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**STATEMENT ON THE CASES OF TORTURE INFLICTED BY AZERBAIJAN ON THE
SOLDIERS AND CIVILIANS OF ARMENIA AND NAGORNO KARABAGH**

The Europe in Law Association NGO would like to express its concern in regard to the facts of atrocities committed by Azerbaijan on the military and civilians of Armenia and Nagorno Karabagh.

Since the conclusion of a ceasefire agreement between Azerbaijan, Nagorno-Karabakh and Armenia in 1994, the Azerbaijani armed forces have on numerous occasions violated the ceasefire regime by *inter alia* targeting the civilian population by taking them hostage, torturing, and killing.

History of war between Armenia and Azerbaijan

The struggle over Nagorno-Karabakh escalated after both Armenia and Azerbaijan attained independence from the Soviet Union in 1991. In 1988, the Armenians of Karabakh voted to secede and join Armenia. This, along with massacres in Azerbaijan resulted in the conflict that became known as the Nagorno-Karabakh War. The violence resulted in *de facto* Armenian control of former NKAO and seven surrounding Azerbaijani regions, which was effectively halted when both sides agreed to observe a cease-fire regime, which has been in effect since May 1994 (See the ceasefire agreement here:

<http://nkr.am/en/ceasefire-agreement/147/>). In late 1995, both also agreed to mediation of the OSCE Minsk Group. The Minsk Group is currently co-chaired by the US, France and Russia.

Violation of ceasefire and atrocities conducted by the Azerbaijani government

Since 1994 Azerbaijani military forces have on a number of occasions violated the ceasefire agreement signed by Armenia, Azerbaijan and the Nagorno-Karabakh Republic. As there are no clear borders between the territories of Azerbaijan, the Nagorno-Karabakh Republic and Armenia often the civilians appear on the territory of Azerbaijan and taken hostage by the Azerbaijani military. The civilians that inadvertently appear on the territory of Azerbaijan are introduced to the public and the international community as saboteurs. Such cases include:

1. Resident of Haghartsin village of Tavush region Artur Badalyan got lost in the woods and was captured by the Azerbaijani side on May 9, 2009. Only in a year and a half, on November 8, 2010, the Azerbaijani side confirmed the fact of his captivity, while previously it kept denying the information of his presence on Azerbaijani territory. A. Badalyan was returned home on March 17, 2011. The *Arthur Badalyan case* is one of blatant violation of international law. A. Badalyan claims that he underwent torture in Azerbaijan to very serious detriment of his health. The case of Mr. Badalyan has been presented by lawyer Edmon Marukyan, currently an MP before the European Court of Human Rights (ECHR), which was communicated in November 10, 2015, judgment pending.
2. Manvel Saribekyan, a resident of Ttujur village of Gegharkunik region, born on February 27, 1990, was captured on September 11, 2010. According to the preliminary data, the 20-year-old young man his cattle to the pasture. At about 05:00 p.m. because of fog he lost his way in the "Keghut" pasture and was captured by the Azerbaijanis after he found himself on the Armenian-Azerbaijani border.
On November 4, 2010 the Azerbaijani side returned to Armenia Manvel Saribekyan's body who, according to the official statement made by Azerbaijan, died on October 5, 2010 as a result of self-strangulation, suicide. Azerbaijan repatriated the body of Manvel Saribekyan on November 4, 2010, while the Armenian side returned Eldar Taghiyev, an Azerbaijani citizen who had illegally crossed the border into Armenia alive.
The results of forensic examination revealed that the death of Manvel Saribekyan was caused by mechanical asphyxia by compression of the neck, which means he either hanged himself or was hanged. Signs of torture and violence inflicted one or two days before his death also were found on his body.
The complaint submitted to the ECHR by Mr Ara Ghazaryan, states that no matter what was the cause of Saribekyan's death, Azerbaijan is responsible, under its exclusive jurisdiction, for the life of a person in its prison.
The case of Manvel Saribekyan has been communicated by the European Court of Human Rights with judgment pending.
3. On 10 November 2015, the European Court of Human Rights communicated the case of Mamikon Khojoyan, a 77-year-old Armenian citizen who inadvertently

crossed the border with Azerbaijan in 2014. He was allegedly held in captivity by the Azerbaijani authorities for over a month, and subjected to torture and ill-treatment. He died two months after he was handed over to the Armenian authorities and returned home. The applicants in this case, Mr Khojoyan's three children, are represented by lawyer Vahe Grigoryan, Kristina Gevorkyan and Larisa Alaverdyan, based in Yerevan.

Mr Khojoyan lived in the village of Verin Karmir Aghbyur in Armenia, close to the border with Azerbaijan. On the morning of 28 January 2014, he told his family that he was going to collect grapes in the field. The state border in the region is not marked. Later that day a video footage appeared of him surrounded by a group of people, including someone in Azerbaijani military uniform. He appeared unharmed. Two days later, the Azerbaijani News Service conducted an interview with him, in which his arm appeared broken. It was reported that he was in detention, having been apprehended for being part of an Armenian sabotage group. A news report broadcast on the following day showed that he had difficulties standing up and that his left eye was injured.

Over a month later, on 4 March 2014, Mr Khojoyan was handed back to the Armenian authorities at the border, as a result of mediation by the International Committee of the Red Cross. When his children visited him in the Armenian hospital, he was incoherent and extremely frightened. He told them he had been taken to Baku, where he had been beaten, forced to sleep on a concrete floor, had salt poured into his wounds, received injections and had his head burned with incandescent metal. A forensic examination showed traces of petroleum and psychotropic (perception-altering) drugs in his blood and urine. Mr Khojoyan died in his home on 20 May 2014, six weeks after he was discharged from hospital.

The case is pending a judgment of the European Court of Human Rights.

4. Karen Petrosyan, who lived in a borderland village in northeastern Armenia, was captivated on August 7 after mistakenly appearing in the territory of Azerbaijan. Shocking images of him being dragged by masked soldiers were distributed to the media by authorities in Azerbaijan, in which he was being brutally forced to beg pardon from the president of Azerbaijan. The next day, the Defense Ministry announced that he had "suddenly" died of "heart failure." The circumstances surrounding the death of Karen Petrosyan raise serious doubts as to the cause of the death announced by Azerbaijani authorities.

Despite calls from the United States, France, Russia, and the International Committee of the Red Cross, Azerbaijan was not repatriating the body of Karen Petrosyan.

On September 10, a working group comprised of Human Rights lawyers Kristina Gevorkyan, Vahe Grigoryan and Mr Ara Ghazaryan, together with human rights defenders Larisa Alaverdyan and Artak Zeynalyan representing the family of Karen Petrosyan, an Armenian civilian killed under Azerbaijani custody, applied to the European Court of Human Rights (ECHR) requesting intervention under Rule 39 of the Court's General Rules. The appeal calls for Azerbaijan to immediately return the remains of Petrosyan to his family in a dignified state.

In response to the request of the Petrosyan family's representatives, the ECHR communicated to the government of Azerbaijan on September 12, asking for an

explanation of its “official position in connection with the repatriation of Karen Petrosyan’s body and to provide information on the reasons for the delay in returning of the body to his relatives.” The deadline for the information requested was indicated as September 26.

On 10 October 2014 Mr Petrosyan’s body was repatriated in a severely decomposed state.

On 9 December 2014 the results of a forensic medical examination, performed on 3 December, were presented in an expert opinion. The following conclusions were drawn:

“The following bodily injuries were observed as a result of the post-mortem examination of Karen Petrosyan’s corpse: large zones of contusions on the chest/thorax, lumbar region, both carpa/wrists, soft tissues and muscles of the lower limbs; fractures of 2nd and 6th ribs in a vertical line from the left nipple; and fractures of 1st, 4th, 5th, 6th and 10th ribs in a vertical line from the front of the armpit. All injuries were inflicted while he was still alive by hard and blunt objects of small surface. It was impossible to detect with certainty the cause of Karen Petrosyan’s death, as the cadaver was presented for examination in a state of severe suppurative alterations, when the soft tissues were almost not preserved and the internal organs were missing, which constitutes a ground for concluding that K. Petrosyan might have suffered numerous bodily traumas when alive, which in combination with those detected as a result of the current re-examination, could have caused his death, and which were consistent with life-threatening serious bodily injuries and could have directly caused his death, in particular, such injuries could be considered closed, blunt cranial trauma with severe brain pathology – skull fracture, closed, blunt injuries to the cervical, thoracic, abdominal regions, cut, cut-pierced wounds, and firearm injuries with damage to vessels, nerves, which could cause severe haemorrhagic bleeding and traumatic shock. So far as the bodily injuries detected on Karen Petrosyan’s corpse during post-mortem examination are concerned, all injuries had characteristics of being inflicted within a short period while he was still alive. Hence, it is impossible to assess the degree of harm caused by each of them taken separately, especially as each of them, taken separately, had eventually been a source of traumatic shock, and in particular, the multiple trauma to the ribs usually causing severe pleuropulmonary shock, which according to the degree of dangerousness for health, is classified as bodily injury causing serious health damage. Hence, all bodily injuries detected during the re-examination of K. Petrosyan’s corpse taken separately, as well as in combination, could be qualified as life-threatening serious bodily injuries that could have directly caused death. The commission finds it expedient to note that the state of putrefaction of K. Petrosyan’s body, in which state it was transferred to the Scientific Research Center of Forensic Medicine of the Republic of Armenia Ministry of Healthcare, is untypical of cadavers interred for two months under natural conditions. Rather, this condition is more typical of situations where the cadaver has been subjected to artificial conditions, that lead to it being impossible to detect with certainty the cause of death as well as to collect evidence on other possible factors of external intervention, such as poisoning, electric shock, mechanical choking, rape (oral or anal), presence of semen in the latter case, etc. In this regard, it must be noted that more precise clarification of the results of the second post-mortem examination of Karen Petrosyan’s exhumed corpse would be

possible if the expert opinion of the initial post-mortem examination and photos of the corpse were available; the latter are usually a compulsory component of post-mortem examinations under such circumstances as in the current case.

The forensic chemical examination conducted during the current post-mortem examination revealed that alcohol, drugs of the opioid alkaloid series, psychotropic substances, gasoline as well as diesel fuel were not detected in the specimens taken from the internal organs and muscles. In this regard, the commission conducting the examination notes that the forensic chemical examination of the second autopsy may not have detected residues of alcohol in the body due to advanced putrefaction. ...”

The application submitted by the lawyers in April, 2016 in violation of Article 2, 3, 5, 8, 13 and article 14 in conjunction with articles 2 and 3, has been communicated by the European Court of Human Rights on March 10, 2017 and questions have been submitted by Court to the Azerbaijani government and the deadline set for presenting the observations by 10 July, 2017 and submission of the translation of the forensic medical examination by September 5, 2017.

5. Other cases of atrocities conducted by the Azerbaijani military are shocking events of April 2-5, 2016 war, which started in breach of ceasefire agreement of 1994 by the Azerbaijani military.

In the early morning hours of April 2, 2016 the Azerbaijani armed forces launched a thoroughly planned large-scale operation along the entire line of contact between NKDA and Azerbaijani AF, deploying tanks, attack helicopters, heavy artillery, rocket launchers (including 220mm TOS-1 Heavy Flamethrower System Solntsepyok, and 300mm Smerch Multiple Rocket Launchers), and unmanned combat aerial vehicles (including IAI Harop).

This was the largest bloodiest breach by Azerbaijani military of the 1994 ceasefire agreement between Azerbaijan, NKR and Armenia, which ended on April 5, 2016 through restoration of the ceasefire regime. However, up until today, almost every day the Azerbaijani military, specifically the snipers, violate the ceasefire regime, which results in 3 deaths of the NKDA serviceman.

The atrocities conducted by the Azerbaijani military forces were torture, executions and mutilation of dead bodies, which are war crimes under International Humanitarian Law.

An interim report was issued by the NKR Ombudsman, which illustrates in detail the atrocities conducted by the Azerbaijani military forces.

The report mainly states:

“...General Observations:

11. As a result of the Azerbaijani military aggression during 2-5 April 2016, the NKR side had 80 casualties (76 combatants and 4 civilians).

12. Graphic images and videos of atrocities committed by Azerbaijani AF emerged on the Azerbaijani social media in the afternoon of April 2. In particular, a graphic image of a man happily carrying an NKDA serviceman's decapitated head (later identified as NKDA Serviceman #8)¹⁷ appeared on April 2.¹⁸ On April 3, at 9:36pm the Armenian media resource “Hetq” published the shocking picture of three elderly civilians who had been executed and mutilated in their house in the Talish

village¹⁹. Later, many of the Azerbaijani media resources that contained proof of Azerbaijani atrocities were removed. But part of them had been archived by the NKR Ombudsman's Office and are used in the present report. New evidence of Azerbaijani atrocities emerged on the Internet during April 2016, mostly uploaded by Azerbaijani users. One of the most shocking pieces of evidence is the YouTube video uploaded by Samsaddin Hasanov on April 27, 2016²⁰, depicting a fallen serviceman (later identified as NKDA Serviceman #19)²¹ and recording a conversation in Azeri (the collocutors are not seen). One of collocutors requests a knife to cut the serviceman's ears. Then, the other collocutor finds out that the left ear of the serviceman is already cut off. Later, the video was edited (the part depicting that the serviceman's ear is cut off was removed, and the part of the conversation on the knife request was muted)²². “
(See the report here: http://ombudsnkr.am/en/docs/Report_PUBLIC.pdf)¹

The cases of above mentioned crimes have been presented by a group of lawyers and human rights defenders to the European Court of Human Rights in the framework of 359 applications, of which over 20 cases were officially communicated to the Azerbaijani government.

The authorities in Stepanakert and Yerevan say that three Armenian soldiers were beheaded by Azerbaijani troops at the time – Kyaram Sloyan, Hayk Toroyan, Hrant Gharibyan. One of them, the 31-year-old Major Hayk Toroyan, was still alive when his Azerbaijani captors began cutting off his head.

The headless body of soldier, Kyaram Sloyan, was handed over to his family and buried on April 4, 2016, two days after the Azerbaijani army launched an offensive at two sections of the Karabakh “line of contact.” The family living in a village in central Armenia received the 19-year-old's severed head later on and buried for the second time. The distress and suffering of the family was so severe that his father died within one year after his son's death.

According to Karabakh prosecutors, 15 other Armenian soldiers had their ears cut off after being killed by Azerbaijani forces.

Another application filed in Strasbourg stems from the violent deaths of three elderly members of a family in Talish, a village in northern Karabakh that was devastated by Azerbaijani shelling in April 2016. They were reportedly murdered by Azerbaijani commandos that burst into their home located on the outskirts of Talish.

¹ 17 See §§25-28 of the present report.

¹⁸ Available in the restricted edition only.

¹⁹ See <https://hetq.am/arm/news/66976/vayragutyunner-talishum-zgushacumhraparakvats-e-gndakaharvats-andzanc-lusankar.html> (accessed on November 12, 2016).

²⁰ See <https://youtu.be/BUcwVdVym4> (accessed on November 12, 2016).

²¹ See §§29-38 of the present report.

²² The original version of the video had been copied and later was stored on the Internet with limited access by the Office of NKR Ombudsman. The link is available in the restricted edition only.

All these cases have been communicated by the European Court of Human Rights.

During April, 2016 war schools, kindergartens and churches were targeted as well at the time of children arriving to school and having morning exercises. On 02 April 2016, at around 8:40am Vagharshak Grigoryan and his brothers Gor and Gevorg, together with Vardan Andreasyan and Gor Harutyunyan were on their way to their school No. 5 located in Nerkin Chartar district. When approaching the school, an artillery projectile fired from the line of contact between NKR and Azerbaijan exploded in the yard of the school in 2 meter distance of the group, as a result of which Gor and Gevorg Grigoryan, Vardan Andreasyan and Gor Harutyunyan were severely injured.

Vagharshak Grigoryan died from the injuries by firearm shrapnel in his neck, with damage of the right carotid artery, trachea and throat, from external bleeding, traumatic hemorrhagic shock.

The case of the dead and injured children have been also submitted to the ECHR by a separate group of lawyers Vahe Grigoryan, Kristina Gevorkyan and human rights defender Larisa Alaverdyan.

6. In regard to the treatment of captives and hostages in Armenia, in particular Dilgam Asgarov, Hasan Hasanov and Shahbaz Guliyev apprehended by the Armenian military forces on June 29, 2014. The three men crossed the border were armed with weapons and ammunition. Hasanov was later killed during a struggle with the Armenian Armed Forces as the soldiers attempted to capture the saboteurs. The men were reportedly sent as spies by Baku to carry out espionage and to gather information. On July 4, they kidnapped Tsakanyan and later murdered him, leaving his body in a forest within the Shahumyan region. Tsakanyan's father, Mekhak Tsakanyan, reported his son missing on July 7 after searching the village for days. Smbat Tsakanyan's body was found with multiple gunshot wounds present.

The three saboteurs then attacked and killed Sargis Abrahamyan and severely wounded Karine Davtyan on the Vardenis-Karvachar Highway on July 11. The Armenian Armed forces attempted to arrest the trio, but Hasanov resisted arrest and was neutralized while his co-conspirators were detained and tried.

The authorities of NKR had held an open trial, accessible for monitoring for national and international organizations. The executive director of cooperating NGO Foundation Against the Violation of Law, the first Human Rights Defender of Armenia together with "Golos Armenii" news agency reporter Marina Grigoryan has been present during the trial. Both men were provided with public defender and translator. During the trial both men have made confessions to the crimes each had committed, some of them denied. While the Azerbaijani authorities claiming that the confessions were done under torture and ill-treatment, the NKR authorities had applied to international organizations to send their observers to monitor the trials, as well as to see the conditions of the cells that they are kept in.

To note, that Ms. Alaverdyan had visited Dilgam Asgarov and Shahbaz Guliyev in their prison cell without prior notification of the NKR authorities of such will, before the trials and after. The newly renovated prison cells and the conditions met the international standards. Asgarov and Guliyev told the reporter that the food provided to them was “as homemade”, tea is provided 5 times a day according to Azerbaijani traditions, through ICRC, which visits them regularly, parcels are transferred to the prisoners from their relatives also regularly. They are taken outside for an hour walk every morning. During the trials they were dressed according to the weather. Guliyev even was very sentimental about one of the prison wardens giving them a candy with their tea.

Based on the above mentioned facts the three armed man crossed the Armenian border were saboteurs, which have killed 17-year old Smbat Tsakanyan, Sargis Abrahamyan and severely wounded Karine Davtyan, for which they have faced trial in the court of NKR and based on the crimes committed have been sentenced with a life sentence for Askerov and 22 years in prison for Guliyev. The obligation of the Armenian authorities to guarantee the right to access to a lawyer have been met, both man were represented by public defenders of NKR. The trial was conducted in the language accessible to the accused. The trial has been open for all stakeholders to monitor the whole process, recordings from the trial appeared on Azerbaijani news agencies websites also prove that the trial was open and corresponded to the international standards. Access to Askerov and Guliyev by representative of the non-governmental organization Larisa Alaverdyan, also shows that the Government of NKR had established open procedure for anyone from national or international organizations, as well as families of Askerov and Guliyev to visit them in prison cell and make sure about the conditions of the later.

Recommendations

1. Within the scope of OSCE mission ensure development and implementation of proper and effective mechanisms and investigation procedures for the violation of ceasefire regime.