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Human rights situations that require the Council's attention

Letter dated 11 March 2019 from the Chargé d'affaires a.i. of Azerbaijan to the United Nations Office at Geneva addressed to the President of the Human Rights Council

I have the honour to transmit herewith the joint statement of the Ministry of Foreign Affairs and the Prosecutor General's Office of the Republic of Azerbaijan on the twenty-seventh anniversary of the Khojaly genocide (see annex).

I would be highly appreciative if you could kindly circulate the present letter and the annex thereto* as a document of the fortieth session of the Human Rights Council under agenda item 4.

(Signed) Emil Hasanov
Chargé d'affaires a.i.

* Reproduced as received, in the language of submission only.



Annex to the letter dated 11 March 2019 from the Chargé d'affaires a.i. of Azerbaijan to the United Nations Office at Geneva addressed to the President of the Human Rights Council

Joint Statement by the Ministry of Foreign Affairs and Prosecutor General's Office of the Republic of Azerbaijan on the 27th anniversary of the Khojaly genocide

The Armenian nationalists began to pursue the policy of promoting separatism and sponsoring terrorism in the Nagorno-Karabakh region of Azerbaijan since 1987–1988 during the existence of the Union of Soviet Socialist Republics (USSR). Immediately after the collapse of the USSR, the newly formed Republic of Armenia's first steps consisted of the state-level use-of-force policy and an aggressive war against the Republic of Azerbaijan. As a result, about one-fifth of the territory of the Republic of Azerbaijan has been occupied; more than one million Azerbaijanis have been subjected to ethnic cleansing in occupied lands and Armenia itself. During this aggression, numerous military offenses, crimes against humanity and genocide were committed against the civilian population of Azerbaijan and the Republic of Armenia as the aggressor bears the responsibility for them.

In the course of the war, the capture of Khojaly town was particularly tragic. Before the conflict, 7,000 people lived in this town of the Nagorno-Karabakh region of Azerbaijan. From October 1991, the town was entirely surrounded by the armed forces of Armenia. Over the night of the 25 to 26 February 1992, following massive artillery bombardment of Khojaly, the armed forces of Armenia, with the help of the infantry guards regiment No. 366 of the former USSR, implemented the seizure of Khojaly. Invaders destroyed Khojaly and with particular brutality implemented carnage over its peaceful population.

As a result of the Khojaly genocide 5,379 inhabitants of the city were deported, 613 people, including 63 children, 106 women brutally murdered, 8 families were completely destroyed, 487 were injured, and 1,275 were captured and taken hostage. The fate of 150 people, including 68 women and 26 children, remains unknown to date. By the occupation of Khojaly damage exceeding 170 million USD has been inflicted to the Government of Azerbaijan and individual nationals.

The overall assessment of the causes and consequences of the war unleashed by the Republic of Armenia against the Republic of Azerbaijan and all existing facts of the tragic events in Khojaly make it absolutely clear that the crimes committed in that town of Azerbaijan were not an isolated or sporadic act, but a part of Armenia's widespread and systematic policy and practice of atrocities. The intentional slaughter of the civilians in Khojaly was directed at their mass extermination only because they were Azerbaijanis.

The Khojaly massacre and other war crimes, crimes against humanity and genocide committed by Armenia in the course of the ongoing aggression against the Republic of Azerbaijan constitute a serious violation of international humanitarian and human rights law, in particular the 1949 Geneva Conventions, Convention on the Prevention and Punishment of the Crime of Genocide, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child and the Convention for the Protection of Human Rights and Fundamental Freedoms.

The investigation conducted by the Military Prosecutor's Office of the Republic of Azerbaijan has fully proved involvement of a number of military servicemen and other persons in the perpetration of the Khojaly genocide. The investigation made decisions on their accusation according to the articles of the Criminal Code of Azerbaijan on genocide, torture, deportation of the population, violation of international humanitarian law during the armed conflict and other criminal offenses.

As a result of the investigation into the Khojaly genocide episode, around 7,000 investigative actions were conducted regarding a total of 4,470 persons, including 1,771 witnesses and 2,699 victims, over 800 different examinations and other investigations were carried out.

The international community, in the UN Security Council's Resolutions 822, 853, 874, 884 of 1993 and numerous decisions of various international organizations, has strongly condemned Armenia's use of military force against Azerbaijan and serious human rights violations during the aggression.

In its judgment 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 behavior of those carrying out the incursion as "acts of particular gravity which may amount to war crimes or crimes against humanity".

The national legislative bodies of 16 States, as well as the Organization of Islamic Cooperation adopted a number of resolutions and declarations on condemning in strongest terms the massacre of civilian population in Khojaly and recognizing the tragedy of Khojaly as an act of genocide and crime against humanity.

In total disregard of the position of the international community, demands of the UN Security Council Resolutions on immediate, unconditional and full withdrawal of occupying forces from the seized lands of Azerbaijan, Armenia continues flagrant violation of international law. It continues to undertake efforts aimed at further consolidating the current status quo of the occupation, strengthening its military build-up in the seized territories, changing their demographic, cultural and physical character and preventing the hundreds of thousands of Azerbaijani forcibly displaced persons from returning to their homes and properties in those areas.

Alongside the Republic of Armenia's responsibility as a State for internationally wrongful acts, under the customary and treaty norms of international criminal law, certain acts perpetrated in the context of an armed conflict, including those in the town of Khojaly, are viewed as international criminal offences and responsibility for them is borne on an individual basis by those who participated in the said acts, their accomplices and accessories.

It is well known that some representatives of the previous leadership of Armenia, who were removed from power by the mass protests of the country's population last year, together with many other high-ranking political and military officials of that State and leaders of the separatist regime set up by Armenia in the occupied territory of Azerbaijan, personally participated in seizing Azerbaijani lands and in the reprisals against Azerbaijani civilians and militaries, including in Khojaly.

In his cynical admission of culpability, Armenia's then-Defense Minister and ex-President, Serzh Sargsyan, was quoted by the British journalist Thomas de Waal, as saying, "before 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).

It is incontrovertible today that no official or political status cloaks the person concerned with immunity for the most serious international crimes, such as war crimes, crimes against humanity, genocide and ethnic cleansing.

Alongside the ongoing prosecution of persons charged with committing various crimes against their own people in Armenia, the trial over the crimes committed by them against the Azerbaijani people is also crucial for the establishment of international justice and can contribute to the settlement of the Armenia-Azerbaijan conflict by peaceful means. If so, it will increase the possibility to make real progress in the process of preparing the Armenian and Azerbaijani peoples to peace and creating of a mutual trust atmosphere between them that had been supported by the OSCE Minsk Group Co-chairs and the world community as a whole.

The Republic of Azerbaijan is confident that the consistent measures being taken at the national level, as well as the existing international legal framework, will serve to bring to justice those responsible for the grave offenses committed against the civilian population of Azerbaijan during the conflict.

Baku, 25 February 2019
