



Asamblea General

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Consejo de Derechos Humanos

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22 de febrero a 19 de marzo de 2021

Tema 4 de la agenda

Situaciones de derechos humanos

que requieren la atención del Consejo

Nota verbal de fecha 19 de febrero de 2021 dirigida a la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos por la Misión Permanente de Armenia ante la Oficina de las Naciones Unidas en Ginebra

La Misión Permanente de la República de Armenia ante la Oficina de las Naciones Unidas y otras organizaciones internacionales en Ginebra transmite por la presente un *aide-mémoire* sobre las continuas violaciones por parte de Azerbaiyán de los derechos de los combatientes y civiles de origen armenio privados de libertad (véase el anexo).

La Misión Permanente de Armenia solicita a la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos que tenga a bien distribuir la presente nota verbal y su anexo* como documento del Consejo de Derechos Humanos en relación con el tema 4 de la agenda.

* Se reproduce como se recibió, en el idioma en que se presentó únicamente.



Annex to the note verbale dated 19 February 2021 from the Permanent Mission of Armenia to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

Aide Mémoire dated 16 February 2021 on Azerbaijan's continued violations of the rights of the detained combatants and civilians of Armenian origin

One of the provisions of the November 9, 2020 ceasefire statement¹ that put an end to the military hostilities in Nagorno-Karabakh has stipulated the exchange of prisoners of war, hostages and other detained persons, and repatriation of dead bodies. The initial exchange of Prisoners of War (PoWs) took place in December 2020. However, Azerbaijan has failed to fulfill the commitment to return all PoWs and civilian detainees and it continues to keep a number of them in captivity. Moreover, Azerbaijan continued to capture and abduct Armenians – both combatants and civilians – after the ceasefire statement was released.

The exact number of the detained combatants and civilians of the Armenian origin is difficult to establish since Azerbaijan has rejected all calls to cooperate and has not shared a complete list of the captives of Armenian origin under its custody through the International Committee of the Red Cross (ICRC). According to the estimates of the Armenian human rights defenders, their number most probably counts in hundreds.

The Spokesperson of the External Action Service of the European Union², the Chair of the Delegation for relations with the South Caucasus of the European Parliament³ have recently joined their voices to those who demanded the release of the detained combatants and civilians of the Armenian origin. European Parliament resolution of 20 January 2021 on the implementation of the Common Security and Defence Policy welcomed cessation of hostilities in Nagorno Karabakh and insisted on the need to proceed without delay with the exchange of prisoners⁴. The UN Human Rights experts also urged⁵ for a prompt release of Prisoners of War and other captives from the recent Nagorno-Karabakh conflict.

One of them is Ms. Maral Najarian, a Lebanese Armenian, a mother of two, who fled Beirut after explosion, lived in Nagorno-Karabakh before the war erupted, and went back after the ceasefire to collect her belongings⁶. Then she went missing, and it took more than a month since her disappearance for the authorities in Baku to confirm to the European Court of Human Rights that she was in the custody in Azerbaijan. The official Baku, nevertheless, allowed the ICRC representatives to visit her only in February – three months after her detention.

The Armenian side handed over all of the Azerbaijani prisoners in its custody (including the two men convicted in 2014 in a duly held process on homicide charges) in what was supposed to be an “all-for-all” exchange. Recently, the Armenian side also returned the two Azerbaijani servicemen, who were detained a day before for violating the border.

Azerbaijani penitentiary system has long been recognized for its malpractices of torture, cruel and inhumane treatment of detainees, which was testified by several international reports, including by the UN Working Group on Arbitrary Detention on its mission to Azerbaijan in

¹ <https://www.primeminister.am/en/press-release/item/2020/11/10/Announcement/>.

² <https://twitter.com/ExtSpoxEU/status/1355075592320901124?s=08>.

³ https://www.europarl.europa.eu/cmsdata/227678/20210202_KALJURAND%20KOVATCHEV%20ZOVKO_Joint%20statement_NK%20conflict%20settlement.pdf.

⁴ https://www.europarl.europa.eu/doceo/document/TA-9-2021-0013_EN.html.

⁵ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26702&LangID=E>.

⁶ <https://hetq.am/en/article/126701>.

beheading of the elderly civilians¹⁶. One of them was Genadi Petrosyan, 69, who had settled in Nagorno-Karabakh after surviving the Armenian massacres committed in February 1988 in Sumgait town of Azerbaijan¹⁷.

The Human Rights Watch (HRW) has extensively reported on the mistreatment of a number of Armenian Prisoners of War¹⁸. The UN High Commissioner for Human Rights referred to the case of summary execution of the two captive Armenians as a possible war crime¹⁹. The repatriated corpses of the Armenian servicemen and civilians revealed numerous cases of executions and mutilations.

The Human Rights Ombudsperson of Nagorno-Karabakh²⁰ have put together six reports on the torture and inhumane treatment of the members of the Artsakh (Nagorno-Karabakh) Defense Army and captured Armenian civilians by Azerbaijan that cover the period since 27 September 2020 till January 2021. These reports are not disseminated through open public sources, since they contain instances of extreme cruelty and most graphic violent images. However, they can be provided by the Ombudsperson upon request.

The continued presence of numerous jihadist foreign terrorist fighters in the ranks of the army of Azerbaijan²¹, who are trained to commit atrocity crimes only adds to the existing grave concerns on the fate of the detained combatants and civilians of Armenian origin in the Azerbaijani custody. H.E. Heiko Maas, Federal Minister for Foreign Affairs of Germany recently stated at the Parliamentary Assembly of the Council of Europe that “with regard to Nagorno-Karabakh, based on current intelligence, we have to assume that a certain number of these Syrian fighters are indeed still in the crisis area.”²²

President Ilham Aliyev confirmed that Azerbaijan holds Armenian prisoners, however, he claimed that “they cannot be considered prisoners of war because the war is over. They are terrorists and saboteurs.”²³ That is a material breach of the International Humanitarian Law which unequivocally guarantees the rights of all Prisoners of War and interned persons. Article 4 (1) of Third Geneva Convention defines PoWs as “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”. Article 118 of the Third Geneva Convention requires the release and repatriation of prisoners of war without delay after the cessation of active hostilities. According to Article 132 of the Fourth Geneva Convention, each interned person must be released as soon as the reasons for internment end, while Article 133 provides that, in any event, internment must cease as soon as possible after the close of hostilities. Article 85(5) of the Additional Protocol 1 provides that grave breaches of the 1949 Geneva Conventions and of the Protocol “should be regarded as a war crime”.

Moreover, Azerbaijan fails to respect basic human rights of the detained combatants and civilians of Armenian origin. Nothing can exempt Azerbaijan from implementing its international commitments in this regard.

It is our conviction that this dire situation of the Armenian Prisoners of War and civilian detainees in the Azerbaijani custody and protection of their rights in line with International Human Rights Law and International Humanitarian Law deserve the immediate attention and reaction of the UN member states both individually and collectively.

¹⁶ <https://www.theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified>.

¹⁷ <https://www.washingtonpost.com/archive/politics/1988/03/16/soviet-tells-of-pogroms-by-rioters-in-azerbaijan/56dc16e1-9aeb-40cd-9ffd-0f176a55a223/>.

¹⁸ <https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated>.

¹⁹ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26464&LangID=E>.

²⁰ https://artsakhombuds.am/en/ad_hoc_reports.

²¹ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26494>.

²² <https://pace.coe.int/en/verbatim/2021-01-26/pm/en#speech-10701>.

²³ <https://en.president.az/articles/49937>.

Azerbaijan must respect the rules of International Humanitarian Law, refrain from violence against the civilian population and treat under all circumstances all detained combatants and civilians of Armenian origin in accordance with the Geneva Conventions. Furthermore, Azerbaijan must immediately release all detained combatants and civilians of Armenian origin.
