun müdafiəçisi Müdafiəçi19 apellyasiya şikayətinin dəlillərini müdafiə edərək Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünün ləğv edilərək Təqsirləndirilən şəxs9 barəsində bəraət hökmünün qəbul edilməsini xahiş etmişlər.

Məhkəmə iclasında iştirak edən məhkum Təqsirləndirilən şəxs10 və onun müdafiəçisi Müdafiəçi16 Qalib oğlu apellyasiya şikayətinin dəlillərini müdafiə edərək Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünün ləğv edilməsi, Təqsirləndirilən şəxs10 barəsində bəraət hökmünün çıxarılmasını xahiş etmişlər.

Məhkəmə iclasında iştirak edən dövlət ittihamçısı Azərbaycan Respublikası Baş X1 Müdafiəsi üzrə İdarənin prokuroru X10 çıxış edərək apellyasiya şikayətlərinin təmin edilməməsi, Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmünün dəyişdirilmədən saxlanılmasını xahiş etmişdir.

Bakı Apellyasiya Məhkəməsinin Cinayət Kollegiyası cinayət işinin materiallarını araşdırıb, apellyasiya şikayətlərinin dəlillərini müzakirə edərək, proses iştirakçılarının fikirlərini dinləyərək hesab edir ki, aşağıdakı əsaslara görə apellyasiya şikayətləri təmin

edilməməli, Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmü isə dəyişdirilməməlidir.

Belə ki, Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, X7, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, X12, Təqsirləndirilən şəxs9 və Təqsirləndirilən şəxs10 təqsirləri şahidlərin ifadələri, tədqiq olunmuş sübutlarla təsdiq olunaraq, birinci instansiya məhkəməsində tam, hərtərəfli və obyektiv araşdırılmış və mənbəyinin mötəbərliyi məhkəmə kollegiyasında heç bir şübhə doğurmayan bu sübutlar əsasında birinci instansiya məhkəməsi Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, X7, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, X12, Təqsirləndirilən şəxs9 və Təqsirləndirilən şəxs10 onlara ittiham olunmuş cinayət əməlini törətməsi haqda işin faktiki hallarına uyğun olan qanuni və əsaslı nəticəyə gəlmiş, Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, X7, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, X12, Təqsirləndirilən şəxs9 və Təqsirləndirilən şəxs10 əməlini Azərbaycan Respublikası CM-nın 228.3 və 318.2-ci maddələri ilə düzgün tövsif etmişdir.

Məhkəmə kollegiyası qeyd edir ki, birinci instansiya məhkəməsi tərəfindən haqlı olaraq Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9 və Təqsirləndirilən şəxs10 qanunsuz olaraq sərəhədi keçməklərinə görə əməllərini xidməti və siyasi cəhətdən asılılıq nəticəsində törətmələrini Azərbaycan Respublikasının Cinayət Məcəlləsinin 59.1.6-cı maddəsinə və əməllərindən peşman olmalarını Azərbaycan Respublikasının Cinayət Məcəlləsinin 59.2-ci maddəsinə əsasən, Təqsirləndirilən şəxs4 himayəsində iki azyaşlı uşaqlarının, Təqsirləndirilən şəxs8 himayəsində bir azyaşlı uşağının olmasını Azərbaycan Respublikasının Cinayət Məcəlləsinin 59.1.4-cü maddəsinə əsasən cəzalarını yüngülləşdirən hallar kimi nəzərə almışdır. Həmçinin onlar barəsində cəzasını ağırlaşdıran hallar müəyyən edilməmişdir.

Göstərilənlərlə yanaşı, məhkəmə kollegiyası qeyd edir ki, birinci instansiya məhkəməsi düzgün olaraq hesab etmişdir ki, Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9 və Təqsirləndirilən şəxs10 Azərbaycan Respublikasının Cinayət Məcəlləsinin 56.1.2-ci maddəsinə əsasən, cəzasını ümumi rejimli cəzaçəkmə müəssisəsində çəkməlidir.

Azərbaycan Respublikası Cinayət Məcəlləsinin 58.3-cü maddəsinə görə, cəza təyin edilərkən törədilmiş cinayətin xarakteri və ictimai təhlükəlilik dərəcəsi, təqsirkarın şəxsiyyəti, o cümlədən cəzanı yüngülləşdirən və ağırlaşdıran hallar, habelə təyin olunmuş cəzanın şəxsin islah olunmasına və onun ailəsinin həyat şəraitinə təsiri nəzərə alınır.

Azərbaycan Respublikası Ali Məhkəməsi Plenumunun "Məhkəmələr tərəfindən cinayət cəzalarının təyin edilməsi təcrübəsi haqqında" 25 iyun 2003-cü il tarixli, 4 sayılı qərarında məhkəmələrə tövsiyə olunur ki, hər bir konkret halda təqsirləndirilən şəxslərə təyin edilən cinayət cəzası Azərbaycan Respublikası Cinayət Məcəlləsinin 8-ci maddəsinə müvafiq olaraq cinayətin törədilməsi şəraitinə, təqsirkarın şəxsiyyətinə uyğun olmaqla ədalətli olmalıdır.

Azərbaycan Respublikası Cinayət Məcəlləsinin 8.1-ci maddəsinə görə, cinayət törətmiş şəxs haqqında tətbiq edilən cəza və ya digər cinayət-hüquqi xarakterli tədbirlər ədalətli olmalıdır, yəni cinayətin xarakterinə və ictimai-təhlükəlilik dərəcəsinə, onun törədilməsi hallarına və cinayət törətməkdə təqsirli bilinən şəxsin şəxsiyyətinə uyğun olmalıdır.

Həmin Məcəllənin 41.2-ci maddəsinə görə, cəza sosial ədalətin bərpası, məhkumun islah edilməsi və həm məhkumlar, həm də başqa şəxslər tərəfindən yeni cinayətlərin törədilməsinin qarşısını almaq məqsədi ilə tətbiq edilir.

Məhkəmə kollegiyası, məhkumlar Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2, Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4, Təqsirləndirilən şəxs5, Təqsirləndirilən

şəxs6, Təqsirləndirilən şəxs7, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9 və Təqsirləndirilən şəxs10 təyin edilmiş cəzanın qanuniliyi və ədalətliliyini müzakirə edərək hesab edir ki, birinci instansiya məhkəməsi Azərbaycan Respublikası CM-nın 8, 41, 58, 59 və 61-ci maddələrinin tələblərinə əməl etməklə məhkumların cəzasını yüngülləşdirən halların mövcudluğunu, həmçinin törədilmiş cinayətin xarakterini, ictimai-təhlükəlilik dərəcəsini, onların şəxsiyyətini düzgün olaraq nəzərə alıb, onlara əməlinə və şəxsiyyətinə uyğun olan qanuni və ədalətli cəza təyin etmişdir.

Odur ki, məhkəmə kollegiyası hesab edir ki, məhkum X3 müdafiəçisi Müdafiəçi6, məhkum Təqsirləndirilən şəxs6 müdafiəçisi Müdafiəçi7, məhkum Təqsirləndirilən şəxs4 müdafiəçisi Müdafiəçi1, məhkum Təqsirləndirilən şəxs7 müdafiəçisi Müdafiəçi8, məhkum X9 müdafiəçisi Müdafiəçi9, məhkum Təqsirləndirilən şəxs3 müdafiəçisi Müdafiəçi4, məhkum Təqsirləndirilən şəxs10 müdafiəçisi Müdafiəçi11, məhkum Təqsirləndirilən şəxs2 müdafiəçisi Müdafiəçi3, məhkum Təqsirləndirilən şəxs9 müdafiəçisi Müdafiəçi10 və məhkum Təqsirləndirilən şəxs1 müdafiəçisi Müdafiəçi2 tərəfindən verilmiş apellyasiya şikayətləri əsassız olduğundan təmin edilməməli və Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmü qanuni, əsaslı və ədalətli olduğundan dəyişdirilməməlidir.

Göstərilənlərə əsasən və Azərbaycan Respublikası CPM-nın 397.1, 397.2, 398.1.1 və 410-cu maddələrini rəhbər tutaraq, məhkəmə kollegiyası

QƏRARA

ALDI :

Bakı Ağır Cinayətlər Məhkəməsinin 29 iyul 2021-ci il tarixli, 1(101)-1258/2021 sayılı hökmü dəyişdirilmədən saxlanılsın.

Məhkum X3 müdafiəçisi Müdafiəçi6 tərəfindən verilmiş apellyasiya şikayəti təmin edilməsin.

Məhkum Təqsirləndirilən şəxs6 müdafiəçisi Müdafiəçi7 tərəfindən verilmiş apellyasiya şikayəti təmin edilməsin.

Məhkum Təqsirləndirilən şəxs4 müdafiəçisi Müdafiəçi1 tərəfindən verilmiş apellyasiya şikayəti təmin edilməsin.

Məhkum Təqsirləndirilən şəxs7 müdafiəçisi Müdafiəçi8 tərəfindən verilmiş apellyasiya şikayəti təmin edilməsin.

Məhkum X9 müdafiəçisi Müdafiəçi9 tərəfindən verilmiş apellyasiya şikayəti təmin edilməsin.

Məhkum Təqsirləndirilən şəxs3 müdafiəçisi Müdafiəçi4 tərəfindən verilmiş apellyasiya şikayəti təmin edilməsin.

Məhkum Təqsirləndirilən şəxs10 müdafiəçisi Müdafiəçi11 tərəfindən verilmiş apellyasiya şikayəti təmin edilməsin.

Məhkum Təqsirləndirilən şəxs2 müdafiəçisi Müdafiəçi3 tərəfindən verilmiş apellyasiya şikayəti təmin edilməsin.

Məhkum Təqsirləndirilən şəxs9 müdafiəçisi Müdafiəçi10 tərəfindən verilmiş apellyasiya şikayəti təmin edilməsin.

Məhkum Təqsirləndirilən şəxs1 müdafiəçisi Müdafiəçi2 tərəfindən verilmiş apellyasiya şikayəti təmin edilməsin.

Qərar elan edildiyi andan qanuni qüvvəyə minir.

Qərardan, Azərbaycan Respublikası Cinayət-Prosessual Məcəlləsinin 410-cu maddəsində göstərilən müddətlərdə, Azərbaycan Respublikası Ali Məhkəməsinə kassasiya şikayəti və ya kassasiya protesti verilə bilər.

Sədrlik edən

Vaqif Mursaqulov

Hakimlər

X6

X20

Annex 31

Baku Court of Appeal, Appeal Decision No. 1(103)-1526/2021 (2 December 2021)
(certified translation from Azerbaijani)

CERTIFIED TRANSLATION

Azerbaijan)
) ss:
Baku)

Sain Alizada declares:

That he is employed as Translator by the firm of Lionbridge Technologies, LLC, 1050 Winter Street, Suite 2300, Waltham, MA 02451, United States;

That he is fully conversant in the Azerbaijani and English languages;

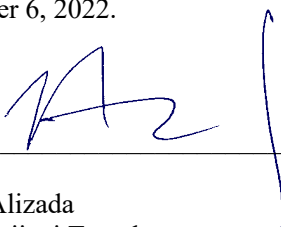
That he translated or reviewed the translation of the original document:

Article entitled “A court of appeal resolution”

from Azerbaijani into English;

and that the English translation is, to his best knowledge and belief, a true and correct rendering of the original text in the Azerbaijani language.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on December 6, 2022.



Sain Alizada
Azerbaijani Translator



[COAT OF ARMS OF THE REPUBLIC OF AZERBAIJAN]

RESOLUTION

on behalf of the Republic of Azerbaijan

Baku city

File No. 1(103)-1526/2021

02.12.2021

BAKU COURT OF APPEAL

At a public trial session that took place in the building of the Baku Court of Appeal, the panel of judges made of

Judges – Babayev Gadim Khalid oglu (chairman and rapporteur), Seyfaliyev Ali Salim oglu and Abdulov Rashad Maharram oglu,

in the presence of

the court session secretary – X7,

Public prosecutor – Prosecutor X6 of the Unit of Public Prosecution in Courts of Appeal under the Department of Public Prosecution of the General Prosecutor Administration of the Republic of Azerbaijan;

Sentenced Defendant1 and his defense lawyer Defense Lawyer3;

Sentenced Defendant2 and his defense lawyer Defense Lawyer2;

X1;

reviewed the statement of appeal submitted by Sentenced Defendant1's defense lawyers - Defense Lawyer1 and Sentenced Defendant2's defense lawyer Defense Lawyer2 requesting to revoke resolution No. 1(101)-1390/2021 of the Baku Court for Grave Crimes dated July 28, 2021, on sentencing the following persons under article 318.2 of the Criminal Code of the Republic of Azerbaijan, and abating their criminal persecution for violation of articles 228.2.1, 276, 279.1 and 318.2 of the Criminal Code of the Republic of Azerbaijan:

Defendant1, born in the Artik town of the Shirak province of the Republic of Armenia on xx xxxxxx, 1989, a citizen of the Republic of Armenia, married, with one minor child, higher education, without previous criminal background, residing at 24 Proshyan street, Artik town, Shirak Province, Republic of Armenia; currently held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

Defendant2, born in the Byurakan district of the Republic of Armenia on xx xxxxxx, 1993, a citizen of the Republic of Armenia, single, secondary education, without previous criminal background, residing at 205/10 Khorenatsi street, Yerevan city, Republic of Armenia; currently held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

IT HAS BEEN IDENTIFIED:

The Baku Court for Grave Crimes (under the chairmanship of judge Mammadov Ali Irfan oglu and with the participation of judges X4 and X3) by its resolution dated July 28, 2021, has ruled as follows: To find the Defendant1 guilty of committing criminal offences envisioned by articles 228.2.1, 276, 279.1 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence him to 3 (three) years in prison under article 228.2.1 of the Criminal Code of the Republic of Azerbaijan, 13 (thirteen) years in prison under article 276 of the Criminal Code of the Republic of Azerbaijan, 6 (six) years in prison under article 279.1 of the Criminal Code of the Republic of Azerbaijan and 3 (three) years in prison under article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant1 was sentenced to a total of 15 (fifteen) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. He must serve the first 5 (five) years in prison and the remaining period – in strict regime penal colonies. The actual term of the prison sentence was counted from November 11, 2020. Upon serving the sentence, he must be subject to forced exile from the territory of the Republic of Azerbaijan. The detention order in regards to Defendant1 remained unchanged until the court decision has taken effect.

To find the Defendant2 guilty of committing criminal offences envisioned by articles 228.2.1, 276, 279.1 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentence him to 3 (three) years in prison under article 228.2.1 3 of the Criminal Code of the Republic of Azerbaijan, 13 (thirteen) years in prison under article 276 of the Criminal Code of the Republic of Azerbaijan, 6 (six) years in prison under article 279.1 of the Criminal Code of the Republic of Azerbaijan and 3 (three) years in prison under article 318.2 of the Criminal Code of the Republic of Azerbaijan. Defendant2 was sentenced to a total of 15 (fifteen) years in prison by means of partially consecutive sentencing for multiple offences in accordance with article 66.3 of the Criminal Code of the Republic of Azerbaijan. He must serve the first 5 (five) years in prison and the remaining period – in strict regime penal colonies. The actual term of the prison sentence was counted from November 11, 2020. Upon serving the sentence, he must be subject to forced exile from the territory of the Republic of Azerbaijan. The detention order in regards to Defendant2 remained unchanged until the court decision has taken effect.

The court of the first instance adopted this ruling as it concluded that as a member of a pre-formed organized group he was involved in espionage activities collecting national security and other information that could be used against the national security of the Republic of Azerbaijan. That information was collected to be forwarded to the special service agencies of the Republic of Armenia. He illegally crossed the state border of the Republic of Azerbaijan, acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices and was involved in the activities of armed units that are not provided for in the legislation of the Republic of Azerbaijan.

In particular, the Defendant1 was engaged in collaboration with the Republic of Armenia's special service agency – the National Security Service since 2019. Following this agency's instructions, the Defendant1, as a member of an organized group pre-formed with the Defendant2, illegally crossed the state border of the Republic of Azerbaijan from the direction of the Gorus town of the Sunik province of the Republic of Armenia. As he entered the territory of the Republic of Azerbaijan, he acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices and was involved in the operations of armed units that are not provided for in the legislation of the Republic of Azerbaijan. Following orders from an individual known as Artak, who was a representative of the Republic of Armenia's special secret service, he was collecting information that was supposed to be used against the national security of the Republic of Azerbaijan. In doing so and for the purposes of collecting the information about the positioning, personnel, weaponry, combat and other types of equipment and munition, and other information that was supposed to be used against the national interests of the Republic of Azerbaijan, he, together with the Defendant2, made a crossing from the Lachin corridor into the territories controlled by the Armed Forces of the Republic of Azerbaijan in the direction of the Shusha city on November 11, 2020, and was then identified and detained by the Armed Forces of the Republic of Azerbaijan.

The court of the first instance adopted this ruling as it concluded that as a member of a pre-formed organized group, the Defendant2 was involved in espionage activities collecting national security and other information that could be used against the national security of the Republic of Azerbaijan. That information was collected to be forwarded to the special service agencies of the Republic of Armenia. He illegally crossed the state border of the Republic of Azerbaijan, acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices and was involved in the activities of armed units that are not provided for in the legislation of the Republic of Azerbaijan.

In particular, the Defendant2 was engaged in collaboration with the Republic of Armenia's special service agency – the National Security Service since 2020. Following this agency's instructions, the Defendant1, as a member of an organized group pre-formed with the Defendant1, illegally crossed the state border of the Republic of Azerbaijan from the direction of the Gorus town of the Sunik province of the Republic of Armenia in the end of September, 2020. As he entered the territory of the Republic of Azerbaijan, he acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices and was involved in the operations of armed units that are not provided for in the legislation of the Republic of Azerbaijan. Following orders from an individual known as Artak, who was a representative of the Republic of Armenia's special secret service, he was collecting information that was supposed to be used against the national security of the Republic of Azerbaijan. In doing so and for the purposes of collecting the information about the positioning, personnel, weaponry, combat and other types of equipment and munition, and other information that was supposed to be used against the national interests of the Republic of Azerbaijan, he, together with the Defendant1, made a crossing from the Lachin corridor into the territories controlled by the Armed Forces of the Republic of Azerbaijan in the direction of the Shusha city on November 11, 2020, and was then identified and detained by the Armed Forces of the Republic of Azerbaijan.

The Defendant1's defense lawyer, Defense Lawyer1 appealed the resolution of the Baku Court for Grave Crimes dated July 28, 2021, and requested for revocation of the resolution, a judgment of acquittal to be adopted in regards to articles 228.2.1, 276 and 279.1 of the Criminal Code of the Republic of Azerbaijan, and for the lowest category of punishment, i.e. a sentence identical to the term already served in prison, under article 318.2 of the Criminal Code of the Republic of Azerbaijan.

The appeal was reasoned by the fact that the evidence examined by the court of the first instance did not allow for the final conclusion to be made under articles 228.2.1, 276, 279.1 and 318.2 of the Criminal Code of the Republic of Azerbaijan and an unsubstantiated ruling was adopted by the court in this respect. Besides, reasonable doubts concerning substantiation of the sentence were not resolved and, contrary to the provisions of the legislation, the defendant's guilt on every element of the crime was not proved beyond a reasonable doubt. According to article 399 of the Code of Criminal Procedure, the grounds for setting aside or amending the judgment or decision of the court of first instance as a result of the examination of the complaint or appeal shall be the following: inconsistency between the court's conclusions and the facts of the case; failure to prove the facts determined by the court of first instance as being of significance, to the case; failure to apply the provisions of criminal law correctly; the fact that the penalty imposed is unsuited to the seriousness of the offence or the personality of the offender.

The Defendant2's defense lawyer, Defense Lawyer2 appealed the resolution of the Baku Court for Grave Crimes dated July 28, 2021, and requested for revocation of the resolution, a judgment of acquittal to be adopted in regards to articles 228.2.1, 276 and 279.1 of the Criminal Code of the Republic of Azerbaijan, and for the lowest category of punishment, i.e. a sentence identical to the term already served in prison, under article 318.2 of the Criminal Code of the Republic of Azerbaijan.

The appeal was reasoned by the fact that the evidence collected and examined at the time of court investigation did not prove that the Defendant2 was guilty under articles 228.2.1, 276 and 279.1 of the Criminal Code of the Republic of Azerbaijan. When he and Gevorg Sujyan were detained by officers of the Armed Forces of the Republic of Azerbaijan in the morning hours of November 20, 2020, they did not possess or use any armed weapons, components, ammunition, explosive substances and devices, or any surveillance devices or equipment. Besides, no reliable evidence was presented at

the time of the preliminary and court investigation to confirm that the Defendant2 had indeed been involved in the activities of armed units that were not provided for in the legislation of the Republic of Azerbaijan. In spite of this, the court of the first instance did not give a correct legal evaluation to the Defendant2's actions and while there were insufficient evidence for sentencing him under articles 228.2.1, 276 and 279.1 of the Criminal Code of the Republic of Azerbaijan, he was found guilty under these articles and sentenced to a long-term imprisonment.

The public prosecutor did not protest the appeal.

At a sitting of the panel of judges, the sentenced Defendant1 and his defense lawyer, Defense Lawyer3 requested for their appeal to be granted.

At a sitting of the panel of judges, the Defendant2 and his defense lawyer Defense Lawyer2 requested for their appeal to be granted.

Public prosecutor X9 in his speech at the sitting of the panel of judges stated that the appeal was unsubstantiated and requested for the appeal to be dismissed and the court ruling to be upheld as lawful and substantiated.

The panel of judges examined the criminal case materials, discussed the arguments provided in the appeals, took notes from the public prosecutor and from the sentenced defendants and their defense lawyers, and came to a conclusion that the appeals must be dismissed and the original ruling of the Baku Court for Grave Crimes dated July 28, 2021, must be upheld and kept unchanged.

According to article 397.1 of the Code of Criminal Procedure of the Republic of Azerbaijan, the court of appeal shall verify that the court of first instance accurately established the facts of the case and applied the provisions of criminal law and of this Code.

According to article 397.2 of the Code of Criminal Procedure of the Republic of Azerbaijan, the facts established by the court of first instance shall be verified by the court of appeal only within the limits of the complaint or appeal. The first instance court's compliance with the provisions of the criminal law and of this Code shall be verified by the court of appeal regardless of the evidence for the complaint or appeal.

The panel of judges has found that the appeals requesting for adoption of a judgment of acquittal in respect of Defendant 1 and Defendant2 were unsubstantiated for the following reasons.

It is stated in the resolution of the Plenary Session of the Constitutional Court of the Republic of Azerbaijan dated March 17, 2011, "On interpretation of Article 244.1 of the Criminal Code of the Republic of Azerbaijan" that interpretation of a crime provides for establishment of compliance between elements of a specific criminal act and constituent signs provided in a disposition of a criminal legal norm, and represents an assessment, based on the criminal law norms, of an action that is reflected in relevant procedural documents and has criminal and legal consequences. The interpretation of a crime is of a high social and legal importance. In regards to the fulfilment of duties envisioned by the Criminal Code, the interpretation is an important logical process performed by the relevant officials authorized to apply the criminal law and, in the end, provides for a legal assessment to a specific social event or human behavior that is dangerous for the society. In the first place, it demands for a comprehensive analysis of the actual circumstances of the case, an accurate selection of the legal norms and interpretation of their contents.

The Defendant1 pleaded partially guilty, i.e. guilty under article 318.2 of the Criminal Code of the Republic of Azerbaijan, and testified to the court of the first instance that on September 27, 2020, he heard that the war had started. He was the founder of the Charity Organization. His acquaintances started bringing clothing for civilian refugees from Karabakh and for military servants fighting there so that he could provide for distribution by means of the Charity Organization. There were certain people in Khankendi. He brought the humanitarian aid to these people and they provided the distribution. The philanthropists who provided the aid requested that he shares information about the aid on his Facebook page. He delivered the humanitarian aid to Gorus city and distributed it among the military servants. He also delivered the humanitarian aid to a place near Martuni, namely to a military camp based in the Chartar village some 4km away from Martuni. He took pictures with the military servants so that he could have a proof of his visit for the philanthropists and he forwarded pictures to those individuals. After his trip to Gorus, he went to Shusha. He went to Shusha to pray in a temple that is

located there. He only was to Shusha 1 (one) time. He was interviewed by journalists in Shusha. Besides, he recorded a video about the situation of the residents of Khankendi and shared that video on his Facebook page. He was in Khankendi 2 weeks before the war was ended. After the surrender act was signed, i.e. on November 11, 2020, they decided to travel to Khankendi. Several Armenian families requested them to help with moving from the Khankendi town to the Republic of Armenia. That is why they travelled to Khankendi. As they were going there, Russian soldiers in the Lachin corridor had them pull over and inspected their cars. They asked the Russian soldiers: "Can we go there?". And the Russian soldiers told them: "Yes, you can." As they travelled into the Lachin corridor for about 2 km they saw the flag of the Republic of Azerbaijan and stopped. That is when they were approached and detained by soldiers of the Republic of Azerbaijan. There was a trench dug across the middle of the road in the Lachin corridor. As there were landmines around they were told to follow that trench. After they were detained, they were transported to one place and then to the place they are currently kept in custody in. The Defendant1 requested for his testimony to be taken into consideration and for a judgment of acquittal to be adopted in respect of articles 228.2.1, 276 and 279.1 of the Criminal Code of the Republic of Azerbaijan. He also requested that a low category of punishment is assigned to him under article 318.2 of the Criminal Code.

It appears from the testimony made by the Defendant1 at the time of the preliminary investigation that he pleaded fully guilty of committing the crimes he had been charged with and provided the following details: he was born in Artik town of the Shirak province of the Republic of Armenia in 1989, his mother passed in 2009 and his father works in construction. Both of his parents were of Armenian nationality.

He finished secondary school in the Shirak province of Armenia and graduated from the State Trade and Economic University of St. Petersburg in the Russian Federation. During his time at the university, he married Lilit Chiragyan, a lady of Armenian nationality, and they have one child from marriage. In 2011, he was drafted to the military service and served in a military unit based in Kiravokan city of Armenia. As he was a professional boxer in the past, he served in the Intelligence Division for a few months and was then transferred to the infantry. He was discharged from the army in December of 2013. He and his family permanently resided in the Artik town of the Shirak province of Armenia since November, 2018. In the summer of 2019, an individual, previously unknown to him, who introduced himself as an officer of the National Security Service of the Republic of Armenia, called him and requested a meeting to discuss some important matters. He agreed to meet him. They had a meeting at the Malatya-Sebastya District Department of the National Security Service of the Republic of Armenia in Yerevan and the NSS officer introduced himself as Artak. During the meeting Artak said that money transfers made to the organization called Yeni Armenia which the Defendant1 had founded in 2018 were found to be generated by criminal activity and the organization was involved in money laundering. He said that a criminal case would be investigated and that he would be arrested. He knew that although the money transfer amounts were small and the entire amount was used to cover organizational expenses, Artak could represent those funds as money generated by criminal activity. He was scared that he would be arrested and that his family would be affected and therefore asked what they wanted of him. Artak said that he needed to sign a document confirming that he would execute tasks assigned by the NSS of the Republic of Armenia and had him sign that document. After the meeting, Artak made occasional calls to him to assign various tasks. He said that Artak was medium-sized, skinny, black-haired, dark-visaged man, with Gumru accent, about 35-40 years of age. After the military operation started in Nagorno Karabakh on September 27, 2020, NSS officer Artak called him and requested an urgent meeting. They met in a café near the NSS officer Artak's office on September 28, 2020, and Artak told him that as the situation was very serious because of the fights going on between Azerbaijan and Armenia in Nagorno Karabakh and the neighbouring areas, there was a need for persons like him. He said that he wished to participate in the military operations himself and asked what the real purpose of the meeting was. Artak said he was pleased that he wished to participate in the military operations and noted that it was necessary to collect information about the

Army of Azerbaijan at the site of the conflict. He said that he would be transported from the Gorus city of Armenia through the Lachin corridor to the battlefields in Nagorno Karabakh and assigned him with collecting the information about the positioning, personnel, weaponry, combat and other types of equipment and munition. He promised that those assignments would be fulfilled. He also asked if it was ok if he could be accompanied by his friend, the Defendant2, on the trip to the site of the battles. Artak said that he had no objections about the Defendant2 going to the site of the battles and told him to notify the latter about the tasks that will need to be fulfilled in the area. If the Defendant2 agreed, they would be collecting the information together. On September 29, 2020, he met with the Defendant2 to go to the site of the battles and told him that he collaborated with the NSS officer Artak for about 1 (one) year and would be participating in the battles to fulfil Artak's assignments and send him the information about the positioning, personnel, weaponry, etc., of the Army of Azerbaijan. He said that Artak had offered the Defendant2 to do the same job as well. The Defendant2 stated that he would do any job that would benefit Armenia and agreed to collect and send to Artak the information about the Army of Azerbaijan.

For this purpose, they agreed to go to the site of the battles by Nissan car. They took military uniform that they had already purchased from a military uniform store in Yerevan and went from Yerevan to Gorus and further on through the Lachin corridor to the Stepanakert city, where they met the military officers and told them they would like to fight. The military officers told them that they were looking for anybody who would fight against the Azerbaijani soldiers and took them to the site of the battles, where they were provided with AK74 automatic rifles. Their military unit was also armed with grenade launchers, explosives and various types of weaponry. After that they, together with other armed individuals, went up to the closest battle position and participated in the fights, using automatic rifles against Azerbaijani soldiers. Following his request, one of the persons, whose name he did not remember, also provided him with a sniper rifle and established conditions for firing on Azerbaijani soldiers. During their time there, they were regularly collecting the information about the positioning, approximate personnel numbers, weaponry types and other information about the Armed Forces of the Republic of Azerbaijan, and sending that information to the Republic of Armenia's National Security Service Officer Artak. Artak in his turn was sending them new assignments and was asking them to make specifications to the information they had already collected and notify him immediately of any changes in the positioning of Azerbaijani soldiers. After fighting for some time, he, together with the Defendant2, returned to Yerevan, met with Artak and provided him with detailed information that had been collected about the Azerbaijani Army. Artak said they should keep doing the same job, and, as he knew that the Defendant1 used to serve in the military intelligence unit, he instructed them to secretly come closer to the positions occupied by the Azerbaijani forces, when it was possible, and collect the relevant information. It was in October of the same year, when he, together with the Defendant2 made another trip to Nagorno Karabakh to participate in the fights and fulfil the NSS officer Artak's assignments by collecting information about the Azerbaijani Army. This time they participated in the fights near Chartar settlement of the Khodjavand district and, as the night fights subsided, crossed a forested area to come closer to the Azerbaijani positions. He exploited various tactics of hiding from the enemy which he had learned during his time in the intelligence unit and, as he got as close as it was possible to the Azerbaijani positions, made photo and video recording which he forwarded to Artak together with the geo-location information. Artak said that they were doing a great job and asked to specify the exact personnel number and return to the Armenian positions before dawn. Following Artak's instructions, they counted approximately 25-28 Azerbaijani military servants in that area and forwarded the information to Artak. He, together with the Defendant2, went from Armenia to Nagorno Karabakh and participated in the fights from day one to the very end and forwarded to Artak all the information that was collected about the Army of Azerbaijan. During his time with Defendant2 at the site of the battle, they took several pictures which he shared on his, i.e. Defendant1's, page on Facebook social media. He was pictured with an automatic rifle and a sniper

rifle on those pictures. He also posted on his Facebook page a picture of himself and Defendant2 near an unexploded shell. There was a ceasefire agreement signed by and between the Republic of Azerbaijan, the Republic of Armenia and the Russian Federation in the night hours of November 10, 2020. At approximately 10:00 am on the same day, the National Security Service officer Artak called him and appointed a meeting at a restaurant in downtown Yerevan. He told Artak that he would not come alone but with the Defendant2. They had a meeting with the Republic of Armenia's NSS officer Artak at that place at approximately 12:00 that day. During the meeting, Artak instructed them to find out exactly if the Shusha city and the surrounding areas were liberated from the occupation by Azerbaijan and, if it was, to provide details about the personnel number, availability, types and numbers of heavy military equipment, positioning and locations, and other similar information. He instructed them to collect and forward the information by secretly entering the Shusha city from the Lachin corridor controlled by the Russian peace-makers under the pretext of providing assistance to the Armenians staying in Stepanakert. They agreed to fulfil Artak's tasks and said that they wanted for Shusha to be taken away from Azerbaijanis and that they knew that the collected information would benefit Armenia. On November 11, 2020, he, together with the Defendant2, went by car to the Gorus city, from where they passed the Russian peace-makers' post plain-clothed and entered the Lachin corridor under the pretext of providing assistance to the Armenians staying in Stepanakert. Then they started moving in the direction of the Shusha city. About 1 km away from Shusha, they did not turn on the road to Stepanakert, as it has been planned originally, but turned on the road to Shusha instead and entered into the Shusha city limits, i.e. into the territories that were controlled by the Azerbaijani Army. They parked by the side of the road and, without drawing attention, walked in the direction of the Shusha city. Then they started collecting the information about Azerbaijani positions along the road and, as they were entering the Shusha city, they encountered Azerbaijani soldiers who asked them who they were and what they were doing near the Shusha city. They got so stressed that they could not provide answers to those questions. They were detained as their actions looked suspicious and they had illegally entered into an area controlled by the Army of Azerbaijan.

The Defendant2 pleaded partially guilty, i.e. guilty under article 318.2 of the Criminal Code of the Republic of Azerbaijan, and testified to the court of the first instance that he was born in the Byurakan village on xx xxxxxx, 1993. He moved to the Yerevan city with his family in 2000, and resided at 205/10 Khorenatsi street in Yerevan. He got acquainted with the Defendant1 approximately in April of 2020. He knew that Gevorg runs a humanitarian organization and wanted to help. Until then, he was doing crop production. Then he worked as a cook in cafes and restaurants around Yerevan. He was at work when the war broke out. When he saw that the war had started, he called the Defendant1. The Defendant1 told him that people started bringing in humanitarian aids already. He offered Gevorg to help with food and drink supplies. After that they started delivering the humanitarian aids to Khankendi. They were not and could not have been involved in the fights. That is because they were providing assistance to Armenian refugees. They distributed clothing and food products among the refugees. They delivered humanitarian supplies to Khankendi on a weekly, and sometimes on a biweekly, basis. Gevorg called him on November 10, 2020, and asked for a meeting. Gevorg told him that they needed to help people in the Khankendi city and that it was necessary to deliver humanitarian supplies to Khankendi on November 11, 2020. They went to Gorus on November 11, 2020. Then they crossed the Lachin corridor controlled by the Russian peace-makers. They were checked by the Russian peace-makers. They asked the Russian soldiers: "Can we go there?". And the Russian soldiers told them: "Yes, you can". Approximately 1 km away from the Russian peace-makers' post, they saw the Armed Forces of the Republic of Azerbaijan and were detained. They were simply helping mothers, elderly persons and children. He did not commit any criminal acts against the Republic of Azerbaijan. Defendant2 requested for his testimony to be taken into consideration and for a judgment of acquittal to be adopted in respect of articles 228.2.1, 276 and 279.1 of the Criminal Code of the Republic of Azerbaijan and a low category of punishment to be assigned to him under article 318.2 of the Criminal Code.

It appears from the testimony made by the Defendant2 at the time of the preliminary investigation that he pleaded fully guilty of committing the crimes he had been charged with and provided the following details: he was born in the Republic of Armenia in 1993. His family moved to Armenia's capital city of Yerevan in 2000. He finished secondary school in the same city. He was drafted to the compulsory military service in 2011 and served as a rifleman in a military unit based in Hadrut settlement. He was discharged from the military service in 2013 and returned to the Yerevan city where he lived with his family. He worked as a cook in various cafes and restaurants around Yerevan. He was acquainted with the Defendant1 in Yerevan. They first got to know each other on Facebook social media website. They became friends and had regular meetings with the Defendant1. After a military operation started in Nagorno Karabakh on September 27, 2020, the Defendant1 called him and inquired if he wanted to fight. He agreed to fight to defend the lands. He met the Defendant1 to go to the site of the fights on September 29, 2020. During their meeting, the Defendant1 told him that he collaborated with the NSS officer Artak for about a year and that he, following Artak's instructions, will participate in the fights and, while there, collect the information about the positioning, personnel and weaponry numbers and other information for the NSS. He also said that he had notified Artak that they would be going to the site of the conflict together and that Artak had an offer for him to do this job. He said to the Defendant1 that he would do anything for the benefit of Armenia and that he was willing to collect the information about the Azerbaijani Army and forward it to Artak. For this purpose, he decided to go to the site of the battles by a Nissan car operated by the Defendant1. They took military uniform that they had already purchased from a military uniform store in Yerevan and went from Yerevan to Gorus and further on through the Lachin corridor to the Stepanakert city, where they met the military officers and told them they would like to fight. The military officers told them that they were looking for anybody who would fight against the Azerbaijani soldiers and took them to the site of the battles around the Khodjavand district. There they were provided with AK74 automatic rifles. Their military unit was also armed with grenade launchers, explosives, mines and various types of weaponry. After that they, together with other armed individuals, went up to the closest battle position and participated in the fights, using automatic rifles against Azerbaijani soldiers. The Defendant1 also fired at the enemy from a sniper rifle. During their time there, he and the Defendant1 were regularly collecting the information about the positioning, approximate personnel numbers and weaponry types of the Armed Forces of the Republic of Azerbaijan, and sending that information to the Republic of Armenia's National Security Service Officer Artak. Artak in his turn was sending them new assignments and was asking them to make specifications to the information they had already collected and notify him immediately of any changes in the positioning of Azerbaijani soldiers. After fighting for some time, he, together with the Defendant1, returned to Yerevan, met with Artak and provided him with detailed information that had been collected about the Azerbaijani Army. Artak said they should keep doing the same job, and, as he knew that the Defendant1 used to serve in the military intelligence unit, he instructed them to secretly come closer to the positions occupied by the Azerbaijani forces, when it was possible, and collect the relevant information. It was in October of the same year, when he, together with the Defendant1, made another trip to Nagorno Karabakh to participate in the fights and fulfil the NSS officer Artak's assignments by collecting information about the Azerbaijani Army. This time they participated in the fights near Chartar settlement of the Khodjavand district. As the night fights grew less intense, he and Defendant 1 crossed a forested area to come closer to the Azerbaijani positions. The Defendant1 exploited various tactics of hiding from the enemy which he had learned during his time in the intelligence unit and, as he got as close as it was possible to the Azerbaijani positions, made photo and video recording which he forwarded to Artak together with the geo-location information.

Artak said that they were doing a great job and asked to specify the exact personnel number and return to the Armenian positions before dawn. Following Artak's instructions, they counted approximately 24-27 Azerbaijani military servants in that area and forwarded the information to Artak. He, together with the Defendant1, went from Armenia to Nagorno Karabakh and participated in the fights from day one to the very end and forwarded to Artak all the information that was collected about the Army of Azerbaijan. During their time at the site of the battle, they took several pictures which the Defendant1 shared on the Defendant1's page on Facebook social media. He did not want to be

pictured with an automatic rifle and put it aside as he posed for the picture. He also posted on his Facebook page a picture of himself and Defendant2 near an unexploded shell. There was a ceasefire agreement signed by and between the Republic of Azerbaijan, the Republic of Armenia and the Russian Federation in the night hours of November 10, 2020. At approximately 10:00-11 am on November 10, 2020, the Defendant1 called him saying that the National Security Service officer Artak had called him and appointed a meeting at a restaurant in downtown Yerevan. So they had a meeting with the Republic of Armenia's NSS officer Artak at that place at approximately 12:00 that day. During the meeting, Artak instructed them to find out exactly if the Shusha city and the surrounding areas were liberated from the occupation by Azerbaijan and, if it was, to provide details about the personnel number, availability, types and numbers of heavy military equipment, positioning and locations, and other similar information. He instructed them to collect and forward the information by secretly entering the Shusha city from the Lachin corridor controlled by the Russian peace-makers under the pretext of providing assistance to the Armenians staying in Stepanakert. They agreed to fulfil Artak's tasks and said that they wanted for Shusha to be taken away from Azerbaijanis and that they knew that the collected information would benefit Armenia. In the morning hours of November 11, 2020, he, together with the Defendant1, went by car to the Gorus city, from where they passed the peace-makers' post plain-clothed and entered the Lachin corridor under the pretext of providing assistance to the Armenians staying in Stepanakert. Then they started moving in the direction of the Shusha city. About 1 km away from Shusha, they did not turn on the road to Stepanakert, as it has been planned originally, but turned on the road to Shusha instead and entered into the Shusha city limits, i.e., into the territories that were controlled by the Azerbaijani Army. They parked by the side of the road and, without drawing attention, walked in the direction of the Shusha city. Then they started collecting the information about Azerbaijani positions along the road and, as they were entering the Shusha city, they encountered Azerbaijani soldiers who asked them who they were and what they were doing near the Shusha city. They got so stressed that they could not provide an answer to that question. They were detained as their actions looked suspicious and they had illegally entered into an area controlled by the Army of Azerbaijan.

Witness2 testified at the court sitting that as he was on a service duty with his mate Witness1 in the territories controlled by the Armed Forces of the Republic of Azerbaijan in the morning hours of November 11, 2020, they noticed 2 persons moving toward the Shusha city by the side of the road. He saw that those persons were stopping to take a closer look by the newly built positions of the Armed Forces of Azerbaijan and were then discussing them. They have therefore decided to approach those persons and inquire what they were doing in the territories controlled by the Armed Forces of the Republic of Azerbaijan and why they were making those observations. They addressed those persons from a distance and ordered them to stop. At first, those persons made an attempt to hide but stopped as they saw them nearby. He and his mate approached those persons and asked them to introduce themselves. However, those two persons did not understand them and replied in Russian using the word "что" ("what?"). For this purpose, they addressed those persons again, this time in Russian, and asked them to introduce themselves. One of those persons handed them his ID, and another one – his passport. As they checked their papers, they realized that those two persons were the citizens of the Republic of Armenia – the Defendant1 and the Defendant2. They inquired why those persons entered into the territories controlled by the Armed Forces of the Republic of Azerbaijan near the Shusha city and why they were making observations of the newly built military positions. The Defendant1 and the Defendant2 failed to provide a reasonable answer to their question and, instead, got confused and started defending themselves. Those 2 (two) persons evaded providing a reply to the question of why they were making observations of the newly built military positions. Considering that those two persons acted suspiciously, illegally entered the controlled territories and were making observations of the positions, they detained the Defendant1 and the Defendant2. Those persons were later handed over to the relevant authorities for further investigation.

Witness1 testified at the court sitting that as he was on a service duty with his mate Witness2 in the territories controlled by the Armed Forces of the Republic of Azerbaijan in the morning hours of November 11, 2020, they noticed 2 persons moving toward the Shusha city by the side of the road. He saw that those persons were stopping to take a closer look by the newly built positions of the

Armed Forces of Azerbaijan and were then discussing them. They have therefore decided to approach those persons and inquire what they were doing in the territories controlled by the Armed Forces of the Republic of Azerbaijan and why they were making those observations. They addressed those persons from a distance and ordered them to stop. At first, those persons made an attempt to hide but stopped as they saw them nearby. He and his mate approached those persons and asked them to introduce themselves. However, those two persons did not understand them and replied in Russian using the word “что” (“what?”). For this purpose, they addressed those persons again, this time in Russian, and asked them to introduce themselves. One of those persons handed them his ID, and another one – his passport. As they checked their papers, they realized that those two persons were the citizens of the Republic of Armenia – the Defendant1 and the Defendant2. They inquired why those persons entered into the territories controlled by the Armed Forces of the Republic of Azerbaijan near the Shusha city and why they were making observations of the newly built military positions. The Defendant1 and the Defendant2 failed to provide a reasonable answer to their question and, instead, got confused and started defending themselves. Those 2 (two) persons evaded providing a reply to the question of why they were making observations of the newly built military positions. Considering that those two persons acted suspiciously, illegally entered the controlled territories and were making observations of the positions, they detained the Defendant1 and the Defendant2. Those persons were later handed over to the relevant authorities for further investigation.

It appears from the letter of the State Security Service of the Republic of Azerbaijan dated March 17, 2021, and the attached disc, which are both attached to the criminal case (Vol.1, sheets 8-9), that the Defendant1 participated in the fights against the Armed Forces of the Republic of Azerbaijan during September-November 2020, and was detained in the territories controlled by the Armed Forces of the Republic of Azerbaijan in the surroundings of the Shusha city on November 11, 2020.

It appears from the letter of the State Security Service of the Republic of Azerbaijan dated March 17, 2021, which is attached to the criminal case (Vol.1, sheet 10), that the Defendant2 participated in the fights against the Armed Forces of the Republic of Azerbaijan during September-November 2020, and was detained in the territories controlled by the Armed Forces of the Republic of Azerbaijan in the surroundings of the Shusha city on November 11, 2020.

It appears from the social media review protocol dated March 17, 2021, and the attached disc which can be found among the criminal case materials (Vol. 1, sheets 18-22), that the Defendant1 and the Defendant2 posed for pictures in different military uniform and with automatic rifles and sniper rifles, as well as with a Smerch rocket launcher, in the mountainous area. Those pictures were posted on the Defendant1's page, bearing the name of the Defendant1, on Facebook social media website.

It appears from an order dated March 19, 2021, which can be found among the criminal case materials (Vol. 1, sheets 129-130), that an order was issued to implement a range of operative search activities for the purposes of collecting materials concerning the involvement of the Defendant1 and the Defendant2 in fights against the Armed Forces of the Republic of Azerbaijan, the identities of other persons involved in operation of the same military units, and potential collaboration of the Defendant1 and the Defendant2 with foreign special services.

It appears from the letter of the State Security Service of the Republic of Azerbaijan dated March 29, 2021, which is attached to the criminal case (Vol. 1, sheet 132), that the Defendant1 and the Defendant2 were engaged in a collaboration with the Republic of Armenia's special security service – the National Security Service – in 2019-2020, and on September 27, 2020, when the Armed Forces of the Republic of Azerbaijan were carrying out a counter-attack operation in Nagorno Karabakh and the surrounding areas, were ordered by the NSS of the Republic of Armenia to travel to the site of the military conflict for the purposes of participation in the fights and collection of information that was supposed to be used against the national security of the Republic of Azerbaijan. At the time when they were at the site of the military conflict, they were providing to the NSS of the Republic of Armenia the information concerning the positioning, personnel, weaponry, combat and other types of equipment and munition, and other information that was supposed to be used against the national interests of the Republic of Azerbaijan.

According to the reference No. X13 956 (Vol. 1, sheets 229-230) of the Centre for Forensic Psychiatric Expert Examination under the Ministry of Public Health of the Republic of Azerbaijan, dated

May 4, 2021, the Defendant1 was found to be mentally fit, and is not affected by the provisions of article 21 of the Criminal Code of the Republic of Azerbaijan. He was not found to have any psychiatric deviations that would prevent him from self-control and understanding the actual nature and social danger of his actions. He is therefore not affected by the provisions of article 22 of the Criminal Code of the Republic of Azerbaijan.

According to the reference No. X13 957 (Vol. 1, sheets 231-232) of the Centre for Forensic Psychiatric Expert Examination under the Ministry of Public Health of the Republic of Azerbaijan, dated May 4, 2021, the Defendant2 was found to be mentally fit, and is not affected by the provisions of article 21 of the Criminal Code of the Republic of Azerbaijan. He was not found to have any psychiatric deviations that would prevent him from self-control and understanding the actual nature and social danger of his actions. He is therefore not affected by the provisions of article 22 of the Criminal Code of the Republic of Azerbaijan.

According to the physical examination report No. X13 215/MEŞ of the Forensic Examination and X8 Centre of the Ministry of Health of the Republic of Azerbaijan dated May 16, 2021 (Vol. 1, sheets 246-247), no wounds or marks of wounds were found on the body of the Defendant1 during forensic examination.

According to the physical examination report No. X13 216/MEŞ of the Forensic Examination and X8 Centre of the Ministry of Health of the Republic of Azerbaijan dated May 16, 2021 (Vol. 1, sheets 243-244), no wounds or marks of wounds were found on the body of the Defendant2 during forensic examination.

According to the forensic portrait examination report No. 3/915 of the Forensic Examination Centre under the Ministry of Justice of the Republic of Azerbaijan dated June 1, 2021 (vol. 1, sheets 255-261), the photographic pictures submitted for examination depict the same individuals as on the experimental photos of the Defendant 1 and the Defendant2.

The court of the first instance made a conclusion based on the reliable and unbiased evidences that the Defendant1 and the Defendant2, who were engaged in a collaboration with the Republic of Armenia's special security service – the National Security Service, following orders from the above-mentioned institution made an illegal crossing of the state border of the Republic of Azerbaijan from the Gorus town of the Sunik province of the Republic of Armenia and illegally entered into the territory of the Republic of Azerbaijan as a part of a pre-formed organized group.

Apart from this, the Defendant1 and the Defendant2 illegally acquired, carried and transported armed weapons, components, ammunition, explosive substances and devices and were involved in operations of armed units which are not provided for by the legislation of the Republic of Azerbaijan. Following orders from Artak, a special service officer of the Republic of Armenia, they were collecting at the site of the military conflict the information that was supposed to be used against the national security of the Republic of Azerbaijan. Besides, for the purposes of collecting the information about the positioning, personnel, weaponry, combat and other types of equipment and munition, and other information that was supposed to be used against the national interests of the Republic of Azerbaijan, they made a crossing from the Lachin corridor to the territories controlled by the Armed Forces of the Republic of Azerbaijan in the direction of the Shusha city on November 11, 2020, and were then identified and detained by the military servants of the Armed Forces of the Republic of Azerbaijan. These are the undisputable circumstances of the criminal case.

In consideration of those circumstances, the court has found that there are elements of crimes envisioned by articles 228.2.1, 276, 279.1 and 318.2 of the Criminal Code of the Republic of Azerbaijan in the actions of the Defendant1 and the Defendant2.

In making this conclusion, the court of the first instance also noted that the defendants pleaded partially guilty, i.e. guilty under article 318.2 of the Criminal Code of the Republic of Azerbaijan, and pleaded not guilty of other crimes they were charged with and denied that they committed any offences envisioned by articles 228.2.1, 276 and 279.1 of the Criminal Code of the Republic of Azerbaijan. However, at the time of the preliminary examination, they provided a detailed description of the mechanism and modus operandi of their offence; the time of the offence; the essence of the authorization to commit crimes as a part of the pre-formed organized group; illegal crossing into the territory of the Republic of Azerbaijan from the Lachin corridor before the detainment; details of how

they previously got to know each other; multiple illegal crossings of the state border of the Republic of Azerbaijan together; using fire arms in fights against the Armed Forces of the Republic of Azerbaijan; following orders from Artak, a special service officer of the Republic of Armenia, to collect information that was supposed to be used against the national security of the Republic of Azerbaijan; forwarding of the information to the individual named Artak concerning the positioning, personnel, weaponry, combat and other types of equipment and munition, and other information that was supposed to be used against the national interests of the Republic of Azerbaijan; and the details of their detainment by military servants of the Armed Forces of the Republic of Azerbaijan. For this reason, the court has found that the testimonies given at the time of the preliminary court investigation should be evaluated as the indisputable evidence.

According to article 144 of the Code of Criminal Procedure of the Republic of Azerbaijan, evidence collected for the purposes of prosecution shall be verified fully, thoroughly and objectively. As part of the verification process the items of evidence collected shall be analysed and compared with one another, new evidence shall be collected and the reliability of the source of the evidence obtained shall be established.

According to article 145 of the Code of Criminal Procedure of the Republic of Azerbaijan, all evidence shall be assessed as to its relevance, credibility and reliability. The content of all evidence collected for the purposes of prosecution shall be assessed in terms of whether it is sufficient to substantiate the charge. The preliminary investigator, investigator, prosecutor, judge and jury shall assess the evidence according to their personal conviction on the basis of a thorough, full and objective examination of its content, guided by the law and their conscience.

Based on the available evidence that was analysed by the court of the first instance, the panel of judges has found that the court made a lawful, reasonable and unbiased conclusion in respect of the Defendant1 and the Defendant2 who were found guilty of committing a crime under articles 228.2.1, 276, 279.1 and 318.2 of the Criminal Code of the Republic of Azerbaijan. This was proven by means of a full, thorough and unbiased comparative analysis of the criminal case materials and the available evidence as envisioned by the provisions of articles 125, 143-146 of the Code of Criminal Procedure of the Republic of Azerbaijan.

No circumstances were identified that would provide for the absence of elements of a crime in the defendants' actions, and there were no grounds for acquittal in accordance with the provisions of article 42 of the Code of Criminal Procedure of the Republic of Azerbaijan. In this regard, the substantiation of the appeal was purely subjective and represented an attempted mitigation of the punishment.

In regards to the substantiation of the appeal, the panel of judges also stated that no evidence, including testimonies made by the defendants to justify themselves, are not prejudicial for the court. At the same time, every evidence, irrespective of its source or nature, shall be fully and thoroughly examined in an unbiased manner and subjected to comparative analysis in regards to other evidence collected for the case. The circumstances referred to by the court of the first instance as the evidence for the case appear to comply with the actual circumstances and reliable.

Besides, no legal violations at the time of the preliminary investigation and court examination of the case by the court of the first instance were found and the conclusions made by the court were not found to be irrelevant to the actual circumstances of the case. No unproven circumstances which were important for the case were found and there were no cases where provisions of the criminal law were incorrectly applied.

When it comes to the punishment imposed to the Defendant1 and the Defendant2, the panel of judges has found and it is also clear from the court ruling that, guided by the provisions of article 58.3 of the Criminal Code of the Republic of Azerbaijan, the court of the first instance imposed a relevant and fair punishment and took into consideration the nature and the degree of the social danger of the crime and the personality of the convict, including any mitigating or aggravating circumstances, and also the influence of the imposed penalty on the rehabilitation of the convicted person and on the conditions of life of his family.

The panel of judges has stated that according to article 58.3 of the Criminal Code of the Republic of Azerbaijan, in imposing punishment, the court shall take into consideration the nature and

the degree of the social danger of the crime and the personality of the convict, including any mitigating or aggravating circumstances, and also the influence of the imposed penalty on the rehabilitation of the convicted person and on the conditions of life of his family.

It is recommended in resolution 4 of the "Court Experience in Awarding Criminal Punishment" advisory of the Plenary Assembly of the Supreme Court of the Republic of Azerbaijan dated June 25, 2003, that in each particular circumstances the criminal punishment awarded to the defendants should correspond to the circumstances of the offence and the personality of the guilty party, as provided for by the provisions of article 8 of the Criminal Code of the Republic of Azerbaijan.

According to article 8.1 of the Criminal Code of the Republic of Azerbaijan, punishment and other legal measures applicable to a person who has committed a criminal offence shall be just, that is, they shall correspond to the nature and degree of the social danger of the offence, the circumstances of its commission, and the personality of the guilty party.

According to article 41.2 of the Criminal Code of the Republic of Azerbaijan, punishment shall be applied for the purpose of restoring social justice, and also for the purpose of reforming a convicted person and preventing the commission of further crimes.

It appears from the appealed judgment that the court of the first instance took into consideration the fact that the Defendant1 was married, with one minor child, and that they were both young, and rightfully interpreted these facts as mitigating circumstances in respect of the two. No aggravating circumstances in respect of the Defendant1 and the Defendant2, and no other mitigating circumstances in respect of the Defendant2 were found.

The panel of judges has found that the court of the first instance has also taken into consideration and substantiated other important circumstances in respect of the case concerning the Defendant1 and the Defendant2 and has assigned a lawful and fair punishment to the defendants in respect of their actions and personalities, and no substantiation was found for mitigation of the punishment assigned to the defendants.

Therefore, the panel of judges has ruled that the appeals shall be dismissed and resolution of the Baku Court for Grave Crimes dated July 28, 2021 shall be upheld and remain unchanged as substantiated and fair.

Based on the above-mentioned and guided by the provisions of articles 397.1, 397.2, 398.1.1 and 407.2 of the Code of Criminal Procedure of the Republic of Azerbaijan, the panel of judges

RULED:

To dismiss the appeals submitted by the Defendant1's defence lawyer Defence Lawyer1 and the Defendant2's defence lawyer Defence Lawyer2.

To uphold the resolution No. 1(101)-1390/2021 of the Baku Court for Grave Crimes dated July 28, 2021 in respect of sentencing the Defendant1 and the Defendant2 under articles 228.2.1, 276, 279.1 and 318.2 of the Criminal Code of the Republic of Azerbaijan, and to keep it unchanged.

This resolution shall come into force from the time it has been announced.

This resolution can be appealed by means of filing a cassational appeal or a cassational protest to the Supreme Court of the Republic of Azerbaijan within the period envisioned by article 410 of the Code of Criminal Procedure of the Republic of Azerbaijan.

Chairman: Gadim Babayev

Judges: Ali Seyfaliyev

Rashad Abdulov



Azərbaycan Respublikası adından

QƏRAR

Bakı şəhəri

İş № 1(103)-1526/2021

02.12.2021

BAKİ APELLYASIYA MƏHKƏMƏSİ

Bakı Apellyasiya Məhkəməsinin Cinayət kollegiyası;
 Hakimlər - Babayev Qədim Xəlid oğlu (sədrlik edən və məruzəçi), Seyfəliyev Əli Səlim oğlu və Abdulov Rəşad Məhərrəm oğlundan ibarət tərkibdə,
 Məhkəmə iclas katibi X7,
 Azərbaycan Respublikası Baş Prokurorluğu DİMİ-nin apellyasiya instansiyası məhkəmələrində dövlət ittihamının müdafiəsi üzrə şöbəsinin prokuroru X6,
 Məhkum edilmiş şəxs Təqsirləndirilən şəxs1 və onun müdafiəçisi Müdafiəçi3,
 Məhkum edilmiş şəxs Təqsirləndirilən şəxs2 və onun müdafiəçisi Müdafiəçi2,
 X1 iştirakları ilə,

xx xxxxxx 1989-cu ildə Ermənistan Respublikasının Şirak vilayətinin Artik şəhərində anadan olmuş, Ermənistan Respublikasının vətəndaşı, evli, himayəsində bir azyaşlı uşağı olan, ali təhsilli, əvvəllər məhkum olunmayan, Ermənistan Respublikasının Şirak vilayəti, Artik şəhəri, Proşyan küçəsi ev 24-də qeydiyyatda olan və həmin ünvanda yaşamış, barəsində həbs qətimkan tədbiri seçilmiş və hazırda Bakı İstintaq Təcridxanasında həbsdə saxlanılan **Təqsirləndirilən şəxs1,**

xx xxxxxx 1993-cü ildə Ermənistan Respublikasının Byurakan rayonunda anadan olmuş, Ermənistan Respublikasının vətəndaşı, subay, orta təhsilli, əvvəllər məhkum olunmayan, Ermənistan Respublikasının Yerevan şəhəri, Xorenəçi küçəsi 205/10 ünvanında qeydiyyatda olan və həmin ünvanda yaşamış, barəsində həbs qətimkan tədbiri seçilmiş və hazırda Bakı İstintaq Təcridxanasında həbsdə saxlanılan **Təqsirləndirilən şəxs2**

Azərbaycan Respublikası Cinayət Məcəlləsinin 228.2.1, 276, 279.1 və 318.2-ci maddələri ilə məhkum olunmalarına dair Bakı Ağır Cinayətlər Məhkəməsinin 28 iyul 2021-ci il tarixli, 1(101)-1390/2021 nömrəli hökmündən məhkum edilmiş şəxslər Təqsirləndirilən şəxs1 müdafiəçisi Müdafiəçi1 və Təqsirləndirilən şəxs2 müdafiəçisi Müdafiəçi2 tərəfindən verilmiş apellyasiya şikayətlərinə əsasən işə Bakı Apellyasiya Məhkəməsinin binasında açıq məhkəmə iclasında baxaraq

m ü ə y ə n e t d i :

Bakı Ağır Cinayətlər Məhkəməsinin (hakimlər Məmmədov Əli İrfan oğlunun sədrliyi, hakimlər X4 və X3 ibarət tərkibdə) 28 iyul 2021-ci il tarixli hökmünə əsasən Təqsirləndirilən şəxs1 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.2.1, 276, 279.1 və 318.2-ci maddələrində nəzərdə tutulmuş cinayətlərin törədilməsində təqsirli bilinərək, ona Azərbaycan Respublikası Cinayət Məcəlləsinin 228.2.1-ci maddəsi üzrə 3 (üç) il müddətinə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 276-cı maddəsi üzrə 13 (on üç) il müddətinə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 279.1-ci maddəsi üzrə 6 (altı) il müddətinə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi üzrə 3 (üç) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən təyin edilmiş cəzaları qismən toplamaq yolu ilə Təqsirləndirilən şəxs1 cinayətlərin məcmusu üzrə qəti olaraq 15 (on beş) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilmiş, cəzasının ilk 05 (beş) ilini həbsxanada, qalan hissəsini isə ciddi rejimli cəzaçəkmə müəssisəsində çəkməklə cəzanın əvvəli onun tutulduğu vaxtdan, yəni 11 noyabr 2020-ci il tarixdən hesablanmış, əsas cəzanı çəkdikdən sonra icra edilməklə əlavə cəza kimi Azərbaycan Respublikasının hüdudlarından kənara məcburi çıxarma cəzası təyin edilmiş, barəsində seçilmiş həbs qətimkan tədbiri hökm qanuni qüvvəyə minənədək dəyişdirilmədən saxlanılmışdır.

Təqsirləndirilən şəxs2n Azərbaycan Respublikası Cinayət Məcəlləsinin 228.2.1, 276, 279.1 və 318.2-ci maddələrində nəzərdə tutulmuş cinayətlərin törədilməsində təqsirli bilinərək, ona Azərbaycan Respublikası Cinayət Məcəlləsinin 228.2.1-ci maddəsi üzrə 3 (üç) il müddətinə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 276-cı maddəsi üzrə 13 (on üç) il müddətinə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 279.1-ci maddəsi üzrə 6 (altı) il müddətinə azadlıqdan məhrum etmə cəzası, Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi üzrə 3 (üç) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 66.3-cü maddəsinə əsasən təyin edilmiş cəzaları qismən toplamaq yolu ilə Təqsirləndirilən şəxs1 cinayətlərin məcmusu üzrə qəti olaraq 15 (on beş) il müddətinə azadlıqdan məhrum etmə cəzası təyin edilmiş, cəzasının ilk 05 (beş) ilini həbsxanada, qalan hissəsini isə ciddi rejimli cəzaçəkmə müəssisəsində çəkməklə cəzanın əvvəli onun tutulduğu vaxtdan, yəni 11 noyabr 2020-ci il tarixdən hesablanmış, qəti əsas cəzanı çəkdikdən sonra icra edilməklə əlavə cəza kimi Azərbaycan Respublikasının hüdudlarından kənara məcburi çıxarma cəzası təyin edilmiş, barəsində seçilmiş həbs qətimkan tədbiri hökm qanuni qüvvəyə minənədək dəyişdirilmədən saxlanılmışdır.

Birinci instansiya məhkəməsi həmin hökmü çıxararkən belə nəticəyə gəlmişdir ki, o, qabaqcadan əlbir olan bir qrup şəxs halında Azərbaycan Respublikasının təhlükəsizliyi zərərinə olaraq istifadə etmək üçün Azərbaycan Respublikasının dövlət sirrini təşkil edən və sair məlumatları Ermənistan Respublikasının xüsusi xidmət orqanına vermək məqsədilə toplayaraq casusluq etmiş, Azərbaycan Respublikasının dövlət sərhədini qanunsuz olaraq keçmiş, qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğuları əldə etmiş, saxlamış, daşımış və gəzdirmiş, Azərbaycan Respublikasının qanunvericiliyi ilə nəzərdə tutulmayan silahlı birləşmələrin fəaliyyətində iştirak etmişdir.

Belə ki, 2019-cu ildə Ermənistan Respublikasının xüsusi xidmət orqanı olan Milli Təhlükəsizlik Xidməti tərəfindən məxfi əməkdaşlığa cəlb olunmuş Təqsirləndirilən şəxs1 həmin orqanın nümayəndələrinin tapşırığı ilə 2020-ci ilin sentyabr ayının sonlarından etibarən Təqsirləndirilən şəxs2 ilə qabaqcadan əlbir olan bir qrup şəxs halında Azərbaycan Respublikasının dövlət sərhədini Ermənistan Respublikası Sünik vilayətinin Gorus şəhəri istiqamətindən qanunsuz olaraq keçərək Azərbaycan Respublikası ərazisinə daxil olmuş,

qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğuları əldə edib, saxlayıb, daşıyıb və gəzdirməklə Azərbaycan Respublikası ərazisində Azərbaycan Respublikasının qanunvericiliyi ilə nəzərdə tutulmayan silahlı birləşmələrin fəaliyyətində iştirak etmiş, döyüş əməliyyatlarının aparıldığı bölgələrdə xarici dövlətin, yəni vətəndaşı olduğu Ermənistan Respublikasının xüsusi xidmət orqanının Artak adı ilə tanıdığı nümayəndəsindən aldığı tapşırıqlara əsasən Azərbaycan Respublikasının təhlükəsizliyi zərərinə olaraq istifadə etmək üçün məlumatlar toplamış, habelə həmin tapşırıqların icrası ilə bağlı Azərbaycan Respublikası Silahlı Qüvvələrinin bölmələrinin yerləşmə əraziləri, şəxsi heyəti, silahlanması, döyüş və digər texnikası və təminatı, habelə Azərbaycan Respublikasının təhlükəsizliyi zərərinə olaraq istifadə oluna biləcək digər məlumatları əldə etmək məqsədi ilə Təqsirləndirilən şəxs2la birlikdə 11 noyabr 2020-ci il tarixdə Laçın dəhlizindən Şuşa şəhəri istiqamətində Azərbaycan Respublikası Silahlı Qüvvələrinin nəzarəti altında olan ərazilərə keçmiş, Azərbaycan Respublikası Silahlı Qüvvələri bölmələrinin hərbi qulluqçuları tərəfindən aşkarlanaraq saxlanılmışdır.

Təqsirləndirilən şəxs2 təqsirləndirilir ondan ötrü ki, o, qabaqcadan əlbir olan bir qrup şəxs halında Azərbaycan Respublikasının təhlükəsizliyi zərərinə olaraq istifadə etmək üçün Azərbaycan Respublikasının dövlət sirrini təşkil edən və sair məlumatları Ermənistan Respublikasının xüsusi xidmət orqanına vermək məqsədilə toplayaraq casusluq etmiş, Azərbaycan Respublikasının dövlət sərhədini qanunsuz olaraq keçmiş, qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğuları əldə etmiş, saxlamış, daşımış və gəzdirmiş, Azərbaycan Respublikasının qanunvericiliyi ilə nəzərdə tutulmayan silahlı birləşmələrin fəaliyyətində iştirak etmişdir.

Belə ki, 2020-ci ildə Ermənistan Respublikasının xüsusi xidmət orqanı olan Milli Təhlükəsizlik Xidməti tərəfindən məxfi əməkdaşlığa cəlb olunmuş Təqsirləndirilən şəxs2 həmin orqanın nümayəndələrinin tapşırığı ilə 2020-ci ilin sentyabr ayının sonlarından etibarən Təqsirləndirilən şəxs1 ilə qabaqcadan əlbir olan bir qrup şəxs halında Azərbaycan Respublikasının dövlət sərhədini Ermənistan Respublikası Sünik vilayətinin Gorus şəhəri istiqamətindən qanunsuz olaraq keçərək Azərbaycan Respublikası ərazisinə daxil olmuş, qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğuları əldə edib, saxlayıb, daşıyıb və gəzdirməklə Azərbaycan Respublikası ərazisində Azərbaycan Respublikasının qanunvericiliyi ilə nəzərdə tutulmayan silahlı birləşmələrin fəaliyyətində iştirak etmiş, döyüş əməliyyatlarının aparıldığı bölgələrdə xarici dövlətin, yəni vətəndaşı olduğu Ermənistan Respublikasının xüsusi xidmət orqanının Artak adı ilə tanıdığı nümayəndəsindən aldığı tapşırıqlara əsasən Azərbaycan Respublikasının təhlükəsizliyi zərərinə olaraq istifadə etmək üçün məlumatlar toplamış, habelə həmin tapşırıqların icrası ilə bağlı Azərbaycan Respublikası Silahlı Qüvvələrinin bölmələrinin yerləşmə əraziləri, şəxsi heyəti, silahlanması, döyüş və digər texnikası və təminatı, habelə Azərbaycan Respublikasının təhlükəsizliyi zərərinə olaraq istifadə oluna biləcək digər məlumatları əldə etmək məqsədi ilə Təqsirləndirilən şəxs1la birlikdə 11 noyabr 2020-ci il tarixdə Laçın dəhlizindən Şuşa şəhəri istiqamətində Azərbaycan Respublikası Silahlı Qüvvələrinin nəzarəti altında olan ərazilərə keçmiş, Azərbaycan Respublikası Silahlı Qüvvələri bölmələrinin hərbi qulluqçuları tərəfindən aşkarlanaraq saxlanılmışdır.

İş üzrə Bakı Ağır Cinayətlər Məhkəməsinin 28 iyul 2021-ci il tarixli hökmündən Təqsirləndirilən şəxs1 müdafiəçisi Müdafiəçi1 apellyasiya şikayəti verərək hökmün ləğv edilməsini, Təqsirləndirilən şəxs1 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.2.1, 276 və 279.1-ci maddələrinə münasibətdə bəraət verilməsi, Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə də aşağı həddə, yəni həbsdə saxlanıldığı müddətə bərabər müddətdə cəza təyin edilməsi barədə qərar qəbul edilməsini xahiş etmişdir.

Apellyasiya şikayəti onunla əsaslandırılmışdır ki, birinci instansiya məhkəməsində tədqiq edilmiş sübutlar Təqsirləndirilən şəxs1 əməllərinin Cinayət Məcəlləsinin 228.2.1, 276, 279.1 və 318.2-ci maddələri ilə təsvif edilməsi üzrə yekun nəticəyə gəlməyə imkan vermədiyi halda məhkəmə həmin maddələr ilə əsassız olaraq ittiham hökmü çıxarmışdır. Həmçinin ittihamın sübut olunmasında yaranan şübhələr aradan qaldırılmamış, bütün

şübhələr qanunvericiliyin tələblərinə zidd olaraq təqsirləndirilən şəxsin əleyhinə təfsir edilmişdir. Cinayət Prosesual Məcəlləsinin 399-cu maddəsinin tələblərinə əsasən, məhkəmənin gəldiyi nəticələrin işin faktiki hallarına uyğun olmaması, birinci instansiya məhkəməsi tərəfindən müəyyən edilmiş iş üçün əhəmiyyətli olan hallann sübuta yetirilməməsi, cinayət qanunu normasının düzgün tətbiq edilməməsi, təyin edilmiş cəzanın cinayətin ağırlığına və ya məhkumun şəxsiyyətinə uyğun olmaması apellyasiya şikayətinin baxışının nəticələri üzrə birinci instansiya məhkəməsinin hökm və ya qərarının ləğv edilməsi və ya dəyişdirilməsi üçün əsaslardandır.

İş üzrə Bakı Ağır Cinayətlər Məhkəməsinin 28 iyul 2021-ci il tarixli hökmündən məhkum olunmuş şəxs Təqsirləndirilən şəxs2 müdafiəçisi Müdafiəçi2 apellyasiya şikayəti verərək Təqsirləndirilən şəxs2 əməlinə Azərbaycan Respublikası Cinayət Məcəlləsinin 228.2.1, 276 və 279.1-ci maddələri ilə nəzərdə tutulan cinayətlərin tərkib əlamətləri olmadığına görə hökmün Təqsirləndirilən şəxs2 aid hissədə ləğv edilməsini, ona həmin maddələrlə bəraət verilməsini və Cinayət Məcəlləsinin 318.2-ci maddəsi ilə barəsində daha yüngül cəza təyin edilməsi haqda qərar qəbul edilməsini xahiş etmişdir.

Apellyasiya şikayəti onunla əsaslandırılmışdır ki, məhkəmə istintaqı zamanı toplanmış və tədqiq edilmiş sübutların heç birisi ilə Təqsirləndirilən şəxs2 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.2.1, 276 və 279.1-ci maddələri ilə nəzərdə tutulan cinayət əməllərini törətməsi təsdiq olunmamışdır. O, 11 noyabr 2020-ci il tarixdə səhər saatlarında Gevorq Sujyanla birlikdə Azərbaycan Respublikası Silahlı Qüvvələrinin əməkdaşları tərəfindən saxlanıldıqları zaman üzərlərində (istifadələrində) hər hansı odlu silah, onun komplekt hissələri, döyüş sursatı, partlayıcı maddə və qurğu, yaxud da ərazidə müşahidə aparmaqdan ötrü alət və vasitə aşkar olunmamışdır. Eləcə də ibtidai və məhkəmə istintaqı zamanı Təqsirləndirilən şəxs2 Azərbaycan Respublikası ərazisində Azərbaycan Respublikasının qanunvericiliyi ilə nəzərdə tutulmayan silahlı birləşmələrin fəaliyyətində iştirak etməsinə dəlalət edən hər hansı mötəbər sübut müəyyən edilməmişdir. Lakin bütün bunlara baxmayaraq, birinci instansiya məhkəməsi Təqsirləndirilən şəxs2 əməlinə düzgün hüquqi qiymət verməmiş, onun Azərbaycan Respublikası Cinayət Məcəlləsinin 228.2.1, 276 və 279.1- ci maddələri ilə nəzərdə tutulan cinayət əməllərini törətməsi sübuta yetirilmədiyi halda, onu həmin maddələrlə də təqsirli hesab edərək barəsində uzun müddətli azadlıqdan məhrum etmə cəzası təyin etmişdir.

Hökmdən dövlət ittihamçısı apellyasiya protesti verməmişdir.

Məhkəmə kollegiyasının iclasında Təqsirləndirilən şəxs1 və onun müdafiəçisi Müdafiəçi3 apellyasiya şikayətinin təmin edilməsini xahiş etdilər.

Məhkəmə kollegiyasının iclasında məhkum edilmiş şəxs Təqsirləndirilən şəxs2 və onun müdafiəçisi Müdafiəçi2 apellyasiya şikayətinin təmin edilməsini xahiş etdilər.

Məhkəmə kollegiyasının iclasında dövlət ittihamçısı X9 verilmiş apellyasiya şikayətlərinin dəlillərini əsassız hesab edərək təmin edilməməsini, hökmün qanuni və əsaslı olduğundan dəyişdirilmədən saxlanılmasını xahiş etdi.

Məhkəmə kollegiyası cinayət işinin materiallarını araşdırıb, verilmiş apellyasiya şikayətlərinin dəlillərini müzakirə edərək, dövlət ittihamçısının, məhkum edilmiş şəxslərin və onların müdafiəçilərinin fikirlərini dinləyərək hesab edir ki, verilmiş apellyasiya şikayətləri əsassız olduqlarından təmin edilməməli, iş üzrə Bakı Ağır Cinayətlər Məhkəməsinin 28 iyul 2021-ci il tarixli hökmü verilmiş apellyasiya şikayətlərinə münasibətdə dəyişdirilmədən saxlanılmalıdır.

Belə ki, Azərbaycan Respublikası Cinayət Prosesual Məcəlləsinin 397.1-ci maddəsinə əsasən apellyasiya instansiyası məhkəməsi birinci instansiya məhkəməsi tərəfindən işin faktiki hallarının müəyyən edilməsinin, habelə cinayət qanununun və bu Məcəllənin normalarının tətbiq edilməsinin düzgünlüyünü yoxlayır.

Həmin Məcəllənin 397.2-ci maddəsinin tələbinə görə birinci instansiya məhkəməsi tərəfindən müəyyən edilmiş faktiki hallar apellyasiya instansiyası məhkəməsi tərəfindən yalnız apellyasiya şikayətinin və ya apellyasiya protestinin hüdudlarında yoxlanılır. Birinci instansiya məhkəməsi tərəfindən cinayət qanununa və bu Məcəllənin normalarına riayət edilməsi apellyasiya instansiyası məhkəməsi tərəfindən apellyasiya şikayətinin və ya

apellyasiya protestinin dəlillərindən asılı olmayaraq yoxlanılır.

Məhkəmə kollegiyası məhkum olunmuş şəxslər Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2nə bəraət verilməsi barədə apellyasiya şikayətlərinin dəlillərini aşağıdakılara əsasən əsassız hesab edir.

Azərbaycan Respublikası Konstitusiyası Məhkəməsi Plenumunun “Azərbaycan Respublikası Cinayət Məcəlləsinin 244.1-ci maddəsinin şərh edilməsinə dair” 17 mart 2011-ci il tarixli Qərarında qeyd edilmişdir ki, cinayətin tövsifi törədilən konkret cinayət əməlinin cəhətləri ilə cinayət-hüquqi normasının dispozisiyasında nəzərdə tutulan tərkib əlamətləri arasında uyğunluğu müəyyən etməklə, müvafiq prosessual sənəddə öz əksini tapan və cinayət-hüquqi nəticələrə səbəb olan əmələ verilən cinayət hüquqi qiymətdir. Cinayətin tövsifi mühüm sosial və hüquqi əhəmiyyətə malikdir. Tövsif Cinayət Məcəlləsində müəyyən edilmiş vəzifələrin yerinə yetirilməsi baxımından, cinayət qanununu tətbiq etməyə səlahiyyətli olan vəzifəli şəxslər tərəfindən həyata keçirilən mühüm məntiqi proses olub, onun yekununda konkret sosial hadisəyə, cəmiyyət üçün təhlükəli olan insan davranışına hüquqi qiymət verilir. Bu işə ilk növbədə işin faktiki hallarının hərtərəfli öyrənilməsini, cinayət hüquq normasının düzgün seçilməsini və onun məzmununun izah edilməsini tələb edir.

Birinci instansiya məhkəməsində təqsirləndirilən şəxs qismində dindirilmiş Təqsirləndirilən şəxs1 ona elan olunmuş ittiham üzrə özünü qismən, yəni Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə təqsirli bilərək ifadəsində göstərmişdir ki, o, 27 sentyabr 2020-ci il tarixdə müharibənin başlanmasını eşitmişdir. O, “Xeyriyyə” Təşkilatının təsisçisi olmuşdur. Onu tanıyan şəxslər Qarabağdan qaçan mülki şəxslər və orada döyüşən hərbiçilər üçün paltarlar gətirməyə başlamışlar ki, o, təsisçisi olduğu “Xeyriyyə” Təşkilatı vasitəsilə həmin yardımları paylasın. Xankəndi şəhərində bəzi adamlar olmuşdur. O, gətirdiyi humanitar yardımları həmin şəxslərə vermiş və sonuncular da həmin yardımları paylamışlar. Yardım verən adamlar onu məcbur etmişlər ki, o, həmin yardımları “Facebook” sosial şəbəkəsində özünə aid səhifədə paylaşsın. O, yardımları Gorus şəhərinə gətirərək orada olan hərbiçilərə paylamışdır. O, həmçinin Martuniyə çatmamış, yəni Martunidən 4 kilometr aralıda Çartar kəndində yerləşən hərbi hissəyə də humanitar yardımları gətirərək orada paylamışdır. O, yardım verən adamlara sübut etmək məqsədi ilə əsgərlərlə şəkil çəkdirmiş və əsgərlərlə olan şəkillərini yardım verən şəxslərə göndərmişdir. O, Gorusdan sonra Şuşa şəhərinə getmişdir. O, Şuşaya orada olan məbəddə ibadət etmək üçün getmişdir. O, Şuşada cəmi 1 (bir) dəfə olmuşdur. O, Şuşada müxbirlərə müsahibə vermişdir. Bundan başqa, o, Xankəndi şəhərində olarkən əhalinin vəziyyəti haqqında video çəkmiş və həmin videonu “Facebook” sosial şəbəkəsində özünə aid səhifədə paylaşmışdır. O, müharibənin bitməsindən 2 həftə əvvəl Xankəndi şəhərində olmuşdur. Kapitulyasiya aktı bağlandıqdan sonra, yəni 11 noyabr 2020-ci il tarixdə onlar Xankəndiyə getmək qərarına gəlmişlər. Bir neçə erməni ailəsi Xankəndi şəhərindən Ermənistan Respublikasına aparılmalarına kömək etmək üçün onlara müraciət etmişdir. Onlar da bu səbəbdən Xankəndi şəhərinə getmişlər. Onlar ora getdikdə Laçın dəhlizində rus əsgərləri onları saxlayıb maşınları yoxlamışlar. Onlar rus əsgərlərindən soruşmuşlar ki, “keçə bilərik?”. Rus əsgərləri də onlara cavab vermişlər ki, “bəli”. Onlar Laçın dəhlizini təxminən 2 kilometr keçdikdən sonra orada Azərbaycan Respublikasının bayrağını görüb dayanmışlar. Həmin vaxt orada olan Azərbaycan Respublikasının əsgərləri yaxınlaşaraq onları həbs etmişlər. Laçın dəhlizində yolun ortası qazılmışdır. Yol minalandığına görə onlara həmin çökəkliklə getməyi demişlər. Onlar tutulduqdan sonra başqa yerə, daha sonra işə hazırda saxlanıldıqları yerə aparılmışlar. Təqsirləndirilən şəxs1 ifadəsində qeyd etdiklərinin nəzərə alınmasını və Azərbaycan Respublikası Cinayət Məcəlləsinin 228.2.1, 276 və 279.1-ci maddələri ilə ona bəraət verilməsini, Cinayət Məcəlləsinin 318.2-ci maddəsi ilə işə ona yüngül cəza təyin edilməsini məhkəmədən xahiş etmişdir.

Məhkəmə istintaqında tədqiq edilmiş Təqsirləndirilən şəxs1 ibidai istintaq zamanı vermiş olduğu ifadəsindən görünür ki, o, elan olunmuş ittiham üzrə özünü tam təqsirli bilərək göstərmişdir ki, 1989-cu ildə Ermənistan Respublikasının Şirak vilayətinin Artik şəhərində anadan olmuş, anası 2009-cu ildə vəfat etmiş, atası Ruben Sujyan işə tikinti

sahəsində işləyir. Valideynlərinin hər ikisi milliyətcə ermənidirlər. O, orta məktəbi Ermənistanın Şirak vilayətində bitirmiş, ali təhsilini isə Rusiya Federasiyasında Sankt-Peterburq Dövlət Ticarət-İqtisadi Universitetində almışdır. O, ali məktəbdə oxuduğu zaman Ermənistan Respublikasında Lilit Çıragyan adlı milliyəti erməni olan qadınla ailə qurmuş, birgə nikahdan onların bir oğlan övladı dünyaya gəlmişdir. O, 2011-ci ildə hərbi xidmətə çağırılmış və həmin ildə Ermənistanın Kiravokan şəhərində yerləşən hərbi hissədə müddətli həqiqi hərbi xidmət keçməyə başlamışdır. O, əvvəllər peşəkar şəkildə boksla məşğul olduğundan xidmətinin ilk bir neçə ayını kəşfiyyat bölüyündə aparmış, sonradan isə piyada bölüyünə keçirilmiş, 2013-cü ilin dekabr ayında ordu sıralarından tərxis olunmuşdur. 2018-ci ilin noyabr ayında o, ailə üzvləri ilə birlikdə daimi olaraq Ermənistanın Şirak vilayətinin Artik şəhərində yaşamışdır. 2019-cu ilin təxminən yaz aylarında əvvəllər tanımadığı, özünü Ermənistan Respublikasının Milli Təhlükəsizlik Xidmətinin əməkdaşı kimi təqdim edən şəxs ona zəng edərək vacib məsələ ilə bağlı görüş təklif etmişdir. O da görüşməyə razılaşmışdır. Onlar Yerevan şəhərinin Malatya-Sebastyan rayonunda yerləşən Ermənistan Respublikası MTX-nin rayon idarəsində görüşmüşlər və MTX-nin əməkdaşı ona özünü Artak adı ilə təqdim etmişdir. Görüş zamanı Artak ona 2018-ci ildə onun yaratdığı "Yeni Ermənistan" adlı təşkilatının hesablarına daxil olan pul köçürmələrinin araşdırma nəticəsində çirkli pul olduğunu, şirkətinin həmin pulların yuyulması ilə məşğul olduğunun müəyyən edildiyini, bu faktlara görə də onun barəsində cinayət işi başlanılaraq həbs ediləcəyini bildirmişdir. O, həmin pul köçürmələrinin cüzi miqdarda olduğunu, pulların bütövlüklə təşkilata xərcləndiyini bildirsə də, Artak lazım olacağı təqdirdə həmin pulların "çirkli" pullar kimi təqdim edilə biləcəyini bildirmişdir. O isə saxta ittihamlarla tutulacağından, bu məsələnin ailəsinə də təsir edəcəyindən ehtiyatlandığı üçün ondan nə istədikləri barədə maraqlanmışdır. Artak isə ilk əvvəl Ermənistan Respublikası MTX tərəfindən verilən tapşırıqları icra edəcəyi barədə iltizama imza etməli olduğunu bildirərək ona əməkdaşlıq barədə iltizama imza etdirmişdir. Görüşdən sonra Artak ona ara-sıra zəng edərək müxtəlif tapşırıqlar verərək icra etməyini tapşırılmışdır. O, Ermənistan Respublikası MTX-nin Artak adlı əməkdaşını orta boylu, arıq bədən quruluşlu, qara saçlı, qarabuğdayı, "Gümrü aksentilə" danışan, təxminən 35-40 yaşlarında olan şəxs kimi qeyd etmişdir. 27 sentyabr 2020-ci il tarixdə Dağlıq Qarabağda hərbi əməliyyatlar başladıqdan sonra MTX-nin əməkdaşı Artak onunla əlaqə yaradaraq təcili görüş tələb etmişdir. Onlar 28 sentyabr 2020-ci il tarixdə Artak adlı MTX-nin əməkdaşının iş yerinin yaxınlığında yerləşən kafedə görüşmüşlər və sonuncu ona Ermənistanla Azərbaycan arasında Dağlıq Qarabağ və ətraf rayonlarda döyüş əməliyyatlarının getməsi səbəbindən vəziyyətin ciddi olduğunu və dövlətin onun kimi oğullara ehtiyacı olduğunu bildirmişdir. O isə özü də döyüş əməliyyatlarında iştirak etmək istədiyini bildirərək bu görüşə çağırılmasının əsl səbəbi ilə maraqlanmışdır. Artak isə onun döyüşlərdə iştirak etmək istəyindən razı olduğunu bildirərək həmin bölgədə Azərbaycan ordusu barədə məlumatların toplanılmasına ehtiyac olduğunu qeyd etmiş və ona növbəti gün Ermənistanın Gorus şəhərindən Laçın dəhlizi ilə Dağlıq Qarabağa keçərək döyüşlər getdiyi ərazilərə gedib orada döyüşlərdə iştirak etməsini, bununla yanaşı əsas olaraq Azərbaycan hərbiçilərinin yerləşmə mövqeləri, əsgər sayı, texnika növləri və bu kimi sair məlumatları toplayaraq göndərməsini tapşırılmışdır. O da tapşırıqları icra edəcəyi barədə söz vermişdir. O, həmçinin Artakdan döyüş bölgələrinə tək deyil, dostu Təqsirləndirilən Şəxs2lə birlikdə getməyə icazə verməyini xahiş etmişdir. Artak isə onun Təqsirləndirilən Şəxs2lə birlikdə getməyinə etiraz etməyərək sonuncuya da hansı tapşırıqla həmin bölgələrə getdiyi barədə məlumat verməsini, razı olduğu təqdirdə sonuncunu bu işlərə cəlb edərək birlikdə məlumatlar toplamağı tapşırılmışdır. O, 29 sentyabr 2020-ci il tarixdə Təqsirləndirilən Şəxs2 ilə döyüşlərdə iştirak etmək məqsədilə yola çıxmaq üçün görüşmüş, sonuncuya MTX-nin əməkdaşı Artak ilə 1 (bir) ilə yaxın müddətdir ki, əməkdaşlıq etdiyini, sonuncunun tapşırığı əsasında döyüşlərə qatılacağını və orada olan zaman Azərbaycan ordusunun yerləşmə mövqeləri, əsgər sayı, texnika sayları və sair bu kimi məlumatları toplayıb Artaka göndərəcəyini bildirərək Artak adlı MTX-nin əməkdaşı tərəfindən Təqsirləndirilən Şəxs2 da bu işləri görmək təklifinin olduğunu bildirmişdir. Təqsirləndirilən Şəxs2 isə Ermənistan tərəfinin xeyrinə olacaq hər bir işə əl

atacağını, Azərbaycan ordusu barədə məlumatları toplayıb Artaka ötürəcəyinə razı olduğunu bildirmişdir. Bu məqsədlə onlar həmin gün "Nissan" markalı avtomobillə döyüş bölgəsinə getmək qərarına gəlmişlər və əvvəlcədən özləri ilə Yerevandan hərbi geyim mağazasından aldıkları hərbi geyim formasını da götürüb Yerevan şəhərindən Gorus şəhərinə, oradan da Laçın dəhlizi vasitəsilə Stepanakert şəhərinə gəlib orada olan hərbi qulluqçularla görüşmüşlər, eləcə də döyüşlərdə iştirak etmək istədiklərini orada bildirmişlər. Hərbçilər isə onlara torpaqları qorumaq üçün Azərbaycan əsgərlərinə qarşı döyüşəcək hər bir şəxsi qəbul etdiklərini bildirib onları Xocavənd rayonu ətrafında olan döyüş bölgələrinə aparmışlar və orada onları "AK74" tipli avtomat silahları ilə silahlandırmışlar. Xidmət etdikləri bölmənin silahlanması, həmçinin qumbara, partlayıcı maddələr və müxtəlif döyüş sursatları olmuşdur. Bundan sonra onlar digər silahlılarla birlikdə ən yaxın döyüş mövqələrinə gedərək Azərbaycan hərbçilərinə qarşı avtomat tipli silahlardan istifadə edərək döyüşlərdə iştirak etmişlər. Onlarla birlikdə döyüşlərdə olan, adını xatırlamadığı döyüşçülərdən biri onun xahişi əsasında ona snayper tipli silah da verərək Azərbaycan əsgərlərinə atəş açmağına imkan yaratmışdır. Orada olan zaman onlar Azərbaycan Respublikası Silahlı Qüvvələrinin yerləşmə nöqtələri, təxmini əsgər sayı, texnika növü barədə məlumatları toplayıb mütləq olaraq Ermənistan Respublikası Milli Təhlükəsizlik Xidmətinin Artak adlı əməkdaşına göndərmişlər. Artak isə yeni tapşırıqlar verərək göndərdikləri məlumatlarla bağlı dəqiqləşdirmələr aparmağı, Azərbaycan mövqələrində olan əsgərlərin yer dəyişməsi olduqda isə dərhal xəbər vermələrini tapşırılmışdır. O, bir müddət döyüşlərdə iştirak etdikdən sonra Təqsirləndirilən şəxs2la birlikdə yenidən Yerevan şəhərinə qayıdaraq Artak ilə görüşüb Azərbaycan ordusu barədə topladıqları ətraflı materialları Artaka təqdim etmiş, sonuncu isə belə davam etməklərini, onun həqiqi hərbi xidmətdə kəşfiyyat bölüyündə xidmət etdiyini bildiyini, mümkün olduğu halda Azərbaycan tərəfinin yerləşdiyi ərazilərə daha yaxından gizli şəkildə yaxınlaşaraq məlumatları toplayıb ötürməyi yenidən ona tapşırılmışdır. Növbəti dəfə o, Təqsirləndirilən şəxs2la birlikdə MTX-nin Artak adlı əməkdaşının tapşırığı əsasında həmin ilin oktyabr ayında yenidən Dağlıq Qarabağa döyüşlərdə iştirak etmək və Azərbaycan ordusu barədə məlumatlar toplamaq üçün yola düşmüşdür. Bu dəfə isə onlar Xocavənd rayonunun Çartar qəsəbəsinin yaxınlığında döyüşlərə qatılmışlar, gecə döyüşlər bir az səngiyən vaxt məşəlilə ərazilərdən keçərək Azərbaycan mövqələrinə yaxınlaşmışlar. O, kəşfiyyat bölüyündə xidmət edən zaman düşməndən gizlənmək üçün öyrəndiyi müxtəlif üsullardan istifadə edərək Azərbaycan mövqələrinə mümkün olan qədər yaxınlaşaraq foto və video çəkiliş aparmış, hətta ərazinin geo-lokasiyasını da Artaka göndərmişdir. Artak isə onların yaxşı iş gördüyünü bildirərək onları tərifləmiş və əsgər sayını dəqiq saydıqdan sonra səhər açılmamış öz mövqələrinə qayıtmağı tapşırılmışdır. Onlar da Artakın tapşırığı əsasında müşahidə edərək təxminən 25-28 nəfər Azərbaycan hərbçisi saydıqdan sonra məlumatı Artaka ötürüb geri çəkilməmişlər. Döyüş əməliyyatlarının başladığı gündən başa çatanadək o, Təqsirləndirilən şəxs2la birlikdə dəfələrlə Ermənistandan Qarabağda döyüş əməliyyatları aparılan ərazilərə gedərək döyüşlərdə iştirak etmiş, Azərbaycan ordusu barədə məlumatları toplayıb MTX-nin əməkdaşı Artaka ötürmüşdür. O, Təqsirləndirilən şəxs2la olduqları bölgələrdə döyüşlərdə iştirak edən zaman bir neçə şəkil çəkirmiş və sonra həmin şəkilləri "Facebook" sosial şəbəkəsində özünə aid səhifədə, yəni "Təqsirləndirilən şəxs1" adlı profildə paylaşmışdır. Həmin şəkillərdə onun əlində avtomat və snayper tipli silahlar olmuşdur. Eləcə də o, "Facebook" sosial şəbəkəsində ona aid səhifədə partlamamış raket ilə Təqsirləndirilən şəxs2la olan fotosəkillərini yerləşdirmişdir. 10 noyabr 2020-ci il tarixdə gecə saatlarında Azərbaycan Respublikası, Ermənistan Respublikası və Rusiya Federasiyası döyüş əməliyyatlarının dayandırılması barədə sənəd imzalamış, həmin gün səhər saat 10:00 radələrində Ermənistan Respublikasının Milli Təhlükəsizlik Xidmətinin Artak adlı əməkdaşı ona zəng edərək Yerevanın mərkəzində yerləşən restoranda görüş təyin etmişdir. O isə Artaka tək deyil, Təqsirləndirilən şəxs2la birlikdə gələcəyini bildirmişdir. Onlar təxminən saat 12:00-da deyilən yerdə Ermənistan Respublikası MTX-nin əməkdaşı Artak ilə görüşmüşlər. Görüş zamanı Artak Şuşa şəhəri və həmin şəhərin ətraf ərazisini dəqiq Azərbaycanlılar tərəfindən işğaldan azad edilib-

edilməməsini müəyyən etmək, müsbət halda orada yerləşdirilmiş Azərbaycan hərbiçilərinin sayını, ağır texnikaların olub-olmamasını, onların sayını və növünü, yerləşmə lokasiyalarını və bu kimi digər məlumatları həmin zaman Rusiya Sülhməramlılarının nəzarət etdiyi Laçın dəhlizində Stepanakert şəhərində qalan ermənilərə kömək etmək adı ilə pərdələnərək keçib Şuşa şəhərinin ərazisinə gizli şəkildə daxil olmalarını və oradan məlumat toplayıb göndərmələrini tapşırırmışdır. Onlar da toplayacaqları məlumatların Ermənistanın xeyrinə istifadə ediləcəyini, Şuşa şəhərinin Azərbaycanlılardan almaq istədiklərini bildirərək Artakın tapşırığını icra etməyə razılıq vermişlər. 11 noyabr 2020-ci il tarixdə o, Təqsirləndirilən şəxs2la birlikdə səhər saatlarında avtomobili ilə ilk əvvəl Gorus şəhərinə, oradan isə Stepanakert şəhərində qalan ermənilərə kömək etmək adı altında mülki geyimdə sülhməramlıların yanından keçərək Laçın dəhlizinə daxil olub Şuşa şəhəri istiqamətində hərəkət etməyə başlamışlar. Şuşa şəhərinə təxminən 1 kilometr qalmış onlar yol ayrıcından əvvəlcədən fikirləşdikləri kimi Stepanakert şəhərinə gedən yola deyil, Şuşa şəhərinə gedən yola dönmüşlər və Şuşa şəhərinin ərazisinə, yəni Azərbaycan ordusu tərəfindən nəzarət olunan əraziyə daxil olmuşlar. Onlar yolun yaxınlığında avtomobili saxlayaraq diqqət çəkmədən Şuşa şəhəri istiqamətində getmişlər. Sonra onlar yol boyu görünən Azərbaycan mövqeləri barədə məlumat toplamağa başlamışlar, Şuşa şəhərinə isə daxil olmağa çalışarkən Azərbaycan əsgərləri ilə rastlaşmışlar, Azərbaycan əsgərləri kim olduqları və Şuşa şəhərinin yaxınlığında nə işlə məşğul olduqları barədə maraqlanmışlar. Onlar isə həyacanlanaraq verilən suallara cavab verə bilməmişlər. Onların hərəkətlərinin şübhəli olması və Azərbaycan ordusu tərəfindən nəzarət edilən əraziyə qanunsuz daxil olmaları səbəbindən saxlanılmışlar.

Birinci instansiya məhkəməsində təqsirləndirilən şəxs qismində dindirilmiş Təqsirləndirilən şəxs2 ona elan olunmuş ittiham üzrə özünü qismən, yəni Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə təqsirli bilərək ifadəsində göstərmişdir ki, o, xx xxxxxx 1993-cü ildə Byurakan kəndində anadan olmuşdur. O, 2000-ci ildə ailəsi ilə birlikdə Yerevan şəhərinə köçmüş və Yerevan şəhəri, Xorenaçi küçəsi, 205/10 ünvanında yaşamışdır. O, 2020-ci ilin təxminən aprel ayında Təqsirləndirilən şəxs1la tanış olmuşdur. O, Gevorgun humanitar təşkilatı olduğunu bildikdə kömək etmək istəmişdir. Həmin vaxtadək o, əkinçiliklə məşğul olmuşdur. Sonra isə o, Yerevanda kafelərdə və restoranlarda aşpaz kimi işləmişdir. Müharibə başlayanda o, öz iş yerində olmuşdur. O, müharibənin başladığını gördükdə Təqsirləndirilən şəxs1a zəng etmişdir. Təqsirləndirilən şəxs1 artıq insanların yardımlar gətirdiyini ona demişdir. O da Gevorga yemək və geyimlə kömək etməyi təklif etmişdir. Bundan sonra onlar Xankəndiyə yardımlar aparmağa başlamışlar. Onlar döyüşlərdə iştirak etməmişlər və edə də bilməzdilər. Çünki onlar Ermənistanda qaçqınlara yardım paylamaqla məşğul olmuşlar. Onlar qaçqınlara geyim, ərzaq məhsulları paylamışlar. Onlar həftədə bir dəfə, bəzən iki həftədən bir Xankəndiyə humanitar yardımlar aparmışlar. 10 noyabr 2020-ci il tarixdə Gevorg ona zəng edib görüşməyi təklif etmişdir. Gevorg ona Xankəndi şəhərində olan insanlara kömək etmək lazım olduğunu və 11 noyabr 2020-ci il tarixdə Xankəndi şəhərinə yardım aparmaq üçün getmək lazım olduğunu bildirmişdir. 11 noyabr 2020-ci il tarixdə onlar Gorusu keçmişlər. Sonra onlar rus sülhməramlılarının yerləşdiyi Laçın dəhlizini keçmişlər. Rüs sülhməramlıları onları yoxlamışlar. Onlar rus sülhməramlılarından soruşmuşlar ki, "Xankəndiyə gedə bilərik?" Rus sülhməramlıları da onlara demişlər ki, "bəli, gedə bilərsiniz". Sonra onlar rus sülhməramlılarının yanından təxminən bir kilometr keçdikdən sonra Azərbaycan Respublikası Silahlı Qüvvələrini görmüşlər və sonuncular onları həbs etmişlər. Onlar sadəcə analara, qocalara, uşaqlara yardım etmişlər. O, Azərbaycan Respublikasına qarşı heç bir cinayət törətməmişdir. O, döyüşlərdə də ümumiyyətlə iştirak etməmişdir. Təqsirləndirilən şəxs2 ifadəsində qeyd etdiklərinin nəzərə alınmasını və Azərbaycan Respublikası Cinayət Məcəlləsinin 228.2.1, 276 və 279.1-ci maddələri ilə ona bəraət verilməsini, Cinayət Məcəlləsinin 318.2-ci maddəsi ilə isə ona yüngül cəza təyin edilməsini məhkəmədən xahiş etdi.

Məhkəmə istintaqında tədqiq edilmiş Təqsirləndirilən şəxs2 ibidai istintaq zamanı vermiş olduğu ifadəsində o, elan olunmuş ittiham üzrə özünü tam təqsirli bilərək

göstərmişdir ki, 1993-cü ildə Ermənistan Respublikasında anadan olmuşdur. Onun ailəsi 2000-ci ildə Ermənistanın paytaxtı Yerevan şəhərinə köçmüşdür. O, orta məktəbi həmin şəhərdə bitirmişdir. O, 2011-ci ilin yay aylarında müddətli həqiqi hərbi xidmətə çağırılmış və xidmətini Hadrut qəsəbəsində yerləşən hərbi hissədə atıcı əsgər vəzifəsində aparmışdır. O, 2013-cü ildə ordu sıralarından tərxis olunduqdan sonra Yerevan şəhərinə qayıtmış və ailə üzvləri ilə birlikdə yaşamışdır. O, Yerevanda olduğu müddətdə müxtəlif kafe və restoranlarda aşpaz işləmişdir. O, Təqsirləndirilən şəxs1lə Yerevan şəhərində tanış olmuşdur. Onların ilk tanışlığı "Facebook" sosial şəbəkə vasitəsi ilə olmuşdur. Bundan sonra onun Təqsirləndirilən şəxs1lə dostluq münasibətləri yaranmış və onlar mütəmadi olaraq görüşmüşlər. 27 sentyabr 2020-ci il tarixdə Dağlıq Qarabağda hərbi əməliyyatlar başladıqdan bir gün sonra isə Təqsirləndirilən şəxs1 ona zəng edərək döyüşlərdə iştirak etmək istəyi barədə maraqlanmışdır. O da torpaqları qorumaq üçün döyüşməyə razı olduğunu bildirmişdir. 29 sentyabr 2020-ci il tarixdə Təqsirləndirilən şəxs1lə döyüşlərdə iştirak etmək məqsədilə yola çıxmaq üçün onlar görüşmüşlər. Orada Təqsirləndirilən şəxs1 ona MTX-nin Artak adlı əməkdaşı ilə bir ilə yaxın müddətdir ki, əməkdaşlıq etdiyini, sonuncunun tapşırığı əsasında döyüşlərə qatılacağını və orada olan zaman Azərbaycan ordusunun yerləşmə mövqeləri, əsgər sayı, texnika sayları və sair məlumatları MTX-ə göndərəcəyini bildirmiş, Artak adlı MTX-nin əməkdaşına həmin bölgəyə birlikdə gedəcəkləri barədə xəbər verdiyini, Artak tərəfindən ona da bu işləri görmək təklifinin olduğunu bildirmişdir. O, isə Ermənistan tərəfinin xeyrinə olacaq hər bir işə əl atacağını Təqsirləndirilən şəxs1 bildirərək həm döyüşlərdə iştirak edəcəyini, həm də Azərbaycan ordusu barədə məlumatları toplayıb Artaka ötürəcəyini bildirmişdir. Bu məqsədlə, o, həmin gün Təqsirləndirilən şəxs1lə sonuncunun idarə etdiyi "Nissan" markalı avtomobillə döyüş bölgəsinə getmək qərarına gəlmişdir. Onlar əvvəlcədən Yerevanda yerləşən hərbi geyim mağazasından aldıkları hərbi geyim formasını da özlərilə götürüb Yerevan şəhərindən Gorus şəhərini keçərək Laçın dəhlizi vasitəsilə Stepanakert şəhərinə getmişlər və orada olan hərbi qulluqçularla görüşərək döyüşlərdə iştirak etmək istədiklərini bildirmişlər. Hərbçilər isə torpaqları qorumaq üçün Azərbaycan əsgərlərinə qarşı döyüşəcək hər bir şəxsi qəbul etdiklərini bildirib onları Xocavənd rayonu ətrafında olan döyüş bölgələrinə aparmışlar. Orada onu və Təqsirləndirilən şəxs1 "AK74" tipli avtomat silahları ilə silahlandırmışlar. Həmçinin onların silahlanmalarında qumbara, partlayıcı maddələr, minalar və müxtəlif döyüş sursatları olmuşdur. Bundan sonra onlar digər silahlılarla birlikdə ən yaxın döyüş mövqələrinə gedərək Azərbaycan hərbiçilərinə qarşı avtomat tipli silahlardan istifadə edərək döyüşlərdə iştirak etmişlər. Təqsirləndirilən şəxs1 orada hətta snayper tipli silahdan da qarşı tərəfə atəş açmışdır. Orada olan zaman o, Təqsirləndirilən şəxs1lə birlikdə Azərbaycan silahlı qüvvələrinin yerləşmə nöqtələri, təxmini əsgər sayı, texnika növü barədə məlumatları toplayıb mütəmadi olaraq Ermənistan Respublikası Milli Təhlükəsizlik Xidmətinin Artak adlı əməkdaşına göndərmişlər. Artak isə onlara yeni tapşırıqlar verərək göndərdikləri məlumatlarla bağlı dəqiqləşdirmələr aparmağı, Azərbaycan mövqələrində olan əsgərlərin yer dəyişməsi olduqda isə dərhal xəbər vermələrini tapşırılmışdır. Onlar bir müddət döyüşlərdə olduqdan sonra o, Təqsirləndirilən şəxs1lə birlikdə yenidən Yerevan şəhərinə qayıdaraq Artak ilə görüşüb Azərbaycan ordusu barədə topladıqları ətraflı materialları təqdim etmişlər. Artak isə belə davam etmələrini, Təqsirləndirilən şəxs1 həqiqi hərbi xidmətdə kəşfiyyat bölüyündə xidmət etdiyini bildiyini, mümkün olduğu halda Azərbaycan tərəfinin yerləşdiyi ərazilərə daha yaxından gizli şəkildə yaxınlaşaraq məlumatları toplayıb ötürməyi yenidən tapşırılmışdır. Növbəti dəfə o, Təqsirləndirilən şəxs1lə birlikdə MTX-nin Artak adlı əməkdaşının tapşırığı əsasında həmin ilin oktyabr ayında yenidən Dağlıq Qarabağa döyüşlərdə iştirak etmək və Azərbaycan ordusu barədə məlumatlar toplamaq üçün yola düşmüşlər. Bu dəfə isə onlar Xocavənd rayonunun Çartar qəsəbəsinin yaxınlığında döyüşlərə qatılmışlar. Gecə döyüşlərin intensivliyi bir qədər azaldığı vaxt o və Təqsirləndirilən şəxs1 meşəlik ərazilərdən keçərək Azərbaycan mövqələrinə yaxınlaşmışlar. Təqsirləndirilən şəxs1 kəşfiyyat bölüyündə xidmət edən zaman düşməndən gizlənmək üçün öyrəndiyi müxtəlif üsullardan istifadə edərək Azərbaycan mövqələrinə mümkün olan qədər yaxınlaşaraq foto və video çəkiliş

aparmış, hətta ərazinin geolokasiyasını da Artaka göndərmişdir. Artak isə onların yaxşı iş gördüklərini bildirərək onları tərifləmiş və əsgər sayını dəqiq müəyyən etdikdən sonra səhər açılmamış öz mövqələrinə qayıtmağı tapşırılmışdır. Onlar da Artakın tapşırığı əsasında müşahidə edərək təxminən 24-27 nəfər Azərbaycan hərbiçisi saydıqdan sonra məlumatı Artaka ötürüb geri çəkilməmişlər. Döyüş əməliyyatlarının başladığı gündən başa çatanadək o, Təqsirləndirilən şəxs1la birlikdə dəfələrlə Ermənistan Qarabağda döyüş əməliyyatları aparılan ərazilərə gedərək döyüşlərdə iştirak etmiş və Azərbaycan ordusu barədə məlumatları toplayıb MTX-nin əməkdaşı Artaka vermişdir. Ümumən onlar olduqları bölgələrdə döyüşlərdə iştirak edən zaman bir neçə şəkil çəkdirmişlər və sonradan həmin şəkilləri Təqsirləndirilən şəxs1 “Facebook” sosial şəbəkəsində olan “Təqsirləndirilən şəxs1” adlı profilində paylaşmışdır. O, avtomat ilə şəkil çəkdirməkdən ehtiyatlandığı üçün şəkil çəkdirən zaman silahını kənara qoymuşdur. 10 noyabr 2020-ci il tarixdə gecə saatlarında Azərbaycan Respublikası, Ermənistan və Rusiya döyüş əməliyyatlarının dayandırılması barədə sənəd imzaladıqdan sonra, 10 noyabr 2020-ci il tarixdə, saat təxminən 10:00-11:00 radələrində Təqsirləndirilən şəxs1 ona zəng edərək Milli Təhlükəsizlik Xidmətinin Artak adlı əməkdaşının Yerevanın mərkəzində yerləşən restoranda görüş təyin etdiyini bildirmişdir. Onlar da təxminən saat 12:00-da deyilən yerdə Ermənistan Respublikası MTX-nin əməkdaşı Artak ilə görüşmüşlər. Görüş zamanı Artak Şuşa şəhəri və həmin şəhərin ətraf ərazisini dəqiq Azərbaycanlılar tərəfindən işğaldan azad edilib-edilməməsini müəyyən etmək, müsbət halda orada yerləşdirilmiş Azərbaycan hərbiçilərinin sayını, ağır texnikaların olub-olmamasını, onların sayını və növünü, yerləşmə mövqələrini və bu kimi digər məlumatları həmin zaman Rusiya Sülhməramlılarının nəzarət etdiyi Laçın dəhlizindən Stepanakert şəhərində qalan ermənilərə kömək etmək adı ilə pərdələnmək üçün Şuşa şəhərinin ərazisinə gizli şəkildə daxil olmalarını və oradan məlumat toplayıb göndərmələrini tapşırılmışdır. Onlar da toplayacaqları məlumatların Ermənistanın xeyrinə istifadə ediləcəyini, Şuşa şəhərini Azərbaycanlılardan almaq istədiklərini bildirərək Artakın tapşırığını icra edəcəkləri barədə razılıq vermişlər. 11 noyabr 2020-ci il tarixdə o, Təqsirləndirilən şəxs1la birlikdə səhər saatlarında avtomobil ilə ilk əvvəl Gorus şəhərinə, oradan isə Stepanakert şəhərində qalan ermənilərə kömək etmək adı altında mülki geyimdə sülhməramlıların yanından keçərək Laçın dəhlizinə daxil olub Şuşa şəhəri istiqamətində hərəkət etməyə başlamışlar. Şuşa şəhərinə təxminən bir kilometr qalmış onlar yol ayırıcısından əvvəlcədən fikirləşdikləri kimi Stepanakert şəhərinə gedən yola deyil, Şuşa şəhərinə gedən yola dönmüşlər və Azərbaycan ordusu tərəfindən nəzarət olunan Şuşa şəhərinin ərazisinə daxil olmuşlar. Onlar yolun yaxınlığında avtomobili saxlayaraq piyada, diqqət çəkmədən Şuşa şəhəri istiqamətində getmişlər. Onlar yol boyu görünən Azərbaycan mövqələri barədə məlumat toplamağa başlamışlar, Şuşa şəhərinə isə daxil olmağa çalışarkən Azərbaycan əsgərləri ilə rastlaşmışlar. Azərbaycan əsgərləri onlardan kim olduqları və Şuşa şəhərinin yaxınlığında nə işlə məşğul olduqları barədə maraqlanmışlar. Onlar isə həyəcanlanaraq verilən suallara cavab verə bilməmişlər. Onlar hərəkətlərinin şübhəli olması və Azərbaycan ordusu tərəfindən nəzarət edilən əraziyə qanunsuz daxil olmaları səbəbindən saxlanılmışlar.

Məhkəmə istintaqında şahid qismində dindirilmiş Şahid2 ifadəsində göstərmişdir ki, o, 11 noyabr 2020-ci il tarixdə səhər saatlarında hərbiçiyə yoldaşı Şahid1 ilə birlikdə Şuşa şəhəri ətrafında Azərbaycan Respublikası Silahlı Qüvvələrinin nəzarətində olan ərazilərdə xidmət apararkən yolun kənarı ilə 2 nəfər şəxsin Şuşa şəhəri istiqamətində hərəkət etdiyini görmüşlər. O, həmin şəxslərin Azərbaycan Respublikası Silahlı Qüvvələrinin yeni yaradılan mövqələrinin yaxınlığında dayanaraq müşahidə və bir-biriləri ilə müzakirə apardıqlarını görmüşdür. Bu zaman onlar qərar vermişlər ki, həmin şəxslərə yaxınlaşıb kim olduqları, Azərbaycan Respublikası Silahlı Qüvvələrinin nəzarətində olan ərazilərə nə məqsədlə gəldikləri, eləcə də hansı səbəbdən müşahidə aparmaları barədə maraqlansınlar. Onlar uzaqdan həmin şəxslərə səs-lənərək yerlərində dayanmalarını tələb etmişlər. Həmin şəxslər əvvəlcə gizlənmək üçün cəhd göstərmişlər, lakin sonradan onların yaxınlıqda olduqlarını görüb gözləmişlər. O, hərbiçiyə yoldaşı ilə birlikdə həmin şəxslərə yaxınlaşıb sonunculardan özlərini təqdim etməyi bildirmişdir. Lakin həmin 2 nəfər şəxs

onları başa düşməyib rus dilində danışaraq “что” sözünü işlətməmişlər. Bu səbəbdən də onlar həmin 2 nəfər şəxsə rus dilində müraciət edərək bir daha özlərini təqdim etmələrini tələb etmişlər. Həmin şəxslərdən biri onlara şəxsiyyət vəsiqəsini, digəri isə pasportunu təqdim etmişdir. Onlar sənədlərə baxan zaman həmin iki şəxsin Ermənistan Respublikasının vətəndaşları Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 olmalarını müəyyən etmişlər. Onlar həmin şəxslərdən nə üçün Şuşa şəhəri ətrafında Azərbaycan Respublikası Silahlı Qüvvələrinin nəzarətində olan ərazilərinə daxil olmaları, yeni qurulan mövqeləri hansı səbəbdən müşahidə etmələri barədə maraqlanmışlar. Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 isə onların suallarına məntiqli bir cavab verə bilməyib həyəcanlanaraq özlərini müdafiə etməyə başlamışlar. Həmin 2 (iki) nəfər şəxs Azərbaycan Respublikası Silahlı Qüvvələrinin mövqelərini nə üçün müşahidə etmələri barədə suala isə ümumiyyətlə cavab verməkdən yayınmışlar. Onlar qeyd edilən iki şəxsin özlərini şübhəli apardıqlarını, nəzarət olunan ərazilərə qanunsuz daxil olmalarını, mövqelərə müşahidə etdiklərini nəzərə alıb Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 saxlamışlar. Sonra isə həmin şəxslər barəsində araşdırma aparılması üçün sonuncular aidiyyəti qurumlara təhvil verilmişlər.

Şahid1 məhkəmə istintaqında elan edilib araşdırılmış ifadəsində göstərmişdir ki, o, 11 noyabr 2020-ci il tarixdə səhər saatlarında hərbi yoldaşı Şahid2 ilə birlikdə Şuşa şəhəri ətrafında Azərbaycan Respublikası Silahlı Qüvvələrinin nəzarətində olan ərazilərdə xidmət apararkən yolun kənarı ilə 2 nəfər şəxsin Şuşa şəhəri istiqamətində hərəkət etdiyinin şahidi olmuşdur. O, həmin şəxslərin Azərbaycan Respublikası Silahlı Qüvvələrinin yeni yaradılan mövqelərinin yaxınlığında dayanaraq müşahidə və bir-biriləri ilə müzakirə apardıqlarını görmüşdür. Bu zaman onlar qərar vermişlər ki, həmin şəxslərə yaxınlaşıb kim olduqları, Azərbaycan Respublikası Silahlı Qüvvələrinin nəzarətində olan ərazilərə nə məqsədlə gəldikləri, eləcə də hansı səbəbdən müşahidə aparmaları barədə maraqlansınlar. Onlar uzaqdan həmin şəxslərə səs-lənərək yerlərində dayanmalarını bildirmişlər. Həmin şəxslər isə əvvəlcə gizlənmək üçün cəhd göstərsələr də, sonradan onların yaxınlıqda olduqlarını görüb gözləmişlər. O, hərbi yoldaşı ilə birlikdə həmin şəxslərə yaxınlaşıb sonunculardan özlərini təqdim etməyi bildirmişdir. Lakin həmin 2 nəfər şəxs onları başa düşməyib rus dilində danışaraq “что” sözünü işlətməmişlər. Bu səbəbdən də onlar həmin 2 nəfər şəxsə rus dilində müraciət edərək bir daha özlərini təqdim etmələrini tələb etmişlər. Həmin şəxslərdən biri onlara şəxsiyyət vəsiqəsini, digəri isə pasportunu təqdim etmişdir. Onlar sənədlərə baxan zaman həmin iki şəxsin şəxsiyyətləri Ermənistan Respublikasının vətəndaşları Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 kimi müəyyən edilmişdir. Onlar həmin şəxslərdən nə üçün Şuşa şəhəri ətrafında Azərbaycan Respublikası Silahlı Qüvvələrinin nəzarətində olan ərazilərinə daxil olmaları, yeni qurulan mövqeləri hansı səbəbdən müşahidə etmələri barədə maraqlanmışlar. Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 isə onların suallarına məntiqli bir cavab verə bilməyib həyəcanlanaraq özlərini müdafiə etməyə başlamışlar. Həmin 2 nəfər şəxs Azərbaycan Respublikası Silahlı Qüvvələrinin mövqelərini nə üçün müşahidə etmələri barədə suala isə ümumiyyətlə cavab verməkdən yayınmışlar. Onlar qeyd edilən iki şəxsin özlərini şübhəli apardıqlarını, nəzarət olunan ərazilərə qanunsuz daxil olmalarını, mövqelərə müşahidə etdiklərini nəzərə alıb Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 saxlamışlar. Sonra isə həmin şəxslər barəsində araşdırma aparılması üçün sonuncular aidiyyəti qurumlara təhvil verilmişlər.

Cinayət işində olan 17 mart 2021-ci il tarixli Azərbaycan Respublikası Dövlət Təhlükəsizliyi Xidmətinin məktubundan və ona əlavə edilmiş diskdən (cild 1, iş vərəqə 8-9) görünür ki, Ermənistan Respublikasının vətəndaşı Təqsirləndirilən şəxs1 2020-ci ilin sentyabr-noyabr aylarında Dağlıq Qarabağda Azərbaycan Respublikası Silahlı Qüvvələrinə qarşı döyüş əməliyyatlarında iştirak etmiş və 11 noyabr 2020-ci il tarixdə Şuşa şəhəri ətrafında Azərbaycan Respublikası Silahlı Qüvvələrinin nəzarəti altında olan ərazilərdə saxlanılmışdır.

Cinayət işində olan 17 mart 2021-ci il tarixli Azərbaycan Respublikası Dövlət Təhlükəsizliyi Xidmətinin məktubundan (cild 1, iş vərəqə 10) görünür ki, Ermənistan

Respublikasının vətəndaşı Təqsirləndirilən şəxs2 2020-ci ilin sentyabr-noyabr aylarında Dağlıq Qarabağda Azərbaycan Respublikası Silahlı Qüvvələrinə qarşı döyüş əməliyyatlarında iştirak etmiş və 11 noyabr 2020-ci il tarixdə Şuşa şəhəri ətrafında Azərbaycan Respublikası Silahlı Qüvvələrinin nəzarəti altında olan ərazilərdə saxlanılmışdır.

Cinayət işində olan 17 mart 2021-ci il tarixli sosial şəbəkəyə baxış keçirilməsi barədə protokoldan və ona əlavə edilmiş diskdən (cild 1, iş vərəqə 18-22) görünür ki, Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 dağlıq ərazidə fərqli hərbi geyim formalarında "Avtomat", "Snayper" tipli silahlarla, o cümlədən "Smerç" tipli raketlə fotosəkillər çəkirmişlər və həmin fotosəkillər Təqsirləndirilən şəxs1 məxsus "Təqsirləndirilən şəxs1" adı altında "Facebook" sosial şəbəkəsində qeydiyyatdan keçirilmiş səhifəyə Təqsirləndirilən şəxs1 tərəfindən yerləşdirilmişdir.

Cinayət işində olan 19 mart 2021-ci il tarixli qərardan (cild 1, iş vərəqə 129-130) görünür ki, Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 Azərbaycan Respublikasının işğal olunmuş ərazilərində Azərbaycan Respublikası Silahlı Qüvvələrinə qarşı hərbi əməliyyatlarda iştirak etdiklərinə dair əhəmiyyətli materialların toplanılması, qeyd edilən şəxslərdən başqa həmin birləşmələrdə iştirak etmiş digər şəxslərin şəxsiyyətlərinin, eləcə də Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 xarici xüsusi xidmət orqanları ilə əlaqələrinin olub-olmamasının müəyyən edilməsi istiqamətində kompleks əməliyyat-axtarış tədbirlərinin həyata keçirilməsi qərara alınmışdır.

Cinayət işində olan 29 mart 2021-ci il tarixli Azərbaycan Respublikası Dövlət Təhlükəsizliyi Xidmətinin məktubundan (cild 1, iş vərəqə 132) görünür ki, Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 2019-2020-ci illərdə Ermənistan Respublikasının xüsusi xidmət orqanı olan Milli Təhlükəsizlik Xidməti tərəfindən məxfi əməkdaşlığa cəlb olunmuşlar, 2020-ci ilin sentyabr ayının 27-də Azərbaycan Respublikası Silahlı Qüvvələri tərəfindən Dağlıq Qarabağ və ətraf rayonlarda həyata keçirilən əks-hücum əməliyyatları zamanı Ermənistan Respublikasının MTX-nin tapşırığına əsasən döyüşlərdə iştirak etmək, eləcə də Azərbaycan Respublikasının təhlükəsizliyi zərərinə isitfadə olunması məqsədilə məlumatların toplanılması üçün döyüş əməliyyatlarının aparıldığı bölgələrə göndərilmişlər və döyüş aparılan mövqələrdə olan zaman Azərbaycan Respublikası Silahlı Qüvvələrinin bölmələrinin yerləşmə əraziləri, şəxsi heyəti, silahlanması, döyüş və digər texnikası, eləcə də Azərbaycan Respublikasının təhlükəsizliyi zərərinə istifadə oluna biləcək digər məlumatları toplayaraq Ermənistan Respublikasının MTX-yə vermişlər.

Cinayət işində olan 04 may 2021-ci il tarixli Azərbaycan Respublikası Səhiyyə Nazirliyi "Məhkəmə Psixiatrik Ekspertiza Mərkəzi" X13 956 sayılı rəyindən (cild 1, iş vərəqə 229-230) görünür ki, Təqsirləndirilən şəxs1 anlaqlı hesab edilmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 21-ci maddəsinin təsiri altına düşmür, təsvir edilən cinayət əməllərini törədərkən əməlinin faktiki xarakterini və ictimai təhlükəliyini tam dərk etməməsinə və ya idarə edə bilməməsinə səbəb olan hər hansı psixi pozuntu keçirməmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 22-ci maddəsinin təsiri altına düşmür.

Cinayət işində olan 04 may 2021-ci il tarixli Azərbaycan Respublikası Səhiyyə Nazirliyi "Məhkəmə Psixiatrik Ekspertiza Mərkəzi" X13 957 sayılı rəyindən (cild 1, iş vərəqə 231-232) görünür ki, Təqsirləndirilən şəxs2 anlaqlı hesab edilir, Azərbaycan Respublikası Cinayət Məcəlləsinin 21-ci maddəsinin təsiri altına düşmür, təsvir edilən cinayət əməllərini törədərkən əməlinin faktiki xarakterini və ictimai təhlükəliyini tam dərk etməməsinə və ya idarə edə bilməməsinə səbəb olan hər hansı psixi pozuntu keçirməmiş, Azərbaycan Respublikası Cinayət Məcəlləsinin 22-ci maddəsinin təsiri altına düşmür.

Cinayət işində olan 16 may 2021-ci il tarixli Azərbaycan Respublikası Səhiyyə Nazirliyi "Məhkəmə-Tibbi Ekspertiza və X8" X13 215/MEŞ sayılı canlı şəxsin ekspertizası rəyindən (cild 1, iş vərəqə 246-247) görünür ki, Təqsirləndirilən şəxs1 bədəni üzərində məhkəmə-tibbi müayinə zamanı hər hansı bir xəsarət və ya xəsarət izi aşkar edilməmişdir.

Cinayət işində olan 16 may 2021-ci il tarixli Azərbaycan Respublikası Səhiyyə Nazirliyi "Məhkəmə-Tibbi Ekspertiza və X8" X13 216/MEŞ sayılı canlı şəxsin ekspertizası rəyindən (cild 1, iş vərəqə 243-244) görünür ki, Təqsirləndirilən şəxs2 bədəni üzərində

məhkəmə-tibbi müayinə zamanı hər hansı bir xəsarət və ya xəsarət izi aşkar edilməmişdir.

Cinayət işində olan 01 iyun 2021-ci il tarixli Azərbaycan Respublikası Ədliyyə Nazirliyi Məhkəmə Ekspertizası Mərkəzinin 3/915 nömrəli məhkəmə-portret ekspertizası barədə rəyindən (cild 1, iş vərəqə 255-261) görünür ki, tədqiqata təqdim olunmuş fotoşəkillərdə müqayisəli material qismində təqdim edilmiş Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 eksperimental fotoşəkillərində eyni şəxslər əks olunmuşdur.

Birinci instansiya məhkəməsində araşdırılmış mötəbər və obyektiv sübutlar əsasında müəyyən edilmişdir ki, Ermənistan Respublikasının xüsusi xidmət orqanı olan Milli Təhlükəsizlik Xidməti tərəfindən məxfi əməkdaşlığa cəlb olunmuş Ermənistan Respublikasının vətəndaşları olan Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 həmin orqanın nümayəndələrinin tapşırığı ilə 2020-ci ilin sentyabr ayının sonlarından etibarən qabaqcadan əlbir olan bir qrup şəxs halında Ermənistan Respublikasının Sünik vilayətinin Gorus şəhəri istiqamətindən Azərbaycan Respublikasının dövlət sərhədini qanunsuz olaraq keçərək Azərbaycan Respublikası ərazisinə qanunsuz şəkildə daxil olmuşlar.

Bundan başqa, Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 qanunsuz olaraq odlu silah, onun komplekt hissələrini, döyüş sursatı, partlayıcı maddələr və qurğuları əldə edib, saxlayıb, daşıyıb və gəzdirməklə Azərbaycan Respublikası ərazisində Azərbaycan Respublikasının qanunvericiliyi ilə nəzərdə tutulmayan silahlı birləşmələrin fəaliyyətində iştirak etmişlər. Onlar döyüş əməliyyatlarının aparıldığı bölgələrdə vətəndaşları olduğu Ermənistan Respublikasının xüsusi xidmət orqanının nümayəndəsi olan Artak adlı şəxsdən aldıkları tapşırıqlara əsasən Azərbaycan Respublikasının təhlükəsizliyi zərərinə olaraq istifadə etmək üçün məlumatlar toplamışlar, habelə həmin tapşırıqların icrası ilə bağlı Azərbaycan Respublikası Silahlı Qüvvələrinin bölmələrinin yerləşmə əraziləri, şəxsi heyəti, silahlanması, döyüş və digər texnikası və təminatı, habelə Azərbaycan Respublikasının təhlükəsizliyi zərərinə olaraq istifadə oluna biləcək digər məlumatları əldə etmək məqsədi ilə 11 noyabr 2020-ci il tarixdə Laçın dəhlizindən Şuşa şəhəri istiqamətində Azərbaycan Respublikası Silahlı Qüvvələrinin nəzarəti altında olan ərazilərə keçmişlər və Azərbaycan Respublikasının Silahlı Qüvvələri bölmələrinin hərbi qulluqçuları tərəfindən aşkarlanaraq saxlanılmışlar. Qeyd edilən hallar cinayət işinin mübahisəsiz hallarıdır.

Qeyd edilən halları məcmu halda nəzərə alaraq, məhkəmə belə nəticəyə gəlmişdir ki, Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 törətmiş olduqları əməllərdə Azərbaycan Respublikası Cinayət Məcəlləsinin 228.2.1, 276, 279.1 və 318.2-ci maddələrində nəzərdə tutulmuş cinayət əməllərinin bütün zəruri tərkib əlamətləri mövcuddur.

Birinci instansiya məhkəməsi bu nəticəyə gələrkən həmçinin qeyd etmişdir ki, təqsirləndirilən şəxslər məhkəmə istintaqında özlərini qismən, yeni Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə təqsirli bilsələr də, digər ittihamlar üzrə özlərini təqsirli bilməyərək Cinayət Məcəlləsinin 228.2.1, 276 və 279.1-ci maddələrində nəzərdə tutulmuş cinayət əməllərini törətmələrini inkar etmişlər. Halbuki təqsirləndirilən şəxslər ibtidai istintaq zamanı geniş məzmunlu ifadə verərək törətdikləri cinayət əməllərinin mexanizmini və üsulunu, cinayət əməllərinin törədilmə vaxtını, qabaqcadan əlbir bir qrup şəxs halında cinayət törətmələri ilə bağlı əldə etdikləri razılığın mahiyyətini, tutulmamışdan əvvəl Azərbaycan Respublikası ərazisinə qanunsuz şəkildə Laçın dəhlizi vasitəsi ilə daxil olduqlarını, bir-biriləri ilə əvvəlcədən tanış olduqlarını, dəfələrlə birlikdə Azərbaycan Respublikası ərazisinə qanunsuz şəkildə keçdiklərini və orada Azərbaycan Respublikası Silahlı Qüvvələrinə qarşı silahdan istifadə etməklə döyüşdüklerini, Ermənistan Respublikasının xüsusi xidmət orqanı olan Milli Təhlükəsizlik Xidmətinin Artak adlı nümayəndəsindən dəfələrlə aldıkları tapşırıqlara əsasən Azərbaycan Respublikasının təhlükəsizliyi zərərinə olaraq istifadə etmək üçün məlumatlar topladıqlarını, habelə həmin tapşırıqların icrası ilə bağlı Azərbaycan Respublikası Silahlı Qüvvələrinin bölmələrinin yerləşmə əraziləri, şəxsi heyəti, silahlanması, döyüş və digər texnikası və təminatı, eyni zamanda Azərbaycan Respublikasının təhlükəsizliyi zərərinə olaraq istifadə oluna biləcək digər məlumatları əldə edib Artak adlı şəxsə göndərdiklərini, eləcə də Şuşa şəhəri ətrafında Azərbaycan Respublikası Silahlı Qüvvələrinin hərbiçiləri

tərəfindən tutulduqlarını ətraflı şəkildə göstərmişlər. Bu səbəbdən də məhkəmə hesab edir ki, təqsirləndirilən şəxslərin məhz ibtiddi istintaq zamanı vermiş olduqları ifadələr mötəbər sübut kimi qəbul edilərək qiymətləndirilməlidir.

Azərbaycan Respublikası Cinayət Prosesual Məcəlləsinin 144-cü maddəsinə əsasən cinayət təqibi üzrə toplanmış sübutlar tam, hərtərəfli və obyektiv yoxlanılmalıdır. Yoxlama zamanı cinayət təqibi üzrə toplanmış sübutlar təhlil olunur və bir-biri ilə müqayisə edilir, yeni sübutlar toplanır, əldə olunmuş sübutların mənbəyinin mötəbərliyi müəyyənləşdirilir.

Azərbaycan Respublikası Cinayət Prosesual Məcəlləsinin 145-ci maddəsinə əsasən hər bir sübut mənsubiyyəti, mümkünlüyü, mötəbərliyi üzrə qiymətləndirilməlidir. Cinayət təqibi üzrə toplanmış bütün sübutların məcmusuna isə ittihamın həlli üçün onların kifayət etməsinə əsasən qiymət verilməlidir. Təhqiqatçı, müstəntiq, prokuror, hakim və ya andlı iclasçılar qanunu və vicdanını rəhbər tutaraq sübutların məcmusunun hərtərəfli, tam və obyektiv baxılmasına əsaslanmaqla öz daxili inamına görə sübutları qiymətləndirirlər.

Məhkəmə kollegiyası birinci instansiya məhkəməsində tədqiq edilmiş sübutların məcmusuna əsasən belə yekun nəticəyə gəlir ki, Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.2.1, 276, 279.1 və 318.2-ci maddələri ilə nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli olması, düzgün, qanuni və əsaslı olaraq müəyyən edilmiş və həmin hal cinayət işinin materialları ilə hazırda məhkəmə kollegiyasının iclasında da Azərbaycan Respublikası Cinayət- Prosesual Məcəlləsinin 125, 143-146-cı maddələrinin tələblərinə uyğun olaraq, toplanmış sübutları bir-birilə ilə müqayisəli şəkildə tam, hərtərəfli və obyektiv təhlil edib qiymətləndirməklə bir daha öz təsdiqini tapmışdır.

Cinayət işinin apellyasiya baxışı zamanı Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 barələrində bəraətin əsaslarını nəzərdə tutan Azərbaycan Respublikası Cinayət Prosesual Məcəlləsinin 42-ci maddəsində göstərilən hallar müəyyən edilmədiyindən, onlara bəraət verilə bilməz, bu barədə apellyasiya şikayətlərinin dəlilləri subyektiv mülahizələr üzərində qurulmaqla cinayət məsuliyyətini və cəzasını yüngülləşdirmək cəhdi daşıyır.

Məhkəmə kollegiyası apellyasiya şikayətlərinin dəlillərinə münasibətdə həmçinin qeyd edir ki, heç bir sübut, o cümlədən təqsirləndirilən şəxsin özünü müdafiə xarakterli ifadələri məhkəmə üçün preyardisial əhəmiyyətə malik deyil və alınma mənbəyindən, növündən asılı olmayaraq hər bir sübut hərtərəfli, tam və obyektiv yoxlanılmalı, iş üzrə toplanmış digər sübutlarla müqayisəli şəkildə qiymətləndirilməlidir. Hazırki iş üzrə də işə baxan birinci instansiya məhkəməsinin sübut kimi qəbul edib istinad etdiyi hallar işin faktiki hallarına uyğundur və inandırıcıdır.

Bundan başqa, ibtiddi istintaq zamanı və birinci instansiya məhkəməsinin məhkəmə istintaqı zamanı cinayət işi üzrə hər hansı bir qanun pozuntusuna yol verilməsi, məhkəmənin gəldiyi nəticələr işin faktiki hallarına uyğun olmaması, iş üçün əhəmiyyətli olan hallar sübuta yetirilməməsi, cinayət qanunu normalarının düzgün tətbiq edilməməsi iş materialları ilə müəyyən edilməmişdir.

Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 barələrində seçilmiş cəza tədbiri məsələsinə gəldikdə, məhkəmə kollegiyasının qənaətinə görə və hökmdən görüldüyü kimi, birinci instansiya məhkəməsi bu məsələnin həlli zamanı Azərbaycan Respublikası Cinayət Məcəlləsinin 58.3-cü maddəsinin tələblərinə riayət etməklə onların törətdikləri cinayətin xarakterini, ictimai təhlükəlilik dərəcəsini, şəxsiyyətlərini, cəzalarını yüngülləşdirən halların olmasını, ağırlaşdıran halların olmamasını, habelə təyin olunan cəzanın onların islah olunmasına və ailələrinin həyat şəraitinə təsirini kifayət qədər nəzərə almış və onlara təqsirli bilinib məhkum olunduqları maddələrin sanksiyasında nəzərdə tutulmuş növdə və həddində ədalətli cəza təyin etmişdir.

Məhkəmə kollegiyası qeyd edir ki, Azərbaycan Respublikası Cinayət Məcəlləsinin 58.3-cü maddəsinə görə cəza təyin edilərkən törədilmiş cinayətin xarakteri və ictimai təhlükəlilik dərəcəsi, təqsirkarın şəxsiyyəti, o cümlədən cəzanı yüngülləşdirən və ağırlaşdıran hallar, habelə təyin olunmuş cəzanın şəxsin islah olunmasına və onun

ailəsinin həyat şəraitinə təsiri nəzərə alınır.

Azərbaycan Respublikası Ali Məhkəməsi Plenumunun "Məhkəmələr tərəfindən cinayət cəzalarının təyin edilməsi təcrübəsi haqqında" 25 iyun 2003-cü il tarixli, 4 sayılı qərarında məhkəmələrə tövsiyə olunur ki, hər bir konkret halda təqsirləndirilən şəxslərə təyin edilən cinayət cəzası Azərbaycan Respublikası Cinayət Məcəlləsinin 8-ci maddəsinə müvafiq olaraq cinayətin törədilməsi şəraitinə, təqsirkarın şəxsiyyətinə uyğun olmaqla ədalətli olmalıdır.

Azərbaycan Respublikası Cinayət Məcəlləsinin 8.1-ci maddəsinə görə cinayət törətmiş şəxs haqqında tətbiq edilən cəza və ya digər cinayət-hüquqi xarakterli tədbirlər ədalətli olmalıdır, yeni cinayətin xarakterinə və ictimai-təhlükəlilik dərəcəsinə, onun törədilməsi hallarına və cinayət törətməkdə təqsirli bilinən şəxsin şəxsiyyətinə uyğun olmalıdır.

Həmin Məcəllənin 41.2-ci maddəsinə görə cəza sosial ədalətin bərpası, məhkumun islah edilməsi və həm məhkumlar, həm də başqa şəxslər tərəfindən yeni cinayətlərin törədilməsinin qarşısını almaq məqsədi ilə tətbiq edilir.

Mübahisələndirilən hökmdən görünür ki, birinci instansiya məhkəməsi Təqsirləndirilən şəxs1 evli və himayəsində 1 azyaşlı uşağının olmasını, eləcə də onların cavan olmasını hər birinə nisbətə cəzanı yüngülləşdirici hallar kimi nəzərə almış, onun və Təqsirləndirilən şəxs2 cəzalarını ağırlaşdıran halları, habelə Təqsirləndirilən şəxs2 cəzasını yüngülləşdirən halları müəyyən etməmişdir.

Məhkəmə kollegiyası onu da qeyd edir ki, birinci instansiya məhkəməsi Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 barələrində iş üzrə mühüm əhəmiyyət kəsb edən digər halları da cəza təyini zamanı nəzərə almaqla əsaslandıraraq, onların şəxsiyyətinə və cinayətin ağırlığına uyğun, təqsirli bilindiği maddələrin sanksiyası həddində azadlıqdan məhrum etmə cəzası təyin etmiş, onların barəsində təyin edilmiş cəzanın yüngülləşdirilməsi üçün zəruri əsaslar mövcud olmamışdır.

Qeyd olunanlara əsasən məhkəmə kollegiyası hesab edir ki, apellyasiya şikayətləri təmin olunmamalı, iş üzrə Bakı Ağır Cinayətlər Məhkəməsinin 28 iyul 2021-ci il tarixli hökmü qanuni, əsaslı və ədalətli olduğundan dəyişdirilmədən saxlanılmalıdır.

Göstərilənlərə əsasən və Azərbaycan Respublikası Cinayət Prosesual Məcəlləsinin 397.1, 397.2, 398.1.1 və 407.2-ci maddələrini rəhbər tutaraq, məhkəmə kollegiyası

q ə r a r a a l ı r :

Məhkum edilmiş şəxslər Təqsirləndirilən şəxs1 müdafiəçisi Müdafiəçi1 və Təqsirləndirilən şəxs2 müdafiəçisi Müdafiəçi2 tərəfindən verilmiş apellyasiya şikayətləri təmin edilməsin.

Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 Azərbaycan Respublikası Cinayət Məcəlləsinin 228.2.1, 276, 279.1 və 318.2-ci maddələri ilə məhkum olunmalarına dair Bakı Ağır Cinayətlər Məhkəməsinin 28 iyul 2021-ci il tarixli, 1(101)-1390/2021 nömrəli hökmü verilmiş apellyasiya şikayətlərinə münasibətdə dəyişdirilmədən saxlanılsın.

Qərar elan edildiyi andan dərhal sonra qanuni qüvvəyə minir.

Qərardan Azərbaycan Respublikası Cinayət Prosesual Məcəlləsinin 410-cu maddəsində göstərilən müddətlərdə, Azərbaycan Respublikası Ali Məhkəməsinə kassasiya şikayəti və ya kassasiya protesti verilə bilər.

Sədrlik edən: Qədim Babayev

Hakimlər: Əli Seyfəliyev

Rəşad Abdulov

Annex 32

Baku Court of Appeal, Appeal Decision No. 1(103)-1600/2021 (2 December 2021)
(certified translation from Azerbaijani)



[COAT OF ARMS OF THE REPUBLIC OF AZERBAIJAN]

RESOLUTION

on behalf of the Republic of Azerbaijan

Baku city

File No. 1(103)-1600/2021

12.02.2021

BAKU COURT OF APPEAL

At a public trial session that took place in the building of the Baku Court of Appeal, the panel of judges consisting of

Judges – Babayev Gadim Khalid oglu (chairman and rapporteur), Seyfaliyev Ali Salim oglu and Abdulov Rashad Maharram oglu,

with the participation of

the court session secretary – X16,

Public prosecutor – Prosecutor X9 of the Unit of Public Prosecution in Courts of Appeal under the Department of Public Prosecution of the General Prosecutor Administration of the Republic of Azerbaijan;

Sentenced Defendant2 and his Defence Lawyers 2n oglu and Defence Lawyer15,
X1,

Defendant1, born in the Zuygaghbyur village of the Shirak province of the Republic of Armenia on xx xxxx, 1983, a citizen of the Republic of Armenia, without previous criminal background, married, with two minor children, higher education, residing at 27, 8th street, Zuygaghbyur village, Shiraki Province, Republic of Armenia; currently held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan;

Defendant2, born in the Gyumri city of the Republic of Armenia on xx xxxxxx, 1992, a citizen of the Republic of Armenia, married, with one minor child, higher education, individual businessman, without previous criminal background, residing at 118 Isakyan street, Gyumri city, Shirak province, Republic of Armenia; currently held in custody at the Baku Investigatory Isolation Ward of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan.

reviewed the statement of appeal submitted by Sentenced Defendant1's defence lawyers - Defence Lawyer1 and Sentenced Defendant2's defence lawyer Defence Lawyer2 requesting to revoke resolution No. 1(101)-1204/2021 of the Baku Court for Grave Crimes dated July 2, 2021 on sentencing the following persons under article 318.2 of the Criminal Code of the Republic of Azerbaijan, and abating their criminal persecution for violation of articles 214.2.1, 214.2.3, 228.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan:

IT HAS BEEN IDENTIFIED:

By ruling of the Baku Court for Grave Crimes (chaired by judge X33 oglu, with the participation of judges X5 and X17) dated July 2, 2021, the Defendant1 was found guilty of committing criminal offences under article 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentenced to 4 (four) years in prison. He must serve his prison sentence in a general regime penal colony and the actual term of prison sentence was counted from December 13, 2020. The detention order in regards to Defendant1 remained unchanged until the court decision has taken effect. Criminal prosecution for violation of articles 214.2.1, 214.2.3, 228.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan was abated.

the Defendant2 was found guilty of committing criminal offences under article 318.2 of the Criminal Code of the Republic of Azerbaijan, and sentenced to 4 (four) years in prison. He must serve his prison sentence in a general regime penal colony and the actual term of prison sentence was counted from December 13, 2020. The detention order in regards to Defendant1 remained unchanged until the court decision has taken effect. Criminal prosecution for violation of articles 214.2.1, 214.2.3, 228.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan was abated.

Also by ruling, Defendant3, Defendant4n, Defendant5, Defendant6, Defendant7n, Defendant8, Defendant9, Defendant10n, Defendant11, Defendant12, Defendant13n and Defendant14n were sentenced as they were found guilty under article 318.2 of the Criminal Code of the Republic of Azerbaijan. Criminal prosecution for violation of articles 214.2.1, 214.2.3, 228.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan was abated. Besides, information was provided to the relevant authorities under articles 207 and 208 of the Code of Criminal Procedure of the Republic of Azerbaijan in respect of instituting a criminal proceeding against officers of the military and political institutions of the Republic of Armenia.

The court of the first instance adopted this ruling in respect of Defendant1 as it was found that the Defendant1 illegally crossed the state border of the Republic of Azerbaijan as a member of a pre-formed organized group.

In particular, he, together with the citizens of the Republic of Armenia – Defendant2 and others, illegally and without any relevant documents crossed the state border of the Republic of Azerbaijan outside of state border control check points on November 27, 2020 and came to the mountainous and forested area in the north-western part of the Hadrut settlement of the Khodjavand district of the Republic of Azerbaijan where he stayed until December 13, 2020.

Defendant2 illegally crossed the state border of the Republic of Azerbaijan as a member of a pre-formed organized group.

In particular, he, together with the citizens of the Republic of Armenia – Defendant1 and others illegally and without any relevant documents crossed the state border of the Republic of Azerbaijan outside of state border control check points on November 27, 2020 and came to the mountainous and forested area in the north-western part of the Hadrut settlement of the Khodjavand district of the Republic of Azerbaijan where he stayed until December 13, 2020.

The defence lawyer Defence Lawyer1 defending the defendant Defendant1 submitted an appeal against the resolution of the Baku Court for Grave Crimes dated July 2, 2021, and – as evidences were not given a correct legal interpretation and there was no element of a crime in the actions of Defendant1 – requested for revocation of the resolution, adoption of a judgment of acquittal in respect of Defendant1 and dismissal of the case.

The appeal was reasoned by the fact that Defendant1 did not commit a crime under article 318.2 of the Criminal Code of the Republic of Azerbaijan he was charged under. According to the disposition of this article, an action may be considered a crime if a person crosses the state border of the Republic of Azerbaijan illegally and without any relevant documents outside of the state border control check points. However, it was fully proven during the court examination that they entered the territory of Azerbaijan by crossing the Lachin district of the Republic of Azerbaijan. According to the Declaration of November 10, 2020, peace-making forces of the Russian Federation are positioned in the so-called Lachin Corridor section of the Azerbaijan-Armenia border. It was irrefutably proven during the court examination that G.S. Serobyay and others crossed the state border of Azerbaijan from the area where the peace-making forces were positioned and not outside of the state border control check points, and had the peace-makers' permission to do so. Accordingly, there is no need to prove that in their actions there was no element of a crime of illegal crossing of the state border. Thus, a judgment of acquittal shall be adopted in respect of Defendant1 as in his actions there was no element of a crime under article 318.2 of the Criminal Code of the Republic of Azerbaijan.

The defence lawyers Defence Lawyer2 defending the defendant Defendant2 submitted an appeal in regards to the ruling of the Baku Court for Grave Crimes dated July 2, 2021 and – as his client did not commit the crime he was charged with and [crossed the border] from the area where Russian peace-making forces were positioned – requested for revocation of the resolution and adoption of a judgment of acquittal in respect of Defendant2.

The public prosecutor did not protest the appeal.

At a sitting of the panel of judges, the sentenced Defendant1 and his defence lawyer Defence Lawyer1 requested for allowing the appeal, revocation of the resolution and adoption of a judgment of acquittal in respect of Defendant1.

At a sitting of the panel of judges, the sentenced Defendant1 and his defence lawyers Defence Lawyer2n oglu and Defence Lawyer15 requested for allowing the appeal, revocation of the resolution and adoption of a judgment of acquittal in respect of Defendant2.

Public prosecutor X26 in his speech at the sitting of the panel of judges stated that the appeal was unsubstantiated and requested for the court ruling to be upheld as lawful and substantiated.

Although notifications were provided in the manner envisioned by the law, other sentenced persons did not submit their appeals and did not apply for participation in the sitting of the panel of judges.

Following a review of the criminal case materials, discussion of the arguments provided in the appeals and taking notes from the public prosecutor, sentenced persons and their defence layers, the panel of judges has found that the appeals must be dismissed as unsubstantiated and resolution of the Baku Court for Grave Crimes dated July 2, 2021 must be upheld and the section concerning the Defendant1 and the Defendant2 must remain unchanged in regards to the submitted appeals.

According to article 397.1 of the Code of Criminal Procedure of the Republic of Azerbaijan, the court of appeal shall verify that the court of first instance accurately established the facts of the case and applied the provisions of criminal law and of this Code.

According to article 397.2 of the Code of Criminal Procedure of the Republic of Azerbaijan, the facts established by the court of first instance shall be verified by the court of appeal only within the limits of the complaint or appeal. The first instance court's compliance with the provisions of the criminal law and of this Code shall be verified by the court of appeal regardless of the evidence for the complaint or appeal.

The panel of judges has found that the appeals requesting for adoption of a judgment of acquittal in respect of Defendant 1 and Defendant2 were unsubstantiated for the following reasons.

It is stated in the resolution of the Plenary Session of the Constitutional Court of the Republic of Azerbaijan dated March 17, 2011 "On interpretation of Article 244.1 of the Criminal Code of the Republic of Azerbaijan" that interpretation of a crime provides for establishment of compliance between elements of a specific criminal act and constituent signs provided in a disposition of a criminal legal norm, and represents an assessment, based on the criminal law norms, of an action that is reflected in relevant procedural documents and has criminal and legal consequences. The interpretation of a crime is of a high social and legal importance. In regards to the fulfilment of duties envisioned by the Criminal Code, the interpretation is an important logical process performed by the relevant officials authorized to apply the criminal law and, in the end, provides for a legal assessment to a specific social event or human behaviour that is dangerous for the society. In the first place, it demands for a comprehensive analysis of the actual circumstances of the case, an accurate selection of the legal norms and interpretation of their contents.

The Defendant1 did not plead guilty of his actions and testified to the court of the first instance that he received the call-up papers on September 27, 2020 but did not report to the authorities. He then received a call on November 1, 2020 and was told that he would be sentenced to 8 to 10 years in prison if he did not come to the military registration and enlistment office. So he went there and reported to the authorities. Ghukasyan travelled from his district to the Lachin district by bus. There were two big minibuses. He did not know that the Lachin district was in the territory of the Republic of Azerbaijan. He is a citizen of the Republic of Armenia, a tractor driver and does not know the state border very well. They were to stay on duty in Lachin for 15 days. They were provided with fire arms when they were in the Gyumri city. He only had the assault rifle and 4 cartridges. When the Russian peace-makers in the Lachin district saw that they were armed, they stopped them but eventually let them go. X37 was the commander. He first met him in Gyumri city. The last time he saw of him was when Arsen Ghazaryan had them board the Ural vehicles to go to their destination. They were told that they would stay there on duty for 14-16 days and would then be allowed to return home. They were told that they would not have to fire as the Russian troops were positioned in front of them, and Azerbaijani Army was behind [the Russian troops] and would not move on them. They stayed in the ravines and in the forest and did not do anything. There were 30 of them and he was the commander. It was foggy and they could not see any villages or residential settlements, so they did not know which district they were in. They were approximately 10-15 km away from Lachin. Arsen Ghazaryan called on December 13, 2020, asking them "to come to the side of the road so that they could take them home". But when they came to the side of the road, there was nobody there except for soldiers of the Army of Azerbaijan who captured them. Azerbaijani soldiers treated them well and did not exert any pressure. He stayed in the same place from November 28, 2020 through December 13, 2020 and did not hear any sounds of firefights or shots during that period. He does not consider himself guilty because no one told him that that was the territory of the Republic of Azerbaijan. He would not go there if he knew.

The Defendant2 did not plead guilty of his actions and testified to the court of the first instance that he had been called up to the military registration and enlistment office on November 27, 2020. They were taken to the battalion positioned in the Gyumri city. There were 3 buses. They were provided with fire arms and had their signatures put against each fire arm number. They were told that Artur Muradyan was the battalion commander and Arsen Ghazaryan was the chief of staff. While on the road, they were told that they are going to the Lachin district. As it was night time they slept in cars. Early in the morning they were brought to a crossroad where they made some small shopping. There were Russian soldiers there and after that he did not see the battalion commander or the chief of staff again. Arsen Ghazaryan was a lieutenant colonel. They were seated in two

Ural vehicles and were taken to a location some 3-4 km away. As they turned off the asphalt road, there were Russian peace-makers. Arsen Ghazaryan who was in the lead car spoke to the Russian peace-makers for a few minutes and continued on their way. The roads were very bad and in a few places the vehicles had to make back-and-forth manoeuvres to pass. After the road ended, they climbed a mountain on foot. He remembers that place well and there was a narrow ditch nearby. He does not know exactly how many kilometres they walked uphill. They saw Armenian soldiers serving there and replaced them. Arsen Ghazaryan told him that there was no military post and they came there for observation. He said that Russian troops were in front of them and behind them were Azerbaijani soldiers. They told them that they would soon bring in other servants to replace them and left. That was a top of a mountain with no people around and they stayed there for 13-14 days heating themselves by the fireplace and cooking the foods they had with them. Arsen Ghazaryan told them on the phone that they would be replaced on December 12. The phone signal was very poor, and then he called them again telling that he would be there tomorrow. Next morning he called and asked them to come down to the road and there would be someone waiting for them. As they came down to the side of the road they were captured by Azerbaijani soldiers. He regrets that he made an illegal border crossing.

Witness1 testified at a sitting of the court of the first instance that after the war had ended as Armenia signed the surrender document on November 10, 2020, it was reported that there were terrorist and diversionist groups in the areas liberated from the Armenian occupation. In particular, it was reported that in November-December 2020, a group of armed Armenian terrorists illegally crossed the border of the Republic of Azerbaijan in the mountainous part of the Lachin district for the purposes of committing acts of terror and sabotage against the citizens in the territory of the Republic of Azerbaijan, and later positioned themselves in the mountainous and forested areas and high in the mountains of the north-western part of the Hadrut settlement and near Alican and Hadrut settlements. These Armenian terrorists attacked a base station of Azerbaijani mobile operators in the Hadrut settlement and several citizens and military servants of the Republic of Azerbaijan were killed as a result of attack. The military unit where Witness1 served was alerted on December 12, 2020 that an anti-terrorist operation was going to be carried out. It was reported that a group of armed Armenian terrorists committed acts of terrorism and sabotage in the territory of the Republic of Azerbaijan. In compliance with the alert, he and other staff members were dispatched to the Hadrut settlement of the Khodjavand district on the same day to carry out the anti-terrorist operation. After they were positioned in the Hadrut settlement, they started carrying out the anti-terrorist operation in order to identify the location of the Armenian terrorists. In particular, the search for Armenian terrorists continued in the direction of the Domu village of the Khodjavand district. As a result of the Hadrut operations, the armed Armenian group was located near the Alican village. After their precise location was identified, an operation plan was developed to render terrorists harmless. After they stayed in the Domu village for a day, they advanced into the area where Armenian terrorists were positioned and saw more than 60 armed terrorists near the Alican village situated between the Lachin and Khodjavand districts. They ordered the Armenian terrorist to ground their arms and surrender and as the terrorists realized that resistance was useless they surrendered without resistance. As a result of the anti-terrorist operation, a total of 62 Armenian terrorists were detained and their combat ammunition, including automated rifles and cartridges, were confiscated. The detained Armenian soldiers along with the confiscated combat ammunition were handed over to the relevant authorities and were held criminally liable. One day later, they have continued their anti-terrorist operation in the area and started searching for Armenian terrorists in the hiding around villages of the Khodjavand district. As a result, two more armed Armenian terrorists – Argan Unanyan and David Vosganyan – were detained in the mountainous and forested area of the Caylaqqala village of the Khodjavand district as the operation moved in the direction of the Lachin district. These two persons along with the confiscated combat ammunition were also handed over to the relevant authorities and were held criminally liable.

At a sitting of the court of the first instance, Witness2 made an identical testimony to that of Witness1 and confirmed his testimony.

According to the reference No. 2/7963 of the Head Department II of the State Security Service dated December 16, 2020, which can be found on sheets 8-14 of Volume 1 of the criminal case, after a ceasefire regime was announced in accordance with the joint declaration signed by the Presidents of the Republic of Azerbaijan and the Russian Federation, and the Prime Minister of the Republic of Armenia, on November 10, 2020, certain terrorist and diversionist groups illegally crossed the border from Armenia and occupied combat positions in the north-western forested areas of the Hadrut settlement of the Khodjavand district of the Republic of Azerbaijan. In this regard, the authorities of the Republic of Azerbaijan provided conditions for withdrawal of armed Armenian formations from the area, while military servants of the Russian peace-making forces made air tours of the area in extreme weather conditions and used loudspeakers to call on Armenian armed forces to withdraw from the area. However, although due measures were taken to evacuate Armenian soldiers from the area, Armenian armed forces kept hiding in the forests and did not leave. Instead, they built combat positions and committed terrorist and diversionist activities against civil service officers and military servants of the Republic of Azerbaijan in the area. In consideration of the above-mentioned, the State Security Service carried out an anti-terrorist operation in the area on December 13, 2020, and detained 62 Armenian terrorists who were in the hiding. Besides, two more Armenian terrorists – X35 and X29 were detained as a result of continuing anti-terrorist operation on December 14.

According to the review protocol dated December 22, 2020, which can be found on sheets 125-128 of Vol. 1 of the criminal case, X13's profile page has been found at "https://www.facebook.com/profile.php?id=*****03625". The user's profile picture as of December 22, 2020 features a person wearing the Armenian army military uniform, with a black-and-white lion picture in the background. This picture was shared by the user at 21:54 on December 20, 2020. The user was identified as X10, born in the Gyumri city of the Republic of Armenia on August 5, 1982, a citizen of the Republic of Armenia, registered at 8-1 24 31 31/13, 2 Mush street, Gyumri city.

According to the photo recognition protocol dated December 23, 2020, which can be found on sheets 136-144 of Vol. 1 of the criminal case, the Defendant1 and the Defendant2 recognized X21 in the photo that had been presented to them.

It follows from reference No. 2/7992 of the Head Department II of the State Security Service dated February 10, 2021, which can be found on sheets 153-156 of Vol. 4 of the criminal case, that members of the armed group of Armenians who were detained as a result of the anti-terrorist operation carried out by the State Security Service had been led by Arsen Ghazaryan and illegally entered the Lachin district of the Republic of Azerbaijan from Armenia. From Lachin they came to the Khodjavand district and occupied positions in the mountainous and forested areas of the north-western part of Hadrut settlement. The armed groups of Armenians positioned in those areas were led by the Defendant1 and the Defendant2. Armenian militants arrived and positioned themselves in those areas for the purposes of carrying out terrorist and sabotage activities against civilians and military servants of the Republic of Azerbaijan.

According to the review protocol dated April 14, 2021, which can be found on sheets 288-289 of Vol. 3 of the criminal case, a video depicting 62 armed Armenians who were detained as a result of operational search activities of the State Security Service on December 13, 2020, can be found on youtube. These persons were identified as the ones sentenced under this case.

According to the resolution which can be found on sheets 299-304 of Vol. 3 of the criminal case, 51 AKM assault rifles, 6 cartridges of 7.62 mm calibre for experimental shooting, and 144 cartridge cases used for experimental shooting were all recognized as material evidence and submitted for consignment storage to the fire arms and ammunition storage of the Logistical Support Department of the State Security Service of the Republic of Azerbaijan.

According to the letter HP-02/24 of the Military Prosecutor Administration of the Republic of Azerbaijan dated January 7, 2021, which can be found on sheets 324-430 of Vol. 3 of the criminal case, 3 crimes committed by armed Armenian groups against military servants and civilians of Azerbaijan were registered after November 10, 2020. In this regard, 3 criminal proceedings – No. D-49150, D49152 and D-49159 were instituted in accordance with the Criminal Code of the Republic of Azerbaijan and investigation under these criminal cases is still in progress. The scene of the crime was examined under all three criminal cases. 5 automatic rifles of 7.62 mm calibre and 2 PM-type gun cartridge cases were found under case D-49150; 8 cartridge cases of 5.45 and 7.62 mm calibre were found under case D49152; and 4 cartridge cases of 5.45 mm calibre were found under case D-49159. All of these items were transferred for examination to the Ballistic and Trace Examinations Unit of the Forensic Examination centre of the Ministry of Justice of the Republic of Azerbaijan.

It follows from the letter 5HP-05/436 dated April 22, 2021, and copies of the documents attached thereto, which were sent to the Military Prosecutor Administration of the Republic of Azerbaijan and can be found on sheets 1-100 of Vol. 4 of the criminal case, that preliminary investigation under criminal cases D-49150, D-49152 and D-49159 is currently underway at the Special Investigations Unit of the Military Prosecutor Administration of the Republic of Azerbaijan. It follows from copies of the documents attached thereto that on November 26, 2020, the Fuzuli Military Prosecutor Administration instituted a criminal proceeding under articles 120.2.1, 120.2.7, 120.2.12, 29, 120.2.1, 29, 120.2.7 and 29, 120.2.12 of the Criminal Code of the Republic of Azerbaijan in regards to the intentional homicide of junior sergeant X32, junior sergeant X18 and sergeant X11, and attempted intentional homicide of soldier X27, sergeant X23 and soldier X19, who all served in the military unit No. N, by several members of illegal military groups formed by Armenian separatists out of national animosity and hostility, and whose identities and the exact number are unknown to the investigation at this point. Besides, on December 7, 2020, the Fuzuli Military Prosecutor Administration instituted a criminal proceeding under articles 29, 120.2.1, 29, 120.2.7 and 29, 120.2.12 of the Criminal Code of the Republic of Azerbaijan in regards to the case of causing physical injuries to soldier X34 and soldier X20 of the military unit No. N, as a result of explosion of anti-personnel mines placed by members of illegal military groups formed by Armenian separatists out of national animosity and hostility, whose identities are unknown to the investigation. Besides, on December 28, 2020, the Fuzuli Military Prosecutor Administration instituted a criminal proceeding under articles 120.2.1, 120.2.7, 120.2.12, 29, 120.2.1, 29, 120.2.7 and 29, 120.2.12 of the Criminal Code of the Republic of Azerbaijan in regards to fatal shooting of soldier X6 and non-fatal shooting of soldier X12 of the military unit No. N, by military servants of illegal military groups formed by Armenian separatists out of national animosity and hostility. Thus, although the war had been ended with the signing of the surrender document by the Republic of Armenia on the basis of the joint declaration signed by the Presidents of the Republic of Azerbaijan and the Russian Federation, and the Prime Minister of the Republic of Armenia, on November 10, 2020, certain Armenian terrorist and sabotage groups illegally crossed the border from Armenia to the Republic of Azerbaijan and committed certain crimes as a result of terrorist and sabotage operations.

According to the conclusion of the forensic ballistic examination No. 3/307; 3/308 dated April 15, 2021; which can be found on sheets 190-298 of Vol. 3 of the criminal case; the 7.62mm

calibre AKM rifle No. BK 9861 dating from 1964 and marked with the number 1; the 7.62mm calibre AKM rifle No. QE 478 dating from 1970 and marked with the number 2; the 7.62mm calibre AKM rifle No. 138400 dating from 1974 and marked with the number 3; the 7.62mm calibre AKM rifle No. IB 9115 dating from 1968 and marked with the number 4; the 7.62mm calibre AKM rifle No. HB 6474 dating from 1967 and marked with the number 5; the 7.62mm calibre AKM rifle No. EE 9182 dating from 1967 and marked with the number 6; the 7.62mm calibre AKM rifle No. VT 5798 dating from 1960 and marked with the number 7; the 7.62mm calibre AKM rifle No. LB 3610 dating from 1961 and marked with the number 8; the 7.62mm calibre AKM rifle No. HP 1893 dating from 1970 and marked with the number 9; the 7.62mm calibre AKM rifle No. IT 4590 dating from 1967 and marked with the number 10; the 7.62mm calibre AKM rifle No. PH 8807 dating from 1964 and marked with the number 11; the 7.62mm [sic; should be 7.62] calibre AKM rifle No. 808270 dating from 1974 and marked with the number 12; the 7.62mm calibre AKM rifle No. LU 6287 dating from 1967 and marked with the number 13; the 7.62mm calibre AKM rifle No. SHB 1808 dating from 1961 and marked with the number 14; the 7.62mm calibre AKM rifle No. EP 0276 dating from 1964 and marked with the number 15; the 7.62mm calibre AKM rifle No. XQ 1861 dating from 1960 and marked with the number 16; the 7.62mm calibre AKM rifle No. EP 6913 dating from 1969 and marked with the number 17; the 7.62mm calibre AKM rifle No. KU 735 dating from 1966 and marked with the number 18; the 7.62mm calibre AKM rifle No. HP 5620 dating from 1966 and marked with the number 19; the 7.62mm calibre AKM rifle No. AA 8238 dating from 1968 and marked with the number 20; the 7.62mm calibre AKM rifle No. OL 9894 dating from 1968 and marked with the number 21; the 7.62mm calibre AKM rifle No. OL 9940 dating from 1968 and marked with the number 22; the 7.62mm calibre AKM rifle No. PC 1709 dating from 1962 and marked with the number 23; the 7.62mm calibre AKM rifle No. EP 2590 dating from 1969 and marked with the number 24; the 7.62mm calibre AKM rifle No. LI 7190 dating from 1967 and marked with the number 25; the 7.62mm calibre AKM rifle No. KT 353 dating from 1970 and marked with the number 26; the 7.62mm calibre AKM rifle No. KM 2148 dating from 1964 and marked with the number 27; the 7.62mm calibre AKM rifle No. HC 1630 dating from 1961 and marked with the number 28; the 7.62mm calibre AKM rifle No. AE 8030 dating from 1961 and marked with the number 29; the 7.62mm calibre AKM rifle No. KSH 9419 dating from 1964 and marked with the number 30; the 7.62mm calibre AKM rifle No. BE 648 dating from 1968 and marked with the number 31; the 7.62mm calibre AKM rifle No. QA 6467 dating from 1964 and marked with the number 32; the 7.62mm calibre AKM rifle No. HP 4836 dating from 1961 and marked with the number 33; the 7.62mm calibre AKM rifle No. OT 7193 dating from 1965 and marked with the number 34; the 7.62mm calibre AKM rifle No. AH 4456 dating from 1960 and marked with the number 35; the 7.62mm calibre AKM rifle No. AP 3792 dating from 1970 and marked with the number 36; the 7.62mm calibre AKM rifle No. AO 9591 dating from 1970 and marked with the number 37; the 7.62mm calibre AKM rifle No. TB 7920 dating from 1972 and marked with the number 38; the 7.62mm calibre AKM rifle No. 00747 dating from 1968 and marked with the number 39; the 7.62mm calibre AKM rifle No. NO 388 dating from 1969 and marked with the number 40; the 7.62mm calibre AKM rifle No. OL 8992 dating from 1968 and marked with the number 41; the 7.62mm calibre AKM rifle No. PX 8419 dating from 1961 and marked with the number 42; the 7.62mm calibre AKM rifle No. AC 285 dating from 1967 and marked with the number 43; the 7.62mm calibre AKM rifle No. LN 045 dating from 1971 and marked with the number 44; the 7.62mm calibre AKM rifle No. UB 509 dating from 1972 and marked with the

number 45; the 7.62mm calibre AKM rifle No. ZSH 4821 dating from 1960 and marked with the number 46; the 7.62mm calibre AKM rifle No. UA 3731 dating from 1964 and marked with the number 48; the 7.62mm calibre AKM rifle No. HA 3331 dating from 1970 and marked with the number 50; the 7.62mm calibre AKM rifle No. ML 6678 dating from 1965 and marked with the number 51; were rifled automatic firearms. It was not possible to open fire from the rifles No. AH 4456 marked with the number 35, No. 00747 marked with the number 39, and No. ZŞ 4821 marked with the number 46, as those missed breech blocks which are of functional importance. For this reason, these 3 (three) rifles are unserviceable at the moment. Other weapons are suitable for operation as their parts and mechanisms are in interaction. One of the cartridge cases analysed under the criminal case D-49153 was a 7.62mm calibre factory-manufactured cartridge for use in Kalashnikov assault rifles AK (AKM, AKS, AKMS), PRK (PRKS) hand machine guns, SKS carbines and other rifled automatic firearms. As rifles No. AH 4456 marked with the number 35, No. 00747 marked with the number 39, and No. ZŞ 4821 marked with the number 46, which were also submitted for examination, missed functionally important breech blocks, they were deemed unserviceable and examination was not performed on them. The marks on the cartridges that were submitted for examination and the marks on bullets fired experimentally from 48 (forty-eight) 7.62 mm calibre AKM rifles do not match each other based on their location, form, measurements and microrelief specifications. As cartridges submitted for examination under the criminal cases D-49150 and D-49159 did not match the calibre of rifles, no examination has been carried out. Incompletely burned smokeless powder particles were found in 51 (fifty-one) 7.62mm calibre AKM assault rifles submitted for examination, which proves the fact that fire(s) had been opened from these rifles.

According to reference 2/8012 of the Head Department II of the State Security Service, dated April 30, 2021, which can be found on sheet 105 of Vol. 4 of the criminal case, the following citizens of the Republic of Armenia were swapped to the Republic of Armenia within exchange of the prisoners of war: 1. X22, born on January 14, 1989; swapped on January 28, 2021; 2. X14, born on August 9, 1973, swapped on January 28, 2021; 3. X30, born on July 4, 1977, swapped on January 28, 2021; 4. X25, born on October 1, 1975, swapped on January 28, 2021; 5. X8, born on 08.16.1979, swapped on January 28, 2021; 6. X3, born on August 2, 1999, swapped on February 9, 2021; 7. X31, born on December 26, 1998, swapped on February 9, 2021; 8. X15, born on April 13, 1998, swapped on February 9, 2021. It should therefore be taken into consideration that out of 64 Armenian terrorists who were detained as a result of the anti-terrorist operation carried out by the State Security Service, 8 persons, namely the prisoners of war X22, X14, X30, X25, X8, X3, X31 and X4, who were interrogated as witnesses at the initial stage of investigation under this criminal case have been swapped to the Republic of Azerbaijan within the procedure of exchange of prisoners of war, hostages and other detained persons.

According to article 144 of the Code of Criminal Procedure of the Republic of Azerbaijan, evidence collected for the purposes of prosecution shall be verified fully, thoroughly and objectively. As part of the verification process the items of evidence collected shall be analysed and compared with one another, new evidence shall be collected and the reliability of the source of the evidence obtained shall be established.

According to article 145 of the Code of Criminal Procedure of the Republic of Azerbaijan, all evidence shall be assessed as to its relevance, credibility and reliability. The content of all evidence collected for the purposes of prosecution shall be assessed in terms of whether it is sufficient to substantiate the charge. The preliminary investigator, investigator, prosecutor, judge and jury shall assess the evidence according to their personal conviction on the basis of a thorough, full and objective examination of its content, guided by the law and their conscience.

In his speech at the trial in the court of the first instance, the public prosecutor requested for articles 214.2.1, 214.2.3, 228.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan to be abated from the sentence awarded to the defendants and, considering that the sentenced persons were engaged in criminal activities under the pressure and influence of the military and political administration of Armenia, requested for information to be relevant authorities so that criminal proceeding could be instituted against authorized officers of these institutions in accordance with articles 207 and 208 of the Code of Criminal Procedure of the Republic of Azerbaijan.

Based on the available evidence that was analysed by the court of the first instance, the panel of judges has found that the court made a lawful, reasonable and unbiased conclusion in respect of the Defendant1 and the Defendant2 who were found guilty of committing a crime under article 318.2 of the Criminal Code of the Republic of Azerbaijan. This was proven by means of a full, thorough and unbiased comparative analysis of the criminal case materials and the available evidence as envisioned by the provisions of articles 125, 143-146 of the Code of Criminal Procedure of the Republic of Azerbaijan.

No circumstances were identified that would provide for the absence of elements of a crime in the defendants' actions, and there were no grounds for acquittal in accordance with the provisions of article 42 of the Code of Criminal Procedure of the Republic of Azerbaijan. In this regard, the substantiation of the appeal was purely subjective and represented an attempted mitigation of the punishment.

In regards to the substantiation of the appeal, the panel of judges also stated that no evidence, including testimonies made by the defendants to justify themselves, are not prejudicial for the court. At the same time, every evidence, irrespective of its source or nature, shall be fully and thoroughly examined in an unbiased manner and subjected to comparative analysis in regards to other evidence collected for the case. The circumstances referred to by the court of the first instance as the evidence for the case appear to comply with the actual circumstances and reliable.

Besides, no legal violations at the time of the preliminary investigation and court examination of the case by the court of the first instance were found and the conclusions made by the court were not found to be irrelevant to the actual circumstances of the case. No unproven circumstances which were important for the case were found and there were no cases where provisions of the criminal law were incorrectly applied.

Besides, criminal prosecution of defendants for violation of articles 214.2.1, 214.2.3, 228.3 and 279.2 of the Criminal Code of the Republic of Azerbaijan was abated and their guilt under those articles may not be a subject of an appeal.

When it comes to the punishment imposed to the Defendant1 and the Defendant2, the panel of judges has found and it is also clear from the court ruling that, guided by the provisions of article 58.3 of the Criminal Code of the Republic of Azerbaijan, the court of the first instance imposed a relevant and fair punishment and took into consideration the nature and the degree of the social danger of the crime and the personality of the convict, including any mitigating or

aggravating circumstances, and also the influence of the imposed penalty on the rehabilitation of the convicted person and on the conditions of life of his family.

The panel of judges has stated that according to article 58.3 of the Criminal Code of the Republic of Azerbaijan, in imposing punishment, the court shall take into consideration the nature and the degree of the social danger of the crime and the personality of the convict, including any mitigating or aggravating circumstances, and also the influence of the imposed penalty on the rehabilitation of the convicted person and on the conditions of life of his family.

It is recommended in resolution 4 of the "Court Experience in Awarding Criminal Punishment" advisory of the Plenary Assembly of the Supreme Court of the Republic of Azerbaijan dated June 25, 2003, that in each particular circumstances the criminal punishment awarded to the defendants should correspond to the circumstances of the offence and the personality of the guilty party, as provided for by the provisions of article 8 of the Criminal Code of the Republic of Azerbaijan.

According to article 8.1 of the Criminal Code of the Republic of Azerbaijan, punishment and other legal measures applicable to a person who has committed a criminal offence shall be just, that is, they shall correspond to the nature and degree of the social danger of the offence, the circumstances of its commission, and the personality of the guilty party.

According to article 41.2 of the Criminal Code of the Republic of Azerbaijan, punishment shall be applied for the purpose of restoring social justice, and also for the purpose of reforming a convicted person and preventing the commission of further crimes.

It was established by the panel of judges that the fact that the Defendant1 and the Defendant2 made an illegal crossing of the state border due to their military service and political subordination and the fact that they acknowledged the offence were rightfully interpreted by the court of the first instance as mitigating circumstances in accordance with the provisions of article 59.1.6 and 59.2 of the Criminal Code of the Republic of Azerbaijan. No aggravating circumstances in respect of the defendants were found.

The panel of judges has found that the court of the first instance has also taken into consideration and substantiated other important circumstances in respect of the case concerning the Defendant1 and the Defendant2 and has assigned a lawful and fair punishment to the defendants in respect of their actions and personalities, with due respect to the mitigating circumstances, the nature and the degree of social danger represented by the committed offence.

Therefore, the panel of judges has ruled that the appeals shall be dismissed and resolution of the Baku Court for Grave Crimes dated July 2, 2021 in respect of sentencing the Defendant1 and the Defendant2 under article 318.2 of the Criminal Code of the Republic of Azerbaijan shall be upheld and remain unchanged as substantiated and fair.

Based on the above-mentioned and guided by the provisions of articles 397.1, 397.2, 398.1.1 and 407.2 of the Code of Criminal Procedure of the Republic of Azerbaijan, the panel of judges

RULED:

To dismiss the appeals submitted by the Defendant1's defence lawyer Defence Lawyer1 and the Defendant2's defence lawyer Defence Lawyer2.

To uphold the resolution No. 1(101)-1204/2021 of the Baku Court for Grave Crimes dated July 2, 2021 in respect of sentencing the Defendant1, the Defendant2 and other persons under Article 318.2 of the Criminal Code of the Republic of Azerbaijan, and abating criminal prosecution for violation of articles 214.2.1, 214.2.3, 228.3 and 279.2 of the Criminal Code of the Republic of

Azerbaijan, and to keep unchanged the section concerning the Defendant1 and the Defendant2 in regards to the submitted appeals.

This resolution shall come into force from the time it has been announced.

This resolution can be appealed by means of filing a cassational appeal or a cassational protest to the Supreme Court of the Republic of Azerbaijan within the period envisioned by article 410 of the Code of Criminal Procedure of the Republic of Azerbaijan.

Chairman: Gadim Babayev

**Judges: Ali Seyfaliyev
Rashad Abdulov**



Azərbaycan Respublikası adından

QƏRAR

Bakı şəhəri

İş № 1(103)-1600/2021

02.12.2021

BAKİ APELLYASIYA MƏHKƏMƏSİ

Bakı Apellyasiya Məhkəməsinin Cinayət kollegiyası;
 Hakimlər - Babayev Qədim Xalid oğlu (sədrlik edən və məruzəçi), Seyfəliyev Əli Səlim oğlu və Abdulov Rəşad Məhərrəm oğlundan ibarət tərkibdə,
 Məhkəmə iclas katibi X16,
 Azərbaycan Respublikası Baş Prokurorluğu DİMİ-nin apellyasiya instansiyası məhkəmələrində dövlət ittihamının müdafiəsi üzrə şöbəsinin prokuroru X9,
 Məhkum edilmiş şəxs Təqsirləndirilən şəxs1 və onun müdafiəçisi Müdafiəçi1,
 Məhkum edilmiş şəxs Təqsirləndirilən şəxs2, onun müdafiəçiləri Müdafiəçi2n oğlunun və Müdafiəçi15,
 X1 iştirakları ilə,

xx xxxx 1983-cü ildə Ermənistan Respublikasının Şirak vilayəti Zuyqaxpur kəndində anadan olmuş, Ermənistan Respublikasının vətəndaşı, əvvəllər məhkum olunmamış, evli, himayəsində iki nəfər azyaşlı uşağı olan, ali təhsilli, Ermənistan Respublikasının Şiraki vilayəti Zuyqaxpur kəndi 8-ci küçə, ev 27 ünvanında qeydiyyatda olmaqla həmin ünvanda yaşayan, hazırda Penitensiar Xidmətin Bakı İstintaq Təcridxanasında həbsdə saxlanılan **Təqsirləndirilən şəxs1**,

xx xxxxxx 1992-ci ildə Ermənistan Respublikasının Şirak vilayətinin Gümrü şəhərində anadan olmuş, Ermənistan Respublikasının vətəndaşı, evli, himayəsində 1 nəfər azyaşlı uşağı olan, ali təhsilli, fərdi fəaliyyətlə məşğul olan, əvvəllər məhkum olunmamış, Ermənistan Respublikasının Şirak vilayətinin Gümrü şəhəri, İsaakyan küçəsi ev 118 ünvanında qeydiyyatda olmaqla həmin ünvanda yaşayan, hazırda Penitensiar Xidmətin Bakı İstintaq Təcridxanasında həbsdə saxlanılan **Təqsirləndirilən şəxs2**

və qeyrilərinin Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə məhkum olunmalarına, Cinayət Məcəlləsinin 214.2.1, 214.2.3, 228.3, 279.2-cü maddələri ilə bəzələrinə cinayət təqibinə xitam verilməsinə dair Bakı Ağır Cinayətlər Məhkəməsinin 02 iyul 2021-ci il tarixli, 1(101)-1204/2021 nömrəli hökmündən məhkum edilmiş şəxslər Təqsirləndirilən şəxs1 müdafiəçisi Müdafiəçi1 və Təqsirləndirilən şəxs2 müdafiəçisi

Müdafiəçi2 tərəfindən verilmiş apellyasiya şikayətlərinə əsasən işə Bakı Apellyasiya Məhkəməsinin binasında açıq məhkəmə iclasında baxaraq

m ü ə y ə n e t d i :

Bakı Ağır Cinayətlər Məhkəməsinin (hakimlər X33 oğlunun sədrliyi ilə, X5 və X17 ibarət tərkibdə) 02 iyul 2021-ci il tarixli hökmünə əsasən Təqsirləndirilən şəxs1 Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsində nəzərdə tutulan cinayət əməlini törətməkdə təqsirli bilinərək 4 (dörd) il azadlıqdan məhrum etmə cəzasına məhkum edilmiş, cəzasını ümumi rejimli cəzaçəkmə müəssisəsində çəkməklə cəza çəkmə müddətinin başlanğıcı 13 dekabr 2020-ci il tarixdən hesablanmış, barəsində seçilmiş həbs qətimkan tədbiri hökm qanuni qüvvəyə minənədək dəyişdirilmədən saxlanılmış, Azərbaycan Respublikası Cinayət Məcəlləsinin 214.2.1, 214.2.3, 228.3 və 279.2-ci maddələri ilə barəsində cinayət təqibinə xitam verilmişdir.

Təqsirləndirilən şəxs2 Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsində nəzərdə tutulan cinayət əməlini törətməkdə təqsirli bilinərək 4 (dörd) il azadlıqdan məhrum etmə cəzasına məhkum edilmiş, cəzasını ümumi rejimli cəzaçəkmə müəssisəsində çəkməklə cəzaçəkmə müddətinin başlanğıcı 13 dekabr 2020-ci il tarixdən hesablanmış, barəsində seçilmiş həbs qətimkan tədbiri hökm qanuni qüvvəyə minənədək dəyişdirilmədən saxlanılmış, Azərbaycan Respublikası Cinayət Məcəlləsinin 214.2.1, 214.2.3, 228.3 və 279.2-ci maddələri ilə barəsində cinayət təqibinə xitam verilmişdir.

Hökmə həmçinin Təqsirləndirilən şəxs3, Təqsirləndirilən şəxs4n, Təqsirləndirilən şəxs5, Təqsirləndirilən şəxs6, Təqsirləndirilən şəxs7n, Təqsirləndirilən şəxs8, Təqsirləndirilən şəxs9, Təqsirləndirilən şəxs10n, Təqsirləndirilən şəxs11, Təqsirləndirilən şəxs12, Təqsirləndirilən şəxs13n, Təqsirləndirilən şəxs14n də Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə təqsirli bilinərək məhkum olunmuşlar, Azərbaycan Respublikası Cinayət Məcəlləsinin 214.2.1, 214.2.3, 283.3 və 279-cu maddələri ilə barələrində cinayət təqibinə xitam verilmiş, habelə Ermənistan hərbi siyasi qurumların vəzifəli şəxsləri barəsində cinayət işinin başlanması barədə Azərbaycan Respublikası Cinayət Prosesual Məcəlləsinin 207 və 208-ci maddələrinə əsasən aidiyyəti qurumlara məlumat verilmişdir.

Birinci instansiya məhkəməsi həmin hökmü çıxararkən Təqsirləndirilən şəxs1 barəsində belə nəticəyə gəlmişdir ki, Təqsirləndirilən şəxs1 qabaqcadan əlbir olan bir qrup şəxs halında Azərbaycan Respublikasının dövlət sərhədini qanunsuz olaraq keçmişdir.

Belə ki, o, Ermənistan Respublikasının vətəndaşları Təqsirləndirilən şəxs2, digərləri ilə birlikdə 27 noyabr 2020-ci il tarixdə Azərbaycan Respublikasının dövlət sərhədini müvafiq sənədlər olmadan dövlət sərhədinin nəzarət-buraxılış məntəqələrindən kənarında keçməklə Azərbaycan Respublikası Xocavənd rayonunun Hadrut qəsəbəsinin şimal-qərb hissəsində dağlıq-meşəlik ərazilərinə gələrək 13 dekabr 2020-ci il tarixədək olan müddət ərzində orada qalmışdır.

Təqsirləndirilən şəxs2 qabaqcadan əlbir olan bir qrup şəxs halında Azərbaycan Respublikasının dövlət sərhədini qanunsuz olaraq keçmişdir.

Belə ki, o, Ermənistan Respublikasının vətəndaşları Təqsirləndirilən şəxs1, digərləri ilə birlikdə 27 noyabr 2020-ci il tarixdə Azərbaycan Respublikasının dövlət sərhədini müvafiq sənədlər olmadan dövlət sərhədinin nəzarət-buraxılış məntəqələrindən kənarında keçməklə Azərbaycan Respublikası Xocavənd rayonunun Hadrut qəsəbəsinin şimal-qərb hissəsində dağlıq-meşəlik ərazilərinə gələrək 13 dekabr 2020-ci il tarixədək olan müddət ərzində orada qalmışdır.

İş üzrə Bakı Ağır Cinayətlər Məhkəməsinin 02 iyul 2021-ci il tarixli hökmündən məhkum edilmiş şəxs Təqsirləndirilən şəxs1 müdafiəçisi Müdafiəçi1 apellyasiya şikayəti verərək sübutlara düzgün hüquqi qiymət verilmədiyindən və onun hərəkətlərində cinayət tərkibi olmadığından həmin hökmün ləğv edilməsinin və Təqsirləndirilən şəxs1 haqqında

bəraət hökmünün çıxarılmasını, cinayət işinə xitam verilməsi haqqında qərar qəbul edilməsini xahiş etmişdir.

Apellyasiya şikayəti onunla əsaslandırılmışdır ki, hüquqlarını müdafiə etdiyi Təqsirləndirilən şəxs1 təqsirli bilindiği Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsində nəzərdə tutulan həmin cinayəti törətməmişdir. Belə ki, həmin maddənin dispozisiyaya görə əməl o vaxt cinayət hesab edilir ki, şəxs Azərbaycan Respublikasının mühafizə olunan dövlət sərhəddini müəyyən edilmiş sənəd olmadan və ya nəzarət-buraxılış məntəqələrindən kənarında keçmiş olsun. Lakin məhkəmə baxışı zamanı tam sübuta yetirildi ki, onlar Azərbaycan Respublikasının Laçın rayonundan keçərək Azərbaycan ərazisinə daxil olmuşlar. 10 noyabr 2020-ci il bəyannaməsinə əsasən "Laçın koridoru" adlanan Azərbaycan-Ermənistan sərhəddində Rusiya Federasiyasının sülh məramlı qüvvələri dayanırlar. Məhkəmə baxışı zamanı da təkzib olunmaz qaydada sübuta yetirildi ki, G.S. Serobyana və digərləri sərhədi nəzarət- buraxılış məntəqəsindən kənarında yox, məhz həmin sülh məramlı qüvvələrin yerləşdiyi ərazidən onların razılığı ilə Azərbaycanın dövlət sərhəddini keçmişlər. Belə olan halda dövlət sərhəddini qanunsuz keçmə cinayət əməlinin tərkibinin olmamasını sübut etməyə aksioma kimi ehtiyac qalmır. Odur ki, Təqsirləndirilən şəxs1 hərəkətlərində Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsinin tərkib əlamətləri olmadığından ona həmin maddə üzrə də bəraət verilməlidir.

İş üzrə Bakı Ağır Cinayətlər Məhkəməsinin 02 iyul 2021-ci il tarixli hökmündən məhkum edilmiş şəxs Təqsirləndirilən şəxs2 müdafiəçisi Müdafiəçi2 apellyasiya şikayəti verərək hüquqlarını müdafiə etdiyi şəxsin təqsirli bilindiği maddədə nəzərdə tutulan cinayət əməlini törətmədiyini, onun Rusiya Federasiyasının sülhməramlıları yerləşdiyi ərazidən daxil olduğunu göstərərək hökmün ləğv edilməsini və barəsində bəraət hökmünün çıxarılmasını xahiş etmişdir.

Hökməndən dövlət ittihamçısı apellyasiya protesti verməmişdir.

Məhkəmə kollegiyasının iclasında məhkum edilmiş şəxs Təqsirləndirilən şəxs1 və onun müdafiəçisi Müdafiəçi1 apellyasiya şikayətinin təmin edilməsini, hökmün ləğv edilməsini, Təqsirləndirilən şəxs1 barəsində bəraət hökmünün çıxarılmasını xahiş etdilər.

Məhkəmə kollegiyasının iclasında məhkum edilmiş şəxs Təqsirləndirilən şəxs2, onun müdafiəçiləri Müdafiəçi2n oğlu və Müdafiəçi15 apellyasiya şikayətinin təmin edilməsini, hökmün ləğv edilməsini, Təqsirləndirilən şəxs2 barəsində bəraət hökmünün çıxarılmasını xahiş etdilər.

Məhkəmə kollegiyasının iclasında dövlət ittihamçısı X26 verilmiş apellyasiya şikayətlərinin dəlillərini əsassız hesab edərək təmin edilməməsini, hökmün qanuni və əsaslı olduğundan dəyişdirilmədən saxlanılmasını xahiş etdi.

Qanunla nəzərdə tutulmuş qaydada məlumat verilməsinə baxmayaraq, barələrində apellyasiya şikayəti verilməyən digər məhkum olunmuş şəxslərin məhkəmə kollegiyasının iclasında iştirak etmək barədə müraciətləri daxil olmamışdır.

Məhkəmə kollegiyası cinayət işinin materiallarını araşdırıb, verilmiş apellyasiya şikayətlərinin dəlillərini müzakirə edərək, dövlət ittihamçısının, məhkum edilmiş şəxslərin və onların müdafiəçilərinin fikirlərini dinləyərək hesab edir ki, verilmiş apellyasiya şikayətləri əsassız olduqlarından təmin edilməməli, iş üzrə Bakı Ağır Cinayətlər Məhkəməsinin 02 iyul 2021-ci il tarixli hökmü məhkum olunmuş şəxslər Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 aid hissədə verilmiş apellyasiya şikayətlərinə münasibətdə dəyişdirilmədən saxlanılmalıdır.

Belə ki, Azərbaycan Respublikası Cinayət Prosessual Məcəlləsinin 397.1-ci maddəsinə əsasən apellyasiya instansiyası məhkəməsi birinci instansiya məhkəməsi tərəfindən işin faktiki hallarının müəyyən edilməsinin, habelə cinayət qanununun və bu Məcəllənin normalarının tətbiq edilməsinin düzgünlüyünü yoxlayır.

Həmin Məcəllənin 397.2-ci maddəsinin tələbinə görə birinci instansiya məhkəməsi tərəfindən müəyyən edilmiş faktiki hallar apellyasiya instansiyası məhkəməsi tərəfindən yalnız apellyasiya şikayətinin və ya apellyasiya protestinin həddlərində yoxlanılır. Birinci instansiya məhkəməsi tərəfindən cinayət qanununa və bu Məcəllənin normalarına riayət

edilməsi apellyasiya instansiyası məhkəməsi tərəfindən apellyasiya şikayətinin və ya apellyasiya protestinin dəlillərindən asılı olmayaraq yoxlanılır.

Məhkəmə kollegiyası məhkum olunmuş şəxslər Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 bəraət verilməsi barədə apellyasiya şikayətlərinin dəlillərini aşağıdakılara əsasən əsassız hesab edir.

Azərbaycan Respublikası Konstitusiyası Məhkəməsi Plenumunun "Azərbaycan Respublikası Cinayət Məcəlləsinin 244.1-ci maddəsinin şərh edilməsinə dair" 17 mart 2011-ci il tarixli Qərarında qeyd edilmişdir ki, cinayətin tövsifi törədilən konkret cinayət əməlinin cəhətləri ilə cinayət-hüquqi normasının dispozisiyasında nəzərdə tutulan tərkib əlamətləri arasında uyğunluğu müəyyən etməklə, müvafiq prosessual sənəddə öz əksini tapan və cinayət-hüquqi nəticələrə səbəb olan əmələ verilən cinayət hüquqi qiymətdir. Cinayətin tövsifi mühüm sosial və hüquqi əhəmiyyətə malikdir. Tövsif Cinayət Məcəlləsində müəyyən edilmiş vəzifələrin yerinə yetirilməsi baxımından, cinayət qanununu tətbiq etməyə səlahiyyətli olan vəzifəli şəxslər tərəfindən həyata keçirilən mühüm məntiqi proses olub, onun yekununda konkret sosial hadisəyə, cəmiyyət üçün təhlükəli olan insan davranışına hüquqi qiymət verilir. Bu isə ilk növbədə işin faktiki hallarının hərtərəfli öyrənilməsini, cinayət hüquq normasının düzgün seçilməsini və onun məzmununun izah edilməsini tələb edir.

Birinci instansiya məhkəməsində təqsirləndirilən şəxs qismində dindirilmiş Təqsirləndirilən şəxs1 ittiham olunduğu əməllər üzrə özünü təqsirli bilməyərək ifadəsində göstərmişdir ki, 27 sentyabr 2020-ci ildə ona çağırış gəlmiş, lakin getməmişdir. 01 noyabr 2020-də zəng etmişlər ki, əgər gəlməyə 8 ildən 10 ilə qədər həbs edəcəklər. O, gedib özünü təqdim etmişdir. Qukasyan rayonundan Laçın rayonuna avtobusla getmiş, bir böyük, iki mikroavtobus olmuşdur. O, Laçının Azərbaycan Respublikasının ərazisi olduğunu bilməmişdir. O, Ermənistan Respublikasının vətəndaşı, traktor sürücüsüdür, Ermənistan sərhədlərini yaxşı bilmir. Laçında 15 gün qalıb növbə tutub qayıtmalı idilər. Gümrü şəhərində olarkən onlara silah vermişlər. Onda yalnız avtomat və 4 daraq patron olmuşdur. Rus sülhməramlıları onları Laçın rayonundan silahlı görəndə dayandırıb baxıb buraxmışlar. X37 rəhbərlik etmiş, sonuncunu ilk dəfə Gümrü şəhərində görmüş, sonuncu dəfə Arsen Qazaryanı onları Ural avtomobillərinə mindirib qalacaqları yerə aparanda görmüşdür. Onlara deyilmişdir ki, 14-16 gün orada qalıb növbətçilik edib evə qayıdacaqlar. Heç bir güllə atmayacaq, növbətçi kimi durub qayıdacaqlar, onlardan qabaqda rus ordusu var, ondan sonra isə Azərbaycan ordusu var, onlar gələ bilməz. Dərə və meşədə yatmışlar, heç nə etməmişlər 30 nəfər olmuşlar və rəhbər o, olmuşdur. Ətraf duman olmuş, kənd və ya yaşayış məntəqəsi görünməmiş, hansı rayon ərazisi olduğunu bilməmişdir. Laçından təxminən 10-15 km aralanmışlar. 13 dekabr 2020-ci ildə Arsen Qazaryan zəng edib demişdir ki, "oradan çıxın yola, sizi evə aparırıq", onlar yola gələndə heç kim olmamış, orada yalnız Azərbaycan Ordusunun əsgərləri olmuş və sonuncular onları tutmuşlar. Azərbaycan əsgərləri onlarla normal davranmış, bir təsir təzyiq etməmişlər. 28 noyabr 2020-dən 13 dekabr 2020-ci ilə kimi həmin yerdə olmuş, həmin müddətdə heç bir atışma, güllə səsi eşitməmişdir. Özümü ona görə təqsirli bilmir ki, onlara heç kim deməyib ki, həmin ərazi Azərbaycan Respublikası ərazisidir, bilsə idi, həmin əraziyə getməzdi.

Birinci instansiya məhkəməsində təqsirləndirilən şəxs qismində dindirilmiş Təqsirləndirilən şəxs2 ittiham olunduğu əməllər üzrə özünü təqsirli bilməyərək ifadəsində göstərmişdir ki, 27 noyabr 2020-də onu hərbi komissarlığa çağırıb avtobusla Gümrü şəhərində yerləşən batalyona gətirmişlər. Təxminən 3 avtobus olmuş, onlara silah paylayaraq silahların nömrəsinə görə imza etdirmişlər. Demişlər ki, batalyon komandiri Artur Muradyan, qərargah rəisi isə Arsen Qazaryandır. Yolda olarkən onları başa salmışlar ki, Laçın rayonuna gedirlər. Gecə olduğundan gecə maşınların içində yatmışlar. Səhər tezdən onları dörd yola gətirmişlər, orada bəziləri xırda alış-veriş etmişlər. Orada rus əsgərləri olmuş, həmin vaxtdan sonra batalyon rəisini və qərargah rəisini görməmişdir. Arsen Qazaryan özü polkovnik-leytenant olmuş. Onları iki "Ural" avtomobilinə otuzdurmuşlar, 3-4 km yol gedib, asfalt yoldan yeni dənədə orada rus

sülhməramlıları olmuş, qarşıda öz maşınında olan Arsen Qazaryan rus sülhməramlıları ilə bir neçə dəqiqə söhbət etdikdən sonra yollarına davam etmişlər, yollar çox bəzad olmuş, hətta bir neçə dəfə maşınları eyni yerdə 2-3 dəfə dala-qabağa gəmişdir. Yol bitdikdən sonra piyada dağa qalxmışlar, həmin yer yadıncadır, qıraqda nazik arx da olmuşdur. Yuxarı neçə km qalxdıqlarını dəqiq bilmir, orada xidmət edən erməni əsgərlərini görmüş, onlarla yerlərini dəyişmişlər, onlarla olan Arsen Qazaryan demişdir ki, burada post yoxdur, müşahidə üçün gəliblər. Onun dediyinə görə qabaqda rus əsgərli, ondan sonra isə Azərbaycan əsgərləri var idi. Demişlər ki, başqa şəxsi heyəti gətirib onları dəyişəcək və getmişlər. Ora dağ başı, insansız yer olmuş, 13-14 gün oraqda ocaq yandıraraq isinib gətirilən yeməkləri yeməklə məşğul olmuşlar. Arsen Qazaryan onlarla telefonda danışanda demişdir ki, onları 12 dekabrda dəyişəcək. Mobil telefon əlaqəsi çox pis olmuş, sonra da zəng etmişdir ki, sabah gələcək. Səhəri gün zəng etmişdir ki, aşağı yola düşsünlər, onları qarşılayacaq. Aşağı düşəndə Azərbaycan ordusunun əsgərləri onları tutmuşlar. Qanunsuz olaraq sərhəddi keçdiyinə görə əməlindən peşmandır.

Birinci instansiya məhkəməsində şahid qismində dindirilmiş Şahid1 ifadəsində göstərmişdir ki, 10 noyabr 2020-ci ildə Ermənistan kapitulyasiya aktını imzaladıqdan və müharibə bitdikdən sonra Ermənistan işğalından azad olunmuş ərazilərdə terrorçu diversantların olması barədə məlumatlar daxil olmuş, belə ki, 2020-ci ilin noyabr-dekabr aylarında bir qrup silahlı erməni terrorçusunun Azərbaycan Respublikası ərazisində və vətəndaşlara qarşı terror aktı və təxribatlar törətmək üçün Laçın rayonunun dağlıq hissəsindən Azərbaycan Respublikası sərhədini qanunsuz olaraq keçməsi, daha sonra Hadrut qəsəbəsinin şimal-qərb hissəsinin dağlıq-meşəlik ərazilərində və yüksəkliklərində silahlı basqınlar etmək üçün möhkəmlənmələri, Əlican kəndi və Hadrut qəsəbəsi yaxınlığında yerləşmələri barədə məlumatlar daxil olmuşdur. Qeyd olunan erməni terrorçuları Hadrut qəsəbəsində Azərbaycanın Mobil operatorlarına məxsus baza stansiyalarına hücum etmiş və nəticədə bir neçə Azərbaycan Respublikası vətəndaşı və hərbi qulluqçuları terrorçuların hücumuna məruz qalaraq öldürülmüşdür. 12 dekabr 2020-ci il tarixdə onun olduğu hərbi hissədə anti-terror əməliyyatlarının keçiriləcəyi ilə bağlı həyəcan signalı verilmiş və bir qrup silahlı erməni terrorçusunun Azərbaycan Respublikası ərazisində terror aktı-təxribatların törətmələri barədə məlumat verilmiş, həyəcan signalına uyğun olaraq, anti-terror əməliyyatlarının aparılması üçün o və digər əməkdaşlar həmin gün Xocavənd rayonu Hadrut qəsəbəsinə göndərilmiş, Hadrut qəsəbəsinə yerləşdikdən sonra erməni terrorçularının yerinin müəyyənləşdirilməsi üçün anti-terror əməliyyatları keçirməyə başlanılmışdır. Belə ki, olduqları ərazidə kəndlər üzrə erməni terrorçularının axtarışına Xocavənd rayonu Domu kəndi istiqamətində davam etdirilmiş, Hadrutda keçirilən əməliyyatlar nəticəsində Əlican kəndi yaxınlığında silahlı erməni qruplaşmasının yerləşdiyi müəyyənləşdirilmiş, onların yerini dəqiq müəyyənləşdirdikdən sonra terrorçuların zərərsizləşdirilməsi istiqamətində əməliyyat planı hazırlanmışdır. Domu kəndində bir gün qaldıqdan sonra həmin plana uyğun olaraq erməni terrorçularının zərərsizləşdirilməsi üçün onların möhkəmləndikləri mövqeyə irəliləmişlər, Laçın və Xocavənd rayonları arasında olan Əlican kəndi ərazisində 60 nəfərdən çox erməni silahlı terrorçusunun olduğunu görmüşlər, həmin vaxt onlara silahlarını yerə qoyub təslim olmaları təklif edilmiş, erməni terrorçular isə silahlı müqavimət göstərməyin mümkün olmadığını anlayaraq müqavimət göstərməkdən imtina etmişlər. Keçirilmiş həmin anti-terror əməliyyatı nəticəsində 62 erməni terrorçusu tərəflərindən saxlanılmış və üzərlərində olan döyüş sursatı, yəni avtomat və dolu daraqlar götürülmüş, saxlanılan erməni terrorçular məsuliyyətə cəlb olunmaları üçün onlardan götürülmüş döyüş sursatları ilə birlikdə aidiyyəti quruma təhvil verilmişdir. Bundan bir gün sonra isə onlar həmin ərazidə anti-terror əməliyyatlarını davam etdirmiş, Xocavənd rayonunda kəndlər üzrə gizlənməmiş erməni terrorçularının axtarışına başlanılmış, nəticədə Arqan Unanyan və David Vosqanyan adlı daha 2 silahlı erməni terrorçusu tərəflərindən Xocavənd rayonu Çaylaqqala kəndinin dağlıq-meşəlik ərazisində Laçın istiqamətində hərəkət edərkən saxlanılmışdır. Həmin erməni terrorçular da məsuliyyətə cəlb olunmaları üçün onlardan götürülmüş döyüş sursatları ilə birlikdə aidiyyəti quruma təhvil verilmişdir.

Birinci instansiya məhkəməsində şahid qismində dindirilmiş Şahid2 ifadəsində Şahid1 ifadəsinə uyğun ifadə verərək onun dediklərini özünə aid hissədə təsdiqləmişdir.

Cinayət işinin 1-ci cildinin 8-14-cü vərəqlərində olan Dövlət Təhlükəsizliyi Xidmətinin İl baş idarəsinin 16 dekabr 2020-ci il tarixli 2/7963 sayılı arayışından görünür ki, 10 noyabr 2020-ci il tarixdə Azərbaycan Respublikası, Rusiya Federasiyası prezidentlərinin və Ermənistan baş nazirinin imzaladığı bəyanata əsasən atəşkəsin elan olunmasından sonra bəzi erməni terrorçu-diversant dəstələri Ermənistan ərazisindən qeyri-qanuni yollarla Azərbaycan Respublikasının Xocavənd rayonunun Hadrut qəsəbəsinin şimal-qərb hissəsindəki meşəlik əraziyə gələrək döyüş mövqeləri tutmuşlar. Bununla əlaqədar, Azərbaycan Respublikası sözügedən erməni silahlı dəstələrinin ərazidən çıxarılması üçün şərait yaratmış, Rusiya sülhməramlı qüvvələrinin hərbi qulluqçuları ağır hava şəraitində həmin əraziyə gələrək səs gücləndirici vasitələrlə meşəlik ərazidə olan erməni silahlı dəstələrinə müraciət etmiş və onların ərazidən təxliyəsi üçün zəruri tədbirlərin görüldüyünü bildirmişdir. Buna baxmayaraq, meşə zolağında gizlənmiş erməni silahlı dəstələri ərazini tərk etməmiş, əksinə döyüş mövqeləri yaratmış və son günlər qeyd olunan ərazidə Azərbaycan Respublikası tərəfdən mülki xidmətləri həyata keçirən şəxslərə və hərbi qulluqçulara qarşı terror-təxribat və diversiya əməllərini törətmişlər. Göstərilənləri nəzərə alaraq, 2020-ci ilin dekabr ayının 13-də Dövlət Təhlükəsizliyi Xidməti tərəfindən ərazidə anti-terror əməliyyatı keçirilmiş, həmin ərazidə gizlənmiş 62 nəfər erməni terrorçusu ələ keçirilmişdir. Bundan başqa həmin ərazilərdə davam etdirilən antiterror əməliyyatları zamanı 2020-ci ilin dekabr ayının 14-də erməni terrorçu dəstəsinin daha 2 nəfər üzvü - X35 və X29 saxlanılmışlar.

Cinayət işinin 1-ci cildinin 125-128-ci vərəqində olan 22 dekabr 2020-ci il tarixli baxış protokollarından görünür ki, Facebook” sosial şəbəkəsində http://www.facebook.com/profile.php?id=*****03625 ünvanla qeydiyyatda alınmış “X13” istifadəçi adlı profil müəyyən edilmiş, həmin istifadəçinin 22 dekabr 2020-ci il tarixə olan profil şəklində Ermənistan ordusuna məxsus hərbi formanı geyinmiş şəxs, arxa fon şəklində isə ağ-qara rəngdə aslan şəkli təsvir olunmuş, həmin şəkil 20 dekabr 2020-ci il tarixdə saat 21:54-cü dəqiqədə istifadəçi tərəfindən paylaşılmış, şəxsin 05 avqust 1982-ci ildə Ermənistan Respublikasının Şiraki vilayətinin Gümrü şəhərində doğulmuş Ermənistan Respublikası vətəndaşı Gümrü şəhəri, Muş 2 küçəsi, 8-1 24 31 31/13-də qeydiyyatda olan X10ması müəyyən edilmişdir.

Cinayət işinin 1-ci cildinin 136-144-cü vərəqlərində olan 23 dekabr 2020-ci il tarixli fotosəkil üzrə tanınma protokollarından görünür ki, Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 onlara təqdim edilmiş fotosəkillər arasında ifadələrində qeyd etdikləri onlara rəhbərlik etmiş X21 fotosəkil üzrə tanınmışdır.

Cinayət işinin 4-cü cildinin 153-156-cı vərəqlərində olan Dövlət Təhlükəsizliyi Xidmətinin İl baş idarəsinin 10 fevral 2021-ci il tarixli 2/7992 sayılı arayışından görünür ki, 13 dekabr 2020-ci il tarixdə Dövlət Təhlükəsizliyi Xidməti tərəfindən həyata keçirilmiş antiterror əməliyyatları zamanı ələ keçirilmiş ermənilərdən ibarət silahlı dəstənin üzvləri Arsen Qazaryan adlı şəxsin başçılığı ilə 27 noyabr 2020-ci il tarixdə qanunsuz yollarla Ermənistandan Azərbaycan Respublikasının Laçın rayonuna daxil olmuş və oradan da Xocavənd rayonuna gələrək Hadrut qəsəbəsinin şimal-qərb hissəsində olan dağlıqmeşəlik ərazilərdə mövqelər tutmuşlar. Həmin mövqələrdə yerləşmiş erməni silahlılarına Təqsirləndirilən şəxs2 və Təqsirləndirilən şəxs1 başçılığı etmişdir. Erməni silahlılarının həmin mövqələrə gələrək orada yerləşmələrində məqsəd Azərbaycan Respublikasının mülki şəxslərinə və hərbi qulluqçularına qarşı terror-təxribat hərəkətləri törətmək olmuşdur.

Cinayət işinin 3-cü cildinin 288-289-cü vərəqlərində olan 14 aprel 2021-ci il tarixli baxış protokollarından görünür ki, “Youtube” sosial şəbəkəsində axtarış zamanı Dövlət Təhlükəsizliyi Xidməti tərəfindən keçirilmiş əməliyyat-axtarış tədbirləri nəticəsində 13 dekabr 2020-ci il tarixdə Azərbaycan Respublikasının Xocavənd rayonunu ərazisində 62 nəfər erməni-silahlı dəstələrinin saxlanılaraq gətirildiyini video qeydin olması və həmin şəxslərin hazırkı iş üzrə təqsirləndirilən şəxslər olduğu müəyyən edilmişdir.

Cinayət işinin 3-cü cildinin 299-304-cü vərəqlərində olan qərardan görünür ki, cinayət işi üzrə mühüm əhəmiyyət kəsb etdiyindən 51 ədəd AKM tipli avtomat silahları, eləcə də 6 ədəd 7,62 mm kalibrli eksperimental atəşlər atmaq üçün nəzərdə tutulmuş patron, 144 ədəd eksperimental atılmış patronunun gilzlərinin maddi sübut kimi tanınmış və saxlanması üçün Azərbaycan Respublikasının Dövlət Təhlükəsizliyi Xidməti Madditexniki təminat idarəsinin silah-sursat anbarında məsul saxlanışa təhvil verilmişdir.

Cinayət işinin 3-cü cildinin 324-430-cu vərəqlərində olan Azərbaycan Respublikası Hərbi Prokurorluğunun 07 yanvar 2021-ci il tarixli HP-02/24 sayılı məktubundan görünür ki, Füzuli hərbi prokurorluğunda 10 noyabr 2020-ci il tarixdən sonra erməni silahlı dəstələrinin Azərbaycan hərbi qulluqçularına və mülki şəxslərə qarşı törətdikləri cinayətlərlə bağlı 3 hadisə qeydə alınaraq Azərbaycan Respublikası Cinayət Məcəlləsinin müvafiq maddələri ilə D-49150, D49152 və D-49159 nömrəli olmaqla 3 cinayət işi başlanılmış və hazırda həmin cinayət işləri üzrə istintaq davam etdirilir. Hər üç cinayət işi üzrə hadisə yerinə baxış keçirilmiş və müvafiq olaraq D-49150 nömrəli cinayət işi üzrə hadisə yerindən 5 ədəd 7,62 mm kalibrli avtomat silahın və 2 ədəd PM markalı tapançanın gilzləri, D-49152 nömrəli cinayət işi üzrə hadisə yerindən 8 ədəd 5,45 və 7,62 mm kalibrli patronların gilzləri, D-49159 nömrəli cinayət işi üzrə hadisə yerindən 4 ədəd 5,45 mm kalibrli patronun gilzləri götürülərək sadalanan bütün predmetlər ekspertiza tədqiqatının aparılması üçün Azərbaycan Respublikası Ədliyyə Nazirliyinin Məhkəmə Ekspertiza Mərkəzinin ballistik və trsoloji ekspertizalar şöbəsinə təqdim edilmişdir.

Cinayət işinin 4-cü cildinin 1-100-cü vərəqlərində olan Azərbaycan Respublikası Hərbi Prokurorluğundan daxil olmuş 22 aprel 2021-ci il tarixli 5HP-05/436 sayılı məktubdan və ona əlavə edilmiş sənədlərin surətindən görünür ki, Respublika Hərbi Prokurorluğunun Xüsusi istintaq şöbəsində D-49150, D-49152 və D-49159 sayılı cinayət işlərinin ibtidai ibtidai istintaqı aparılır. Həmin məktuba əlavə edilmiş sənədlərin surətlərindən görünür ki, 26 noyabr 2020-ci il tarixdə Füzuli hərbi prokurorluğunda erməni separatçılarının milli ədavət və düşmənçilik niyyəti ilə yaratdıqları qanunsuz silahlı birləşmələrinin istintaqa hazırda şəxsiyyəti və dəqiq sayı məlum olmayan bir neçə üzvü tərəfindən N nömrəli hərbi hissənin hərbi qulluqçuları kiçik çavuş X32, kiçik çavuş X18 və əsgər çavuş X11 qəsdən öldürmələri, əsgər X27, çavuş X23 və əsgər X19 isə qəsdən öldürülməyə cəhd edilmələri faktı üzrə Azərbaycan Respublikası Cinayət Məcəlləsinin 120.2.1, 120.2.7, 120.2.12, 29, 120.2.1, 29, 120.2.7 və 29, 120.2.12-ci maddələri ilə cinayət işi başlanılmışdır. Bunun başqa 07 dekabr 2020-ci il tarixdə Füzuli hərbi prokurorluğunda Müdafiə Nazirliyinin N nömrəli hərbi hissəsinin hərbi qulluqçuları əsgər X34 və əsgər X20 erməni seperatçılarının milli ədavət və düşmənçilik niyyəti ilə yaratdıqları qanunsuz silahlı birləşmələrinin istintaqa məlum olmayan üzvləri tərəfindən əvvəlcədən yerləşdirilmiş piyada əleyhinə minaların partlaması nəticəsində xəsarət almaları faktına görə Azərbaycan Respublikası Cinayət Məcəlləsinin 29, 120.2.1, 29, 120.2.7 və 29, 120.2.12-ci maddələri ilə cinayət işi başlanılmışdır. Həmçinin 28 dekabr 2020-ci il tarixdə Füzuli hərbi prokurorluğunda N N-li hərbi hissənin müddətdən artıq xidmət edən hərbi qulluqçuları əsgər X6 erməni separatçılarının milli ədavət və düşmənçilik niyyəti ilə yaratdıqları qanunsuz silahlı birləşmələrinin hərbi qulluqçuları tərəfindən açılmış atəş nəticəsində öldürülməsi və çavuş X12 öldürülməyə cəhd edilməsi faktı üzrə Azərbaycan Respublikası Cinayət Məcəlləsinin 120.2.1, 120.2.7, 120.2.12, 29, 120.2.1, 29, 120.2.7 və 29, 120.2.12-ci maddələri ilə cinayət işi başlanılmışdır. Qeyd olunan faktlar bir daha onu göstərir ki, 10 noyabr 2020-ci il tarixdə Azərbaycan Respublikası, Rusiya Federasiyası prezidentlərinin və Ermənistan baş nazirinin birgə imzaladıqları bəyanata əsasən Ermənistan Respublikası kapitulyasiya aktını imzalalaması ilə müharibə qurtarmasına baxmayaraq, bəzi erməni terrorçu-diversant dəstələri Ermənistan ərazisindən qeyri-qanuni yollarla Azərbaycan Respublikasının ərazisinə keçməklə məlum terror-təxribat hərəkətləri törətməsi nəticəsində məlum cinayət hadisələri baş vermişdir.

Cinayət işinin 3-cü cildinin 190-298-ci vərəqlərində olan məhkəmə-ballistik ekspertizasının 15 aprel 2021-ci il tarixli 3/307; 3/308 nömrəli rəyinə əsasən müəyyən

edilmişdir ki, tədqiqata təqdim edilmiş "1" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « BK 9861» №-li, 1964-cü ildə istehsal edilmiş AKM markalı, "2" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « QE 478» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "3" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « 138400» №-li, 1974-cü ildə istehsal edilmiş AKM markalı, "4" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli «İB 9115» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "5" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « HB 6474» №-li, 1967-ci ildə istehsal edilmiş AKM markalı, "6" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « EE 9182» №-li, 1967-ci ildə istehsal edilmiş AKM markalı, "7" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « VT 5798» №-li, 1960-cı ildə istehsal edilmiş AKM markalı, "8" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « LB 3610» №-li, 1961-ci ildə istehsal edilmiş AKM markalı, "9" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « HP 1893» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "10" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « İT 4590» №-li, 1967-ci ildə istehsal edilmiş AKM markalı, "11" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « PH 8807» №-li, 1964-ci ildə istehsal edilmiş AKM markalı, "12" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « 808270» №-li, 1974-cü ildə istehsal edilmiş AKM markalı, "13" rəqəmlənmiş silah 7,62 mm kalibrli « LU 6287» №-li, 1967-ci ildə istehsal edilmiş AKM markalı; "14" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « ŞB 1808» №-li, 1961-ci ildə istehsal edilmiş AKM markalı, "15" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « EP 0276» №-li, 1964-cü ildə istehsal edilmiş AKM markalı, "16" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « XQ 1861» №-li, 1960-ci ildə istehsal edilmiş AKM markalı, "17" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « EP 6913» №-li, 1969-cü ildə istehsal edilmiş AKM markalı, "18" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « KU 735» №-li, 1966-cı ildə istehsal edilmiş AKM markalı, "19" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « HP 5620» №-li, 1966-cı ildə istehsal edilmiş AKM markalı, "20" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « AƏ 8238» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "21" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « OL 9894» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "22" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « OL 9940» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "23" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « PC 1709» №-li, 1962-ci ildə istehsal edilmiş AKM markalı, "24" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « EP 2590» №-li, 1969-cü ildə istehsal edilmiş AKM markalı, "25" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « Lİ 7190» №-li, 1967-ci ildə istehsal edilmiş AKM markalı, "26" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « KT 353» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "27" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « QM 2148» №-li, 1964-ci ildə istehsal edilmiş AKM markalı, "28" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « HC 1630» №-li, 1961-ci ildə istehsal edilmiş AKM markalı, "29" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « AE 8030» №-li, 1961-ci ildə istehsal edilmiş AKM markalı, "30" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « KŞ 9419» №-li, 1964-cü ildə istehsal edilmiş AKM markalı, "31" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « BE 648» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "32" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « QƏ 6467» №-li, 1964-cü ildə istehsal edilmiş AKM markalı, "33" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « HP 4836» №-li, 1961-ci ildə istehsal edilmiş AKM markalı, "34" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « OT 7193» №-li, 1965-ci ildə istehsal edilmiş AKM markalı, "35" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « AH 4456» №-li, 1960-cü ildə istehsal edilmiş AKM markalı, "36" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « AP 3792» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "37" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « ƏO 9591» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "38" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « TB 7920» №-li, 1972-ci ildə istehsal edilmiş AKM markalı, "39" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « 00747» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "40" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « NO 388» №-li, 1969-cü ildə istehsal edilmiş AKM markalı, "41" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « OL 8992» №-li, 1968-ci ildə istehsal edilmiş AKM markalı, "42" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « PX 8419» №-li, 1961-ci ildə istehsal edilmiş AKM markalı, "43" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « AC 285» №-li, 1967-ci ildə istehsal edilmiş AKM

markalı, "44" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « LN 045» №-li, 1971-ci ildə istehsal edilmiş AKM markalı, "45" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « UB 509» №-li, 1972-ci ildə istehsal edilmiş AKM markalı, "46" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « ZŞ 4821» №-li, 1960-ci ildə istehsal edilmiş AKM markalı, "47" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « İİ 2994» №-li, 1972-ci ildə istehsal edilmiş AKM markalı, "48" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « UƏ 3731» №-li, 1964-cü ildə istehsal edilmiş AKM markalı, "49" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « HP 1279» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "50" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « HA 3331» №-li, 1970-ci ildə istehsal edilmiş AKM markalı, "51" rəqəmi ilə işarələnmiş silah 7,62 mm kalibrli « ML6678» №-li, 1965-ci ildə istehsal edilmiş AKM markalı avtomatik-yivli-odlu döyüş silahlarıdır. Silahlardan "35" rəqəmi ilə işarələnmiş "AH 4456" nömrəli, "39" rəqəmi ilə işarələnmiş "00747" nömrəli və "46" rəqəmi ilə işarələnmiş "ZŞ 4821" nömrəli silahların funksional əhəmiyyət daşıyan hissəsi olan çaxmaqları yerində olmadığından, həmin silahlardan atəş açmaq mümkün olmadı. Bu səbəbdən həmin 3 (üç) ədəd silah hal hazırda təyinatı üzrə istifadəyə yararsızdılar. Digər silahların hissə və mexanizmləri qarşılıqlı əlaqəyə girir, istifadəyə (atəşə) yararlıdırlar. -Tədqiqata təqdim edilmiş D-49153 cinayət işi üzrə tədqiqat obyektı olmuş gilizlərdən 1 (bir) ədədi 7,62 mm kalibrli olmaqla, zavod üsulu ilə istehsal edilmiş, həmin kalibrə malik "Kalaşnikov" konstruksiyalı "AK" ("AKM", "AKS", "AKMS") markalı avtomat silahlarda, "RPK" ("RPKS") markalı əl pulemyotlarında, "SKS" karabinində və s. yivli odlu döyüş silahlarında döyüş sursatı kimi istifadə edilmək üçün nəzərdə tutulmuş patronun atəşlə ayrılmış hissəsidir - gilizdir. Həmin gilizin tədqiqata təqdim edilmiş "35" rəqəmi ilə işarələnmiş "AH 4456" nömrəli, "39" rəqəmi ilə işarələnmiş "00747" nömrəli və "46" rəqəmi ilə işarələnmiş "ZŞ 4821" nömrəli silahların funksional əhəmiyyət daşıyan hissəsi olan çaxmaqları yerində olmadığından, onlarla eyniləşmə tədqiqatı aparılmadı. Təqdim edilmiş giliz üzərində olan izlərlə, təqdim edilmiş 48 (qırx səkkiz) ədəd 7,62 mm kalibrli, «AKM» markalı silahlardan eksperimental atılmış gilizlərin üzərindəki izlər öz yerləşmə sahələrinə, formalarına, ölçülərinə və mikrorelyef quruluşlarının xüsusiyyətlərinə görə bir-birilərinə uyğun gəlmirlər. D-49150 və D-49159 cinayət işi üzrə tədqiqat obyektı olan gilizlər təqdim edilmiş silahlara kalibrinə görə uyğun gəlmədiyindən tədqiqat aparılmadı. Tədqiqata təqdim edilmiş 51 (əlli bir) ədəd 7,62 mm kalibrli, "AKM" markalı, avtomat silahların lülə kanalında atəşin əlavə faktorunu olan tam yanmamış tüstüsüz barıt hissəcikləri aşkar edildi, bu da onu göstərir ki, həmin silahlardan atəş (atəşlər) açılmışdır.

Cinayət işinin 4-cü cildinin 105-ci vərəqində olan Dövlət Təhlükəsizliyi Xidmətinin İİ baş idarəsinin 30 aprel 2021-ci il tarixli 2/8012 sayılı arayışından görünür ki, aşağıda adları göstərilən Ermənistan Respublikasının vətəndaşları əsirlərin mübadiləsi çərçivəsində Ermənistan Respublikasına təhvil verilmişdir: 1. X22 – 14 yanvar 1989-cu il təvəllüdüdür, 28 yanvar 2021-ci il tarixdə təhvil verilmişdi. 2. X14 – 09 avqust 1973-cü il təvəllüdüdür, 28 yanvar 2021-ci il tarixdə təhvil verilmişdi. 3. X30 – 04 iyul 1977-ci il təvəllüdüdür, 28 yanvar 2021-ci il tarixdə təhvil verilmişdi. 4. X25 – 01 oktyabr 1975-ci təvəllüdüdür, 28 yanvar 2021-ci il tarixdə təhvil verilmişdi. 5. X8 - 16.08.1979-cu il təvəllüdüdür, 28 yanvar 2021-ci il tarixdə təhvil verilmişdi. 6. X3 – 02 avqust 1999-cu il təvəllüdüdür, 09 fevral 2021-ci il tarixdə təhvil verilmişdi. 7. X31 – 26 dekabr 1998-ci il təvəllüdüdür, 09 fevral 2021-ci il tarixdə təhvil verilmişdi. 8. X15 – 13 aprel 1998-ci il təvəllüdüdür, 09 fevral 2021-ci il tarixdə təhvil verilmişdi. Ona görə də Dövlət Təhlükəsizliyi Xidməti tərəfindən həyata keçirilmiş anti-terror əməliyyatları nəticəsində saxlanılan ümumilikdə 64 nəfər erməni terrorçusundan hazırkı cinayət işinin ilkin mərhələsində şahid qismində dindirilmiş 8 nəfərinin, yəni X22, X14, X30, X25, X8, X3, X31 və X4 hərbi əsirlər, girovlar və digər saxlanılan şəxslərin mübadiləsi proseduru çərçivəsində Ermənistan Respublikasına təhvil verilməsi nəzərə alınmalıdır.

Azərbaycan Respublikası Cinayət Prosesual Məcəlləsinin 144-cü maddəsinə əsasən cinayət təqibi üzrə toplanmış sübutlar tam, hərtərəfli və obyektiv yoxlanılmalıdır. Yoxlama zamanı cinayət təqibi üzrə toplanmış sübutlar təhlil olunur və bir-biri ilə müqayisə edilir, yeni sübutlar toplanır, əldə olunmuş sübutların mənbəyinin mötəbərliyi

müəyyənləşdirilir.

Azərbaycan Respublikası Cinayət Prosesual Məcəlləsinin 145-ci maddəsinə əsasən hər bir sübut mənsubiyyəti, mümkünlüyü, mötəbərliyi üzrə qiymətləndirilməlidir. Cinayət təqibi üzrə toplanmış bütün sübutların məcmusuna isə ittihamın həlli üçün onların kifayət etməsinə əsasən qiymət verilməlidir. Təhqiqatçı, müstəntiq, prokuror, hakim və ya andlı iclasçılar qanunu və vicdanını rəhbər tutaraq sübutların məcmusunun hərtərəfli, tam və obyektiv baxılmasına əsaslanmaqla öz daxili inamına görə sübutları qiymətləndirirlər.

Birinci instansiya məhkəməsində dövlət ittihamçısı məhkəmədə çıxış edərkən təqsirləndirilən şəxslərin hər birinə qarşı irəli sürülmüş ittihamdan Azərbaycan Respublikası Cinayət Məcəlləsinin 214.2.1, 214.2.3, 228.3, 279.2-ci maddələrinin xaric edilməsini və ittiham olunan şəxslərin Ermənistan hərbi siyasi rəhbərliyinin təzyiqi və təsiri nəticəsində cinayətə cəlb olunmaları nəzərə alınmaqla həmin qurumların vəzifəli şəxsləri barəsində cinayət işi başlanması barədə Azərbaycan Respublikası Cinayət Prosesual Məcəlləsinin 207 və 208-ci maddələrinə əsasən aidiyyəti qurumlara məlumat verilməsini xahiş etmişdir.

Məhkəmə kollegiyası birinci instansiya məhkəməsində tədqiq edilmiş sübutların məcmusuna əsasən belə yekun nəticəyə gəlir ki, Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə nəzərdə tutulan cinayət əməllərini törətməkdə təqsirli olması, düzgün, qanuni və əsaslı olaraq müəyyən edilmiş və həmin hal cinayət işinin materialları ilə hazırda məhkəmə kollegiyasının iclasında da Azərbaycan Respublikası Cinayət-Prosessual Məcəlləsinin 125, 143-146-cı maddələrinin tələblərinə uyğun olaraq, toplanmış sübutları bir-birilə ilə müqayisəli şəkildə tam, hərtərəfli və obyektiv təhlil edib qiymətləndirməklə bir daha öz təsdiqini tapmışdır.

Cinayət işinin apellyasiya baxışı zamanı Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 barələrində bəraətin əsaslarını nəzərdə tutan Azərbaycan Respublikası Cinayət Prosesual Məcəlləsinin 42-ci maddəsində göstərilən hallar müəyyən edilmədiyindən, onlara bəraət verilə bilməz, bu barədə apellyasiya şikayətlərinin dəlilləri subyektiv mülahizələr üzərində qurulmaqla cinayət məsuliyyətini və cəzasını yüngülləşdirmək cəhdi daşıyır.

Məhkəmə kollegiyası apellyasiya şikayətinin dəlillərinə münasibətdə həmçinin qeyd edir ki, heç bir sübut, o cümlədən təqsirləndirilən şəxslərin özlərini müdafiə xarakterli ifadələri məhkəmə üçün preyardisial əhəmiyyətə malik deyil və alınma mənbəyindən, növündən asılı olmayaraq hər bir sübut hərtərəfli, tam və obyektiv yoxlanılmalı, iş üzrə toplanmış digər sübutlarla müqayisəli şəkildə qiymətləndirilməlidir. Hazırkı iş üzrə də işə baxan birinci instansiya məhkəməsinin sübut kimi qəbul edib istinad etdiyi hallar işin faktiki hallarına uyğundur və inandırıcıdır.

Bundan başqa, ibtidai istintaq zamanı və birinci instansiya məhkəməsinin məhkəmə istintaqı zamanı cinayət işi üzrə hər hansı bir qanun pozuntusuna yol verilməsi, məhkəmənin gəldiyi nəticələr işin faktiki hallarına uyğun olmaması, iş üçün əhəmiyyətli olan hallar sübuta yetirilməməsi, cinayət qanunu normalarının düzgün tətbiq edilməməsi iş materialları ilə müəyyən edilməmişdir.

Həmçinin Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 barələrində Azərbaycan Respublikası Cinayət Məcəlləsinin 214.2.1, 214.2.3, 228.3 və 279.2-ci maddələri ilə cinayət təqibinə xitam verilmişdir ki, onların həmin maddələrlə təqsirlik məsələsi hazırkı apellyasiya baxışının predmeti deyildir.

Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 barələrində seçilmiş cəza tədbiri məsələsinə gəldikdə, məhkəmə kollegiyasının qənaətinə görə və hökmdən göründüyü kimi, birinci instansiya məhkəməsi bu məsələnin həlli zamanı Azərbaycan Respublikası Cinayət Məcəlləsinin 58.3-cü maddəsinin tələblərinə riayət etməklə onların törətdikləri cinayətin xarakterini, ictimai təhlükəlilik dərəcəsini, şəxsiyyətlərini, cəzalarını yüngülləşdirən halların olmasını, ağırlaşdıran halların olmamasını, habelə təyin olunan cəzanın onların islah olunmasına və ailələrinin həyat şəraitinə təsirini kifayət qədər nəzərə almış və onlara təqsirli bilinib məhkum olunduqları maddənin sanksiyasında

nəzərdə tutulmuş növdə və həddində ədalətli cəza təyin etmişdir.

Məhkəmə kollegiyası qeyd edir ki, Azərbaycan Respublikası Cinayət Məcəlləsinin 58.3-cü maddəsinə görə cəza təyin edilərkən törədilmiş cinayətin xarakteri və ictimai təhlükəlilik dərəcəsi, təqsirkarın şəxsiyyəti, o cümlədən cəzanı yüngülləşdirən və ağırlaşdıran hallar, habelə təyin olunmuş cəzanın şəxsin islah olunmasına və onun ailəsinin həyat şəraitinə təsiri nəzərə alınır.

Azərbaycan Respublikası Ali Məhkəməsi Plenumunun "Məhkəmələr tərəfindən cinayət cəzalarının təyin edilməsi təcrübəsi haqqında" 25 iyun 2003-cü il tarixli, 4 sayılı qərarında məhkəmələrə tövsiyə olunur ki, hər bir konkret halda təqsirləndirilən şəxslərə təyin edilən cinayət cəzası Azərbaycan Respublikası Cinayət Məcəlləsinin 8-ci maddəsinə müvafiq olaraq cinayətin törədilməsi şəraitinə, təqsirkarın şəxsiyyətinə uyğun olmaqla ədalətli olmalıdır.

Azərbaycan Respublikası Cinayət Məcəlləsinin 8.1-ci maddəsinə görə cinayət törətmiş şəxs haqqında tətbiq edilən cəza və ya digər cinayət-hüquqi xarakterli tədbirlər ədalətli olmalıdır, yəni cinayətin xarakterinə və ictimai-təhlükəlilik dərəcəsinə, onun törədilməsi hallarına və cinayət törətməkdə təqsirli bilinən şəxsin şəxsiyyətinə uyğun olmalıdır.

Həmin Məcəllənin 41.2-ci maddəsinə görə cəza sosial ədalətin bərpası, məhkumun islah edilməsi və həm məhkumlar, həm də başqa şəxslər tərəfindən yeni cinayətlərin törədilməsinin qarşısını almaq məqsədi ilə tətbiq edilir.

Mübahisələndirilən hökmdən görünür ki, birinci instansiya məhkəməsi Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 qanunsuz olaraq sərhəddi keçməklərinə görə əməllərini xidməti və siyasi cəhətdən asılılıq nəticəsində törətmələrini və əməllərindən peşman olmalarını Azərbaycan Respublikası Cinayət Məcəlləsinin 59.1.6 və 59.2-ci maddəsinə əsasən cəzanı yüngülləşdirən hal kimi nəzərə almış, cəzalarını ağırlaşdıran halları müəyyən etməmişdir.

Məhkəmə kollegiyası onu da qeyd edir ki, birinci instansiya məhkəməsi Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 barələrində iş üzrə mühüm əhəmiyyət kəsb edən digər halları da cəza təyini zamanı nəzərə almaqla əsaslandıraraq, onların şəxsiyyətinə və cinayətin ağırlığına uyğun, təqsirli bilindiği maddənin sanksiyası həddində azadlıqdan məhrum etmə cəzası təyin etmiş, onların barəsində təyin edilmiş cəzanın yüngülləşdirilməsi üçün zəruri əsaslar mövcud olmamışdır.

Qeyd olunanlara əsasən məhkəmə kollegiyası hesab edir ki, apellyasiya şikayətləri təmin olunmamalı, iş üzrə Bakı Ağır Cinayətlər Məhkəməsinin 02 iyul 2021-ci il tarixli hökmü isə Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə məhkum olunmalarına aid hissədə qanuni, əsaslı və ədalətli olduğundan dəyişdirilmədən saxlanılmalıdır.

Göstərilənlərə əsasən və Azərbaycan Respublikası Cinayət Prosesual Məcəlləsinin 397.1, 397.2, 398.1.1 və 407.2-ci maddələrini rəhbər tutaraq, məhkəmə kollegiyası

qərar a l ır:

Məhkum edilmiş şəxslər Təqsirləndirilən şəxs1 müdafiəçisi Müdafiəçi1 və Təqsirləndirilən şəxs2 müdafiəçisi Müdafiəçi2 tərəfindən verilmiş apellyasiya şikayətləri təmin edilməsin.

Təqsirləndirilən şəxs1, Təqsirləndirilən şəxs2 və qeyrilərinin Azərbaycan Respublikası Cinayət Məcəlləsinin 318.2-ci maddəsi ilə məhkum olunmalarına, Cinayət Məcəlləsinin 214.2.1, 214.2.3, 228.3 və 279.2-cü maddələri ilə barələrində cinayət təqibinə xitam verilməsinə dair Bakı Ağır Cinayətlər Məhkəməsinin 02 iyul 2021-ci il tarixli, 1(101)-1204/2021 nömrəli hökmü Təqsirləndirilən şəxs1 və Təqsirləndirilən şəxs2 aid hissələrdə verilmiş apellyasiya şikayətlərinə münasibətdə dəyişdirilmədən saxlanılsın.

Qərar elan edildiyi andan dərhal sonra qanuni qüvvəyə minir.

Qərardan Azərbaycan Respublikası Cinayət Prosesual Məcəlləsinin 410-cu maddəsində göstərilən müddətlərdə, Azərbaycan Respublikası Ali Məhkəməsinə kassasiya şikayəti və ya kassasiya protesti verilə bilər.

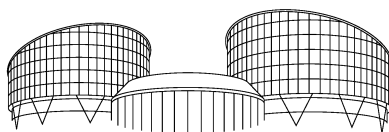
Sədrlik edən: Qədim Babayev

Hakimlər: Əli Seyfəliyev

Rəşad Abdulov

Annex 33

Guide on Article 5 of the European Convention on Human Rights (31 August 2022)
(excerpt)



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Guide on Article 5 of the European Convention on Human Rights

Right to liberty and security

Updated on 31 August 2022

Prepared by the Registry. It does not bind the Court.

Likewise, a decision which is extremely laconic and makes no reference to any legal provision which would permit detention will fail to provide sufficient protection from arbitrariness (*Khudoyorov v. Russia*, 2005, § 157).

46. However, the Court may consider the applicant's detention to be in conformity with the domestic legislation despite the lack of reasons in the detention order where the national courts were satisfied that there had been some grounds for the applicant's detention on remand (*Minjat v. Switzerland*, 2003, § 43). Furthermore, where the domestic courts had quashed the detention order for lack of reasons but considered that there had been some grounds for the applicant's detention, the refusal to order release of the detainee and remittal of the case to the lower courts for determination of the lawfulness of detention did not amount to a violation of Article 5 § 1 (*ibid.*, § 47).

47. A breach of Article 5 § 1 has occurred where a lack of any reasons for ordering pre-trial detention was combined with a failure to fix its duration. However, there is no requirement for the national courts to fix the duration of pre-trial detention in their decisions regardless of how the matter is regulated in domestic law (*Merabishvili v. Georgia* [GC], 2017, § 199; *Oravec v. Croatia*, 2017, § 55). The existence or absence of time-limits is one of a number of factors which the Court might take into consideration in its overall assessment of whether domestic law was foreseeable in its application and provided safeguards against arbitrary detention (*J.N. v. the United Kingdom*, 2016, § 90; *Meloni v. Switzerland*, 2008, § 53.)

48. Moreover, authorities should consider less intrusive measures than detention (*Ambruszkiewicz v. Poland*, 2006, § 32).

I. Some acceptable procedural flaws

49. The following procedural flaws have been found not to render the applicant's detention unlawful:

- a failure to notify the detention order officially to the accused did not amount to a "gross or obvious irregularity" in the exceptional sense indicated by the case-law given that the authorities genuinely believed that the order had been notified to the applicant (*Marturana v. Italy*, 2008, § 79; but see *Voskuil v. the Netherlands*, 2007, in which the Court found a violation where there had been a failure to notify a detention order within the time-limit prescribed by law: three days instead of twenty-four hours);
- a mere clerical error in the arrest warrant or detention order which was later cured by a judicial authority (*Nikolov v. Bulgaria*, 2003, § 63; *Douiyeb v. the Netherlands* [GC], 1999, § 52);
- the replacement of the formal ground for an applicant's detention in view of the facts mentioned by the courts in support of their conclusions (*Gaidjurgis v. Lithuania* (dec.), 2001). A failure to give adequate reasons for such replacement however may lead the Court to conclude that there has been a breach of Article 5 § 1 (*Calmanovici v. Romania*, 2008, § 65).

J. Delay in executing order of release

50. It is inconceivable that in a State subject to the rule of law a person should continue to be deprived of his liberty despite the existence of a court order for his release (*Assanidze v. Georgia* [GC], 2004, § 173). The Court however recognises that some delay in carrying out a decision to release a detainee is understandable and often inevitable. Nevertheless, the national authorities must attempt to keep it to a minimum (*Giulia Manzoni v. Italy*, 1997, § 25).

paragraph (f) is that “action is being taken with a view to deportation or extradition”. It is therefore immaterial, for the purposes of its application, whether the underlying decision to expel can be justified under national or Convention law (*Chahal v. the United Kingdom*, 1996, § 112; *Čonka v. Belgium*, 2002, § 38; *Nasrullojev v. Russia*, 2007, § 69; *Soldatenko v. Ukraine*, 2008, § 109).

A test of necessity of detention may still be required under domestic legislation (*Muzamba Oyaw v. Belgium* (dec.), 2017, § 36; *J.R. and Others v. Greece*, 2018, § 111).

147. The Court has nevertheless regard to the specific situation of the detained individuals and any particular vulnerability (such as health or age) which may render their detention inappropriate (*Thimothawes v. Belgium*, 2017, §§ 73, 79-80)

When a child is involved the Court has considered that, by way of exception, the deprivation of liberty must be necessary to fulfil the aim pursued, namely to secure the family’s removal (*A.B. and Others v. France*, 2016, § 120). The presence in a detention centre of a child accompanying his or her parents will comply with Article 5 § 1 (f) only where the national authorities can establish that this measure of last resort has been taken after actual verification that no other measure involving a lesser restriction of their freedom could be put in place (*ibid.*, § 123).

148. Detention may be justified for the purposes of the second limb of Article 5 § 1 (f) by enquiries from the competent authorities, even if a formal request or an order of extradition has not been issued, given that such enquiries may be considered “actions” taken in the sense of the provision (*X. v. Switzerland*, Commission decision of 9 December 1980).

149. Any deprivation of liberty under the second limb of Article 5 § 1 (f) will be justified only for as long as deportation or extradition proceedings are in progress. If such proceedings are not prosecuted with due diligence, the detention will cease to be permissible under Article 5 § 1 (f) (*Khlaifia and Others v. Italy* [GC], 2016, § 90; *A. and Others v. the United Kingdom* [GC], 2009, § 164; *Amie and Others v. Bulgaria*, 2013, § 72; *Shiksaitov v. Slovakia*, 2020, § 56, with examples of cases disclosing a violation of that provision; *Sy v. Italy* (dec.), 2022, § 79, concerning detention in execution of a European Arrest Warrant).

150. To avoid being branded as arbitrary, detention under Article 5 § 1 (f) must be carried out in good faith; it must be closely connected to the ground of detention relied on by the Government; the place and conditions of detention should be appropriate; and the length of the detention should not exceed that reasonably required for the purpose pursued (*A. and Others v. the United Kingdom*, 2009, § 164; *Yoh-Ekale Mwanje v. Belgium*, 2011, §§ 117-19 with further references).

151. Detention with a view to expulsion should not be punitive in nature and should be accompanied by appropriate safeguards (*Azimov v. Russia*, 2013, § 172).

152. The domestic authorities have an obligation to consider whether removal is a realistic prospect and whether detention with a view to removal is from the outset, or continues to be, justified (*Al Husin v. Bosnia and Herzegovina (no. 2)*, 2019, § 98). There must procedural safeguards in place capable of preventing the risk of arbitrary detention pending expulsion (*Kim v. Russia*, 2014, § 53).

153. In its assessment of whether domestic law provides sufficient procedural safeguards against arbitrariness, the Court may take into account the existence or absence of time-limits for detention as well as the availability of a judicial remedy. However, Article 5 § 1(f) does not require States to establish a maximum period of detention pending deportation or automatic judicial review of immigration detention. The case-law demonstrates that compliance with time-limits under domestic law or the existence of automatic judicial review will not in themselves guarantee that a system of immigration detention complies with the requirements of Article 5 § 1(f) of the Convention (*J.N. v. the United Kingdom*, 2016, §§ 83-96).

(*De Jong, Baljet and Van den Brink v. the Netherlands*, 1984, § 51; *Aquilina v. Malta* [GC], 1999, §§ 48-49).

177. Judicial control on the first appearance of an arrested individual must above all be prompt, to allow detection of any ill-treatment and to keep to a minimum any unjustified interference with individual liberty. The strict time constraint imposed by this requirement leaves little flexibility in interpretation, otherwise there would be a serious weakening of a procedural guarantee to the detriment of the individual and the risk of impairing the very essence of the right protected by this provision (*McKay v. the United Kingdom* [GC], 2006, § 33).

178. Article 5 § 3 does not provide for any possible exceptions from the requirement that a person be brought promptly before a judge or other judicial officer after his or her arrest or detention, not even on grounds of prior judicial involvement (*Bergmann v. Estonia*, 2008, § 45).

179. Any period in excess of four days is *prima facie* too long (*Oral and Atabay v. Turkey*, 2009, § 43; *McKay v. the United Kingdom* [GC], 2006, § 47; *Năstase-Silvestru v. Romania*, 2007, § 32). Shorter periods can also breach the promptness requirement if there are no special difficulties or exceptional circumstances preventing the authorities from bringing the arrested person before a judge sooner (*Gutsanovi v. Bulgaria*, 2013, §§ 154-59; *İpek and Others v. Turkey*, 2009, §§ 36-37; *Kandzhov v. Bulgaria*, 2008, § 66).

The requirement of promptness is even stricter in a situation where the placement in police custody follows on from a period of actual deprivation of liberty (*Vassis and Others v. France*, 2013, § 60, concerning the detention of a crew on the high seas).

180. Where a person is detained under the second limb of Article 5 § 1 (c) outside the context of criminal proceedings, the period needed between a person's arrest for preventive purposes and the person's prompt appearance before a judge should be shorter than in the case of pre-trial detention in criminal proceedings. As a rule, release at a time before prompt judicial control in the context of preventive detention should be a matter of hours rather than days (*S., V. and A. v. Denmark* [GC], 2018, §§ 133-134).

181. The fact that an arrested person had access to a judicial authority is not sufficient to constitute compliance with the opening part of Article 5 § 3 (*De Jong, Baljet and Van den Brink v. the Netherlands*, 1984, § 51; *Pantea v. Romania*, 2003, § 231).

182. Judicial control of detention must be automatic and cannot be made to depend on a previous application by the detained person (*McKay v. the United Kingdom* [GC], 2006, § 34; *Varga v. Romania*, 2008, § 52; *Viorel Burzo v. Romania*, 2009, § 107). Such a requirement would not only change the nature of the safeguard provided for under Article 5 § 3, a safeguard distinct from that in Article 5 § 4, which guarantees the right to institute proceedings to have the lawfulness of detention reviewed by a court. It might even defeat the purpose of the safeguard under Article 5 § 3 which is to protect the individual from arbitrary detention by ensuring that the act of deprivation of liberty is subject to independent judicial scrutiny (*Aquilina v. Malta* [GC], 1999, § 49; *Niedbala v. Poland*, 2000, § 50).

183. The automatic nature of the review is necessary to fulfil the purpose of the paragraph, as a person subjected to ill-treatment might be incapable of lodging an application asking for a judge to review their detention; the same might also be true of other vulnerable categories of arrested person, such as the mentally frail or those ignorant of the language of the judicial officer (*McKay v. the United Kingdom* [GC], 2006, § 34; *Ladent v. Poland*, 2008, § 74).

3. The nature of the appropriate judicial officer

184. The expression “judge or other officer authorised by law to exercise judicial power” is a synonym for “competent legal authority” in Article 5 § 1 (c) (*Schiesser v. Switzerland*, 1979, § 29).

Annex 34

B. Cox, *Continuing Impunity: Azerbaijani-Turkish Offensives Against Armenians In Nagorno Karabakh* (24 April 2021) (excerpt)

CONTINUING IMPUNITY

Azerbaijani-Turkish offensives against Armenians in Nagorno Karabakh



Baroness Cox
24 April 2021

An addendum to 'Ethnic Cleansing in Progress: War in Nagorno Karabakh'
(Cox and Eibner, 1993)

Two months later, on 27 September, Azerbaijan launched a large-scale military offensive against Nagorno Karabakh. It was, according to Ilham Aliyev, President since 2003, a response to the cry of his people to re-capture territories that were lost during the previous war:

*“Enough is enough, we will not tolerate this occupation any longer. We said that we would drive the enemy out of our lands! We are not interested in any negotiations... The Azerbaijani people’s patience had already run out... I said that we would chase them, that we would chase them like dogs, and we chased them, we chased them like dogs.”*²

Successive military offensives were openly backed by Turkey, who deployed F-16 jets to Ganja International Airport as a deterrent against Armenian counter-attacks³ and who supplied Azerbaijan with Syrian mercenaries to shore-up its military operations.⁴ Within days of the first aerial attack, Turkish President Recep Tayyip Erdogan praised Azerbaijan’s “great operation both to defend its own territories and to liberate the occupied Karabakh.” He promised to stand with “friendly and brotherly Azerbaijan with all our means and all our heart.”

4.1 Reports of Azerbaijani-Turkish military offensives

Over a six-week period, between 27 September and 9 November, civilians in Nagorno Karabakh endured almost-daily military offensives by tanks, helicopters, cluster munitions and Smerch multiple rocket launchers – weapons incapable of precision targeting – in breach of international humanitarian law and Geneva conventions. Reports suggest that Baku acquired and deployed Israeli-built Harop loitering munitions, also known as ‘suicide’ or ‘kamikaze’ drones, which can be used to destroy radars as part of suppression of enemy air defence (SEAD) operations, as well as Hermes UAVs, designed for aerial reconnaissance and electronic warfare purposes. An estimated 14,000 civilian structures were damaged or destroyed during the war, including homes, markets and infrastructure vital to the survival of the local population, such as bridges, electricity, telecoms, gas and water supply systems.

Heavy shelling caused mass displacement. Early estimates suggest that as many as 100,000 civilians were forced to flee, although many remained. During my previous visit in November 2020, I saw hundreds of vehicles loaded with personal possessions and firewood from trees. Some families had set fire to their homes so they would not be available for occupation by the incoming Azerbaijani forces, while local farmers herded their cattle and sheep towards Armenia. Those who have since made the difficult decision to return face a monumental task in rebuilding their cities and towns.

² Press Release, President of the Republic of Azerbaijan, ‘Ilham Aliyev addressed the nation’, 10 November 2020, see <https://en.president.az/articles/45924> as at 13 January 2021

³ *New York Times* / *Twitter*, 7 October 2020, see <https://twitter.com/trbrtc/status/1313903827435892737> as at 19 March 2021

⁴ OHCHR, ‘Mercenaries in and around the Nagorno-Karabakh conflict zone must be withdrawn – UN experts’, 11 November 2020; *BBC News*, 10 December 2020; *The Guardian*; 2 October 2020; in addition to reports that foreign mercenaries were also recruited from Libya, Afghanistan and Pakistan.



Stepanakert's School of Music, November 2020.

Between 1-3 October, BBC journalists in the capital city Stepanakert witnessed “random shelling... including at an emergency services centre [and] an apartment block destroyed. As people tried to flee, there was a drone overhead. Shortly afterwards, more shelling nearby.” Journalists characterised the offensives as “indiscriminate shelling of a town without clear military targets.” These reports were dismissed by President Aliyev as fake news.⁵

A Human Rights Watch (HRW) on-site investigation in Stepanakert described equivalent incidents in which Azerbaijani forces used “inherently indiscriminate cluster munitions and artillery rockets” or other weapons that did not distinguish between military targets and civilian objects. According to their report of an attack on 4 October:

“...multiple strikes hit residential homes in less than a minute suggesting possible bombardment – treating the whole area as a military target – which is prohibited under the laws of war. Azerbaijani forces also attacked infrastructure that may have an unlawfully disproportionate impact on the civilian population. The use by Armenian and local Nargono-Karabakh forces of military bases and dual-use infrastructure in Stepanakert placed the civilian population unnecessarily at risk.”⁶

Again, these reports were dismissed by President Aliyev as fake news.⁷ Yet they were corroborated by others, including Amnesty International:

⁵ *BBC News*, 9 November 2020

⁶ Human Rights Watch, ‘Azerbaijan: Unlawful strikes in Nagorno Karabakh’, 11 December 2020

⁷ *BBC News*, 9 November 2020

*“Azerbaijani authorities would have been fully aware that the kind of multiple strikes they launched on the city on 4 October, using notoriously inaccurate munitions which cannot be aimed at a specific target – Grad rockets and internationally banned cluster munitions – would land indiscriminately in residential areas and very likely harm civilians and damage or destroy civilian objects. Such indiscriminate attacks violated fundamental principles of international humanitarian law, notably the principles of distinction and proportionality.”*⁸

On 8 October, Ghazanchetsots Cathedral, a world-famous cultural heritage site in the hill-top city of Shushi, was shelled twice and badly damaged. Home to the Diocese of Artsakh of the Armenian Apostolic Church, the cathedral is one of the most important spiritual centres for ethnic Armenians in Nagorno Karabakh. When asked by the BBC how and why it was attacked twice on the same day, President Aliyev replied: “Either it was a mistake of our artillery or it was a deliberate provocation by Armenia... it could have been by mistake.”⁹ The attacks were, however, widely condemned as a war crime under international law, including among parliamentary colleagues in the UK.¹⁰

On 14 October, three aircraft reportedly dropped bombs on the military hospital in Martakert, damaging the hospital and destroying nearby medical vehicles, all clearly marked as medical.¹¹

Armenian forces undertook numerous counter-offensives during the 44-day war, including strikes into Gashalti on 27 September, Ganja on 11 and 17 October, Qarayusfli on 27 October, and Barda on 28 October. Armenia denies launching indiscriminate attacks against civilian areas and using cluster munitions – in Ganja, for example, the nearby airport hosted Turkish F-16 jets and satellite imagery shows military equipment close to the impact area of the 11 October attack. However, as Amnesty International report:

*“...the presence of these possible military objectives does not justify the use of a massive and imprecise weapon like the SCUD-B in a populated area... The likelihood of causing level of harm to civilians and damage to civilian objects is unacceptably high, making such use impermissible under the laws of war.”*¹²

According to HRW:

“Armenian forces repeatedly launched missiles, unguided rockets, and heavy artillery into populated cities and villages in violation of the laws of war. Again

⁸ Amnesty International, ‘In the Line of Fire: Civilian Casualties from Unlawful Strikes in the Armenian-Azerbaijani Conflict over Nagorno-Karabakh’, 2021, Page 15

⁹ *BBC News*, 9 November 2020

¹⁰ See, for example, the Early Day Motion tabled on 13 October 2020 by members of the UK House of Commons

¹¹ US Department of State, 2020 Country Reports on Human Rights Practices: Azerbaijan, 30 March 2021

¹² Amnesty International, 2021, *Op cit*, page 10

and again in the course of the six-week war, these attacks unlawfully destroyed civilian lives and homes and should be impartially investigated.”¹³

On 28 October – perhaps the deadliest day of the war – Azerbaijani forces responded by striking more than 15 times on different parts of Stepanakert and Shushi, including the deployment of a high-precision Long Range Attack (LORA) missile against the Republican Medical Centre, one of the main hospitals in Stepanakert. Unexploded missiles were later found inside the hospital. The new maternity ward had significant damage. Mger Musailyan, the centre’s chief doctor, denounced the attack as “inhumane,” noting that his staff were treating COVID-19 patients among others – although there were no patients or medical personnel in the centre at the moment of the strike.



The aftermath of Azerbaijani bombing, which destroyed this maternity hospital in Stepanakert.

The following day, on 29 October, Azerbaijani forces targeted forests in Nagorno Karabakh, causing massive fire and environmental disaster, with reports of the use of incendiary ammunition of mass destruction containing chemical elements, possibly white phosphorus. This would be extremely dangerous for civilians – it is a toxic substance that causes serious burns on contact with skin and can result in a very painful death. Azerbaijani officials denied these reports as “false and fake” and claimed that it was Armenia who were preparing to use illegal weapons against Azerbaijani forces,

¹³ Human Rights Watch, ‘Armenia: Unlawful Rocket, Missile Strikes on Azerbaijan’, 11 December 2020

citing their own intelligence data of “a large amount of phosphorus cargo” being delivered to the town of Khojavend. Lord Alton of Liverpool, Lord Green of Deddington and I wrote to the Organisation for the Prohibition of Chemical Weapons on 10 November, urging them to investigate whether or not chemical weapons were deployed by Azerbaijan; and to ensure rapid response and assistance to protect civilians in Nagorno Karabakh against the effects of such an attack.

On 2 November, an Azerbaijani UAV destroyed a fire truck transporting fresh water to civilians in the Askeran region.¹⁴

The final death toll of the recent war is unknown. Azerbaijan said in December 2020 that almost 2,800 of its military personnel died. The Armenian Ministry of Health have recorded the death of more than 3,300 Armenian soldiers. At least 173 civilians on both sides were also killed, including multiple children and older people, with many hundreds reported wounded or missing. The civilian death toll would have been much higher had so many not fled Nagorno Karabakh or taken shelter in basements.

4.2 The capture of Shushi

The city of Shushi is a strategically important settlement overlooking Nagorno Karabakh’s capital, Stepanakert. It is adjacent to the only accessible road from Armenia to Nagorno Karabakh, via the Lachin corridor.

Shushi has a long and important history. From medieval times through to the 1750s, the city was the centre of a self-governing Armenian principality. In 1752, under Persian occupation, the city became capital of the Karabakh Khanate, with a diverse population. It remained an important mixed cultural and trading centre for the Caucasus after being ceded to Russia in 1823. Conflict between the Azerbaijani and Armenian occupants began during the Russian Cultural Revolution. After the collapse of the Russian Empire, Ottoman Turkey massacred around 20,000 Armenians, decapitated the Archbishop and publicly displayed his head. Shushi then became an Azerbaijani city until it was recaptured by Armenians in 1992. Since then it has been rebuilt as an important Armenian cultural centre.

The architectural complex of Shushi’s Ghazanchetsots Cathedral consists of a church, built by local Armenians in 1868-1887, and a bell tower of 1858. In approximately 1920, the cathedral was damaged by Azerbaijanis, who used the site as a garage and cattle barn. During the previous war in the 1990s, while being occupied, the cathedral was used by Azerbaijani forces for storing weapons. The cathedral, including its dome and the surrounding area, was reconstructed in 1998 by the ethnic Armenians of Nagorno Karabakh.

Today, Ghazanchetsots Cathedral sits next to a school and is surrounded by civilian sites and blocks of flats. There are no military objects nearby. It was attacked on 8 October by Azerbaijani missiles, at about 13:00 local time – children, women and

¹⁴ US Department of State, 2020 Country Reports on Human Rights Practices: Azerbaijan, 30 March 2021

Annex 35

N. Sahakyan, “The rhetorical face of enmity: the Nagorno-Karabakh conflict and the dehumanization of Armenians in the speeches by Ilham Aliyev”, *SOUTHEAST EUROPEAN AND BLACK SEA STUDIES* (29 November 2022)



Southeast European and Black Sea Studies



ISSN: (Print) (Online) Journal homepage: <https://www.tandfonline.com/loi/fbss20>

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Naira Sahakyan

To cite this article: Naira Sahakyan (2022): The rhetorical face of enmity: the Nagorno-Karabakh conflict and the dehumanization of Armenians in the speeches by Ilham Aliyev, Southeast European and Black Sea Studies, DOI: [10.1080/14683857.2022.2153402](https://doi.org/10.1080/14683857.2022.2153402)

To link to this article: <https://doi.org/10.1080/14683857.2022.2153402>



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ARTICLE



The rhetorical face of enmity: the Nagorno-Karabakh conflict and the dehumanization of Armenians in the speeches by Ilham Aliyev

Naira Sahakyan 

Armenian Genocide Museum-Institute, Yerevan, Armenia

ABSTRACT

This article focuses on the process of othering through the creation of the ‘enemy image’ in the context of the Nagorno-Karabakh conflict in Ilham Aliyev’s speeches delivered between 2016 and 2020. Based on narrative and discourse analysis of the speeches, this article demonstrates the main discursive practices used by Aliyev to dehumanize Armenians. These analyses uncover three main components: identification of Armenians as the sole menace for Azerbaijan and Azerbaijanis, depiction of Armenians as non-human and barbaric in essence, and stressing the superiority of Azerbaijan to eliminate the threat emanating from Armenians. Limiting itself to a state-backed dominant narrative, this article also highlights the connection of the dehumanization process of Armenians with the power legitimization dynamics in Azerbaijan.

ARTICLE HISTORY

Received 08 June 2022

Accepted 27 November 2022

KEYWORDS

Armenia; Azerbaijan; dehumanization; Nagorno-karabakh; conflicts

Introduction

In early September 2021, Russian journalist and blogger Pyotr Lovigin visited Baku and filmed a video on various aspects of this city. One of the episodes that specifically stood out was a meeting with children in one of the run-down suburbs of Baku. As Lovigin and his Russian guide were approaching these children before the conversation could begin, out of nothing, one of the children said, ‘may Allah destroy Armenians’ (Lovigin 2021). The memory of the 2020 War is still present in Azerbaijan, and rightly so; however, there is an apparent ‘desire’ to see Armenians destroyed, and the extreme dehumanization of the image of Armenians in Azerbaijan is apparent, even in the eyes of a child. This desire to see a whole nation gone has complicated processes of dehumanization behind it, where the role of political leadership (especially in the case of authoritarian regimes)¹ is essential and needs further examination.

Through their speeches, the leaders of conflicting states create certain narratives supporting their own positive image and presenting the enemy in an entirely negative light. Throughout the Nagorno-Karabakh (to Armenians, Artsakh) conflict, both Azerbaijani and Armenian sides have been convinced that the ultimate intention of the other is to wholly destroy them – indeed, that its destruction is inherent in the other’s

ideology. Much like in the case of the Israeli-Palestinian conflict, each ‘perceives the very existence of the other – the other’s status as a nation – to be a threat to its own existence and status as a nation’ (Kelman 1987, 354). In this context, this paper examines the creation and gradual evolution of rival narratives and of dehumanization process of Armenians by the Azerbaijani president Ilham Aliyev. To trace the negative image-creation process of Armenians in Azerbaijan, this paper dwells on the speeches of Ilham Aliyev delivered between 2016 and 2020, namely, between the two violent escalations of the conflict from the skirmishes in April 2016 to the large-scale war in 2020.

This article focuses on the Armenian-Azerbaijani case and the dehumanization and othering processes characterizing the evolution of their relations. The article seeks to demonstrate the main tactics and discursive practices used by Ilham Aliyev to dehumanize Armenians. Limiting itself to a state-backed dominant narrative, this article also tries to connect the othering process of Armenians with the power legitimization dynamics inside Aliyev’s Azerbaijan.

I rely on the definition of dehumanization as a denial of an individual’s essential humanness and identity and, thereby, situating individuals ‘outside the boundary in which moral values, rules, and considerations of fairness apply’ (Opotow 1990) to other humans (Neilsen 2015). It is estranging and othering process where the victim group is no longer seen as human (Stollznow 2008). Thus, it is unsurprising that dehumanization is an inherent part of genocide literature. This process took place during many atrocities that occurred in the twenty century – Holocaust, Armenian Genocide, Rwandan Genocide, and Cambodian Genocide. In the genocide literature, dehumanization of the other is considered an alarming sign of genocide or genocidal intent. Stanton (2004, 214), for instance, considers dehumanization to be the ‘phase where the death spiral of genocide begins.’

In the case of the Nagorno-Karabakh conflict with a broader background of the Armenian-Turkic antagonism and the memory of the Armenian Genocide in the Ottoman Empire, the dehumanization is intertwined with toxification (Cheterian 2018; Tokluoglu 2011). Thus, while my main focus will be on the dehumanization process, I will consider toxification as a part of it, given that these two processes are inseparable in the context of the ongoing conflict. I consider Neilsen’s (2015) definition of toxification, according to whom toxification is a cognitive perception of the target group as fundamentally lethal to the furtherance of the perpetrators’ survival and society. As stated by Livingstone Smith (2018, 265), ‘the road to mass violence is paved with rhetoric, describing others as monsters, demons, or subhuman animals.’ In this sense, there is also a connection between hate speech (especially political) and dehumanization, the borders of which are often porous. Hate speech, especially its more inflammatory form – dehumanization – catalyzes mass killings, including genocide. ‘By teaching people to view other human beings as less than human, and as mortal threats, thought leaders can make atrocities seem acceptable – and even necessary, as a form of collective self-defence. Such speech famously preceded the Holocaust, the 1994 genocide in Rwanda, and other intergroup mass killings, and unfortunately it is still rife in many countries at risk of collective violence, such as Nigeria, Myanmar, Egypt, and Greece’ (Benesch 2014, 3). Among these cases, as my research demonstrates, is also the Nagorno-Karabakh conflict where the Armenians are systematically dehumanized by the Azerbaijani high profile politicians.

In this article, I use the concepts of dehumanization as tools in the hands of nowadays political leaders, particularly Ilham Aliyev. I argue that the dehumanizing messages advanced by Azerbaijani President Ilham Aliyev help him maintain his power and legitimize his rule. Furthermore, in dehumanization, the sense of self-superiority plays a significant role in implementing violence against the dehumanized group. Therefore, my work contributes to both the history of concepts (van Vree et al. 1998) and the study of the Nagorno-Karabakh conflict. In analysing Aliyev's discourse, I try to follow the development of the messages related to the dehumanization of Armenians, the self-perception of Azerbaijan, and their role in the political discourse of Aliyev. For this purpose, I analysed eighty-eight speeches delivered by Ilham Aliyev between 2016 and 2020, which are accessible on the official website of the president of Azerbaijan, on the page titled 'Speeches.'

First, I provide a brief history of the Nagorno-Karabakh conflict. Second, I turn to the speeches of Ilham Aliyev. Here, I demonstrate the Nagorno-Karabakh conflict as a cornerstone for his political discourse while highlighting the difference between his rhetoric in the speeches addressed to Azerbaijani society and the international community. Third, I discuss self-image and the image of Armenians in the speeches of Aliyev, where I demonstrate how Aliyev's dehumanization practices push Azerbaijanis to identify Armenians as irrational non-human beings and the main threat. I argue that the dehumanization of Armenians is disseminated by the Azerbaijani regime and reinforced by various means of power, from the postal office to military production.

Historical background of the conflict

Nagorno-Karabakh is a highland region sandwiched between Armenia and Azerbaijan. The conflict over the region between Armenia and Azerbaijan is a modern one, 'with the groundwork laid not in the ancient past, but during the creation of Soviet states in the South Caucasus' (Laycock 2020). The clashes between Armenian and Muslim groups in mountainous Karabakh first erupted during 1905–1907, shortly after the first nationalist parties of both sides emerged. These clashes are known as 'the Armeno-Tatar Wars' (at that time, the Muslim people living in the Caucasus were often referred to as 'Tatars,' and the Azerbaijani identity formation occurred in Soviet times, see Ergun 2021). During the short existence of the first republics of Armenia and Azerbaijan, several clashes, massacres and deportations deepened the conflict. At the beginning of the region's Sovietization, the Communist leadership of Azerbaijan recognized Karabakh as part of Soviet Armenia. Nevertheless, in 1921, 'this decision was reversed by the Caucasian Bureau of the [Communist Party] as a result of the intervention of Stalin himself, and it was decided to place Mountainous Karabakh within Soviet Azerbaijan, with the status of an autonomous region' (Cheterian 2008, 89). This decision and the conflict were discussed in academic literature for several decades (Walker 1991; Chorbajian et al. 1994; Goltz 1998; Croissant 1998; Cheterian 2008; Broers 2021; Tonoyan 2021; Papazian 2008; Waal 2013). After the collapse of the USSR and especially in the early 2000s, several insightful studies addressed the question of Soviet boundary-making and nation-making. Francine Hirsch (2000; 2005), Jeremy Smith (2001; 2013), Ronald Suny (1993), Ohannes Geukjian (2016), Arsène Saparov (2012), Martin (2001) and others studied the South Caucasus in the context of the Soviet nation-building process. For instance, Arsène

Saparov (2012, 282) brought the discussion of Nagorno-Karabakh into this field and examined the Soviet decision to incorporate Nagorno-Karabakh into Soviet Azerbaijan within the Bolsheviks' nationality policy, identifying reasons 'that led the Bolshevik leadership to grant Karabakh to Azerbaijan and at the same time award it an autonomy.' Saparov claims that in solving the conflicts in the South Caucasus, the Bolsheviks relied primarily on *ad hoc* solutions rather than on any preconceived plan. Smith (2019) concurs, arguing that geography and the situation on the ground played a vital role.

After incorporating Nagorno-Karabakh into Soviet Azerbaijan, the tensions between the sides were suppressed by Moscow but not eliminated. Even during Stalin's reign, Armenians raised the issue of unification despite the repressive order. For instance, in 1936, Armenian Communist Party First Secretary Aghasi Khanjyan reportedly raised it again and, in turn, was shot (Malkasian 1996, 25). The question was again raised during the 1940s by Armenia's new First Secretary, Grigor Harutunyan, who approached Moscow with the request that the territory be united with Armenia (Kaufman 2015, 51). The 1960s were yet another period for the tensions to increase, showing itself via several petition drives on the issue, one of which sparked violent demonstrations in Karabakh in 1963. Other appeals were issued in 1967 and 1977 (Libaridian 1988, 42–48). In the early 1980s, Karabakh remained 'the single most volatile issue' for Armenians (Suny 1983; 80; Fowkes 1997, 133).

Thus, it is hard to say that the Soviet seven decades were a period of peaceful coexistence. The conflict continued to exist and resurfaced again in the context of Gorbachev's *glasnost* and *perestroika*. In 1988, widespread demonstrations in Karabakh and Armenia shattered the region's stability and the USSR in general. In the beginning, the demonstration erupted on the streets of Stepanakert, the capital of Nagorno-Karabakh, on 13 February 1988. Jeremy Smith, who named Nagorno-Karabakh alongside Chechnya, Abkhazia, South Ossetia and Transnistria the orphans of the Soviet Union, mentions (Smith 2013b, 337–38) that these demonstrations have been forgotten in the turmoil that was beginning to sweep across the Soviet Union at the time. However, when demonstrations echoed in the larger marches in Yerevan, the dispute over Nagorno Karabakh's status took on a far greater dimension.

The Karabakh Soviet (the main governing body of the autonomy) formally requested the unification of Karabakh with Armenia. This request, however, was rejected by Moscow. At the same time, the very act of request prompted anger among Azerbaijanis; what followed was the Azerbaijani pogroms of Armenians in the city of Sumgayit, leaving 26 Armenians and 6 Azerbaijanis dead, according to official reports and driving nearly the entire Armenian population of 14,000 people out of the city. Mass violence and forced displacements escalated in both Armenia and Azerbaijan, expelling almost all Armenians in Azerbaijan and Azeris in Armenia. The conflict developed into one of the bloodiest wars in the post-Soviet territory. As Cornell (2011), 49) that the events of 'Sumgait was a turning point in the Azerbaijani-Armenian conflict. It seemed to confirm the worst Armenian prejudices against Azerbaijanis and projected the conflict into a new phase that made a peaceful resolution all the more unlikely.'

During the first Karabakh war, Armenia won the military victory taking control over the Mountainous Karabakh Autonomous Oblast and the surrounding regions. A Russian-brokered ceasefire was signed in May 1994.² Two years before that, the OSCE Minsk Group was established as a framework for peace negotiations. This

framework exists until now, led by the three states: the USA, Russia, and France, as Co-Chairs of the Minsk group.

Between 1994–2016, the line of contact has not been tranquil, and hundreds of Armenian military personnel and even civilians have died from periodic shelling, which has intensified since 2010. As for the number of Azerbaijani casualties in this period of relative ‘calmness’ along the ceasefire line, numbers are unknown. Two decades later, on 2 April 2016, the Azerbaijani forces penetrated Armenian positions, starting the 4-day fighting where both sides would lose hundreds of lives (Broers 2021, 1). April fighting, often called the 4-Day War, marks a new phase in the conflict where the dehumanization of the other intensified.

This new phase’s culmination became the Second Karabakh War of 2020. In the early morning of 27 September 2021, an Azerbaijani offensive reignited the conflict over the Nagorno-Karabakh region. It was not just another clash between the sides; this now was a large-scale war that lasted one and half months and cost thousands of lives from both sides. On 9 November 2020, the President of Azerbaijan, Ilham Aliyev, the Prime Minister of Armenia, Nikol Pashinyan, and the President of Russia, Vladimir Putin, signed a ceasefire statement ending hostilities. While the regions surrounding the Mountainous Karabakh Autonomous Oblast were put under Azerbaijani control as a result of the Armenian defeat, the territory of the Mountainous Karabakh Autonomous Oblast (besides Shushi, or Shusha in Azerbaijani, and Hadrut controlled by Azerbaijan) is now hosting the peacekeeping force, provided by the Russian Ground Forces which were deployed for a minimum of five years along the line of contact and the Lachin (Berdzor in Armenian) corridor linking Armenia and the Nagorno-Karabakh region.

Nagorno-Karabakh conflict in the general political discourse of Aliyev

In 2016–2020, the President of Azerbaijan, Ilham Aliyev, addressed the Nagorno-Karabakh issue in the vast majority of his speeches delivered between 2016–2020 (for example, see Aliyev 2016a, 2016d, 2016e, 2016f; 2016g, 2016j; 2017a, 2017b, 2017e, 2017f, 2018a, 2018c, 2018f, 2018h, 2019b, 2019d, 2019e, 2019f, 2020c, 2020d, 2020f, 2020g). The conflict, therefore, is the cornerstone of Ilham Aliyev’s political discourse, around which the President of Azerbaijan builds the rest of the political issues that he addresses, both internally and externally. Aliyev is addressing Nagorno-Karabakh differently depending on the ultimate addressee: internal versus external audiences.

External audience

In his speeches to the international community, Aliyev uses rhetoric referring to international law, humanitarian issues, and other concepts that are ‘understandable’ to the international community, accusing Armenia of aggression, violation of the norms of international law, violation of Azerbaijan’s territorial integrity, and especially not complying with UN resolutions. For instance, in his speech at the opening of the 6th Baku International Humanitarian Forum on 25 October 2018, Aliyev stated that ‘Armenia has conducted a policy of ethnic cleansing against our people, more than a million Azerbaijanis have become displaced in their native land’ (Aliyev 2018j).

Similar ideas, sometimes with the exact phrasings, are voiced by Aliyev in every speech addressed to the external audience. For instance, during the 4th World Forum on Intercultural Dialogue, Aliyev repeated the above-mentioned, saying that Azerbaijan's restoration of independence was accompanied by Armenian aggression, which resulted in the occupation of 20% of internationally recognized territory – Nagorno-Karabakh and seven other districts – which are occupied by Armenia. As a result of this occupation, more than one million Azerbaijanis became refugees and internally displaced persons (Aliyev 2017e). In particular, 'refugee,' 'displaced people,' 'genocide,'³ 'destruction of cultural heritage,' 'occupation,' 'disregard for resolutions,' and other expressions are part of the dictionary of international law. Then trying to demonstrate a beneficial image of Azerbaijanis as opposed to Armenians, Aliyev portrays Azerbaijan as a land of multiculturalism and tolerance. 'In the centre of Baku, we renovated an Armenian church, but on the occupied territories, Armenia demolished all our historical and religious heritage,' states Aliyev (2017e), pushing forward an image of Azerbaijan as a cradle of multiculturalism and tolerance. This notion is a significant part of his lexicon.

Nevertheless, this 'multiculturalism' is very selective and is used only for political purposes. As Filou (2021) states, 'a real multicultural policy would also provide significant means for the promotion of minorities' cultures, and would include economic or political elements. This model is far from being effectively followed by the Azerbaijani authorities.' The Azerbaijani discourse on multiculturalism can be considered image-making for the country to promote Azerbaijan to other countries and sell it to tourists, investors and foreign diplomats (Filou 2021). The case of the Armenian church is a vivid example of what Filou says about the nature of Azerbaijani multiculturalism. While a single church is saved (the church does not serve as an Armenian church, and there is no cross on its dome) to sell Azerbaijani multiculturalism to the world, other examples of Armenian cultural heritage are destroyed. One of the most widely discussed examples is the destruction of Armenian cultural heritage in Nakhichevan, which the Guardian called 'the worst cultural genocide of the 21st century' (Sawa 2019). In Nakhichevan, the Azerbaijani government systematically destroyed thousands of UNESCO-protected ancient stone carvings (Blogian 2006). As Goff (2021) notes, it is not difficult to find examples that contradict Aliyev's absolutist claims of tolerance and national harmony in Azerbaijan. Even without the Nagorno-Karabakh case, there are many examples of the opposite: the Sadval movement spread among Lezgins in Dagestan and Azerbaijan, seeking to territorially unify Lezgistan; Kurds renewed their calls for autonomy; Talyshes in the south experimented with the short-lived Talysh-Mughan Autonomous Republic in the summer of 1993. All these developments have been crushed ruthlessly and violently.

Aliyev's discourse for the external public stresses the image of Azerbaijan as an exemplary international player, while Armenia is portrayed as a destroyer and aggressor. The violence in Nagorno-Karabakh is perhaps proof of the opposite. While construing the image of the people of Azerbaijan as victims 'who played no role in generating Armenian grievances or nationalism,' Aliyev argues that the conflict is the product solely of Armenian intolerance (Goff 2021, 215). At the same time claiming that Armenia is not complying with UN resolutions, Aliyev seeks to legitimize Azerbaijan's offensives on the borderline. This indicates a calculated rhetoric, which is why there are no expressions of emotion or offensive or threatening expressions. While Aliyev widely utilizes such

language in addressing his internal audience, Azerbaijanis, by avoiding the dehumanization lexicon in front of the external audience, Aliyev also tries to escape foreign criticism for the usage of dehumanizing rhetoric.

Internal audience

In his speeches addressed to the domestic audience, Aliyev presents the Nagorno-Karabakh conflict differently. As opposed to presenting the conflict as a just and lawful repercussion against blatant Armenian transgressions and provocations while addressing Azerbaijanis, Aliyev frames the conflict and the history of the dispute in a way to strengthen the legitimacy of the Aliyev dynasty. While the responsibility of the conflict is, expectedly, still attributed to Armenia, one of the primary functions of Ilham Aliyev's rhetoric becomes polishing the Aliyevs reputation.

In particular, in almost all speeches, Aliyev attributes Armenia's victory in the First War not to the Armenian military force but to the internal problems in the 1990s Azerbaijan, which he argues, were resolved when Heydar Aliyev and, later himself, came to power, and the era of development and stability ensued (Aliyev 2016a, 2016f, 2016i, 2017c, 2017i, 2018b, 2018e, 2019b, 2019g, 2019h, 2019i, 2020a, 2020b, 2020c, 2020g). His reign started in 2003 as a continuation of his father's rule and policies; 'the Azerbaijani people had so much wisdom' that first they asked Heydar Aliyev to take power, and then he gave the mandate to his son. Speeches addressed to the Azerbaijani youth are of special significance. Like any other opportunity, Aliyev used the Azerbaijani Youth Day to stress his narrative on the Nagorno-Karabakh conflict and his family's role in 'solving' it. Describing the events of the early 1990s, he states that 'the first years of our independence were difficult and tragic. The country was in an uncontrolled state. The situation was particularly exacerbated after the military coup by the PFPA-Musavat tandem in 1992. Chaos, anarchy, arbitrariness, and gangs with machine guns walked in the streets. (...) If the Azerbaijani people had not shown wisdom by inviting Heydar Aliyev to take up power in 1993, no one knows what could have been in store for us' (Aliyev 2019a).

This reference to Heydar Aliyev is foundational, as it refers to the establishment of a dynastic rule. Another example among many is his speech during the 94th anniversary of the birth of Heydar Aliyev: As a result of negligent activities of the PFPA-Musavat tandem, our country was faced with very serious problems. (...) Of course, the people of Azerbaijan could not tolerate such anti-national authorities. The people bore with them only for one year and invited Heydar Aliyev to power in 1993. (...) In those difficult days, the people saw the only way to salvation in Heydar Aliyev, and he, as always, justified people's trust. The policy conducted under his leadership quickly led to stability and development in Azerbaijan. Although there were two attempted coups in 1994 and 1995, the Azerbaijani people prevented them. Once again demonstrating his leadership qualities, Heydar Aliyev addressed the people on television and called on them to protect the state. In response to his appeal, tens of thousands of people gathered in the streets and squares outside the presidential administration. Thus, both coup attempts failed in 1994 and 1995. The period of stability and development began in 1996. Heydar Aliyev, the architect and creator of independent Azerbaijan, put forward a number of important initiatives (Aliyev 2017f).

This story about Heydar Aliyev is found in dozens of speeches from Aliyev in 2016–2020. With rare exceptions, these are speeches addressed to the internal audience. In particular, these are the speeches made on the independence day of Azerbaijan, the celebration of Iftar,⁴ or the meeting with the refugees, servicemen, and youth. These speeches, creating the image of Heydar Aliyev, have five main components: (1) Azerbaijan's development from backwardness during the Soviet years was conditioned by the coming to power of Heydar Aliyev; (2) the removal of Heydar Aliyev led to the Nagorno-Karabakh issue, as anti-government forces came to power in Azerbaijan in the early 1990s and were used by Armenian nationalists (The sentence 'if Heydar Aliyev was in power, there would be no Karabakh issue' is one of the most common narratives in Ilham Aliyev's speeches); (3) if Heydar Aliyev was not in Nakhichevan, the fate of Nagorno Karabakh was waiting for Nakhichevan; (4) the people of Azerbaijan were wise, they called Heydar Aliyev to power, which started the restoration and development of Azerbaijan's stability; (5) in 2003, the people of Azerbaijan, wanting to see the continuation of Heydar Aliyev's policies, elected Ilham Aliyev (for example, see Aliyev 2019c, 2019d, 2020f, 2020c, 2020b).

As one can notice, these five points, while supporting the image of Aliyev as the heroic figure in Azerbaijani history, they also have anti-Armenian connotations. In other words, we see that the Nagorno-Karabakh issue is used to strengthen the legitimacy of his governance. It is not accidental that Aliyev very often speaks about the need for unity of the government and the people, due to which the development and solution of the Nagorno-Karabakh conflict could be possible. The role of Heydar Aliyev in the history of independent Azerbaijan (as the national hero without which Azerbaijan would have collapsed) has been repeatedly articulated in Ilham Aliyev's discourse. Fletcher (2021) examines this phenomenon in the context of a personality cult. This cult began already during the life of Heydar Aliyev, especially after the ceasefire with Armenia and the economic boost due to the contracts with foreign oil companies and reached its peak during the reign of his son, Ilham Aliyev. This post-mortem cult is promoted through multiple channels, such as posters, documentaries, billboards, statues, and glitzy regional Heydar Aliyev centres. I believe that the narrative of Heydar Aliyev in the speeches of his son and their connection to the Nagorno-Karabakh conflict can be added to this list.

Indeed, one cannot negate that Heydar Aliyev was one of the key figures in Soviet Azerbaijan, and his step to retake power was crucial for the fate of Azerbaijan. Nevertheless, there are three critical components in Ilham Aliyev's portrayals of the situation in Azerbaijan: Heydar as a saviour, the PFFA as a traitor, and the wisdom of the Azerbaijani people, although the reality was much more complicated, and Ilham Aliyev deliberately avoids mentioning any influence of from the outside, especially Russia and Turkish (Cheterian 2011, 146–51). In the comeback story of Heydar Aliyev, the Turkish government and especially Heydar Aliyev's friend and Turkish President Süleyman Demirel played a significant role, to the point that it was the Turkish government who had interfered and convinced Heydar Aliyev to retake power.

Furthermore, though the Karabakh conflict and especially the fall of Shushi were crucial, it was Surat Husseinov's march on Baku and the Elchibey government's collapse that pushed the Turks to persuade Heydar Aliyev to come to Baku and resolve the situation (Cornell 2011, 60–80). Demirel and many others in official Ankara never really felt at home with Elchibey, and Heydar Aliyev was the desired figure for them to see in

the post of Azerbaijani president (Goltz 2015, 366–92). Thus, at Heydar Aliyev's request, the Turks pushed Elchibey in desperation to invite Heydar Aliyev back to Baku to take power (Broers 2019, 38). Aliyev's Turkish orientation, which brought him to power, was evident in his foreign policy. For instance, during his visit to Turkey in February 1993, he declared that Turkey and Azerbaijan are 'two states but one nation.' As Geukjian notes, Heydar Aliyev 'apparently sought Turkish support in order not to be left at the mercy of any future Russian-mediated solution because he was "suspicious of Russian intentions and view their support of Armenia as a rather crude way of pressuring Azerbaijan and its oil wealth back into Moscow's economic and security sphere"' (Geukjian 2016, 204).

Thus, the puzzle was too complicated, and when Ilham Aliyev says that 'the people of Azerbaijan demonstrated the wisdom and courage and wiped out that anti-national regime and invited Heydar Aliyev to Baku' (Aliyev 2020b), he simplifies the situation with a suitable horse ignoring such decisive factors like the government's ineptitude and the external forces.

Self and enemy images in the rhetoric of Ilham Aliyev

Aliyev creates the image of Azerbaijanis and Armenians against this background, namely, how the First War was lost due to internal upheaval in Azerbaijan and how his family's reign has improved the situation. Upon this interpretation of the conflict emerges the self and enemy images in Aliyev's rhetoric.

Image of Armenians as a threat to Azerbaijanis

In the narrative of Aliyev, every incident on the line of contact is organized and provoked by Armenians. In contrast, the Azerbaijani side and its leadership are rational; they understand these provocations and seek 'not to yield to provocation.' However, the enemy fails to understand that and 'went completely impudent and attacked positions by mobilizing helicopter gunships.' Aliyev's statement usually reads: 'We did not break the ceasefire – we simply gave a fitting rebuff to the provocation' (Aliyev 2016c). This is a typical two-part statement. The first part portrays Armenians as a threat and, to put it mildly, not wise people, while the second part emphasizes the superiority of Azerbaijanis. Identifying Armenia and Armenians as the only source of Azerbaijan's problems can be traced in the speeches addressed to the Azerbaijani society and the international community. Statements such as 'We have no problems with any country except for Armenia' can be found in many speeches delivered by Aliyev (Aliyev 2016f, 2018c).

Describing the essence of the enemy

Aliyev developed an image of the enemy in his speeches, describing its essence. In these cases, Aliyev always uses similar adjectives describing Armenians. A few examples are as follows: 'Our contemptible neighbours took advantage of the unstable situation in Azerbaijan in the early 1990s and occupied part of our lands' (Aliyev 2018g), 'the government in Armenia may change, but the fascist essence of this country cannot' (Aliyev 2019h), 'the government of Armenia may change, but the "terrorist and fascist essence" of this country remains unchanged' (Aliyev 2020c), 'Azerbaijan has recently

been included in the rating of world's most powerful countries. There are only 80 countries on this list, and our notorious neighbours are not there' (Aliyev 2019i).

The culmination of this rhetoric became Aliyev's addresses to Azerbaijanis during the Second Karabakh war when his vocabulary became more raucous. For instance, during the war, at the operational meeting of the Central Command Post of the Ministry of Defence, he said, 'once again, the whole world can see what kind of "savages" we are facing' (Aliyev 2020k).

In this case, metaphors are used to describe the enemy. As Sontag (1978), 'victims are branded as necessarily fatal and equalling death for the body politic and/or the perpetrators' society and future that signals the need for extermination.' This is especially vivid in Aliyev's speech addressed to Azerbaijanis on 17 October, during the Second Karabakh war, when he says, 'the remains of the city of Fuzuli are a manifestation of Armenian fascism and a witness to Armenian fascism. For 30 years, it was in the hands of "wild beasts," in the hands of predators, in the hands of jackals. All the buildings have been demolished; our religious sites have been demolished; everything has been looted, the roofs of the houses, the windows, the belongings – everything. It was as if a "wild tribe" had taken over the city.' Furthermore, in this dehumanization process, Armenians are depicted as immune to persuasion and reason: 'They have neither conscience nor morality. They do not even have the brain' (Aliyev 2020j).

In general, dominance over enemies has been portrayed in various contexts throughout history. For example, in ancient Egypt, animal metaphors supported the stereotypical idea of Egyptian supremacy over their enemies and played an important role in psychological warfare as the enemies were depicted as weak, naïve and easily controlled (el Magd 2016). Aaron Beck describes the process through which an 'other' is transformed into the embodiment of Evil. He explains that 'the members of opposition are homogenized; they lose their identity as unique individuals. (...) Finally, they are demonized as the embodiment of Evil' (Beck 2000, 17). In the case of this article, focusing on the Azerbaijani case, we see the dehumanization of Armenians through the simile and animal imagery and metaphor of certain animals – dogs, jackals, and wild beasts. In general, Aliyev tries to connect Armenians with destruction.

In his speech addressed to Azerbaijanis, Aliyev again says, 'we will chase [Armenians] away like dogs, and we are doing that' (Aliyev 2020j). The dog metaphor has several explanations. One of them relates to the Islamic context. Christians were often called dogs in the Ottoman empire. Negative attitudes towards dogs are common in Muslim societies; many Muslims consider dogs unclean animals. Berglund (2014, 546) explains this unfavourable reaction towards dogs in the Muslim world with the idea that 'dogs were largely responsible for the spread of rabies in the Middle East, they have been long held in low esteem as a species to be abhorred, avoided, and ignored.' Thus, Aliyev's rhetoric is influenced by this socio-cultural tradition that lies behind the image of dogs.⁵

Another explanation can be the hierarchical position between dog and man. In general, dogs are a typical image of obedience, and dogs' domestic subservience can be used as an insult to someone's status as inferior, subordinate, and dependent. Aliyev's metaphor was later reinforced by the launching of 'Iti Qovan' UAVs production (See, Figure 1) by the Azerbaijani Ministry of Defence Industry right after the speech of Aliyev where he called Armenians 'dogs.' The phrase 'Iti Qovan' translates as 'dog chaser' (Məmmədov 2020). As one of the Azerbaijani media outlets put it (DEFENCE.AZ



Figure 1. Azerbaijani “Iti Qovan” UAV.

2020), ‘this historic expression stated by the Supreme Commander-in-Chief Ilham Aliyev, has been inscribed on the wings of the UAVs.’

Other animal metaphors, such as jackals, allude to the deceptive, cunning, and hidden but weak and easily controlled enemies. It is a way to create enemies’ roaming and foxy nature while reinforcing their supremacy. This harsh lexicon did not modify after the military victory as well. Especially his speech during the Victory parade was significant in this sense. ‘The hated enemy has destroyed all the occupied lands’ (Aliyev 2020l). Though we do not see animal metaphors, the hatred continues.

Azerbaijani people and army as a detergent from disease

While the first two components identify the threat and associate it with filthy animals or non-rational creatures, the third component of Aliyev’s rhetoric deals with the image of power that can eliminate the threat and cure an organism of a disease. In Aliyev’s discourse, power is the trio of Azerbaijani society, the Army, and the Government. Against every negative adjective describing Armenians, Aliyev puts positive ones for the Azerbaijani people. In particular, Azerbaijanis are described as successful, decent, stable, patriotic, heroic, courageous, strong, and confident (Aliyev 2016b, 2016h, 2016d, 2016k, 2020h, 2020i). If one puts Aliyev’s characteristics of Armenians and Azerbaijanis against each other, the picture would be this (Table 1):

Such an image justifies destroying the dehumanized enemy. For this purpose, however, one should also have self-perception as a powerful side and an owner of a weapon capable of destroying the enemy. Here the extensive praises of the Azerbaijani army are significant. In his speeches, Aliyev describes the Azerbaijani army as one of the world’s strongest armies, thereby pushing the Azerbaijani society to have confidence in victory,

Table 1. Ilham Aliyev's characterizations of Azerbaijanis and Armenians.

Aliyev's characterizations of Azerbaijanis and Armenians	
Azerbaijanis	Armenians
creator of culture	destroyer of culture
multicultural, advocating tolerance	intolerant, homogeneous
restoring and reviving the destroyed culture	incapable of reconstruction
rich	poor
powerful	weak
advocate of justice	provocative and a liar

a sense of self-superiority, and invulnerability (Aliyev 2020l, 2018f, 2020f, 2020d, 2018e, 2018d, 2018c, 2018b, 2017g, 2017f, 2017d, 2017a, 2016a). We are building up and will continue to build up our military power. The Azerbaijani army is among the 50 strongest armies on a global scale. The Azerbaijani army today is fully equipped with the most modern weapons and hardware (Aliyev 2018i). Another speech states, 'we demonstrated the power of the Azerbaijani army in the military parade held in June. Today, the Azerbaijani army is one of the strongest armies in the world in terms of equipment, combat capability and armament. Only a handful of countries have the opportunities we do. Our military victories are continuing' (Aliyev 2018f).

This self-image, combined with the image of a dangerous enemy, most likely accumulates and crystallizes among Azerbaijanis. This process culminated in the protests that erupted in Baku, where protesters demanded the government declare war against Armenia (BBC News 2020). Here, the state-backed dehumanization turned into a toxification, and the war against Armenia became imperative in the minds of Azerbaijanis. Rowan Savage (2007, 405) writes, 'dehumanization is found outside the field of genocide studies,' and that 'dehumanization facilitates genocide, but no means causes massacre, or always has massacre as a result' (Savage 2006). 'The process that makes genocide possible,' as Charny claims, 'generally does not stop at dehumanization. (...) what needs to be added to justify taking away people's lives is proof that the others are also a terrible threat to our lives and that it is their intent to take our lives away from us unless we stop them first' (Charny 1999, 156).

Two decades later, Neilsen's (2015, 86) introduced the concept of 'toxification' to describe Charny's point: 'Dehumanization says nothing to the perception of killing a certain group being a necessity.' Neilsen introduced the concept of toxification, 'a concept that eclipses the perception of victims as simply inhuman, and flags that perpetrators see the victims' destruction as a necessity.' Neilsen's (2015, 86–87) defines toxification as 'a cognitive perception of the target group as fundamentally lethal to the furtherance of the perpetrators' survival and society: the group is perceived to be not simply inhuman or inferior, as with dehumanization, but as a toxic presence that must be cauterized and destroyed.' Neilsen (2019) connects the concept with its main disseminators, which often turn out to be the governing regimes.

Analysing the Khmer Rouge Genocide, Williams and Neilsen (2019) showed that the toxification disseminated by the state later was 'reinforced by high-ranked officials at the macro level.' In the case of Azerbaijan, the whole state system participated in the reinforcement. Many activities with their symbolism enforced by Azerbaijani officials can be considered dehumanization and toxification in action



Figure 2. Azerbaijan issued postage stamps dedicated to the two most significant events of 2020 for the country - Karabakh war and Covid-19. The stamp, evidently, compares the virus to people of NK.

when the idea reaches its implementers and goes through the embodiment process. One of the examples can serve the case of the UAV mentioned above. Another example is the postage stamp by Azerbaijan, where Armenians are pictured as disease and virus (See [Figure 2](#)). This stamp demonstrates a disinfection specialist standing over a map of Azerbaijan and fumigating the area of Nagorno-Karabakh. Armenians of Nagorno-Karabakh are depicted as a virus that ‘needs eradication.’ Furthermore, in this picture, Armenia’s Syunik region is depicted as infected by a disease, which means that Armenians of Nagorno-Karabakh are equated to a virus but Armenians in general.

Conclusion

Dehumanization and toxification are integral tools for propaganda and war. During wars, conflicting sides often dehumanize the other, and there are cases when certain groups have been subjected to dehumanization and toxification for decades. Armenians' dehumanization in the lexicon of the president of Azerbaijan Ilham Aliyev can be considered one of these cases. The Nagorno-Karabakh conflict, which turned into one of the most prolonged conflicts in the post-Soviet territory, created an environment where the othering process became as harsh as we saw above.

The speeches delivered by Ilham Aliyev between 2016 and 2020 demonstrate the dehumanization and toxification of Armenians in Azerbaijan. While the speeches addressed to the external audience connect the Nagorno-Karabakh conflict to international law and the international community, in his speeches addressed to the people of Azerbaijan against the background of the Nagorno-Karabakh conflict, Aliyev actively keeps the process of toxification alive. This deliberate difference indicates that the dehumanization and toxification of Armenians in his rhetoric have a scrupulously organized character. This is further exemplified by the fact that the Nagorno-Karabakh conflict is often used to legitimize his reign in Azerbaijan during the past two decades. The figure of Heydar Aliyev plays a significant role here. Ilham Aliyev's narrative tells that only his family can resolve the conflict and save Azerbaijan from Armenians.

The examination of Aliyev's lexicon uncovered three main components of the dehumanization and toxification of Armenians. The first one was the identification of Armenians as the sole menace for Azerbaijan and Azerbaijanis. In the second, Armenians are depicted as non-human and barbaric in essence. This conclusion pushes the Azerbaijani side to leave the hopes of resolving the issues through negotiations since the other side is not conscious or rational. Hence, it is a threat that should be dealt with by force. The third component is the role of the Azerbaijani army, which is the tool that can perpetrate the needed violence. I argue that this phase can be accepted as the final stage of toxification, where the sense of self-superiority and the belief in the need to eliminate the enemy give birth to a high level of violence. While the head of state orchestrates toxification, its reinforcement is put on the shoulders of others, from state officials to ordinary people.

Notes

1. Given the overall situation over the internet and media freedom in Azerbaijan and the fact that the Azerbaijani Government controls these segments, Ilham Aliyev's speeches are an essential source. At least two critical segments are under the Government's total control – media and education. These sectors are crucial to spreading ideas and educating citizens with particular ideologies and worldviews where Azerbaijanis will see Armenians in a concrete light. In the case of media, Azerbaijan is ranked among the *not-free* countries. In the most recent RSF index, Azerbaijan ranked 154th out of 180 countries ('Index | RSF' | 'Index | RSF' 2022). On February 8th, 2022, Azerbaijan's parliament approved a bill legalizing censorship and trampling press freedom. As Tony Wesolowsky (2022) from *Radio Free Europe* states, 'Journalists hounded and harassed to the point where many have fled the country. Independent or opposition media shuttered or blocked online.' With this new law, both owners of media operating in Azerbaijan and journalists have to register with the authorities and follow many new rules, including one on the 'objective' interpretation of

facts and events. Thus, the Government would evaluate the objectiveness, which is thinly veiled censorship.

Even larger sphere through which the worldview of Azerbaijanis is formed is education which is also wholly engaged in duplicating and reproducing ideas spread or backed by Aliyev's Government. From the school textbooks to whole academic departments are engaged in this process. The textbooks duplicate the narratives that Aliyev's elaborates in his speeches, where Armenians are dehumanized, and the role of father Aliyev is highly stressed. Furthermore, a separate department called 'Aliyevshunasliq' (can be translated as 'Aliyevology') was established to study the life of Heydar Aliyev (Broers and Mahmudlu 2022). By controlling these vital spheres, Aliyev creates an environment where only ideas backed by him can exist. In this sense, his speeches become a significant source for studying the whole process of dehumanization of Armenians.

2. This agreement establishes a ceasefire between the warring parties. The agreement was signed respectively by M. Mamedov in Baku on 9 May 1994, S. Sargsyan in Yerevan on 10 May 1994, and S. Babayan in Stepanakert on 11 May 1994. <https://www.peaceagreements.org/generateAgreementPDF/990>.
3. The question of genocide is central in many questions related to the Armenian-Turkic antagonism. The Armenian Genocide in the Ottoman Empire as well as its memory play a role in the Karabakh conflict as well. As noticed by Vicken Cheterian (2018; Cheterian 2015, 279–97), the literature of the conflict contextualizes it mainly within the Soviet legacy. As the author argues (Cheterian 2018), the suppressed trauma of the Armenian genocide is 'present in the mass psychology of the conflicting parties.' Since 1960s, the discourse over the Armenian Genocide has been increasing in the political discourse of Armenia. At the same time, as Cheterian states, Azerbaijan 'has developed its own state-sponsored discourse of genocide, vehemently denying that the [Armenian] genocide took place while portraying Azerbaijan as a victim of genocide itself.'
4. Muslims break their Ramadan fast with a meal known as *iftar*. In many cases, this is accompanied with readings from the Qur'an. From country to country the ways of celebration and meal differ (Fieldhouse 2017, 287–88).
5. Azerbaijan has a predominantly Islamic population and the rope of Islam has been growing after the collapse of the Soviet Union (Ter-Matevosyan and Minasyan 2017).

Disclosure statement

No potential conflict of interest was reported by the author(s).

Funding

The work was supported by the Science Committee MESCS RA [21AG-6A081] and Calouste Gulbenkian Foundation.

Notes on contributor

Dr Naira Sahakyan earned her PhD from the University of Amsterdam. Currently, she is a senior researcher at the Armenian Genocide Museum-Institute and a lecturer at the American University of Armenia and Yerevan State Universities. She is the author of *Muslim Reformers and the Bolsheviks: The Case of Daghestan* (Routledge, 2022). Dr Sahakyan authored articles in the peer-reviewed journals including *Caucasus Survey* and *Revolutionary Russia*.

ORCID

Naira Sahakyan  <http://orcid.org/0000-0001-8595-7044>

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Annex 36

“The true face of Armenian fascism in cartoons”, *Trend* (13 October 2020)
(certified translation from Russian)

CERTIFIED TRANSLATION

United Kingdom

Bloxham, Banbury

Tania Northorpe declares:

That she is employed as Translator by the firm of Lionbridge Technologies, LLC, 1050 Winter Street, Suite 2300, Waltham, MA 02451, United States;

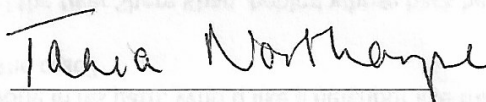
That she is fully conversant in the Russian and English languages;

That she translated or reviewed the translation of the original document:

An article entitled “The True Face of Armenian Fascism in Cartoons” from the Trend news agency from Russian into English;

and that the English translation is, to her best knowledge and belief, a true and correct rendering of the original text in the Russian language.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on November 2, 2022



Tania Northorpe
MA Hons, Modern and Medieval
Languages, University of Cambridge

CERTIFIED TRANSLATION

Kent, United Kingdom

Nigar Adesilu declares:

That she is employed as Translator by the firm of Lionbridge
Technologies, LLC, 1050 Winter Street, Suite 2300, Waltham, MA 02451, United States;

That she is fully conversant in the Azerbaijani and English languages;

That she translated or reviewed the translation of the original document:

Cartoon text in Azerbaijani

from Azerbaijani into English;

and that the English translation is, to her best knowledge and belief, a true
and correct rendering of the original text in the Azerbaijani language.

I declare under penalty of perjury under the laws of the United States of America that the
foregoing is true and correct. Executed on 29.12.2022, 09:00.

A handwritten signature in black ink, appearing to read 'Nigar Adesilu', written in a cursive style.

Nigar Adesilu



Q [user icon] RU Categories

Home > Azerbaijan > Armenian-Azerbaijani conflict >

The true face of Armenian fascism in cartoons (PHOTO)

The Armenian-Azerbaijani conflict | Materials | October 13, 2020 14:54 (UTC +04:00)

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BAKU /Trend Life/ - The true face of Armenian fascism, which for around 30 years has been occupying 20 percent of the territory of Azerbaijan – Nagorno-Karabakh and seven adjacent regions, and which has been pursuing a policy of ethnic cleansing of Azerbaijanis for over 200 years – has been shown by Professor Kerim Kerimov, the well-known geologist and geophysicist, in his work, **Trend Life** reports.

Ribbon >>

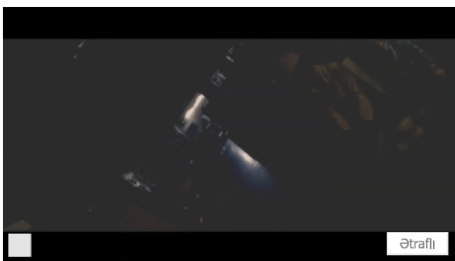
The Armenian aggressors are coming out with new declarations regarding the occupation of yet more of Azerbaijan’s land, and are launching rocket attacks on peaceful cities and villages, in gross disregard of all international and human [rights] laws. Since

September 27 alone, 42 civilians have been killed and more than two hundred have been injured as a result of shelling of Azerbaijani settlements by the Armenian armed forces. The whole world knows about the Khojaly massacre committed on the night of February 25-26, 1992. These days, Azerbaijan's glorious army is waging a just battle of liberation against the Armenian aggressors, who over these years have been up to their necks in the blood of our citizens, mired in atrocious crimes. And all this is happening under the passive eye of and with support from a number of states, ignoring the rules of international law.

Kerim Kerimov is an Honored Worker of Science and Technology of Azerbaijan, an academic at the International Eco-Energy Academy, and a member of many international geological and geophysical societies. He is the President of the National Committee of Geophysicists of Azerbaijan, and the President of the Azerbaijani branch of the American-Canadian International Association of Exploration Geophysicists.

The global scientific community has the highest regard for the academic as the author of a set of methods for applying geophysical information to study the structure and development of the Earth's lithosphere, the thermodynamic and thermobaric states of the earth's crust, to the forecasting and studying of the oil and gas potential of a section. The professor is well-known in the scientific world as a scientist who carries out research on a broad range of problems of oil and regional geology, geo-tectonics, geophysical methods of exploring oil and gas fields. His fundamental works have facilitated a rethinking of existing views on the geological nature and the oil and gas potential of a number of regions. The high regard in which the academic is held is borne out by the large volume of his scientific works (over 380), a significant number of which have been published far beyond the Republic's borders.

Kerim Kerimov is also known in Azerbaijan and far beyond its borders as a talented cartoonist in the field of satire and political posters and as an active champion of peace and friendship between peoples. The first cartoon he drew as a student was published in 1956. Since then, Kerimov has published over 2500 works which, due to their topical nature, relevance and masterful execution, have attracted and continue to attract the attention of a wide audience. In 1965 he was admitted to the Union of Journalists of the USSR as a member. The professor's political posters have been repeatedly shown at many thematic exhibitions, and at eight exhibitions dedicated to his own work in Baku, Moscow, St. Petersburg and Istanbul.



One of the main themes of his posters in recent years has been the exposure of Armenian fascism and the political maneuverings against Azerbaijan and its peace-loving people. His bright, eye-catching cartoons (posters) evoke a range of feelings, make people think about the events taking place in the world, and delight fans of the artist's talent with their expressiveness.

(Author: Vugar Imanov, Editor: Natalya Kochneva)

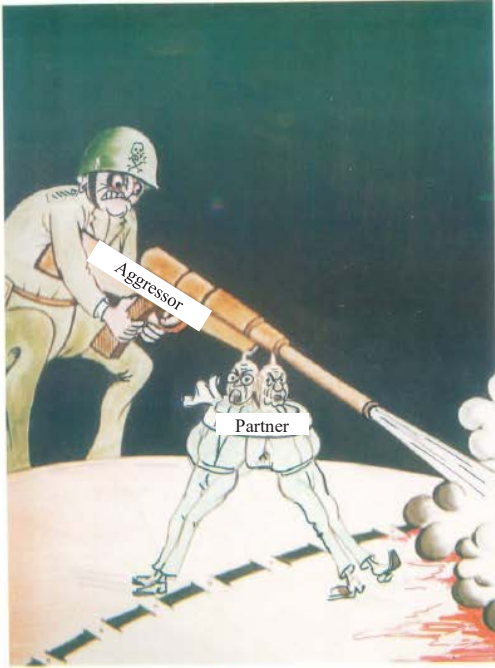
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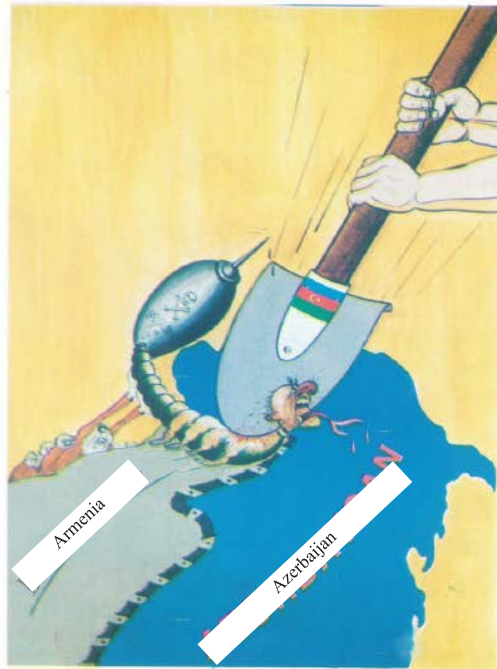
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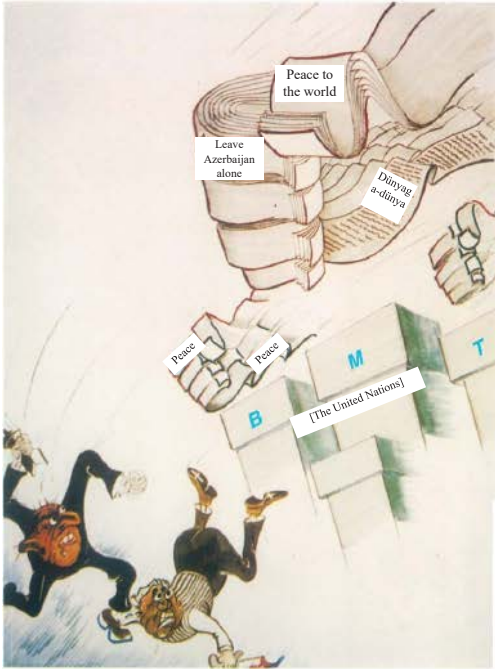
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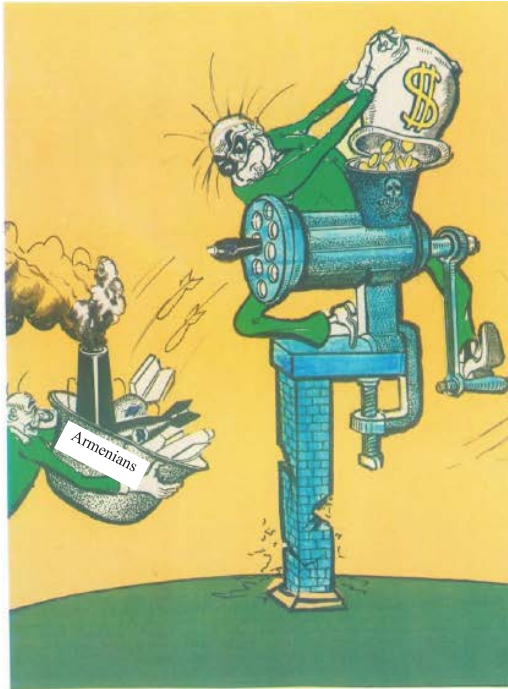
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Azerbaijan's policy is the peace
AZERBAIJAN'S POLICY-PEACE POLITICS
AZERBAIJANI POLITICS - THE POLITICS OF PEACE



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*I CANNOT GET ENOUGH!
I WANT MORE!
IT'S NOT ENOUGH FOR ME!*



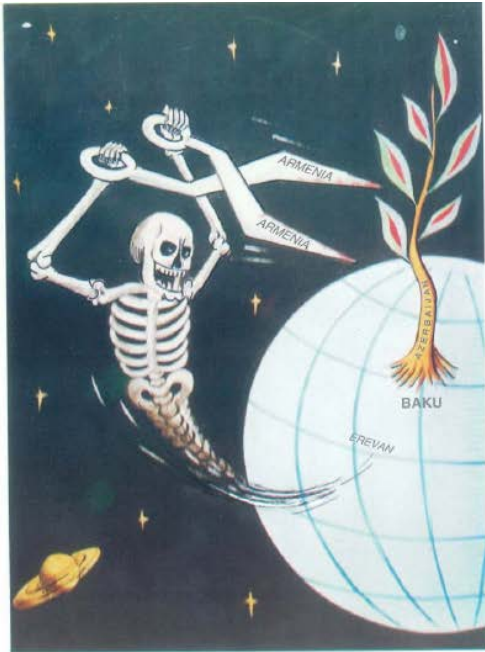
*DOGS BARK ...
DOGS BARK, BUT WHAT'S THE USE?
DOGS BARK ...*



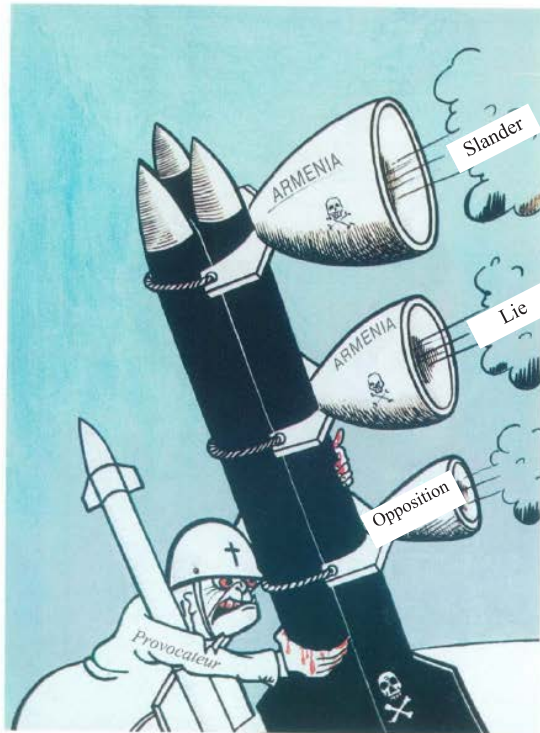
BLOODTHIRSTY IS ON THE JOB
VAMPIRE IN ACTION
VAMPIRE IN ACTION



MARIONETTE
MARIONETTE
PUPPET



DO NOT EVEN TRY
DON'T TRY!
DON'T BOTHER



ITS ESSENCE
ITS ESSENCE
ITS ESSENCE



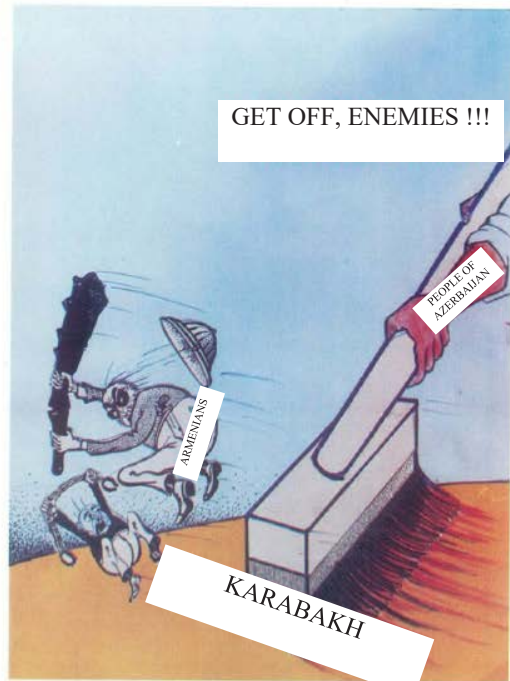
THEIR REAL FACE
THEIR TRUE IMAGE
THEIR TRUE FACE



SHIFTING THE BLAME...
DOUBLE GAME
SHIFTING THE BLAME



FOLLOWING THEIR PATH
THEY FOLLOW THE SAME PATH
FOLLOWING THEIR EXAMPLE



TEAM WORK MAKES THE DREAM WORK
PEOPLE'S FORCE
PEOPLE POWER

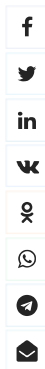


Q RU ▾ Рубрики

Главная > Азербайджан > Армяно-азербайджанский конфликт >

Истинное лицо армянского фашизма в карикатурах (ФОТО)

Армяно-азербайджанский конфликт | Материалы | 13 октября 2020 14:54 (UTC +04:00)



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THEY FOLLOW THE SAME PATH
DO IX İPİMEYİ

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Google Новости

БАКУ /Trend Life/ - Истинное лицо армянского фашизма, которое на протяжении около 30 лет оккупирует 20 процентов территории Азербайджана – Нагорного Карабаха и семи прилегающих районов, и более 200 лет проводит политику этнической чистки азербайджанцев, показал в своих работах известный ученый геолог-геофизик, профессор Керим Керимов, сообщает Trend Life.

Армянские агрессоры выступают с новыми заявлениями об оккупации еще новых земель Азербайджана, наносят ракетные удары по мирным городам и селам, грубо игнорируя все международные и человеческие законы. Только

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начиная с 27 сентября в результате обстрелов азербайджанских населенных пунктов со стороны армянских вооруженных сил погибли 42 мирных жителя, ранено более двухсот. Всему миру известен Ходжалинский геноцид, учиненный в ночь с 25 на 26 февраля 1992 года. Сегодня славная армия Азербайджана ведет справедливую освободительную борьбу с армянскими

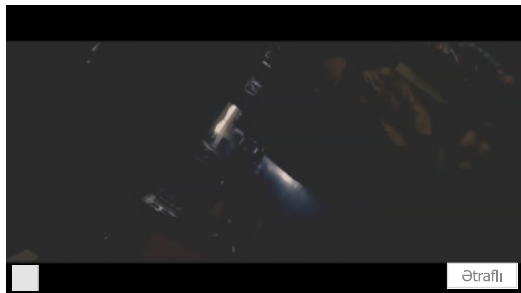
агрессорами, которые за эти годы выше головы в крови невинных граждан нашей страны, погрязли в жестоких преступлениях. И все это происходит при попустительстве и поддержке ряда государств, игнорирующих нормы международного права.

Керим Керимов - заслуженный деятель науки и техники Азербайджана, академик Международной экоэнергетической академии, член многих международных геологических и геофизических обществ. Президент Национального комитета геофизиков Азербайджана. Президент Азербайджанского отделения Американско-Канадской международной ассоциации разведчиков геофизиков.

Мировая научная общественность высоко ценит ученого как автора комплекса методов применения геофизической информации для изучения строения и развития литосферы Земли, термодинамического и термобарического состояний земной коры, прогнозирования и изучения нефтегазоносности разреза. Профессор известен в научном мире как ученый, выполняющий научные исследования в широком диапазоне проблем нефтяной и региональной геологии, геотектоники, геофизических методов разведки нефтяных и газовых месторождений. Его фундаментальные работы позволили пересмотреть существующие взгляды на геологическую природу и перспективу нефтегазоносности ряда регионов. Высокий авторитет ученого подтвержден большим объемом научных работ (более 380), значительное число которых опубликовано далеко за пределами республики.

Керим Керимов также известен в Азербайджане и далеко за его пределами как талантливый художник-карикатурист в области сатиры и политического плаката, как активный борец за мир и дружбу между народами. Первая карикатура, нарисованная им еще в студенческие годы, была опубликована в 1956 году. С тех пор из-под пера и кисти Керимова вышло более 2500 работ, которые злостью, актуальностью и мастерским исполнением привлекли и привлекают внимание широкой аудитории. В 1965 году был принят в члены Союза журналистов СССР. Политические плакаты профессора не раз демонстрировались на многих тематических, а также 8 персональных выставках в Баку, Москве, Санкт-Петербурге, Стамбуле.





Одна из основных тем его плакатов последних лет - разоблачение армянского фашизма и политических интриг против Азербайджана и ее миролюбивого народа. Яркие, броские карикатуры (плакаты) вызывают гамму чувств, заставляют задуматься над происходящими в мире событиями, радуют поклонников таланта художника своей выразительностью.

(Автор: Вугар Иманов Редактор: Наталья Кочнева.)



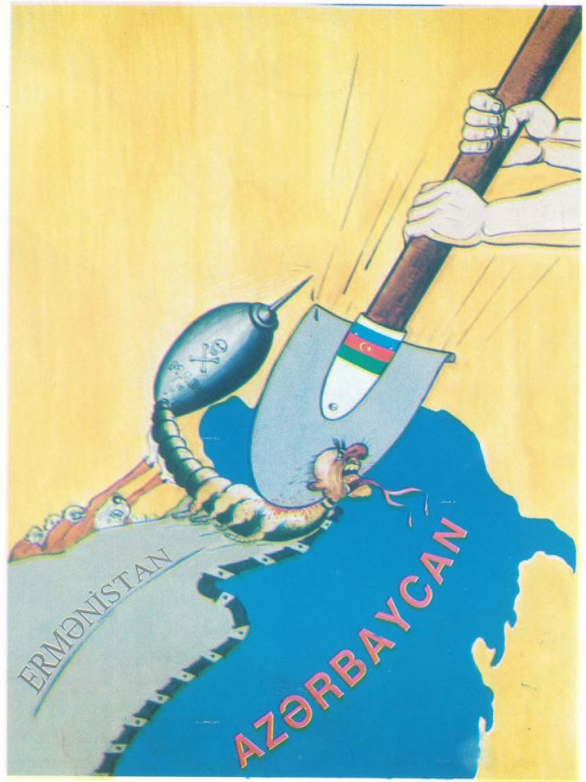
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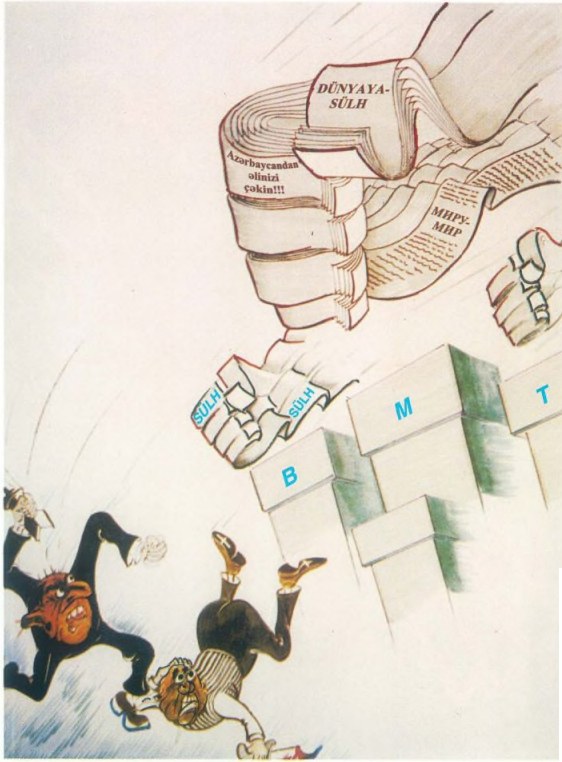
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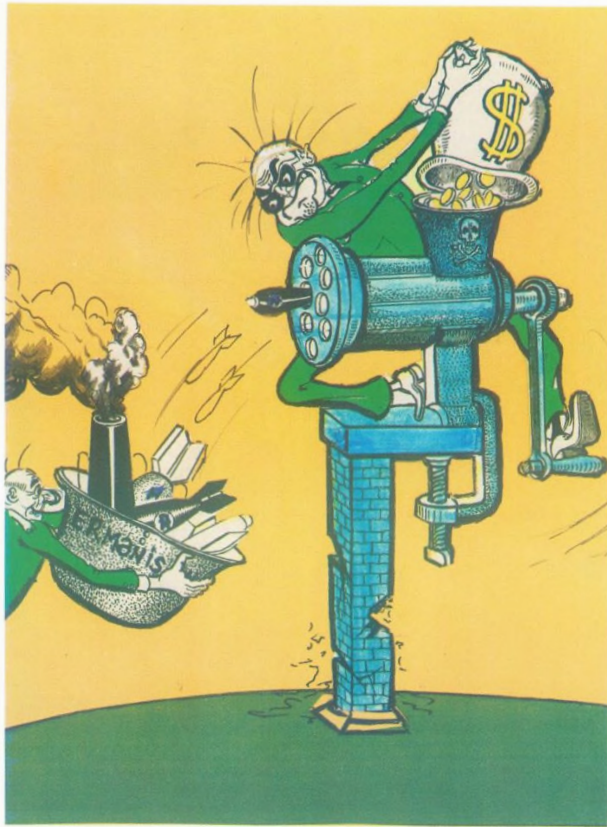
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AZƏRBAYCANIN SİYASƏTİ SÜLH SİYASƏTİDİR.
AZERBAIJAN'S POLICY-PEACE POLITICS
ПОЛИТИКА АЗЕРБАЙДЖАНА-ПОЛИТИКА МИРА



SÖZSÜZ
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GÖZÜM DOYMUR!
I WANT MORE!
A MHE BCE MAJO!



İT HÜRÜR.....
DOGS BARK, BUT WHAT'S THE USE?
СОБАКИ ЛАЮТ



QANİÇƏN İŞ BAŞINDA
VAMPIRE IN ACTION
ВАМПИР В ДЕЙСТВИИ



MARIONET
MARIONETTE
МАРИОНЕТКА



*CƏHD ELƏMƏ!
DON'T TRY!
НЕ СТАРАЙСЯ!*



*ONUN MƏNİYYƏTİ
ITS ESSENCE
ЕГО СУЩНОСТЬ*



ONLARIN ƏSİL SİFƏTİ
THEIR TRUE IMAGE
ИХ ИСТИННОЕ ЛИЦО



ADIMI SƏNƏ QOYDUM.....
DOUBLE GAME
С БОЛЬНОЙ ГОЛОВЫ-НА ЗДОРОВУЮ



ONLARIN YOLU İLƏ
THEY FOLLOW THE SAME PATH
ПО ИХ ПРИМЕРУ



EL GÜCÜ SEL GÜCÜ
PEOPLE'S FORCE
СИЛОЙ НАРОДА

Annex 37

“President Ilham Aliyev addresses the nation”, *Azernews* (17 October 2020)

www.azernews.az /nation/184462.html

Azernews.Az

: 10/17/2021

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Chronicles of Victory: President Ilham Aliyev addresses the nation on October 17, 2020 [PHOTO/VIDEO]

17 October 2021 09:49 (UTC+04:00)



By [Trend](#)

President of the Republic of Azerbaijan Ilham Aliyev has addressed the nation on October 17, 2020.

[Trend](#) presents the address.

Nationwide address of President Ilham Aliyev

- Dear fellow compatriots!

Today, the fascist leadership of Armenia committed yet another war crime. The cities of Ganja and Mingachevir came under rocket fire. As a result of this cowardly shelling, our compatriots have been killed and wounded. May Allah rest all our martyrs in peace and send healing to our wounded compatriots!

This once again shows the fascist nature of the Armenian leadership. This is not the first time our cities have come under fire. Armenia fires on Tartar, Aghdam, Goranboy, Aghjabadi and other cities practically every day. As a result of this fire, our citizens have been killed and wounded, more than 2,000 houses have been destroyed or seriously damaged. However, these cowardly actions cannot break the will of the Azerbaijani people.

Armenian leadership is committing a war crime. Shooting at civilians, including firing missiles, is a war crime, and they must and will bear responsibility for this crime. We are giving their answer on the battlefield. We are avenging and will continue to avenge the deaths of our martyrs, of innocent civilians on the battlefield. We have never fought or will ever wage a war against the civilian population. We are not Armenians. We have our own way, we have our own cause, and all the Azerbaijani people are united around this cause. All the Azerbaijani people are showing solidarity and patriotism.

The victorious Azerbaijani Army is driving and will continue to drive the enemies away from our lands in the ongoing battles. I said that if they do not leave our lands of their own free will, we will chase them away like dogs and we are doing that. Every day, the victorious Azerbaijani Army liberates new strategic locations, new heights and new settlements from the occupiers. Our revenge takes place on the battlefield.

These days, from 27 September to the present, a crushing blow has been dealt to Armenia's military potential. I just want to bring some figures to the attention of our citizens. I must say that the list I will provide is incomplete. An even larger amount of enemy equipment has been destroyed and, of course, it is impossible to calculate it accurately during the battle. However, the figures I will quote show explicitly that we have gained a complete advantage on the battlefield and have almost completely destroyed the military-technical potential of Armenia. The question is where do so many weapons and so much equipment come from to Armenia? Armenia's military budget is well known. Armenia's state budget is also well known. Armenia is a bankrupt country. The country's foreign debt accounts for 60-70 percent of the country's gross domestic product. The country's foreign exchange reserves are only \$1.5 billion, which are bank reserves. That is, it is not free funds. What money are they getting these weapons and equipment with? The equipment we have destroyed and taken as booty so far is worth at least \$2 billion. But there is still more in their hands – in the occupied territories and in the territory of Armenia. The question is who is arming them. In some cases, we are criticized that we are arming ourselves, we are buying weapons and this can allegedly aggravate the situation and turn it towards an unacceptable direction. The question is what about Armenia's armament. Where do so many weapons and hardware come from to this poor country? Today, they are smuggling weapons and equipment using some

smuggling schemes. And they are very dangerous and very destructive weapons. Therefore, we want answers to these questions, and I am sure we will get them.

I would like to bring to the attention of my people some of the Armenian equipment the Azerbaijani Army has destroyed in recent days. Thus, the list of the destroyed Armenian equipment includes: 234 tanks have been destroyed, 36 tanks have been taken as military booty, 49 infantry fighting vehicles have been destroyed, 24 have been taken as military booty, 16 self-propelled artillery pieces have been destroyed, 190 cannons of various calibers, two "Hurricane" systems, one TOS flame-thrower, two "Elbrus" operational tactical missile complexes, one "Tochka-U", 35 "OSA" anti-aircraft missile systems, three "TOR" anti-aircraft missile complexes, five "KUB" and "KRUG" anti-aircraft missile complexes, nine radio-electronic combat systems, two S-300 anti-aircraft missile systems, 196 trucks have been destroyed, and 98 have been taken as booty. Anyone, any specialist can calculate the price of this equipment from open media. We must and we will find answers to these questions.

The glorious Azerbaijani Army is successfully continuing its salvation mission. In recent days, I have informed my people and announced the names of the newly liberated villages. Today, with a feeling of great satisfaction and joy, I want to convey to my dear people the names of more settlements that have been liberated. The following settlements of Fuzuli district have been liberated from the occupiers – Gochahmadli village, Chimani village, Juvarli village, Pirahmadli village, Musabayli village, Ishigli village, Dadali village and Fizuli city. The city of Fizuli has been liberated from the occupiers, Fuzuli is ours, Karabakh is Azerbaijan!

I heartily congratulate all the people of Azerbaijan on this occasion. I heartily congratulate the people of Fuzuli on this occasion. Many years of longing for native land are coming to an end. We are honorably fulfilling our mission, restoring and will restore the territorial integrity of our country. The battles for Fuzuli were very hard. Time will pass and books and papers will be written about these battles. It was a battle that required great professionalism, skill, courage and self-sacrifice. Because during these 30 years, the enemy has built such a strong fortification on the line of contact that some people thought that it was impossible to liberate the city of Fuzuli from occupation. Even the most well-known military experts were of the opinion that it would take months to capture Fuzuli and free it from occupation and whether the operation would be successful was still in question. However, the victorious Azerbaijani Army was able to cope with this glorious mission and most of the villages of Fuzuli district and the city of Fuzuli have been liberated from the enemy in a short time. When we talk about the city of Fuzuli, of course, we should all know that there is nothing left of the city, no monuments, not a single safe building. For 30 years, it was in the hands of wild beasts, in the hands of predators, in the hands of jackals. All the buildings have been demolished, our religious sites have been demolished, everything has been looted, the roofs of the houses, the windows, the belongings – everything. It was as if a wild tribe had taken over the city. The remains of the city of Fuzuli are a manifestation of Armenian fascism and a witness to Armenian fascism.

We will return to Fuzuli, we will rebuild and landscape all the villages. Life will return to those villages. Just like in the past when the Azerbaijani Army liberated 22 villages of Fuzuli district, including Horadiz settlement, under the leadership of the great leader. Look at how beautiful this place is now. Horadiz settlement has become a very prosperous and modern town. Fuzuli people live in liberated villages. I can say that about half of the population of Fuzuli has been settled in the villages liberated so far, but more villages inhabited by Fuzuli people have been liberated today. Life will return there, they will return there, they will live there, they will visit the graves of their ancestors. The call to prayer will be heard in the mosques to be restored there. We are fulfilling our glorious mission. I am confident that the glorious Azerbaijani Army will continue to drive the invaders away from our lands.

The Fuzuli operation is quite symbolic. Azerbaijan has regained its historical and ancient settlement and ensured the return of tens of thousands of people to these places. At the same time, from a strategic point of view, the splitting of several lines of defense on the line of contact with Fuzuli gives us another strategic advantage. Because our armed forces located in the direction of Fuzuli have been fighting there these days. Of course, it is not a secret now where we were able to enter Fuzuli from. As a result of tremendous military professionalism and courage, we were able to liberate Fuzuli from the occupiers. Before that, the city of Jabrayil was liberated from the invaders. Before that, Hadrut was liberated from the occupiers. Many villages of Khojavand and Jabrayil districts, including Fuzuli district, were liberated from occupation. Only after that were we able to liberate the city of Fuzuli from the occupiers.

In the latest stage, the enemy has dropped his guns and fled. Today, I can say with full responsibility that the Fuzuli operation will be included in military books. In fact, not only Fuzuli operation but also other operations. According to the information I have today, military experts are already clearly saying that the Azerbaijani Army is an army with great combat capability and technical support.

It is a historic day today. The date of 17 October will remain forever not only in the memory of Fuzuli people but also in the history of the Azerbaijani state. Today, we, all the people of Azerbaijan, are writing the brightest page of our people and our state together. Today, we are writing this glorious history of solidarity, mutual support and unity. We are lucky to live in these moments. Unfortunately, tens of thousands of our refugees and IDPs who were looking forward to these moments did not live to see these days. But I am sure that their spirit is happy today because their native lands have been liberated from the occupiers.

Despite the fact that the cowardly, treacherous and vile enemy commits war crimes, fires on the civilian population and kills children as a result of today's shooting, I want to say again that we must not take revenge on civilians. We are taking revenge on the battlefield. The blood of our martyrs and civilians does not and will not remain unavenged. I warn the fascist leadership of Armenia again – leave the remaining lands of your own accord. We will throw you out of there anyway. There will be no trace of them left on those lands. We will drive them out of our lands to

the end. Let them leave of their own accord!

He did not want to give up Fuzuli even though he understood perfectly well that he would not be able to keep it. He did not want to give up Jabrayil. Yesterday, the day before yesterday and today, successful operations were carried out in the direction of Jabrayil and strategic heights were taken. I do not want to say anything about that yet. I do not want to get ahead of the events. But the victorious Azerbaijani Army is achieving and will continue to achieve its goals, our territorial integrity is being restored and will be fully restored. No force can stop us. No force can stand against the will of the Azerbaijani people. Everyone should know this. No-one can stand in front of us. Let the predatory Armenian state vacate our lands. After that, a ceasefire will be ensured. A ceasefire was declared, but Ganja was bombed a day later. And which part of it? A residential settlement. Where did they hit today? Again, a residential area. When did they shoot? At night, so that more people die.

This is a crime against humanity. If the international community does not want to bring Armenia to justice for the crimes it has committed – just as no-one has brought them to justice for the Khojaly genocide – we will bring them to justice ourselves. We will punish them, and our punishment will be just. They deserve the most severe punishment. The military-political leadership of Armenia are criminals and we will punish these criminals.

The prime minister of Armenia who said that "Karabakh is Armenia", what happened, why aren't you saying that "Karabakh is Armenia" now? Come to Fuzuli, where you were exploiting our land. Come to Jabrayil, come to Hadrut, come to other liberated places and say that "Karabakh is Armenia". You are sitting there in Yerevan, making statements from there, annoying world leaders – there is no-one left you didn't phone.

Why aren't you saying that "Karabakh is Armenia"? You are afraid and you should be. But why were you so brave when you insulted the Azerbaijani people by saying that "Karabakh is Armenia, full stop"? Who did you rely on? Didn't you know that one day you will be held accountable for your actions? The day has come and is coming. Bringing Armenians from Lebanon and other countries to Shusha is a war crime that contradicts the Geneva Convention. They do it demonstratively, they show it on TV, they show Armenians coming to live and work in our ancient land. Let's see now who will come to settle in Shusha. You were building a new road with Armenia from Jabrayil. Why? You have illegally occupied that region, our Araz region, in order to settle Armenians there? You wanted to make us face facts? What was the purpose of bringing Armenians from abroad and settling them there in various ways, including through deception because Armenia has a small population? The goal is to keep our historical lands under eternal occupation, to ensure eternal occupation and Armenianize our lands. Look, they gave Fuzuli an ugly name. Let this name be a curse to you. This name will go to hell. This name no longer exists. There is no Madagiz – it is Sugovushan. We will restore our other historical names. You wanted to move the parliament of your "entity" to Shusha. Go ahead and do it now! Where is the place where you conducted the "swearing-in ceremony" of the leader of that fake gang? We have destroyed it, completely

destroyed it. You put forward seven conditions to us. You were speaking to us in the language of ultimatums. Let's see what your conditions are now. What happened? You cling to people, fall at their feet begging for help in stopping Azerbaijan. Tell Azerbaijan to stop. Get out of our land and we will stop! Get the hell out of our lands! I have said this before and do not hide anything. The people of Azerbaijan know this and the international community is saying this too. I say this every day – get out and say that you will leave here tomorrow, and we will stop. We do not need to shed blood. We need lands. We will get this land by any means. Let everyone know this. The history of the last days shows this.

It is proving too costly for you, for the Armenian leadership, to insult the Azerbaijani people. Too costly. The Armenian people must finally bring the leaders of this criminal regime to justice. Rallies are already being organized in military conscription offices in Armenia. Mothers are blocking the roads and preventing their children from dying in another country. I also appealed to the Armenian people, and I am appealing to them again: Do not let your children go! What are they doing in our lands? Live in your own country. We have nothing to do with you. Go and live in your own country, do whatever you want but leave our lands. I am confident that the Armenian people will also bring the leaders of their criminal junta to justice. We are on the path of truth, we are on the path of justice. We are right, we are fighting in our own land, we are giving martyrs on our own land. Ours is a holy war!

We have shown our strength on the battlefield, both to the enemy and to the whole world. The strength we are showing on the battlefield is underpinned by the will of the Azerbaijani people, the talent of the Azerbaijani people and our success.

I want to say again that we are a lucky people. Our generation is happy to be witnessing these happy days. I consider myself a lucky person to convey this good news to my people. As the Commander-in-Chief, I lead all the work and want to assure the people of Azerbaijan that I will continue to do my best to protect the national interests of our country and our people. No threat and no pressure can affect my will. Ours is the cause of truth. We are fighting on our own land and restoring our territorial integrity.

Long live the Azerbaijani Army! Long live the people of Azerbaijan! Karabakh is Azerbaijan!

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Annex 38

“Azerbaijan starts production of ‘Iti qovan’ UAVs”, *Defence.Az* (22 October 2020)



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The Azerbaijani Ministry of Defence Industry has begun the mass production of a new type of unmanned aerial vehicles "İti qovan" ("Dog Chaser") with greater destructive power, the ministry told Defence.az.

This historic expression stated by the Supreme Commander-in-Chief Ilham Aliyev, has been inscribed on the wings of the UAVs. At present, "Iti Govan" UAVs are in the armament of the Azerbaijani Army.

Meanwhile, the units and enterprises of the Ministry of Defence Industry, established in 2005 at the initiative of the Azerbaijani President, Supreme Commander-in-Chief Ilham Aliyev, provide the Azerbaijani Army with weapons and ammunition. Specialists of the ministry together with the military are testing new types of weapons and ammunition in real combat conditions.







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 <p>Qubadlıdan Naxçıvana, Naxçıvandan Qubadlıya şəhadət yolu - O, Əliyev Əliyevinin yanına qələbə ilə döndü</p>	 <p>"Su-30 ilə bağlı hekayə təkrarlanır, 250 milyon dollara çox riskli Hindistan silahı alırıq" - Ermeni hərbi ekspert (ƏTRAF.LI)</p>	 <p>"Düşmən səhər mövqeləndikləri yerdə Azərbaycan bayrağını gördükdə təşviş içərisində qaçmağa başladı" - Polkovnik-...</p>
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"DEFENCE.AZ" The news magazine is an independent media outlet. The website monitors, analyzes and transmits the news of Azerbaijan and the world.

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Annex 39

R. Dixon, “Azerbaijan’s drones owned the battlefield in Nagorno-Karabakh — and showed future of warfare”, *The Washington Post* (11 November 2020)

Azerbaijan's drones owned the battlefield in Nagorno-Karabakh — and showed future of warfare



By [Robyn Dixon](#)

November 11, 2020 at 4:06 p.m. EST



A soldier inspects the remains of a downed drone from Azerbaijan on Oct. 13, 2020, in Askeran, in the Nagorno-Karabakh region. (Alex McBride/Getty Images)

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MOSCOW — The drone's-eye view over Nagorno-Karabakh defined much of the six-week war in the mountainous enclave within Azerbaijan: The video first showed soldiers below in trenches, then came blasts and smoke, then nothing.

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Drone strikes — targeting Armenian and Nagorno-Karabakh soldiers and destroying tanks, artillery and air defense systems — provided a

MOST REAL



huge advantage for Azerbaijan in the 44-day war and offered the clearest evidence yet of how battlefields are being transformed by unmanned attack drones rolling off assembly lines around the world.



The expanding array of relatively low-cost drones can offer countries air power at a fraction of the cost of maintaining a traditional air force. The situation in Nagorno-Karabakh also underscored how drones can suddenly shift a long-standing

conflict and leave ground forces highly exposed.

On Tuesday, Armenia accepted a cease-fire on punishing terms to possibly end the latest round of fighting over Nagorno-Karabakh, an enclave controlled by ethnic Armenian factions but inside the internationally recognized borders of Azerbaijan.

“Drones offer small countries very cheap access to tactical aviation and precision guided weapons, enabling them to destroy an opponent’s much-costlier equipment such as tanks and air defense systems,” said Michael Kofman, military analyst and director of Russia studies at CNA, a defense think tank in Arlington, Va.

“An air force is a very expensive thing,” he added. “And they permit the utility of air power to smaller, much poorer nations.”

In Azerbaijan, the videos of the drone strikes have been posted daily on the website of the country’s Defense Ministry, broadcast on big screens in the capital, Baku, and tweeted and retweeted online.



Azerbaijan's defense ministry tweeted this video on Nov. 8 that allegedly shows Armenian forces being targeted in Nagorno-Karabakh. (Video: Azerbaijani Defense Ministry)

They were also studied by Western military analysts to track Azerbaijan's swift military gains.

Thousands of protesters gathered in the Armenian capital, Yerevan, on Wednesday as pressure grew for Prime Minister Nikol Pashinyan to step down after agreeing to a deal that calls for a 2,000-member Russian peacekeeping mission and allows Azerbaijan to regain territory it lost in the Nagorno-Karabakh war of the early 1990s.

The deal came just after Azerbaijan took the strategic city of Shusha (known in Armenia as Shushi), a town of cultural importance to Azerbaijan perched high above the Nagorno-Karabakh capital, Stepanakert. As Azerbaijan forces advanced toward Shusha, its military propagandists published gruesome videos of drones destroying forces in trenches.



Armenia's defense ministry released footage Nov. 5 that allegedly shows casualties among Azerbaijani soldiers and destroyed equipment. (Video: Armenian Defense Ministry)

Wider use of armed drones

Armed drones have increasingly become part of warfare since the Pentagon deployed its Predator in Afghanistan following the 9/11 attacks. Missile-firing drones are now produced in many countries including Turkey, China and Israel, and have been used by various sides in battles including Libya's proxy war.

In a matter of months, however, Nagorno-Karabakh has become perhaps the most powerful example of how small and relatively

inexpensive attack drones can change the dimensions of conflicts once dominated by ground battles and traditional air power.

It also highlighted the vulnerabilities of even sophisticated weapons systems, tanks, radars and surface-to-air missiles without specific drone defenses. And it has raised debate on whether the era of the traditional tank could be coming to an end.



An Armenian soldier surveys the skies from the front line as a drone is heard overhead Oct. 20, 2020, near Aghdam in Nagorno-Karabakh. (Alex Mcbride/Getty Images)

Azerbaijan used its drone fleet — purchased from Israel and Turkey — to stalk and destroy Armenia’s weapons systems in Nagorno-Karabakh, shattering its defenses and enabling a swift advance. Armenia found that air defense systems in Nagorno-Karabakh, many of them older Soviet systems, were impossible to defend against drone attacks, and losses quickly piled up.

Franz-Stefan Gady, a research fellow on the future of conflict at the International Institute for Strategic Studies, said traditional military equipment such as tanks and armored vehicles will not become obsolete.

But Nagorno-Karabakh has shown “the ever-increasing importance” of using armed drones along with other weapons and highly trained ground forces, and “the exponentially more devastating consequences of failing to do so in future wars,” he said.

'Massive losses'

The separatist region in Azerbaijan with a largely Armenian population broke away in the late 1980s, leading to war and Azerbaijan's humiliating loss of the enclave and seven surrounding districts. A decades-long process, led by the United States, France and Russia, failed to reach a settlement.

Armenia became content with the status quo of a frozen conflict, retaining territory. But Azerbaijan, frustrated at a peace process that it felt delivered nothing, used its Caspian Sea oil wealth to buy arms, including a fleet of Turkish Bayraktar TB2 drones and Israeli kamikaze drones (also called loitering munitions, designed to hover in an area before diving on a target).

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When fighting flared again Sept. 27, the drone videos playing on big screens in Baku and on YouTube stoked popular support for the war, even as Azerbaijan hid figures on its own war dead.



Members of the Armenian community in Israel hold banners in Tel Aviv on Nov. 6, 2020, to protest Israel's arms sales to Azerbaijan, which include drones, and Turkey's support of Azerbaijan. (Jack Guez/AFP/Getty Images)

“It’s pretty obvious that Azerbaijan has been preparing for this. Azerbaijan decided it wanted to change the status quo and that the Armenian side had no interest in a war because they wanted to keep what they had,” said Tom de Waal, an expert on the Caucasus at the Carnegie Endowment for International Peace.

“Clearly, the decisive factor in this conflict is Turkey’s intervention on

Azerbaijan's side. They seem to be heavily coordinating the war effort," he said, adding that it appeared Turkey had moved Syrian mercenaries into Azerbaijan two weeks before the conflict.

Turkey denies recruiting Syrian mercenaries to fight in Nagorno-Karabakh.

[*How Syrian mercenaries turned up on the battlefield in Nagorno-Karabakh*]

And then there were the drones. Their targets included fortified positions from the 1990s.

"There were massive losses," de Waal said. "Possibly around a third of Armenian tanks have been destroyed. That's obviously been a critical factor in taking all those territories."

Unable to match Azerbaijan's drone power, Armenian forces, demoralized and racked by covid-19, suffered a series of military calamities.

'Very hard to hide'

Officials from Armenia and Nagorno-Karabakh said they had no choice but to sign Tuesday's truce to avoid further losses of life and territory.

In the early stages of the war, Azerbaijan used 11 slow Soviet-era An-2 aircraft that had been converted into drones and sent them buzzing over Nagorno-Karabakh as bait to Armenian air defense systems — tempting them to fire and reveal their positions, after which they could be hit by drones.

Azerbaijan used surveillance drones to spot targets and sent armed drones or kamikaze drones to destroy them, analysts said.

Turkey, which took part in joint military exercises with Azerbaijani forces in Azerbaijan over the summer, supports its ally but denies direct involvement in the fighting.

But Azerbaijan probably benefited from Turkey's experience of its recent use of drones in Syria as well as Libya, where its drones trounced the Russian-made Pantsir S1 air defense systems used by the forces of renegade general Khalifa Hifter in May.

Videos posted by both sides in Nagorno-Karabakh — including drone hits and soldiers advancing through villages and towns — enabled military analysts to tally confirmed hits.

Stijn Mitzer, an analyst writing on the [military-affairs blog Oryx](#), noted that both sides used propaganda to play up their military gains but that analysis of video footage made it possible to verify the claims. The group published a list of the destroyed military hardware, including photographic or video evidence for each tanks and weapon system.



An Armenian soldier fires on the front line Oct. 25, 2020, during fighting between Armenian and Azerbaijani forces over the breakaway region of Nagorno-Karabakh. (Aris Messinis/AFP/Getty Images)

Their [tally](#), which logs confirmed losses with photographs or videos, listed Armenian losses at 185 T-72 tanks; 90 armored fighting vehicles; 182 artillery pieces; 73 multiple rocket launchers; 26 surface-to-air missile systems, including a Tor system and five S-300s; 14 radars or jammers; one SU-25 war plane; four drones and 451 military vehicles.

Azerbaijan, the group concluded, had visually confirmed losses of 22 tanks, 41 armored forced vehicles, one helicopter, 25 drones and 24 vehicles. The full tally of losses on both sides cannot be independently verified, however Armenian losses appear significantly higher, according to military analysts.

The leader of Nagorno-Karabakh, Arayik Harutyunyan, said Tuesday that all of Nagorno-Karabakh would have been taken “within days” had fighting continued, citing the “very heavy human losses” inflicted by drones.

Malcolm Davis, a senior analyst at the Australian Strategic Policy Institute, wrote on the RealClearDefense website that systems such as the kamikaze drone probably will become more prevalent as technology improves and costs go down.

“That’s a potential game-changer for land warfare,” he wrote.

Annex 40

“Two men beheaded in videos from Nagorno-Karabakh war identified”,
The Guardian (15 December 2020)

Two men beheaded in videos from Nagorno-Karabakh war identified

[theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified](https://www.theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified)

Andrew Roth

December 15, 2020



📷 A scene of shelling during the Nagorno-Karabakh conflict in October. Photograph: Karo Sahakyan/AFP/Getty Images

🕒 This article is more than **2 years old**

This article is more than 2 years old

Exclusive: Ethnic Armenian men refused to leave their villages before Azerbaijani forces arrived, locals say

Two elderly men who were beheaded by Azerbaijani forces in videos widely shared on messaging apps have been identified, confirming two of the bloodiest atrocities of the recent war in Nagorno-Karabakh.

The ethnic Armenian men were non-combatants, people in their respective villages said. Both were beheaded by men in the uniforms of the Azerbaijani armed forces. The short, gruesome videos of the killings are among the worst of a torrent of footage portraying abuse, torture and murder that has continued to emerge more than a month after a Russian-brokered ceasefire came into force.

The villagers' testimony in interviews with the Guardian corroborates identifications by a human rights ombudsman for the Armenian-backed local government and two prominent Armenian human rights lawyers preparing a criminal case relating to the murders.

The Guardian also confirmed one of the victim's identities with a relative, and reviewed a passport application photograph that strongly resembles the other victim.



Human rights groups detail 'war crimes' in Nagorno-Karabakh



[Read more](#)

In videos posted online on 22 November and 3 December, men in uniforms consistent with those of the Azerbaijani military hold down and decapitate a man using a knife. One then places the severed head on a dead animal. “This is how we get revenge – by cutting off heads,” a voice says off camera.

Two residents of the village of Madatashen, in Nagorno-Karabakh, identified the victim as Genadi Petrosyan, 69, who had moved to the village in the late 1980s from the city of Sumgait, in Azerbaijan.

Gayane Petrosyan (no relation), the head of the local school, lived directly across from Petrosyan’s modest, two-room house. She said his father had helped install the village’s electrical system, and he had shown her pictures of a son who had moved to Russia with his ex-wife.

She said of one of the videos: “I could clearly see his face and I could recognise that it was him.” The Guardian has also seen a photograph of Petrosyan that closely resembles the victim in the video.

Genadi Petrosyan, who lived alone, resisted leaving the village as Azerbaijani forces closed in. When a neighbour tried to drive him away, he got out of the car and walked home.

Eduard Hayrapetyan, the village head, said he had known Petrosyan for more than three decades and considered him a close friend of his family’s. He received his last call from Petrosyan on the morning of 28 October, to say he had seen enemy forces in the village. Then, after weeks of silence, the video emerged.

“I feel great sorrow that I took him away from the village and then he came back and this happened,” Hayrapetyan said. “I just can’t find my place.”

Artak Beglaryan, a human rights ombudsman for the local Armenian-backed government, said Petrosyan had been identified by combing 35 missing persons reports for the region and then contacting acquaintances, who confirmed his identity.

He called for greater efforts by the international community to investigate war crimes from the conflict. “Western countries have kept silent and they haven’t taken practical steps,” he said. “They have the duties and levers to speak about this ... we don’t see any results, we don’t see any process from them.”

Siranush Sahakyan, a human rights lawyer, also confirmed Petrosyan’s identity and said she and a colleague, Artak Zeynalyan, had prepared a criminal investigation into the murder.

“Emotionally, it is hard to watch the videos. From a professional perspective, it can be very useful evidence,” Sahakyan said, cautioning that they had to carefully vet videos to make sure they were not faked.

Amnesty International has called on Armenia and Azerbaijan to investigate videos of the decapitations and desecrations of corpses. The organisation has used digital verification techniques to authenticate the footage reviewed in this article, as well as footage of the murder of an Azerbaijani border guard who had his throat cut. Other

videos show soldiers desecrating the bodies of enemy fighters.

While both sides have been implicated, online channels are increasingly dominated by videos of Armenian soldiers and civilians being abused by advancing Azerbaijani troops.

New revelations of torture and abuse mean that for many the violence continues even long after the war was halted. “Armenians and Azerbaijanis are watching those videos day in and day out, and every day there is a new video which is sending a new wave of assault on the public and public sensibilities,” said Tanya Lokshina, a researcher for Human Rights Watch, which prepared a painstaking report on abuses against Armenian prisoners of war, released early this month. “That trauma also results in increased levels of hatred. Even now when the active stage of the fighting is over.”

Some of the most gruesome and widely watched videos have also been some of the most difficult to confirm. A video posted on a Telegram channel on 7 December showed two soldiers in uniforms consistent with the Azerbaijani military pinning down an elderly man near a tree. Another soldier passes a knife to one of the attackers, who begins slicing at the victim’s neck. The victim’s head begins to separate from the neck before the video ends.

Three residents of the village of Azokh identified the victim in this video as Yuri Asryan, a reclusive 82-year-old who had refused to leave the village on 20 October as Azerbaijani forces approached.

“He didn’t communicate with others very much. He just refused to leave,” said Georgi Avesyan, the longtime head of the village until 2019 and one of the people who identified Asryan. He said it was possible Asryan did not fully understand what was happening.

Azerbaijani forces entered the village days later and it has remained under Baku’s control under the ceasefire agreement signed on 9 November.

There was no news of Asryan’s fate until a 29-second video appeared last week on social networks, including Telegram channels that traffic in gory footage from the conflict.

Araik Azumanyan, the current head of the village, said: “I received calls from many people from the village, and even people who had moved from the village to Armenia many years ago saying it looked like [Asryan] in the video.”

A third villager who recognised Asryan said: “I felt terrible after watching it, my blood pressure was high, I couldn’t compose myself for a week after seeing that.”

Beglaryan, the human rights ombudsman, and Sahakyan, the human rights lawyer, also confirmed Asryan’s identity. His closest relative, an elderly sister who occasionally visited him, knows that Asryan has died but has not seen the video. Asryan’s niece also confirmed to the Guardian that it was him in the video.

Azerbaijan’s general prosecutor last month publicly launched an investigation into war crimes by both Baku and Yerevan. On Monday it made its first arrests, detaining two Azerbaijani soldiers for defiling the bodies of dead Armenian troops and two for destroying graves. It has not publicly opened any criminal cases into beheadings.

There are hundreds more videos of abuses online. Sahakyan said she and a colleague were pursuing 75 cases of captive Armenian soldiers and civilians in the European court of human rights, including 35 that included video evidence. On Monday evening, the two government conducted a mass prisoner exchange, media in both countries reported.

In one video, a villager named Kamo Manasyan is kicked and beaten as blood streams from his right eye. “How many more of you are here,” his interrogator yells in heavily accented Russian, aiming a rifle at Manasyan’s head. “Shoot me if you want,” Manasyan replies. The man hits him with the rifle instead.

“It was hard to watch this video with this cruelty,” said Gagik, his nephew, in a video call. “I think they just want to show their success in this war and to humiliate Armenians, to show that they won.”

Manasyan’s sister, Nora, cannot bear to watch the video. “I want the prisoners of war to come back as soon as possible,” she said, crying. “I want peace.”

Asked for comment on allegations of human rights abuses during the war, a spokesman for the Council of Europe’s Commissioner on Human Rights said: “At this stage we can only say that the Commissioner has received videos and other material alleging human rights violations. Before expressing herself publicly, she wants to carry out a mission in order to assess the situation in first person. She is planning a mission to the region soon.”

** Gohar Martirosyan contributed reporting and translating from Yerevan, Armenia*

Annex 41

“Azerbaijani postal stamps accused of spreading anti-Armenian propaganda”,
The Calvert Journal (12 January 2021)

Azerbaijani postal stamps accused of spreading anti-Armenian propaganda



12 January 2021
Text: Lucía de la Torre
Top image: @azermarka

New Azerbaijani postal stamps commemorating the country's fight against Covid-19 and the 2020 Nagorno-Karabakh War have sparked online outrage amid accusations of anti-Armenian sentiment.

The illustration accompanying the stamps shows a disinfection specialist standing over a map of Azerbaijan and fumigating the area of Nagorno-Karabakh – leading many to claim that ethnic Armenians in the area were being depicted as a virus in need of “eradicating”.



Not found

AZERBAIJAN 2020

Date of issue: 30.12.2020#Stamp size: 37x52 mm

Photographers:

Roman Ismayilov

Aziz Karimov

Tofiq Babayev

Designer: Vugar Eyyubov#KarabakhisAzerbaijan #covid #covid19 #coronavirus #pandemia #azermarka #Azerbaijan #AzerbaijanStamps #philately #timbres #briefmarken pic.twitter.com/AvZFellIZY

– azermarka (@azermarka) December 30, 2020

Nagorno-Karabakh, known to Armenians as Artsakh, is a breakaway region claimed by both Armenia and Azerbaijan. Fighting in the area most recently broke out in September, until a Russia-brokered deal put an end to the conflict. The agreement determined that Armenia must withdraw from several territories within Nagorno-Karabakh, which are now under Azerbaijani control. The conflict left thousands dead and tens of thousands more, mostly Armenians, displaced.

According to the officials, the new stamps “are dedicated to the two most significant events of 2020 – the coronavirus pandemic and main heroes of the Patriotic War” and will “promote their sacrifice among local and foreign philatelists”. The stamps themselves show collages displaying photographs of doctors side-by-side with soldiers and demining specialists. But their release was followed by a furious backlash, with many taking to Twitter to voice their concern.

Jake Hanrahan
@Jake_Hanrahan · Follow

These commemorative stamps were released by #Azerbaijan. Weird iconography seems to show someone de-fumigating / chemically cleaning Karabakh...
[aztv.az/en/news/11015/...](https://aztv.az/en/news/11015/)



8:14 PM · Jan 10, 2021

402 ❤️ Reply ↗ Share

Read 76 replies

Aren Melikyan
@ArenMelikyan · Follow

Azerbaijan issued postage stamps dedicated to the two most significant events of 2020 for the country - Karabakh war and Covid-19. The stamp, evidently, compares the virus to people of NK. Instead of finding ways for coexistence, Az authorities keep on dehumanizing Armenians.



7:55 AM · Jan 11, 2021

12 ❤️ ⚡ See the latest COVID-19 information on Twitter

Read more on Twitter

The Azerbaijani state has released anti-Armenian statements and propaganda in several occasions following the outbreak of war in September 2020. In an address to the nation on 4 October, Azerbaijani President Ilham Aliyev said that Azerbaijani soldiers were "driving Armenians away [from Nagorno-Karabakh] like dogs". Cartoons depicting "the other side" as animals have been released by both sides, including Armenian production company Kildim and Azerbaijani satirical website Kirpi.

Annex 42

“Kristinne Grigoryan held meetings in Paris with representatives of the International Federation for Human Rights (FIDH) and the International League against Racism and Anti-Semitism (LICRA) and the Ambassador of Armenia to France Hasmik Tolmajyan”, *Human Rights Defender of Armenia* (28 April 2022)

Kristinne Grigoryan held meetings in Paris with representatives of the International Federation for Human Rights (FIDH) and the International League against Racism and Anti-Semitism (LICRA) and the Ambassador of Armenia to France Hasmik Tolmajyan

ombuds.am/en_us/site/ViewNews/2212



On April 28, the Human Rights Defender of Armenia, Ms. Kristinne Grigoryan, met in Paris with the representatives of the International Federation for Human Rights (FIDH) and the International League Against Racism and Anti-Semitism (LICRA), the Ambassador Extraordinary and Plenipotentiary of the Republic of Armenia to France H.E. Ms. Hasmik Tolmajian, as well as with the representatives of the French Association of Armenian Lawyers and Jurists (AFAJA).

During the meetings with the representatives of the International Federation for Human Rights and the International League Against Racism and Anti-Semitism, the Defender presented the manifestations of the consistent policy of Armenophobia conducted by Azerbaijan at the state level, which were present both during and after the 2020 war.

The manifestations of the policy of hatred towards the Armenians of Artsakh were presented, among other things, the intimidation of and use of force against the village population in the vicinity of the border line. References were made to the manifestations of state policy conditioned by ethnic and religious hatred, such as the Park of killed Armenian soldiers and chained prisoners of war in Baku, the concrete actions of the Baku administration to eliminate samples of Armenian heritage and traces of Armenian nature, as well as the statements of the President of Azerbaijan, which incite hatred and are a confession of Armenophobia.

The representatives of the International Federation for Human Rights were interested in the reasons for the Azerbaijani approach to the non-returning of Armenian prisoners of war and captives, as well as international legal processes. The representatives of the International League Against Racism and Anti-Semitism considered it unacceptable and condemned the practices of opening the trophy park and teaching hatred to the young generation, emphasizing that the policy of hatred with such level of organization can cause new crimes.

A cooperation agreement was reached with the Defender's Office in the field of human rights protection and promotion.

A working discussion was held with the Ambassador Extraordinary and Plenipotentiary of the Republic of Armenia to France, H.E. Ms. Hasmik Tolmajian, and the representatives of the French Association of Armenian Lawyers and Jurists on the ongoing and planned actions, as well as the need to combine the efforts to achieve results.

Annex 43

Artyom Tonoyan, @ArtyomTonoyan, “As Azerbaijan reverts to type and attacks Armenian positions in Nagorno-Karabakh, here is a an [*sic*] army uniform patch making rounds on Azeri socials. An image of notorious Ottoman genocidaire Enver Pasha with the inscription ‘Armenian, don’t run! You’ll die anyway, just exhausted’”,
Twitter (3 August 2022)



Artyom Tonoyan
@DrArtyomTonoyan



As Azerbaijan reverts to type and attacks Armenian positions in Nagorno-Karabakh, here is a an army uniform patch making rounds on Azeri socials. An image of notorious Ottoman genocidaire Enver Pasha with the inscription "Armenian, don't run! You'll die anyway, just exhausted."



10:56 AM · Aug 3, 2022

Annex 44

“Armenians living in Karabakh will have no status, no independence and no special privilege: President Ilham Aliyev”, *APA* (12 August 2022)

Armenians living in Karabakh will have no status, no independence and... <https://apa.az/en/official-news/armenians-living-in-karabakh-will-haven...>

Armenians living in Karabakh will have no status, no independence and no special privilege: President Ilham Aliyev

APA



© APA | President of the Republic of Azerbaijan Ilham Aliyev

12 August 2022 18:33 (UTC +04:00)

"The Armenians living in Karabakh should take the right step and understand that their future lies only in integration into the Azerbaijani society. It is not possible otherwise. We are living real life. From the point of view of economy, geography and transport, Karabakh is an integral part of Azerbaijan. From the point of view of history, from the point of view of international law, it is an integral part of Azerbaijan," said President of the Republic of Azerbaijan Ilham Aliyev in his interview to the Azerbaijan Television in Basgal settlement, [APA](#) reports.

Armenians living in Karabakh will have no status, no independence and... <https://apa.az/en/official-news/armenians-living-in-karabakh-will-haven...>

"If someone in Karabakh still talks about some status or independence, be it for the sake of some kind of populism or, as they say, because they are afraid of someone, one should know that they are the first enemy of the Armenian people. Because the Armenians living in Karabakh will have no status, no independence and no special privilege. They are the same as the citizens of Azerbaijan. Just as the rights of Azerbaijani citizens are protected, so are theirs. Just as the rights of the peoples living in Azerbaijan are protected, so are theirs. This is the only way," said Azerbaijan's President.

[President: Armenian community should not oppose peace initiatives of international community](#)

[Azerbaijani President, Turkish FM discuss normalization process with Armenia](#)

[President of Azerbaijan: We are working very actively on Zangazur corridor](#)

Official news

Annex 45

“Hundreds of Armenians Still Missing After 2020 Karabakh War”, *Radio Free Europe/Radio Liberty (Azatutyun)* (30 August 2022)



IN ENGLISH

Hundreds Of Armenians Still Missing After 2020 Karabakh War

Օգոստոս 30, 2022

More than 300 Armenian soldiers and civilians remain unaccounted for after the war in Nagorno-Karabakh, Armenia’s human rights ombudswoman, Kristine Grigorian, said on Tuesday.

“According to data presented by the International Committee of the Red Cross in August 2022, 303 persons are still considered missing as a result of the 44-day war in 2020,” Grigorian said in a statement marking the International Day of the Disappeared.

The figure presumably includes ethnic Armenian residents of Karabakh. About two dozen local civilians were listed as missing as of September 2021. According to the authorities in Stepanakert, most of them lived in Karabakh towns and villages captured by Azerbaijani forces during the six-week hostilities stopped by a Russian-brokered ceasefire in November 2020.

“The lack of cooperation by Azerbaijani authorities makes it impossible to accurately estimate the number of missing persons, obtain credible information about their fate or whereabouts, and ascertain whether they are still alive,” read a separate statement released by the Armenian Foreign Ministry on the occasion.

Grigorian similarly accused Baku of providing “distorted or no information at all on the prisoners of war, civilian captives, and missing persons” in breach of international humanitarian law.

Armenian soldiers are thought to make up a majority of the missing persons. Baku has acknowledged holding only 39 prisoners of war and civilian captives.

Human rights lawyers in Yerevan say they have documentary evidence suggesting that at least 80 other Armenians were also captured during the war. The Foreign Ministry statement described the Armenian prisoners as hostages.

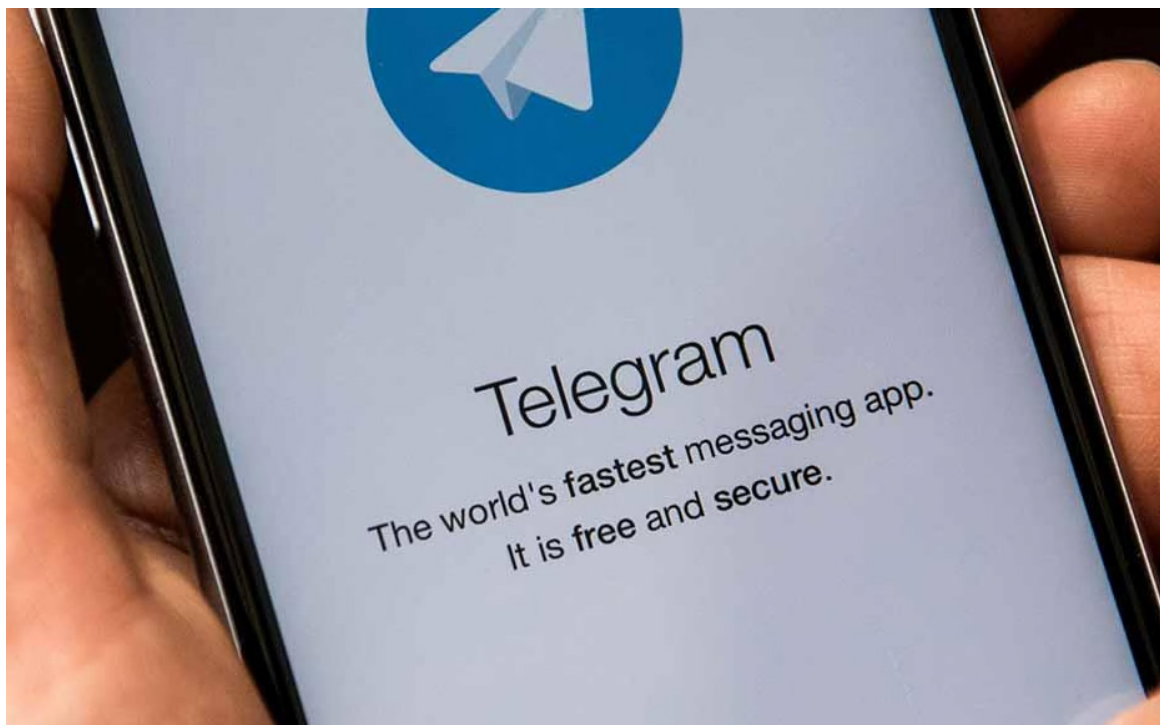
According to the International Committee of the Red Cross, as many as 4,900 people from both conflicting sides have been missing since the start of the first Armenian-Azerbaijani war in 1991.

Annex 46

A. Geybulla & B. Samadov, “How Azerbaijan’s Telegram Channels Fuel Intimidation”, *Institute for War & Peace Reporting* (25 October 2022)

How Azerbaijan's Telegram Channels Fuel Intimidation

 iwpr.net/global-voices/how-azerbajians-telegram-channels-fuel-intimidation



Telegram app used on a smartphone. © Carl Court/Getty Images

Telegram's stated philosophy against censorship and state pressure has made the encrypted messaging app, boasting over 700 million active users, a boon for anti-government protesters worldwide.

But it has also made the social media platform a sanctuary for politically motivated vitriol and toxic disinformation.

In Azerbaijan, the app has become a nexus for hate speech, propaganda and the repression of dissent.

Its use surged during the 2020 war over Nagorny Karabakh, the region internationally recognised as part of Azerbaijan but populated and controlled by ethnic Armenians since the mid-1990s.

When fighting re-erupted between Armenia and Azerbaijan on September 12 2022, claiming the lives of more than 200 servicemen over two days, the Khacherubka Telegram channel began sharing atrocities committed by Azerbaijan servicemen against Armenians. One video,

ostensibly filmed by an Azerbaijani soldier, showed the desecration of an Armenian servicewoman's body.

Even the title of the Russian-language channel, created in July 2022, is disturbing. The word khachis a racist expression that may refer to people of Caucasian origin, but specifically and more often to Armenians. Rubka can translate as "chopping".

Khacherubka has over 7,300 subscribers and a backup channel in case of the removal of the main channel. It continues to share graphic images and videos of killed Armenian soldiers, accompanied by highly dehumanising language.

But hate-filled Russian-language Telegram channels related to Azerbaijan are not a novelty. The now-closed Dirçəliş 22/30(Revival) targeted feminists and queer activists. Such bullying resulted in the suicide of a 19-year-old girl in November 2021 after the channel shared some intimate photos. A 17-year-old man was charged with leaking the images and was sentenced to four years and-a-half in prison.

In March 2021, LGBTQ+ magazine Minority reported that a channel called Pure Blood also targeted members of the Azerbaijani LGBTQ community. Other targets are young Azerbaijanis in Russia who are in romantic relationships with people of Armenian origin.

These channels' target audience are young Russian-speaking Azerbaijanis mirroring Russian ultra-conservative, misogynistic culture.

Russian group Muzhskoe Gosudarstvo (Male State) gained popularity in mid-2021, before the country's authorities banned it for extremism in October 2021. The group's founder Vladislav Pozdnyakov reportedly thanked the app's co-founder Pavel Durov for his position against blocking channels.

The Russian tech- entrepreneur and his brother Nikolai launched Telegram In April 2013 "over worries about government surveillance in Russia". Pavel shaped the idea of the app in 2011 after he came under police pressure to remove pages of political opposition from VKontakte, Russia's largest messaging app that the two brothers had created five years earlier.

NO TRANSPARENCY

Durov, who lives in Dubai, has repeatedly said that the platform will not censor its users regardless of the groups using it or the misinformation or harassment shared.

This has turned Telegram into a popular platform used globally by citizens in authoritarian regimes or conflict zones, but also by militant groups and right-wing extremists. The untempered regulation does have exceptions, including over content related to terrorism.

The app has long been used to target civil society activists or to distort political narratives. In early 2022, the BBC published an investigation on Telegram's content moderation policies - or lack thereof - when investigating harassment specifically targeting women. Telegram declined an interview.

On February 27, in a rare comment, Pavel, however, admitted that "Telegram channels are increasingly becoming a source of unverified information related to Ukrainian events".

Telegram does not publish transparency reports and the app's report chatbot has no available data. As a result, it remains unclear whether the platform has handed user data or complied with government requests for content removal or account takedown over its nearly a decade of existence.

IWPR requested a transparency report from Telegram – something other platforms regularly make available - but at the time of writing, its management had not replied.

Despite its reputation for privacy, the end-to-end encryption, which ensures that just the two people talking can see the message, is available only with the app's secret chat option, which users must enable. The setting is a default on secure chat apps like Signal and WhatsApp.

Telegram claims that its cloud servers are scattered across the world to make it harder for governments to force the platform to share private user data. However, that does not mean that data remains private.

Former employees have stated that "absolutely all groups, all channels, are stored on the Telegram servers," meaning that the platform has access to that information and that even private chat data could be intercepted if encryption between user and cloud server was deactivated.

PERSONALISED ATTACKS

In December 2021, a coalition of human rights organisations urged Telegram to keep users safe through improving measures that ranged from a transparent content governance framework to accessible communication channels, appeal procedures and better safety and data security.

The call particularly resonated with Azerbaijani activists who have become targets.

In March 2021, multiple Telegram groups were identified in Azerbaijan sharing sex tapes and nude photographs of women. Among the victims were journalists, civic activists and female family members of exiled political activists as well as ordinary women. The groups and pictures were reported to Telegram, but it took weeks before they were taken down. The damage to the women targeted was done.

The channels shared sensitive videos of journalist Fatima Movlamli, the sister of exiled dissident blogger Mahammad Mirzali, civic activist Narmin Shahmarzade and Gunel Hasanli, daughter of opposition party leader Jamil Hasanli.

According to Shahmarzade, two groups were set up to target her specifically and gathered thousands of members in a short amount of time: pictures of her received over 10,000 views.

The two groups were eventually taken down. However, administrators closed the reported channel just to open a new one as a private group, making it harder to track and join.

Virtual intimidation does not necessarily stay online. In March 2021, Mahammad Mirzali, a member of the opposition Popular Front Party of Azerbaijan and a well-known vlogger, started receiving threats from unknown numbers, with intimate videos of people close to him, including his sister. Attacks intensified after he gave an interview to Armenia's news outlet Civilnet.

They were not empty threats: the 27-year-old has survived being shot, stabbed and severely beaten in Nantes, France, where he lives as a political refugee. On June 12, 2022 French police arrested two hit men on suspicion of being sent to kill him.

Arzu Geybulla is the founder of Azerbaijan Internet Watch, a platform that monitors and documents information controls in her native Azerbaijan.

Bahrüz Samadov is a PhD candidate at Charles University in Prague (Czech Republic), whose research focuses on authoritarianism and nationalism in Azerbaijan.

This publication was prepared under the "*Amplify, Verify, Engage (AVE) Project*" implemented with the financial support of the Ministry of Foreign Affairs, Norway.

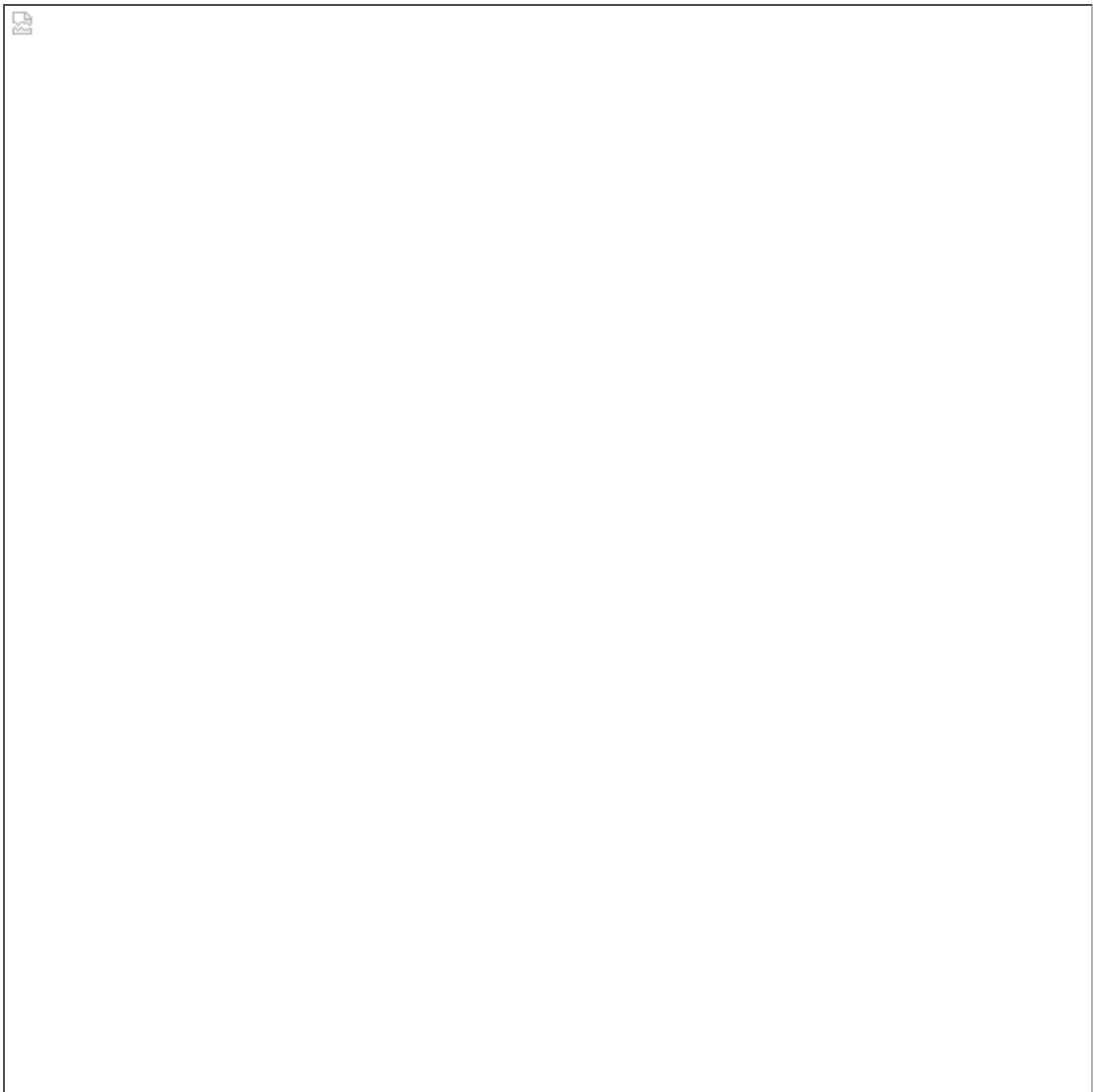
Azerbaijan

Annex 47

“Postage stamps dedicated to Azerbaijani heroes issued”, *AZTV* (6 January 2023)

aztv.az /en/news/11015/postage-stamps-dedicated-to-azerbaijani-heroes-issued

Postage stamps dedicated to Azerbaijani heroes issued



The "Azermarka" Ltd. operating under the Ministry of Transport, Communications and High Technologies has issued postage stamps entitled "Azerbaijan 2020".

According to the Ministry, the stamps are dedicated to the two most significant events of 2020 - the coronavirus pandemic and main heroes of the Patriotic War.

Photo collages about a soldier and doctor are reflected on the first stamp, and photo collages about a disinfection specialist and demining specialist are reflected on the second one. The purpose is to engrave in history our compatriots who have fought against the virus and demonstrated courage in the 44-day war and promote their sacrifice among local and foreign philatelists.

Photos of Roman Ismayilov, Aziz Karimov and Tofiq Babayev have been used in the postage stamps. The design has been prepared by main artist of "Azermarka" Vugar Ayyubov.

Annex 48

“Azerbaijani Armed Group Kidnaps 2 Armenian Soldiers; Baku Charges Them with Terrorism”, *Asbarez* (27 May 2023)

Azerbaijani Armed Group Kidnaps 2 Armenian Soldiers; Baku Charges Them with Terrorism

by Asbarez Staff — May 27, 2023 in Armenia, Artsakh, Featured Story, Latest, News, Top Stories 0



The vehicle used by the abducted soldiers was found on the side of the road with its engine still running

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An Azerbaijani armed group crossed into Armenian territory and reportedly abducted two Armenian soldiers, Armenia's Investigative Committee said in a statement on Saturday. Azerbaijani authorities reported that the two soldiers are facing six counts of criminal charges, including terrorism.

The soldiers, Harutyun Hovagimyan and Karen Ghazaryan, were delivering food to a military position in Armenia's Syunik Province, after which communication was lost, said the Investigative Committee.

After a search, the soldiers' vehicle, with its engine still running, was found on the road leading to the military position where the delivery was to take place. The truck was filled with food and water and an AK-47 rifle was found in the vehicle.

Around the time of the incident, Azerbaijani media, and later through messages publicized by its border guards, Armenian forces were being accused of violating the ceasefire. Armenia's Defense Ministry has denied the allegations.

Azerbaijani authorities have initiated criminal proceedings against the two Armenian servicemen charging them with six counts, including terrorism, inciting ethnic hatred by violence and smuggling weapons and ammunition. The Azerbaijani side accused them of illegally crossing the state border and carrying out a subversive incursion attempt, Azatutyun.am reported on Saturday.

Armenia's Foreign Ministry said that the illegal abduction of the servicemen is an attempt to deviate from its own obligations.

"We call on Azerbaijani authorities to release them and fulfill commitment to release all Armenian POWs in line with Trilateral Statement of Nov 9, 2020, as well as pleas by international partners and institutions," the foreign ministry also said in a social media post.

This is a developing story.



Asbarez Staff

Annex 49

A. Osborn & M. Collette-White, “Nagorno-Karabakh: Azerbaijan says extra guarantees for enclave’s ethnic Armenians not possible”, *Reuters* (23 June 2023)

Nagorno-Karabakh: Azerbaijan says extra guarantees for enclave's ethnic Armenians not possible

 [reuters.com/world/azerbaijan-rejects-demand-guarantees-nagorno-karabakhs-ethnic-armenians-2023-06-22](https://www.reuters.com/world/azerbaijan-rejects-demand-guarantees-nagorno-karabakhs-ethnic-armenians-2023-06-22)

Andrew Osborn, Mike Collett-White



Azerbaijani Foreign Minister Jeyhun Bayramov attends a joint news conference with French Foreign Minister Catherine Colonna (not pictured) in Baku, Azerbaijan April 27, 2023. REUTERS/Aziz Karimov/File Photo

LONDON, June 21 (Reuters) - Azerbaijan's foreign minister has rejected a demand from Armenia to provide special security guarantees for some 120,000 ethnic Armenians living in the Nagorno-Karabakh enclave ahead of a new round of peace talks, saying they are sufficiently protected.

Nagorno-Karabakh, internationally recognised as part of Azerbaijan, has been a source of conflict between the two Caucasus neighbours since the years leading up to the collapse of the Soviet Union in 1991, and between ethnic Armenians and Turkic Azeris for well over a century.

After heavy fighting and a Russian-brokered ceasefire, Azerbaijan in 2020 took over areas that had been controlled by ethnic Armenians in and around the mountain enclave.

The two sides have since been discussing a peace deal in which they would agree on borders, settle differences over the enclave, and unfreeze relations.

In what looked like a breakthrough, Prime Minister Nikol Pashinyan was quoted last month as saying Armenia did recognise that Karabakh was part of Azerbaijan, but wanted Baku to provide the guarantees for its ethnic Armenian population.

In an interview with Reuters, however, Azerbaijani Foreign Minister Jeyhun Bayramov said such a guarantee was unnecessary, and the demand amounted to interference in Azerbaijan's affairs.

"We don't accept such a precondition or pretexts from the Republic of Armenia for a number of reasons," he said.

"The most fundamental is the following: this is an internal, sovereign issue. The Azerbaijan constitution and a number of international conventions to which Azerbaijan is party provide all the necessary conditions in order to guarantee the rights of this population."

He said ethnic Armenians could still use and be educated in their own language and preserve their culture if they integrated into Azeri society and state structures like other ethnic and religious minorities.

'SOME PROGRESS'

Bayramov said there had been "some progress" in peace talks, and that Baku was keen to strike a deal, but also made comments that show how wide the gulf remains before he meets his Armenian counterpart for more talks in Washington next week:

"We believe it was the first time when an Armenian prime minister actually publicly stated this. Why did it take the prime minister two-and-a-half years (since the war ended) to say he actually recognised the sovereignty and territorial integrity of Azerbaijan?"

Bayramov, who was in London to attend a conference about Ukraine's recovery, complained too about the continued presence of thousands of Armenian troops on Azeri territory.

Moscow - which has peacekeepers on the ground - and Washington and the European Union are all trying separately to help ensure lasting peace between Azerbaijan and Armenia, which have fought two wars since the early 1990s and still have sporadic firefights.

Pashinyan is under pressure at home to protect the rights of the ethnic Armenians living in the enclave as Baku pushes for ethnic Armenian government and military structures to be dissolved and the population to accept Azerbaijani passports.

Tensions have been raised by Baku installing a checkpoint on the Lachin Corridor - the only road that connects the enclave with Armenia - following months of disruption caused by people who called themselves Azerbaijani environmental activists.

Baku says the checkpoint is necessary to prevent the smuggling of military supplies into the enclave and illegally-mined materials out. It denies Armenian allegations that it has imposed a blockade that makes life miserable for Karabakh's inhabitants.

Ruben Vardanyan, a billionaire banker who was a top official in Karabakh's separatist government until February, on Thursday accused Baku of trying to "ethnically cleanse" the enclave by imposing what he called a goods and energy blockade - allegations that Azerbaijan denies.

Bayramov said a peace deal was within reach if Armenia was ready to take certain steps.

"If there is a will not only to make statements but do some practical steps, I think that potentially it's possible to reach an agreement even earlier than the end of the year," he said.

"But if there's no real readiness ... then it might be later."

Reporting by Andrew Osborn and Mike Collett-White Additional reporting by Alexander Marrow Editing by Kevin Liffey

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Andrew Osborn
Thomson Reuters

As Russia Chief Political Correspondent, and former Moscow bureau chief, Andrew helps lead coverage of the world's largest country, whose political, economic and social transformation under President Vladimir Putin he has reported on for much of the last two decades, along with its growing confrontation with the West and wars in Georgia and Ukraine. Andrew was part of a Wall Street Journal reporting team short-listed for a Pulitzer Prize for international reporting. He has also reported from Moscow for two British newspapers, The Telegraph and The Independent.

Annex 50

Hikmet Hajiyev, @HikmetHajiyev, “(5) - International community should send a clear signal about usage of Agdam-Khankandi road and reintegration of armenian inhabitants of Karabakh to Azerbaijan. There is no other way! Game is over!”,
Twitter (26 July 2023)

← Post



Hikmet Hajiyev @HikmetHajiyev · Jul 26



(1) Briefed EU Ambassadors, Turkey, United States, Switzerland about situation on the ground and road passage:

- Armenia is engaged in political manipulation and speculation on Lachin road issue, which is functional for medical evacuations and deliveries.



Hikmet Hajiyev @HikmetHajiyev · Jul 26



(2) - In Brussels it was agreed that Agdam-Khankandi road will be used for bigger volume of deliveries. It was also reiterated in ICRC statement.

- Insisting for using only Lachin road but refusing Agdam road, putting road blocks and politicizing it is unacceptable.



Hikmet Hajiyev @HikmetHajiyev · Jul 26



(3) - puppet "leaders" of separatists in Khankandi keep local population as hostage for their own political ambitions.

- Instead of theatrical scenes and bringing trucks as a matter of show to Lachin check point....





Hikmet Hajiyev @HikmetHajiyev · Jul 26



(4) - Armenia should stop its territorial claims against Azerbaijan, withdraw elements of its forces from Karabakh region of Azerbaijan and cease financing illegal puppet regime.

- Disarmament of all illegal forces must be ensured.

13

85

323

10.3K



Hikmet Hajiyev
@HikmetHajiyev



(5) - International community should send a clear signal about usage of Agdam-Khankandi road and reintegration of armenian inhabitants of Karabakh to Azerbaijan.

There is no other way! Game is Over!

11:00 AM · Jul 26, 2023 · 76K Views

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Annex 51

Heydar Naghiyev, @HeydarNaghiyev, “Game over. Go home!”, *Twitter*
(27 July 2023)



Heydar Naghiyev ✓

@HeydarNaghiyev



Game over. Go home!






4:32 PM · Jul 27, 2023 · 18.8K Views

Annex 52

Dr. Fariz Ismailzade @fismailzade, *Twitter* (28 July 2023)






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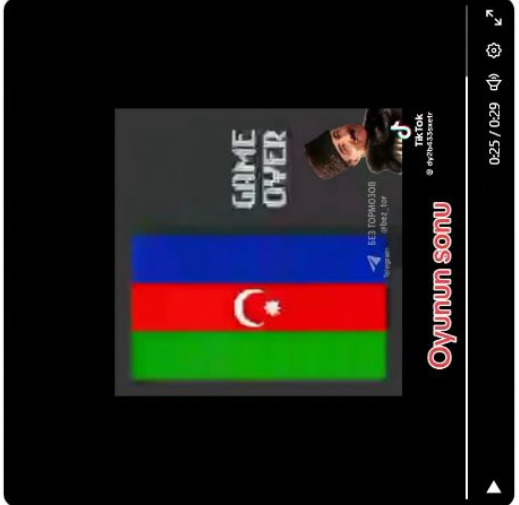
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Annex 53

Asāsīyūn, @ScourgeOfTengri, “Glory to the sons of #Azerbaijan, that protect #LachinRoad from Armenian terrorist state, which used the road to place mines and deploy terrorists into Azerbaijan. Whole #Azerbaijan is with you. The enemy will be defeated. [emoji of a fist] [emoji of flag of Azerbaijan] [emoji of hashtag] #Karabakh #GameOver ‘#LachinCorridor’”, *Twitter* (28 July 2023)



Asāsiyūn

@ScourgeOfTengri



Glory to the sons of [#Azerbaijan](#), that protect [#LachinRoad](#) from Armenian terrorist state, which used the road to place mines and deploy terrorists into Azerbaijan. Whole [#Azerbaijan](#) is with you. The enemy will be defeated. 🇺🇦 🇹🇷 # [#Karabakh](#) [#GameOver](#) "[#LachinCorridor](#)"



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