

To: **Honorable Nils Melzer**

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

c/o Office of the High Commissioner for Human Rights

United Nations Office at Geneva

CH-1211 Geneva 10

Switzerland

Email: [sr-torture@ohchr.org](mailto:sr-torture@ohchr.org)

To: **Honorable Tae-Ung Baik (Chair-Rapporteur), Honorable Henrikas Mickevičius (Vice Chair), Honorable Aua Balde, Honorable Bernard Duhaime, and Honorable Luciano Hazan**

*UN Working Group on Enforced or Involuntary Disappearances*

c/o Office of the High Commissioner for Human Rights

United Nations Office at Geneva

CH-1211 Geneva 10

Switzerland

E-mail: [wgeid@ohchr.org](mailto:wgeid@ohchr.org)

To: **Honorable Morris Tidball-Binz**

*UN Special Rapporteur on extrajudicial summary or arbitrary executions*

c/o Office of the High Commissioner for Human Rights

United Nations Office at Geneva

CH-1211 Geneva 10

Switzerland

Email: [eje@ohchr.org](mailto:eje@ohchr.org)

With a copy to:

Honorable Fabian Salvioli

UN Special Rapporteur for the promotion of truth, justice, reparation and guarantees of non-recurrence

c/o Office of the High Commissioner for Human Rights

United Nations Office at Geneva

CH-1211 Geneva 10

Switzerland

Email: [srtruth@ohchr.org](mailto:srtruth@ohchr.org)

30 April 2021

Dear Mandate-Holders,

We are a coalition of Armenian Lawyers' Associations from the United States, Russia, Canada, Netherlands, France, Germany, Great Britain, Argentina, Belgium, Sweden and Armenia. We have been closely following the atrocities committed by Azerbaijan since 27 September 2020,

when Azerbaijan, in blatant violation of international law and with the assistance of its military ally Turkey, launched a large scale military operation against Nagorno-Karabakh.

Despite the 9 November 2020 ceasefire signed by the President of the Republic of Azerbaijan, Prime Minister of the Republic of Armenia and President of the Russian Federation (the “Trilateral Statement”), Azerbaijan continues to systematically spread fear among the population of Nagorno-Karabakh and to destabilize the region through its rhetoric and actions. One specific example is Azerbaijan’s continued systematic hindrance of the return of Armenian prisoners of war (POWs) and civilians currently in Azerbaijani custody. As you know, paragraph 8 of the Trilateral Statement unequivocally provides that “The Parties shall exchange prisoners of war, hostages and other detained persons, and dead bodies.”<sup>1</sup>

While Armenia has fully complied with the above-referenced provision of the Trilateral Statement, Azerbaijan still continues to illegally hold and refuses to allow the return of close to 200<sup>2</sup> individuals that have been deprived of their liberty for reasons related to the Nagorno-Karabakh conflict.

To be clear, there are no Azerbaijani captives in Armenian custody. This fact has been confirmed by Russian Foreign Minister Sergei Lavrov on 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.”<sup>3</sup>

Moreover, according to a Press Release issued by the European Court of Human Rights (“ECHR”) on 16 March 2021, the ECHR (sitting as a Chamber of seven judges) has decided not to apply Rule 39 and in fact has suspended its examination under Rule 39 of the complaints lodged by the Government of Azerbaijan, relating to Azerbaijanis allegedly captured by Armenia, because those captives were determined by the Court to have either repatriated or were not confirmed as captives.<sup>4</sup>

According to the same ECHR Press Release however, between 13 October 2020 and 5 March 2021, ECHR has applied Rule 39 interim measures concerning 229 of the 249 Armenians captured by Azerbaijan that were the subject of complaints lodged by the Government of Armenia against the Government of Azerbaijan within the framework of the inter-State

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<sup>1</sup> See Annex to S/2020/1104 (11 November 2020); see also:

<https://digitallibrary.un.org/record/3891171?ln=en>.

<sup>2</sup> The exact number is unknown as Azerbaijan refuses to release the names of all the captives in their custody that have been deprived of their liberty for reasons related to the conflict.

<sup>3</sup> Reuters, Russia says all Azeri captives returned under Karabakh deal, 18 January 2021, <https://www.reuters.com/article/us-armenia-azerbaijan-prisoners-russia-idUSKBN29N1SQ>.

<sup>4</sup> See ECHR 086 (2021), 16 March 2021,

<https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-6965126-9374600&filename=Armenia%20v.%20Azerbaijan%20and%20alleged%20captives%3A%20notification%20to%20the%20Committee%20of%20Ministers%20of%20interim%20measures%20indicated%20.pdf>.

application Armenia v. Azerbaijan (no. 42521/20) and by relatives of captives in 62 individual applications.<sup>5</sup>

As part of the Rule 39 interim measures, the Government of Azerbaijan was “invited to provide specific information on the individuals concerned, including the conditions of their detention, any medical examinations they have undergone and details of the measures that have been taken or are planned to be taken to repatriate them.”<sup>6</sup>

Because of “the Azerbaijani Government’s failure to respect the time-limits set by the Court for the submission of information on the individuals concerned and the rather general and limited information provided by them”, on 9 March 2021, ECHR decided to notify the Committee of Ministers, pursuant to Rule 39 § 2 of the Rules of Court, of the interim measures relating to the Armenians captured by Azerbaijan.<sup>7</sup>

According to the ECHR Press Release, of the 249 Armenians: 58 “had been repatriated between December 2020 and February 2021”; 7 “had been found deceased”; “72 are still in Azerbaijan, their captivity and detention having been acknowledged by the Azerbaijani Government”; and “in regard to the remaining 112 individuals, the Azerbaijani Government claim that they have not been able to identify them among their captives.”<sup>8</sup>

What is even more disturbing is the fact that several international organizations, including Human Rights Watch, have stressed that Azerbaijan continues to violate international law and its obligations under the Trilateral Statement by not only refusing to return POWs and civilian captives to Armenia but also by continuing to subject them to cruel and degrading treatment and torture.<sup>9</sup> There is even evidence that some captives confirmed to be in Azerbaijani custody have been found dead.<sup>10</sup>

Azerbaijan’s failure to comply with paragraph 8 of the Trilateral Statement and continued subjection of POWs and detained civilians to deliberate executions, torture, inhumane treatment, and even beheadings is clearly intended to spread fear among the population of Nagorno-Karabakh and to further destabilize the region. If there is any doubt as to Azerbaijan’s intentions, one only needs to look at images from the “War Trophy Park” that opened in Baku on 12 April 2021 displaying, among other things, cartoonist wax mannequins of Armenian servicemen in

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<sup>5</sup> *Id.* With respect to the other 20 individuals, “the examination under Rule 39 was suspended or no decision was taken because the individuals concerned had been repatriated in the meantime.” *Id.*; see also Armenia v. Azerbaijan (no. 42521/20), Eur. Ct. H.R. (2020).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Tanya Lokshina, *Survivors of unlawful detention in Nagorno-Karabakh speak out about war crimes*, Human Rights Watch, 12 March 2021, <https://www.hrw.org/news/2021/03/12/survivors-unlawful-detention-nagorno-karabakh-speak-out-about-war-crimes>; *Azerbaijan: Armenian POWs Abused in Custody*, Human Rights Watch, 19 March 2021, <https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody>.

<sup>10</sup> *Azerbaijanis murder 44-year-old Armenian captive and bury him in Karabakh’s Hadrut*, News.am 19 March 2021, <https://news.am/eng/news/624334.html>.

chains, dead, or dying, which deliberately inflict suffering on the relatives of the dead soldiers, missing people, prisoners of war and other captives.

Thus, in response to your joint statement issued on 1 February 2021, calling, among other things, “for the prompt release of prisoners of war and other captives from the recent Nagorno-Karabakh conflict,”<sup>11</sup> we welcome your intervention and applaud your collective efforts to facilitate the return of the captives and to hold the Governments of Armenia and of Azerbaijan accountable for violations of relevant international norms and standards that are applicable to the issues brought forth to each of you. However, **we fear that your joint statement calling for “both parties” to complete the “all for all exchange” is only emboldening Azerbaijan, the sole perpetrator in this particular case, as Armenia has fully complied and repatriated all Azerbaijani captives in Armenian custody, while the other party – Azerbaijan – is not only blatantly defying such calls by refusing to repatriate captives in its custody, but continues to subject them to cruel and degrading treatment and torture. .**

To summarize, while all Azerbaijani captives in Armenian custody have been fully repatriated, Azerbaijan continues to: 1) violate its obligations under the Trilateral Statement; 2) defy the interim measures imposed by ECHR; 3) ignore all calls to repatriate Armenian captives in Azerbaijani custody; and 4) continues to commit numerous violations of international law by detaining and torturing captives that have been deprived of their liberty for reasons related to the conflict by facetiously labeling them as “terrorists.”

Therefore, we respectfully urge you to issue a new public statement calling on the Government of Azerbaijan to:

- 1) immediately, unequivocally, and unconditionally release all remaining captives in its custody that have been deprived of their liberty for reasons related to the Nagorno-Karabakh conflict, in accordance with the Trilateral Statement;
- 2) provide the Government of Armenia and/or the International Committee of the Red Cross the exact number of Armenian captives in custody that have been deprived of their liberty for reasons related to the Nagorno-Karabakh conflict regardless of their classification by the Government of Azerbaijan as POWs, civilians, or “terrorists”, as well as their names and other relevant personal information;
- 3) provide specific information on the captives, including the conditions of their detention, any medical examinations they have undergone and details of the measures that have been taken or are planned to be taken to repatriate them; and
- 4) clarify to the international community that Armenia has already returned all prisoners of war in due time, in compliance with the provisions of the Trilateral Agreement.

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<sup>11</sup> OHCHR, Nagorno-Karabakh: captives must be released – UN experts, 1 February 2021, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26702&LangID=E>.

We also urge you to organise an *in situ* mission in Artzakh as soon as possible in order to assess and acknowledge the situation and the needs on the ground.

We thank you for your attention to this pressing issue and stand ready to provide your respective offices with further information if needed.

We are representative Armenian Lawyers from the United States, Russia, Canada, Netherlands, France, Germany, Great Britain, Argentina, Belgium, Sweden and Armenia.

Submitted by :

**Argentine Armenian Lawyers Association (Argentina)**

**Armenian Bar Association (USA)**

**Armeens-Nederlandse Advocaten en Juristen Associatie (Netherlands)**

**Armenian Young Lawyers' Association (Armenia)**

**Armenian Lawyers Association (Armenia)**

**Association Française des Avocats et Juristes Arméniens (France)**

**Association of Armenian lawyers (Russia)**

**German Armenian Lawyers' Association (Germany)**

## ADDENDUM

We recognize that you may have already been provided with some of the below information from various sources, including the Government of Armenia, relating to the torture and inhumane treatment of Armenian POWs and civilians. In the interest of thoroughness and in an effort to assist you in fulfilling your mandate, we respectfully submit for your review and consideration information we have compiled from various sources:

### **The Torture or Inhumane Treatment of Armenian POWs and Civilians by Azerbaijani Armed Forces**

#### **A. Photographs and Videos Circulated by Azerbaijani Social Media Channels**

1. From 27 September 2020, the Azerbaijani Armed Forces have committed numerous crimes. A portion of those crimes were recorded by the perpetrators themselves and published as “heroic deeds” on social networks, including Telegram, Tik-Tok, Twitter and Instagram. These videos and pictures show three groups of crimes in which the: (i) Armenian protected persons were killed; (ii) Armenian protected persons were tortured and humiliated and (iii) dead bodies of Armenians were mutilated. The Human Rights Defenders of Armenia and Artsakh have completed a total of six reports on atrocities committed by the Azerbaijani Armed Forces against captured ethnic Armenian POWs and civilians.<sup>1</sup>
2. One of the first instances of the gruesome acts committed by Azerbaijani soldiers targeting Armenian soldiers was of the image of an Azerbaijani soldier holding the head of a decapitated Armenian soldier.<sup>2</sup> Posing with severed heads and corpses is a serious ill-treatment of a person protected by international humanitarian law. Such photographs clearly show the individuals in the picture mocking the deceased, demeaning them in their deadly honor. The individuals shown in the pictures or videos spread these images on social networks to make the desecration of corpses available to the public and to be celebrated as heroes in their own ranks and among the civilian population.
3. Several videos were also published showing Azerbaijani soldiers willfully killing protected persons. In a Twitter video, a defenseless, injured Armenian soldier (hors de combat) was mercilessly killed with a headshot.<sup>3</sup> In another video, an Azerbaijani soldier asks another combatant to record him and to watch. He then shoots first once and – after being asked to do so by the other soldiers – then shoots approximately another twenty times at a defenseless

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<sup>1</sup> See, The Human Rights Ombudsman of Artsakh “Sixth Ad Hoc Report On Torture and Inhuman Treatment of Members of Artsakh Defense Army and Captured Armenians by Azerbaijani Armed Forces” (From Dec. 2 - Dec. 16, 2020) (available upon request; these reports are not disseminated publicly, given the disturbing images and content they display).

<sup>2</sup> Marianna Karapetyan, *Azerbaijani military forces beheaded an Armenian soldier - Human Rights Defender*, Public Radio of Armenia, 19 October 2020, <https://en.armradio.am/2020/10/19/azerbaijani-military-forces-beheaded-an-armenian-soldier-human-rights-defender/>.

<sup>3</sup> **Warning: Graphic and Disturbing Content:** Operasyon, Telegram, [https://dearjv.de/wp-content/uploads/2021/03/Anhang-9\\_-Toetung.mov](https://dearjv.de/wp-content/uploads/2021/03/Anhang-9_-Toetung.mov).

Armenian soldier.<sup>4</sup> In yet another video, Azerbaijani soldiers execute two ethnic Armenians, one of them an elderly non-combatant, who are bound and draped in the Armenian flag.<sup>5</sup>

4. Other published videos show the willful execution of civilians by Azerbaijani soldiers. One of these videos shows an elderly Armenian pleading for mercy in Azerbaijani. Meanwhile, an Azerbaijani soldier grabs another soldier's knife and starts cutting the older man's throat.<sup>6</sup> Another video shows an Azerbaijani soldier publicly beheading a civilian and placing the severed head on a pig's body.<sup>7</sup> Several other photos and videos were also published showing the execution of the captured POWs and civilians.
5. Numerous videos were also circulated where Armenian POWs and civilians were ill-treated, humiliated, beaten and tortured.<sup>8</sup> Most of the videos show civilians and POWs being forced to say on camera that "*Karabakh is Azerbaijan*."<sup>9</sup> This is mainly in response to the statement made by Prime Minister Nikol Pashinyan that: "*Artsakh is Armenia*."<sup>10</sup> The forced statements attack the dignity and honor of speaker because they were unable to "defend" themselves and to "protect" the Republic of Artsakh's right to self-determination. For an Armenian man, the acceptance of defeat is portrayed as self-humiliation in the sense of weakness and lack of masculinity. Such videos and its dissemination on social networks creates another dimension in which not only one person is tortured but the families of these POWs, civilians and the whole nation are as well, because it is meant to show that Armenian soldiers are so weak that they accept their defeat and are willing to say so in order to save themselves.
6. The crimes described above cover only a small fraction of the atrocities committed during and after the recent Nagorno-Karabakh conflict. Such recordings and actions of the Azerbaijani soldiers raises the question and serious concern as to what has happened and is happening to the Armenian POWs and the civilians that are still held in captivity.

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<sup>4</sup> **Warning: Graphic and Disturbing Content:** Kolorit\_18, Telegram, 15 November 2020, [https://t.me/kolorit\\_18/392](https://t.me/kolorit_18/392).

<sup>5</sup> Nick Waters, *An Execution in Hadrut*, Bellingcat, 15 October 2020, <https://www.bellingcat.com/news/rest-of-world/2020/10/15/an-execution-in-hadrut-karabakh/>; Atlantic Council's Digital Forensic Laboratory, *Evidence emerges of Azeri soldiers executing Armenian POWs*, Medium, 15 October 2020, <https://medium.com/dfrlab/evidence-emerges-of-azeri-soldiers-executing-armenian-pows-bf7b28a95f16>.

<sup>6</sup> Andrew Roth, *Two men beheaded in videos from Nagorno-Karabakh war identified*, The Guardian, 15 December 2020, <https://www.theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified>.

<sup>7</sup> *Id.*

<sup>8</sup> See, *Azerbaijan: Armenian Prisoners of War Badly Mistreated*, Human Rights Watch, 2 December 2020, <https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated>; See, *Azerbaijan: Armenian POWs Abused in Custody*, Human Rights Watch, 19 March 2021, <https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody>.

<sup>9</sup> Joshua Kucera, *Pashinyan calls for unification between Armenia and Karabakh*, Eurasianet, 6 August 2019, <https://eurasianet.org/pashinyan-calls-for-unification-between-armenia-and-karabakh>.

<sup>10</sup> Kolorit\_18, Telegram, 23 November 2020, [https://t.me/kolorit\\_18/560](https://t.me/kolorit_18/560); Kolorit\_18, Telegram, 24 November 2020, [https://t.me/kolorit\\_18/587](https://t.me/kolorit_18/587); Kolorit\_18, Telegram, 22 November 2020, [https://t.me/kolorit\\_18/546](https://t.me/kolorit_18/546).

## **B. Testimony by Repatriated Armenian POWs and Civilians on Their Treatment While Held in Captivity**

Recently, as reported by two Human Rights Watch reports, new evidence has emerged of the torture and inhuman treatment of Armenian POWs and civilians by Azerbaijani forces.

### **a. Abuse of Civilians**

7. Several cases have documented that Azerbaijani soldiers have used violence in order to detain civilians, who were later tortured and subjected to inhuman and degrading conditions during their detention. For example, Eduard Shakhkeldyan, 79, and his wife Arega Shakhkeldyan, 72, were detained by Azerbaijani soldiers at the end of October. Before they arrived at a pretrial detention facility, Eduard was beaten by Azerbaijani soldiers for “*he had surely taken part in the war 30 years earlier [during the first war] and this was his punishment for killing Azerbaijani people back then.*”<sup>11</sup> Almost two months later, while still in detention, Arega was told that Eduard had died in his sleep, but when she viewed his body, she noted that his “*face was black and blue.*”<sup>12</sup> According to Eduard’s death certificate, issued by Armenian authorities following an autopsy, “*the cause of death is...blunt brain injury, brain swelling, and acute disorder of vital brain function.*”<sup>13</sup>
8. In another example, Sasha Garakhanyan, 71, and his son Arsen Garakhanyan, 44, were also detained by Azerbaijani soldiers in October. In December 2020, Sasha returned to Armenia where a medical examination revealed that he had scars on his wrists and ankles, from being tightly bound with wire, on the back of his head, where a soldier hit him several times with a rifle butt, and on his back, from being poked with a metal rod.<sup>14</sup> As for Arsen, his family had no news of his whereabouts or condition, except for two videos that circulated on social media showing Arsen saying that “*Karabakh is Azerbaijan.*”<sup>15</sup> In January 2021, after the Armenian government requested information on Arsen’s fate, Arsen’s body was found days later in what appeared to be a fresh grave, with “*marks of gunshots through [his] forehead and chin.*”<sup>16</sup>

### **b. Abuse of POWs**

9. Numerous cases have also documented that Azerbaijani forces have abused Armenian POWs either when they were captured, during their transfer, or while they were in custody at detention facilities. Davit, a repatriated POW, has stated that, when he was being transferred to a hospital after he was captured, he was beaten and abused by Azerbaijani soldiers, where

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<sup>11</sup> Tanya Lokshina, *Survivors of unlawful detention in Nagorno-Karabakh speak out about war crimes*, Human Rights Watch, 12 March 2021, <https://www.hrw.org/news/2021/03/12/survivors-unlawful-detention-nagorno-karabakh-speak-out-about-war-crimes>

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

one soldier had used a windproof lighter to burn his hands.<sup>17</sup> Tigran, another repatriated POW, also detailed that he and other Armenian POWs had been beaten for hours after their capture.<sup>18</sup>

10. During their transfer, Davit, as well as other repatriated POWs, Hovhanness and Levon, gave details of the conditions of their custody, where they were handcuffed in a way that would not allow them to lie down, were given no food, and were given water only once a day.<sup>19</sup> The three POWs also noted that they were beaten several times by Azerbaijani soldiers, where Levon has emphasized that the beatings were intended as punishment.<sup>20</sup> He stated that they were not interrogated, but were instead asked by the Azerbaijani soldiers “*Why did you join the fighting?*” and were blamed for the killings of Azerbaijani civilians during the first war.<sup>21</sup>
11. All four of the above-mentioned POWs were beaten during their weeks of detention at a detention facility in Baku, where Tigran in particular had been tortured with electric shocks. The POWs were also forced to speak on camera that “*Nagorno-Karabakh is part of Azerbaijan.*”<sup>22</sup>
12. As previously mentioned, Azerbaijan still holds over 200 POWs and civilians as hostages. Currently, there is no information on their status, except for the fact that Azerbaijan incorrectly labels Armenian POWs as terrorists,<sup>23</sup> which denies them the protection of the law and places their lives at serious risk.

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<sup>17</sup> *Azerbaijan: Armenian POWs Abused in Custody*, Human Rights Watch, 19 March 2021, <https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody>.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> Asbarez Staff, *Aliyev Calls Armenian POWs ‘Terrorists’; Human Rights Defender Urges their Return to Armenia*, Asbarez, 2 January 2021, <https://asbarez.com/199618/aliyev-calls-armenian-pows-terrorists-human-rights-defender-urges-their-return-to-armenia/>.