



Mr. Nils Melzer

UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

sr-torture@ohchr.org; urgent-action@ohchr.org

Mr. Morris Tidball-Binz

UN Special Rapporteur on extrajudicial summary or arbitrary executions

cje@ohchr.org

Mr. Tae-Ung Baik (Chair-Rapporteur), Mr. Henrikas Mickevičius (Vice Chair), Ms. Aua Balde, Mr. Bernard Duhaime, and Mr. Luciano Hazan

UN Working Group on Enforced or Involuntary Disappearances

wgeid@ohchr.org

c/o Office of the High Commissioner for Human Rights

Palais des Nations, 8-14 Avenue de la Paix

CH-1211 Geneva 10, Switzerland

Thursday, April 15, 2021

URGENT APPEAL: Release of Armenian POWs and civilian captives still in Azerbaijani custody

Dear Experts,

On 1 February 2021, your offices jointly issued a statement calling for the “the prompt release of prisoners of war and other captives from the recent Nagorno-Karabakh conflict, and for the return of bodies to families for burial with due respect for cultural customs”.¹

The wording of the statement was in such a way that it implied that both Armenia and Azerbaijan were equally engaging in the above-mentioned transgression, noting that “***both parties have commenced the return*** of prisoners of war and other captives, ***and we call on them to complete*** the all for all exchange, to clarify the fate and whereabouts of the disappeared, and to treat dead bodies with dignity” (emphasis added).

We, the undersigned organizations, were surprised and confused by your joint statement because it appears that you were seriously misinformed about the facts on the ground. It is important to emphasize that there are no more Azerbaijani POWs left in Armenian custody since December 2020. This has been confirmed by Russian Foreign Minister Sergei Lavrov on

¹ OHCHR, *Nagorno-Karabakh: captives must be released – UN experts*, 1 February 2021, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26702&LangID=E>.

18 January 2021, when he stated that “Armenia has returned all Azeri prisoners who were captured during last year’s conflict over the Nagorno-Karabakh region, but the process with Armenian prisoners has been held up.”²

Your joint statement has thus accidentally served to embolden Azerbaijan – the sole perpetrator in regard to the failure to release POWs, in violation of Art. 118 of the Third Geneva Convention – to continue to hold Armenian captives hostage and now even imposes egregious conditions including territorial concessions by the Armenian government in exchange for their release.³ Just days ago, a plane that was meant to repatriate dozens of Armenian POWs from Baku turned up in Yerevan empty, sparking unspeakable further mental torture, terror, and anguish in the relatives of remaining captives as well as the general Armenian population.⁴

If there was any doubt at the time of the writing of your statement as to whether both sides had failed to fulfill their obligations to release captives from the Nagorno-Karabakh conflict, the recent issuance of a decision by the European Court of Human Rights confirms that only Azerbaijan has been delinquent. To this end, the Court has referred the matter of Azerbaijan’s failure to comply with its interim orders regarding captives to the Committee of Ministers.⁵ Several European and other bodies have also specifically called on Azerbaijan to release remaining captives,⁶ and Human Rights Watch has recently issued a report showcasing Azerbaijan’s continued abuses in this respect.⁷

² Reuters, *Russia says all Azeri captives returned under Karabakh deal*, 18 January 2021, available at <https://www.reuters.com/article/us-armenia-azerbaijan-prisoners-russia-idUSKBN29N1SQ>.

³ Kommersant, *Armenia and Azerbaijan are counting prisoners of war: Yerevan reported on three demands by Baku* (in Russian), 23 March 2021, available at <https://www.kommersant.ru/doc/4741800>.

⁴ OC Media, *Plane ‘carrying POWs’ lands empty in Yerevan*, 9 April 2021, available at <https://oc-media.org/plane-carrying-pows-lands-empty-in-yerevan/>.

⁵ European Court of Human Rights, *Armenia v. Azerbaijan and alleged captives: notification to the Committee of Ministers of interim measures indicated*, Press Release, 16 March 2021, available at <http://hudoc.echr.coe.int/eng-press?i=003-6965126-9374600>.

⁶ *See, inter alia*, European Parliament, Joint Statement by the Chair of the South Caucasus Delegation and the Standing Rapporteurs on Armenia and Azerbaijan, 2 February 2021, available at https://www.europarl.europa.eu/cmsdata/227678/20210202_KALJURAND%20KOVATCHEV%20ZOVK_O_Joint%20statement_NK%20conflict%20settlement.pdf; Resolution of the Czech Republic Parliament Foreign Affairs Committee, 4 February 2021, available at <https://www.psp.cz/sqw/text/text2.sqw?idd=183802>; European Ombudsman Institute, Statement by the Secretary-General, 26 February 2021, available at https://www.ombuds.am/en_us/site/ViewNews/1550; European Parliament, Joint Statement by Chair of the South Caucasus Delegation and Standing Rapporteurs on Armenia and Azerbaijan, 23 March 2021, available at https://www.europarl.europa.eu/cmsdata/231319/20210323_KALJURAND%20KOVATCHEV%20ZOVK_O_Joint%20statement%20on%20Armenian%20detainees.pdf. *See also* Open Letter from 150 French Public Figures and Professionals, 15 March 2021, available at https://www.lepoint.fr/debats/appele-pour-la-liberation-des-prisonniers-de-guerre-armeniens-15-03-2021-2417764_2.php.

⁷ Human Rights Watch, *Azerbaijan: Armenian POWs Abused in Custody*, 19 March 2021, available at <https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody>.

With every single day that goes by, the nearly 200 Armenian POWs and civilian captives still held in Azerbaijani detention are at severe risk of continued extrajudicial killing, enforced disappearance, torture and other ill-treatment. This concern is warranted based on the abundance of evidence already before you of executions and gruesome acts including live beheadings and mutilations of Armenian POWs and civilians both during the war and well after the cessation of hostilities on 10 November 2020.⁸

Issuing both-sideist statements are therefore not only inappropriate in this context, but have the perverse effect of emboldening perpetrators, which could not be further from the aims and purposes of the essential mandates entrusted upon you.

We therefore respectfully urge you to issue a new public statement that is unambiguous, namely **calling on Azerbaijan to immediately and unconditionally release all remaining Armenian captives from the Nagorno-Karabakh conflict.**

We also respectfully request that you use every available means within your respective mandates to persuade the Azerbaijani government to comply with the very clear obligation to immediately release all remaining Armenian captives. Among the co-signatories to this letter is the Path of Law NGO, which represents more than 40 of the Armenian POWs still held hostage by Azerbaijan. We, and the families of all remaining captives, hope that you will act without delay. So many innocent lives depend on it.

Signed,

Armenian Bar Association
Chamber of Advocates of Armenia
Path of Law NGO
International and Comparative Law Center-Armenia

⁸ See, *inter alia*, Human Rights Watch, *Azerbaijan: Armenian POWs Abused in Custody*, 19 March 2021, available at <https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody>; Human Rights Watch, *Survivors of unlawful detention in Nagorno-Karabakh speak out about war crimes*, 12 March 2021, available at <https://www.hrw.org/news/2021/03/12/survivors-unlawful-detention-nagorno-karabakh-speak-out-about-war-crimes>; The Guardian, *Two men beheaded in videos from Nagorno-Karabakh war identified*, 15 December 2020, available at <https://www.theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified>; Human Rights Watch, *Azerbaijan: Armenian Prisoners of War Badly Mistreated*, 2 December 2020, available at <https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated>.