

URGENT APPEAL TO THE UN WG ON ARBITRARY DETENTION

Regarding the arbitrary detention of a group of ethnic Armenians by the Government of Azerbaijan

We ask the UN WG on Arbitrary Detention to examine the below-mentioned cases of arbitrary detentions of ethnic Armenians from Nagorno-Karabakh and Armenia by the authorities of the Republic of Azerbaijan, which happened since 2020 and continue until today, and urgently engage with the Government of Azerbaijan to immediately ensure their safety and unconditional release and return to the Republic of Armenia. The cases are grouped in the several categories below:

- The **recent wave of arbitrary detentions** is related to Azerbaijan's military aggression against Nagorno-Karabakh (NK) launched on 19 September 2023, which followed the humanitarian catastrophe caused by the ten-month blockade¹ of the region. This aggression was obviously intended at the eventual depopulation of ethnic Armenians. Consequently, within a matter of days more than 100 600 were forced to leave their homes² and seek refuge in Armenia, resulting in the ultimate ethnic cleansing of the territory of Nagorno-Karabakh. The atrocities of Azerbaijan were followed by a new cycle of arbitrary arrests and detentions of former and current de-facto state and military officials of Nagorno-Karabakh, including:

Ruben Vardanyan (former State Minister of NK),

Davit Babayan (former Minister of Foreign Affairs of NK),

Bako Sahakyan (former president of NK),

Arkady Ghukasyan (former president of NK),

Arayik Harutyunyan (former president of NK),

Davit Ishkhanyan (chairman of the National Assembly of NK),

Davit Manukyan (former deputy commander of the NK Defense Forces),

Levon Mnatsakanyan (former commander of the NK Defense Forces).

The detentions were carried out based on fabricated, mostly terrorism-related charges.³ Photos and videos published by the Azerbaijani authorities depict humiliating scenes of the arrests of some of them.⁴ Later, Azerbaijan's Commissioner for Human Rights (Ombudsperson) Sabina Aliyeva has disseminated photos of arrested Mr. Vardanyan⁵ and Mr. Babayan⁶, who she visited in detention to study their detention conditions. However, the official charges brought by the Azerbaijani law enforcement against the above-mentioned individuals do not have legal grounds and are seen as punitive action against the leadership of ethnic Armenians who lived in a break-away from Baku region for decades. Based on the previous experience of torture and

¹ <https://www.theguardian.com/world/2023/aug/22/inside-nagorno-karabakh-blockade-armenia-azerbaijan>

² <https://armenpress.am/eng/news/1121185/https://armenpress.am/eng/news/1121185/>

³ https://eurasianet.org/azerbaijan-arrests-more-ex-leaders-of-nagorno-karabakh?fbclid=IwAR1zDf_EdGI7cimgy5BQlg8EuTN-pDI4urugAEpuhg6yKMnwq2oyS1oqQ, <https://armenianweekly.com/2023/10/04/former-state-and-military-officials-of-artsakh-detained-by-azerbaijan/?fbclid=IwAR2NK1wKZxwm9GOTBsJPEEgFarQhDw0rY7woxOYT2DKZ4iwp9mm0uJ5Pgbs>

⁴ <https://www.youtube.com/watch?v=2ND8u6PPybU>, <https://www.youtube.com/watch?v=tqCsuEUoE4A>, <https://www.youtube.com/watch?v=-68wdW3fGEw>

⁵ <https://news.az/news/azerbaijani-ombudsperson-visits-detained-armenian-separatist-ruben-var-danyan>

⁶ <https://en.apa.az/social/azerbaijani-ombudsperson-met-with-davit-babayan-413604>

ill-treatment of the Armenian POWs under Azerbaijani custody, there are sufficient grounds to suppose that there is a high risk for their physical and mental health and life in general under the custody in Azerbaijan.

Another group of ethnic Armenians under the detention in Baku are military servicemen and civilians- the number of the detainees confirmed by ICRC before September 19 (2023) attack was 36. The first group of persons fell captive immediately after the November 10 (2020) tripartite ceasefire agreement was signed from the section of Hin Tagher-Khtsaber of Nagorno-Karabakh region, others from different military operations of the Azerbaijani armed forces against Armenia and Nagorno-Karabakh. Here are some of the names of the persons taken captive from Hin-Tagher-Khtsaber areas that became known to us:

1. Gegham Samveli Serobyan
2. Hrach/Grach Arzumani (Arzumanovic) Avagyan/Avakyan
3. Haykaz Koryuni (Koryunovich) Hovhannisyan/Hovanesyan
5. Davit Stepani (Stepanovich) Stepanyan
6. Levon Ashoti (Ashotovich) Tosunyan
8. Artur Eduardi (Eduardovich) Baghdasaryan
9. Hrayr Hrachyayi (Hrachovich) Herbayan
10. Varazdat Seryozhayi (Seryojevich) Harutyunyan/Arutyunyan
11. Serob Sureni (Surenovich) Avagyan/Avakyan
12. Narek Aghasu (Aqaovich) Kostanyan
13. Andranik Vazgeni Mikayelyan
14. Manuk Hovhannesi (Hovanesovich) Martoyan
15. Arsen Arayiki (Araikovich) Vardanyan
16. Arman Vazgeni (Vazgenovich) Dilanyan
17. Hrayr Vardeni (Seryojevichin) Tadevosyan
18. Vahagn Ediki (Edikovich) Bahrikyan
19. Sasun Seyrani (Seyranovich) Yeghiazaryan
20. Robert Hoviki (Ovikovich) Gevorgyan
21. Karen Armenaki (Armenovich) Aramyan
22. Andranik Srapi (Srapovich) Sukisyan
23. Eduard Armeni (Armenovich) Kirakosyan/Giragusyan
24. Gevorg Samveli (Samvelovich) Martirosyan
25. Volodya Vachagani (Gagikovich) Hakobyan/Akopyan
26. Tigran Manuki (Manukovich) Avagyan/Avakyan
27. Grigor Seyrani (Seyranovich) Saghatelyan
28. Vagharshak Ashoti Avetisyan

Moreover, Azerbaijan stages sham trials for the Armenian POWs in order to legitimize their prolonged detention under its jurisdiction. For instance, the Azerbaijani military court sentenced two Armenian POWs, Mr. Lyudvig Mkrtchyan (54 years old) and Mr. Alyosha Khosrovyan (56 years old) to 20-year imprisonment for alleged ‘crimes against Azerbaijanis during the First

Karabakh War' in sham trials.⁷ Human Rights Watch documented that Lyudvig Mkrtchyan was subject to torture.⁸

Two other servicemen, Mr. Karen Ashot Ghazaryan (conscript) and Harutyun Yurik Hovakimyan (contract serviceman) were captured by the Azerbaijani armed forces on May 26, 2023, in the sovereign territory of the Republic of Armenia, while they were transporting food and water supplies to the combat positions of the Armenian Armed Forces. The case happened in the middle of the combat positions located between the Chakaten and Shikahogh villages of the Republic of Armenia. The law enforcement bodies in Azerbaijan put forward violating charges against them (according to different articles of the Criminal Code of Azerbaijan) and have been sentenced to 11 years and 6 months of imprisonment.⁹ Up to date, the servicemen were not returned to Armenia. It is evident that Azerbaijan's government is holding them hostage to use as bargaining chips to extract concessions from Armenia during the upcoming peace talks.

- On 29 July 2023, **Mr. Vagif (Cherkezovich) Khachatryan**, a 68-year-old Armenian from Nagorno-Karabakh, was abducted at the Azerbaijani checkpoint in the Lachin Corridor by the Azerbaijani security forces while being transferred by the **International Committee of the Red Cross (ICRC)** to Yerevan, Armenia to undergo heart surgery. From the beginning, no explanations were offered to the family of the detained and the ICRC on the grounds of detention. The ICRC stated that such an act was unprecedented in their practice.¹⁰ On the same day, the Office of the Prosecutor General of Azerbaijan announced about the arrest of Vagif Khachatryan and stated that there was an international arrest warrant for him issued by Azerbaijan as a suspect in war crimes against Azerbaijanis allegedly taken place on December 22, 1991 in Meshali village of Khojaly district of Nagorno-Karabakh. Vagif Khachatryan is charged under the article 103 (genocide) and article 107 (Deportation or forced exile of population) of the Criminal Code of the Republic of Azerbaijan. Moreover, the photo published as evidence by the Azerbaijani Prosecutor's Office of purportedly of young Vagif Khachatryan was in fact another man, an ethnic Azerbaijani, in an area controlled by Azerbaijan in May 1994.¹¹ The Ombudsperson of Armenia, Ms. Anahit Manasyan refuted the information on the existence of any international arrest warrant for Mr. Khachatryan.¹² On the photo published by the Azerbaijani authorities, Mr. Khachatryan looked intimidated and distressed.¹³ There is a real threat to the life and well-being of Vagif Khachatryan under the Azerbaijani control given the practice of torture and extrajudicial executions of ethnic Armenians fallen under the Azerbaijani

⁷ Institute for Peace and Democracy, 20 years imprisonment imposed on two Armenian Prisoners of War : Analysis of violation of law during 2 Armenian prisoners of war judicial proceedings, https://www.ipd-az.org/two-armenian-prisoners/?fbclid=IwAR29DJ3tmbZ4PprfSmTHZayKryV17uqOSnu7EAZT_ZPQDZLWuGXiqGm0WWO_aem_AQAOM88ypYhR451qu1GV98yD8VvBSnIXjNVLxX0u0sEdWyTFrcGOehTdggdD0rTIGXc

⁸ HRW, Azerbaijan: Armenian Prisoners of War Badly Mistreated, <https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated>

⁹ <https://www.1lurer.am/en/2023/07/08/The-HRD-of-the-Republic-of-Armenia-issued-a-statement-regarding-the-condemnation-of-two-Armenian-se/959419>

¹⁰ Infocom, Representatives of ICRC visited Vagif Khachatryan, 30 July 2023, https://infocom.am/hy/article/106942?fbclid=IwAR3kiLuiUpw10NVxlGJYit0xFLw4sHpBkYFiwW_PljEUyjpXfHWY2ASfl4o_aem_AXeX_vx7sD_ICjse7f_HAJp7-vsWOwytOSIUT3tWu9z_k7LTK-9LLEhHZw2YH4wEFgM

¹¹ NK Observer, <https://twitter.com/NKobserver/status/1685859636488839168?s=20>

¹² https://www.ombuds.am/en_us/site/ViewNews/2635

¹³ <https://www.azerbaycan24.com/en/azerbaijani-ombudsperson-visits-vagif-khachatryan/>

control both during the conflict and in peace time.¹⁴ The evidence shows that combatants and civilians fallen under the Azerbaijani control during and in the aftermath of the 2020 hostilities were subjected to the most severe forms of torture and degrading treatment, including resulting in death, arbitrarily executed by the Azerbaijani armed forces or representatives of law enforcement. Moreover, interviewed repatriated prisoners of war stated that elderly persons, presumed of taking part in the First Karabakh war were subjected to more severe torture and ill-treatment.¹⁵ All this gives us reasonable grounds to have serious concern that life, security and well-being of Vagif Khachatryan in Azerbaijani detention are endangered.

In this respect, the detention of the person being under the protection of the ICRC sent a clear signal to the whole population of Nagorno-Karabakh that all men can be subjected to arbitrary detention and persecution by the Azerbaijani authorities as the majority had participated in the defence of their homeland.

The lives of all ethnic Armenians held in captivity in Azerbaijan, whether unlawfully detained or imprisoned, are in grave danger, and they are exposed to a significant risk of torture and ill-treatment.¹⁶ The existing body of evidence of torture and ill-treatment acts against the Armenian detainees indicate the serious risk of danger to the life and health of all Armenians held in captivity in Azerbaijan. It is futile to discuss the potential for ensuring fair trial guarantees for these individuals, given the lack of independent judicial system, and poor record of fundamental human rights in Azerbaijan.

The US Department of State in its 2022 Country Report¹⁷ on Human Rights Practices in Azerbaijan stressed the pervasive problems with the independence of the judiciary, stating that the judiciary generally did not enforce the right to a fair and public trial in most cases that were widely considered to be politically motivated, also referring to credible reports indicating that in such cases judges and prosecutors took instructions from the Presidential Administration and the Justice Ministry. The report also specifically refers to the prosecutions of Armenian civilians and servicemembers Azerbaijan took into custody both during the fall 2020 hostilities and following the November 2020 cease-fire, asserting that the government continued to prosecute detained Armenian civilians and servicemen in public trials that lacked elements of due process such as the right to choose one's own legal counsel.

The total absence of independent judiciary in Azerbaijan was documented in the Freedom House report 2022¹⁸, stating that the judiciary is corrupt and subservient to the executive. Torture, cruel and degrading treatment, physical abuse, and humiliation of Armenian POWs by Azerbaijani forces, amongst others, was regularly documented by the Human Right Watch¹⁹ in its reports. The need for

¹⁴ UN CERD, Concluding observations on the combined seventh to ninth periodic reports on Azerbaijan, https://tinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fAZE%2fCO%2f10-12&Lang=en, paras. 4-5; Human Rights Watch, "Azerbaijan: Armenian Prisoners of War Badly Mistreated.", 2 December 2020, <https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated>; Azerbaijan: Armenian POWs Abused in Custody, 19 March 2021, [https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody#:~:text=\(Berlin\)%20%E2%80%93%20Azerbaijani%20forces%20abused,Human%20Rights%20Watch%20said%20today](https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody#:~:text=(Berlin)%20%E2%80%93%20Azerbaijani%20forces%20abused,Human%20Rights%20Watch%20said%20today)

¹⁵ OSF, HCAV, LDPF and PRWB, Human rights violations during the 44-day war in Artsakh, fact-finding report, 2022, p. 109, available at: https://www.osf.am/wp-content/uploads/2022/06/Fact-Finding-Report_FINAL_web.pdf?fbclid=IwAR31CU-VDDByUv6JmrIY4piWidT2EcvkQVOcPJ0Z8NqDWcrhEw3JLhwB9m8

¹⁶ <https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody>

¹⁷ <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/azerbaijan/>

¹⁸ <https://freedomhouse.org/country/azerbaijan/freedom-world/2022>

¹⁹ HRW, Azerbaijan: Armenian POWs Abused in Custody, <https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody>, HRW, Azerbaijan: Armenian Prisoners of War Badly Mistreated, <https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated>

affording POW status for captured combatants and ensuring their return after the end of hostilities was stressed by HRW, while prosecution of Armenian Prisoners of war was qualified as a breach of Geneva Convention III.

The Parliamentary Assembly of the Council of Europe (PACE) in its resolution 2391 (2021) expressed concern about the detention conditions of the Armenians captured after the trilateral statement, who are still in captivity, most of whom have faced or are facing speedy criminal trials, which may raise fair trial issues under the European Convention on Human Rights, it called on the Azerbaijani authorities to release all remaining captives and return them to Armenia without further delay.²⁰

Although Azerbaijan is a party to numerous treaties prohibiting arbitrary deprivation of liberty, including the International Convention on the Elimination of All Forms of Racial Discrimination, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, European Convention on Human Rights, it continues to show flagrant disregard for its international obligations, including the binding Orders of the International Court of Justice, resolutions and recommendations of numerous international organizations.

In conclusion, we urge the Working Group to:

- Conduct a **thorough examination of these cases**, considering the grave violations of human rights they represent. It is imperative that the Working Group engages with the relevant authorities **to demand the immediate release of detainees and ensure that their safety is guaranteed.**
- Conduct a **country visit to the Republic of Azerbaijan to visit** the Armenian detainees in the detention facilities to study their conditions. No other international organization or mechanism, apart from ICRC, is allowed to visit the Armenian detainees in detention centers in Azerbaijan.

On behalf of the following civil society organizations:

Democracy Development Foundation
Law Development and Protection Foundation
Protection of Rights without Borders NGO
Helsinki Citizens' Assembly- Vanadzor NGO
Transparency International Anticorruption Center NGO
Peace Dialogue NGO
“For Equal Rights” NGO
Women's Resource Center NGO
Union of Informed Citizens NGO
Human Rights Research Center NGO

²⁰ Humanitarian consequences of the conflict between Armenia and Azerbaijan / Nagorno-Karabakh conflict, Resolution 2391 (2021), <https://pace.coe.int/en/files/29483/html>