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## الجمعية العامة



### مجلس حقوق الإنسان

الدورة التاسعة عشرة

البند ٤ من جدول الأعمال

حالات حقوق الإنسان التي تتطلب اهتمام المجلس بها

### مذكرة شفوية مؤرخة ٢٦ شباط/فبراير ٢٠١٢ موجهة من البعثة الدائمة لجمهورية أذربيجان لدى مكتب الأمم المتحدة وسائر المنظمات الدولية في جنيف إلى رئيس مجلس حقوق الإنسان

أتشرف بأن أقدم مرفقه البيان الصحفي للبعثة الدائمة لأذربيجان الصادر بمناسبة الذكرى السنوية العشرين لحملة الإبادة الجماعية التي شهدتها جورجيا في أذربيجان\*.

وآخذاً في الاعتبار ما هو وارد أعلاه، أكون لكم ممتناً غاية الامتنان لو تفضلتم بتعميم رسالتي ومرفقها بوصفهما وثيقة من وثائق الدورة التاسعة عشرة لمجلس حقوق الإنسان، في إطار البند ٤ من جدول الأعمال.

(التوقيع) د. مراد ن. نجفبايلي  
السفير، الممثل الدائم

\* يستنسخ نصه في المرفق كما ورد، باللغة التي قدم بها فقط.

## Annex

### Commemoration of the twentieth Anniversary of the Khojaly Genocide

The most serious crimes of concern to the international community, such as war crimes, crimes against humanity and genocide, have been committed in the course of the ongoing aggression of the Republic of Armenia against the Republic of Azerbaijan. In the coming days, Azerbaijan commemorates the twentieth anniversary of the atrocious crimes committed against the civilians and defenders of the town of Khojaly, situated in the Nagorno Karabakh region of the Republic of Azerbaijan.

On the night of 25 and 26 February 1992, the Armenian armed forces, with the help of the infantry guards regiment No. 366 of the former Union of Soviet Socialist Republics, the personnel of which was composed mainly of Armenians, implemented the seizure of Khojaly. The inhabitants of Khojaly who remained in the town before the tragic night tried to leave their houses after the beginning of the assault in the hope to find a way to the nearest place populated by Azerbaijanis. But those plans failed. Invaders destroyed Khojaly and with particular brutality implemented carnage over its peaceful population. As a result, 613 civilians were killed, including 106 women, 63 children and 70 elderly. Another 1,000 people were wounded and 1,275 taken hostage. To this day, 150 people from Khojaly remain missing. The facts confirm that the intentional slaughter of the civilians in Khojaly town was directed at their mass extermination only because they were Azerbaijanis. By committing this appalling crime, its perpetrators also had a purpose, to strike terror into the hearts of people and create fear before the horrifying massacre. Indeed, Khojaly was chosen as a stage for further aggression against and occupation and ethnic cleansing of Azerbaijani territories. As news and accounts of the atrocity surfaced, the level of brutality was revealed: atrocities by Armenian troops included scalping, beheading, bayoneting of pregnant women and mutilation of bodies. Even children were not spared.

Armenian officials deny their responsibility for the crimes committed during the conflict, including against the population of Khojaly, airily falsifying facts and sharing their own interpretations of them, which deviate not only from reality but also from elementary logic. Nevertheless, even the subtlest propaganda will never manage to disprove the facts that speak of a situation diametrically opposite to that represented by the Armenian side.

Apart from the considerable information in possession of the law enforcement agencies of the Republic of Azerbaijan, the responsibility of Armenia is documented also by numerous independent sources and eyewitnesses of this tragedy.

Western media reported with horror the killing of the innocent residents of Khojaly by indiscriminate Armenian gunfire and other brutal acts by invading troops. Mass media outlets contained horrifying reports about the killing of the residents and defenders of Khojaly by indiscriminate Armenian gunfire and other brutal acts by invading troops (more information is available in document E/CN.4/2002/151).

In his cynical admission of culpability, Armenia's then-Defense Minister and current President, Serzh Sargsyan, was quoted by the British journalist Thomas de Waal, as saying, "[b]efore Khojaly, the Azerbaijanis thought that ... the Armenians were people who could not raise their hand against the civilian population. We were able to break that [stereotype]" (Thomas de Waal, *Black Garden: Armenia and Azerbaijan through Peace and War* (New York and London, New York University Press, 2003), p. 172)).

Author Markar Melkonian would later describe in his book how some residents of Khojaly had nearly reached safety after fleeing almost six miles but “[Armenian] soldiers chased them down”. The soldiers, he continues, “then unsheathed the knives they had carried on their hips for so long, and began stabbing” (*My Brother’s Road: An American’s Fateful Journey to Armenia* (London and New York, I. B. Tauris, 2005), pp. 213-214).

In response to the Armenian side’s gross misinterpretation of the 1992 Human Rights Watch (HRW)/Helsinki report’s reference to the Khojaly events, the Executive Director of that non-governmental human rights organization, in a letter of 24 March 1997 addressed to the Minister for Foreign Affairs of the Republic of Armenia, pointed out the following: “[W]e place direct responsibility for the civilian deaths with Karabakh Armenian forces. Indeed, neither our report nor that of Memorial includes any evidence to support the argument that Azerbaijani forces obstructed the flight of, or fired on Azeri civilians” (the letter of the HRW Executive Director is available at the HRW website: (<http://www.hrw.org/news/1997/03/23/response-armenian-government-letter-town-khojaly-nagorno-karabakh>)).

The facts mentioned above confirm that the intentional slaughter of the Khojaly town civilians on 25 and 26 February 1992, including children, elderly and women, was directed at their mass extermination only because they were Azerbaijanis. The Khojaly town was chosen as a stage for further occupation and ethnic cleansing of Azerbaijani territories, striking terror into the hearts of people and creating panic and fear before the horrifying massacre.

The genocide in Khojaly, along with other grave offences committed during the conflict between Armenia and Azerbaijan, entail the State responsibility of Armenia and the individual criminal responsibility of those who participated in said acts and their accomplices and accessories. This responsibility emanates from both general international law and, more particularly, from the provisions of the Convention No. 260 approved by the UN General Assembly on 9 December 1948 and entered into force in 1961 which describes the legal characteristics of genocide and those of European Convention on Human Rights, to which both Armenia and Azerbaijan are parties.

In its judgement of 22 April 2010, the European Court of Human Rights arrived at an important conclusion with respect to the crime committed in Khojaly, qualifying the behaviour of those carrying out the incursion as “acts of particular gravity which may amount to war crimes or crimes against humanity”. The European Court made in this regard the following observation, which leaves no doubt as to the question of qualification of the crime and ensuing responsibility for it:

“It appears that the reports available from independent sources indicate that at the time of the capture of Khojaly on the night of 25 to 26 February 1992 hundreds of civilians of Azerbaijani ethnic origin were reportedly killed, wounded or taken hostage, during their attempt to flee the captured town, by Armenian fighters attacking the town ...” (Judgment of the European Court of Human Rights of 22 April 2010, para. 87).

The overall assessment of the causes and consequences of the war unleashed by Armenia against Azerbaijan makes it absolutely clear that the intentional slaughter of the civilians and defenders of Khojaly was not an isolated or sporadic act, but was part of Armenia’s widespread and systematic policy and practice of atrocities, at the core of which are odious ideas of racial superiority, ethnic differentiation and hatred. It should be also noted that the Khojaly massacre and other crimes committed against Azerbaijanis during the conflict have finally exploded the myth depicting Armenia as an eternal victim.

For nearly 20 years the state of Azerbaijan has been carrying out specific and systematic work to inform the world community of the Khojaly tragedy perpetrated by Armenian forces and to have it recognized on the international scene as a genocide. In

recent years, as part of the international campaign “Justice for Khojaly”, numerous institutions of civil society, youth and Diaspora organizations representing our compatriots together with government agencies have been carrying out productive activities in this area. The true face of the Armenian propaganda machine, built on lies and falsifications, is already being exposed, the global public opinion is beginning to perceive the truth about Khojaly. The Parliamentary Union of the Organization of Islamic Cooperation has recognized this fact as “a massive crime against humanity” and urged its member-states to give an appropriate political and legal assessment to this tragedy. At the same time the parliaments of some countries have passed resolutions recognizing this massacre as an act of genocide.

The Republic of Azerbaijan considers any racial discrimination and hostility on ethnic and religious grounds, regardless of where they occur, as a crime against humanity. The Government of the Republic of Azerbaijan is striving to pursue activities for an objective assessment to be given to the Khojaly genocide and to the Armenian occupation of Azerbaijani lands, and to restore historical and legal justice.

The Government of Azerbaijan is confident that consistent measures being taken at the national level, as well as the existing legal framework of prosecution of and punishment for the most serious crimes of concern to the international community, will serve to end impunity for the crimes in Khojaly and other grave offences committed in the course of the aggression of Armenia against Azerbaijan. It is important to ensure that the pursuit of offenders is undertaken through either the domestic legal systems of involved and third-party States or relevant international criminal institutions, as appropriate, and that State responsibility is enforced through existing inter-State mechanisms.

There can be no long-term and sustainable peace without justice. This requires consistent commitment by States towards their obligations to prosecute those responsible for breaches of international humanitarian law or international human rights law. In cases when such breaches constitute war crimes or crimes against humanity, or even genocide, for which universal jurisdiction is provided with regard to alleged offenders, it is important that pursuit of individuals is undertaken through either the domestic legal system of involved and third-party States or relevant international criminal institutions, as appropriate, while State responsibility is enforced through existing inter-State mechanisms.

Ending impunity is essential not only for the purposes of individual criminal responsibility for serious crimes, but also for peace, truth, reconciliation and the rights of the victims.

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