



30 August 2023

**Communication from Petitioners pursuant to Rule 9.2 of the Rules of the
Committee of Ministers in the case of Makuchyan and Minasyan v.
Azerbaijan and Hungary (Application No. 17247/13)**

I. Introduction

1. International and Comparative Law Center and Path of Law, two non-governmental organizations based in Yerevan, Armenia (“Petitioners”), in accordance with Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgment in the case of *Makuchyan and Minasyan v. Azerbaijan and Hungary* (“Judgment”), submit this communication. Herewith, Petitioners inform the Committee of Ministers that Azerbaijan continues to fail to abide by the Court's judgment and perform the required execution measures, and that Azerbaijan’s action plan¹ submitted to the Court on 05 April 2023 (“Action Plan”) fails in many respects to address the required measures. Petitioners respectfully request the Committee and Council of Europe’s Member States to exert all possible efforts to oblige the Azerbaijani authorities to immediately and effectively execute the Judgment and to take meaningful steps toward the cessation of long-practiced systematic discrimination against Armenians.

II. Case Description and the Court's Judgment

2. This case concerns Azerbaijan’s purposeful non-enforcement of a prison sentence imposed by Hungary on Azerbaijani military officer Ramil Safarov (“R.S”) for an ethnic hate crime committed against two Armenian victims. In 2004, NATO sponsored a “Partnership for Peace” program in Budapest which invited two servicemen from each former-soviet state. R.S. represented Azerbaijan, and Minasyan and Makuchyan represented Armenia. At night, as the servicemen slept, R.S. snuck into Minasyan’s room and beheaded him with an axe. He then attempted to murder Makuchyan, but

¹ 1468th meeting (June 2023) (DH) - Action Plan (05/04/2023) - Communication from Azerbaijan concerning the case of Makuchyan and Minasyan v. Azerbaijan (Application No. 17247/13), [https://hudoc.exec.coe.int/eng#%7B%22execidentifier%22:%5B%22DH-DD\(2023\)431E%22%5D%7D](https://hudoc.exec.coe.int/eng#%7B%22execidentifier%22:%5B%22DH-DD(2023)431E%22%5D%7D)

he was arrested by Hungarian police. After a fair and thorough trial, Hungary sentenced R.S. to life imprisonment with the possibility of conditional release after thirty years. Upon R.S.'s transfer to Azerbaijan in 2012, however, he was immediately pardoned, granted back-pay for his eight years of imprisonment in Hungary, promoted to the rank of major, and given an apartment. Furthermore, R.S.'s actions became legend in Azerbaijan, elevating him to the status of a national celebrity. Consequently, Azerbaijan has leveraged R.S.'s popularity to promote its vast anti-Armenian propaganda and further its state policy of Armenophobia.

3. On 12 October 2020, the Court held that the acts of Azerbaijan in effect granted R.S. impunity for the crimes committed against his Armenian victims, which was not compatible with Azerbaijan's obligation under Article 2 to effectively deter the commission of offences against the lives of individuals (Article 2 under its procedural limb²). In addition, the Court held that Azerbaijan violated Article 14 of the Convention in conjunction with Article 2 since Azerbaijan's breach of its procedural obligations under Article 2 was ethnically motivated.³ The Court found particularly disturbing the statements made by a number of Azerbaijani officials glorifying R.S., which expressed particular support for the fact that Safarov's crimes had been directed against Armenian soldiers, congratulated him on his actions and called him a patriot, role model, and hero. The Court noted that a special page on the website of the President of Azerbaijan had been created, labeled "Letters of Appreciation," where individuals could express their congratulations on Safarov's release and pardon. Since R.S.'s motive had been his ethnic hatred of Armenians, the pardon could be perceived as an important step in the process of legitimizing and glorifying the hatred of Armenians. The Court concluded that various measures leading to Safarov's virtual impunity, coupled with the glorification of his cruel hate crime, had a causal link to the Armenian ethnicity of his victims.

4. The Court stressed that Azerbaijan has a legal obligation to adopt general and/or individual measures in its domestic legal order to put an end to the violations found by the Court, and to redress the effects of the violation.

5. As for the costs and expenses, the applicants did not claim pecuniary or non-pecuniary damages, but legal costs and expenses only. The Court granted GBP 15,143.33 (fifteen thousand one hundred and forty three pounds sterling and thirty-three pence), plus any tax that may be chargeable, to be paid within three months from the date on which the Judgment became final.

III. Non-compliance with the Court's Judgment regarding Individual Measures

6. Despite the judgment becoming final on 12 October 2020, Azerbaijan only submitted its

² Case of Makuchyan and Minasyan v. Azerbaijan and Hungary, App. No. 17247/13, para. 173

³ *Ibid.*, para. 221

Action Plan on 5 April 2023. This plan noted that the Court left the execution of individual measures up to the discretion of Azerbaijan.⁴ However Azerbaijan refused to adopt measures despite the Court's Judgment and recommendations.

7. Azerbaijan claims that no further action can be taken in regards to the revocation of the pardoning of R.S.⁵ However, the 17 April 2023 Rule 9.2 Communication to the Committee of Ministers from various NGOs⁶ noted that if an immediate revocation of R.S.'s pardon is impossible, there are international judgments showcasing it can be done through the courts (as noted, in the case of North Macedonia,⁷ the United States,⁸ and judgment of the Inter-American Court of Human Rights⁹), thus enabling Azerbaijan to fulfil its obligations under the articles of the Convention.

8. Azerbaijan has disregarded the cited judgments of the Inter-American Court of Human Rights ("Inter-American Court"), claiming they exist in different circumstances.¹⁰ However, the cases are sufficiently analogous to the present case to warrant preservation of the same human rights standards. For instance, in 2018, the Inter-American Court reviewed the pardon of Peru's former President Alberto Fujimori. In that case, the Inter-American Court concluded that the pardon, because of its connection to serious human rights abuses, needed to be subject to judicial review to ensure the protection of the rights of the victims. The court ordered domestic review of the pardon within 90 days of its judgment. The Peruvian Supreme Court, unlike its Azerbaijani counterpart, reviewed the decision and revoked the former President's pardon, emphasizing that, since his crimes were "the most serious crimes of importance to the whole international community," then, "the concession of a benefit that suspends or pardons the imposed sanction (even more if it is the most serious penalty imposed under the Peruvian legal system), its grant can and should be subject to review, by whoever is in charge with compliance."

9. Both the Inter-American Court and the Peruvian government had the right idea, allowing an

⁴ 1468th meeting (June 2023) (DH) - Action Plan (05/04/2023) - Communication from Azerbaijan concerning the case of Makuchyan and Minasyan v. Azerbaijan (Application No. 17247/13), Article 10, [https://hudoc.exec.coe.int/eng#%7B%22execidentifier%22:%5B%22DH-DD\(2023\)431E%22%5D%7D](https://hudoc.exec.coe.int/eng#%7B%22execidentifier%22:%5B%22DH-DD(2023)431E%22%5D%7D)

⁵ Ibid., Articles 17-31

⁶ 1468th meeting (June 2023) (DH) - Rules 9.2 and 9.6 - Communication from NGOs (Democracy Development Foundation, Protection of Rights without Borders, Helsinki Citizens' Assembly Vanadzor, Transparency International Anti-Corruption Center, Law Development and Protection Foundation) (17/04/2023) in the case of Makuchyan and Minasyan v. Azerbaijan (Application No. 17247/13) and reply from the authorities (09/05/2023), [https://hudoc.exec.coe.int/eng?i=DH-DD\(2023\)575revE](https://hudoc.exec.coe.int/eng?i=DH-DD(2023)575revE)

⁷ *Macedonia passes law to enable disputed pardons be revoked*, Reuters, 19 May 2016, <https://www.reuters.com/article/uk-macedonia-lawmaking-idUKKCN0YA2GC>

⁸ *Bush Revokes Pardon Issued a Day Earlier*, The Associated Press, 25 December 2008, <https://www.nbcnews.com/id/wbna28382843>

⁹ *See Barrios Altos and La Cantuta v. Peru*, Monitoring Compliance with Judgment, Inter-Am. Ct. H.R., 30 May 2018; Cases 10.147, 10.181, 10.240, 10.262, 10.309, and 10.311, Argentina, Inter-Am. Comm'n H.R., Report No. 28/92,

OEA/Ser.L/V/II.83, doc. 14, corr.1, 38-41 (1992), https://www.cidh.oas.org/annualrep/92eng/Argentina10.147.htm#_ftn6

¹⁰ 1468th meeting (June 2023) (DH) - Action Plan (05/04/2023) - Communication from Azerbaijan concerning the case of Makuchyan and Minasyan v. Azerbaijan (Application No. 17247/13), Article 12, [https://hudoc.exec.coe.int/eng#%7B%22execidentifier%22:%5B%22DH-DD\(2023\)431E%22%5D%7D](https://hudoc.exec.coe.int/eng#%7B%22execidentifier%22:%5B%22DH-DD(2023)431E%22%5D%7D)

illegitimate pardon to curtail the rights of victims of human rights abuses will send a message that is dangerous for the international order. Azerbaijan's failure to do the same has had this exact effect, evidenced by actions taken by the Azerbaijani army during the 2020 Nagorno-Karabakh war. R.S.'s glorification manifestly triggered a pattern of symbolic beheadings by Azerbaijani military personnel of ethnic Armenians, which was not only limited to Armenian military personnel, but elderly civilians as well. This method of execution has even spread to other regional conflicts, including Ukraine.

10. Furthermore, the European Commission Against Racism and Intolerance ("ECRI") also understood and warned against actions such as the illegitimate pardoning of an ethnic hate crime. In a statement adopted after its 85th Plenary Meeting spanning from 30-31 March 2021, the ECRI called upon all stakeholders, in particular those at the highest political level to "to prevent criminal offences motivated by hate or prejudice on the grounds of national, ethnic, linguistic or religious background or of citizenship, whether real or presumed, and refrain from any expression or action, in any form, which would qualify as the advocacy, promotion of or incitement to the denigration, hatred or vilification of a person or groups of persons on these grounds, as well as any harassment, insult, negative stereotyping, stigmatisation or threat in respect of such a person or groups of persons and any justification of all the preceding types of expression" and, "to challenge and condemn in the strongest terms any such manifestations of hatred and ensure that anyone instigating, inflicting or condoning such speech and violence is held accountable."¹¹ The ECRI's statement specifically noted the case of *Makuchyan and Minasyan v. Azerbaijan and Hungary* and stated that, "Under the case law of the European Court of Human Rights, States have an obligation to take all reasonable steps to.... sanction the perpetrators of hate-motivated crimes."¹² However, rather than be condemned, challenged, or sanctioned, R.S. has been pardoned and praised by Azerbaijan.

11. Azerbaijan claims that R.S.'s pardon did not expunge him of his crime, and that he was never treated as an innocent.¹³ This is contrary to the *de facto* treatment of R.S., in regards to his immediate pardoning following his repatriation after serving only 8 ½ years of a minimum 30-year sentence, his promotion, rewarding of back pay and an apartment, and his continued treatment as a hero in Azerbaijan; such treatment is indicative that R.S. has been expunged of his crime as he has been treated though he had never been sentenced to an ethnically motivated hate crime.

¹¹ Statement of the European Commission against Racism and Intolerance (ECRI) on Preventing and Combating Ultra-nationalistic and Racist Hate Speech and Violence in Relation to Confrontations and Unresolved Conflicts in Europe, 30-31 March 2021, <https://rm.coe.int/0900001680a20d58>

¹² Ibid.

¹³ 1468th meeting (June 2023) (DH) - Action Plan (05/04/2023) - Communication from Azerbaijan concerning the case of *Makuchyan and Minasyan v. Azerbaijan* (Application No. 17247/13), Article 35, [https://hudoc.exec.coe.int/eng#%7B%22execidentifier%22:%7B%22DH-DD\(2023\)431E%22%7D%7D](https://hudoc.exec.coe.int/eng#%7B%22execidentifier%22:%7B%22DH-DD(2023)431E%22%7D%7D)

12. The ramifications of R.S.'s pardon, specifically in impacting the attitudes of Azerbaijanis toward their Armenian neighbours, are ongoing. One recent notable example is that of one of the purported "eco-activists" engaged in the blockade of the Lachin Corridor (a situation that was determined by the ICJ to amount to a breach of articles 2 and 5 of CERD and warranted the issuance of an order for provisional measures against Azerbaijan¹⁴), who shared a picture of himself posing with R.S., and was later shown to be engaging in anti-Armenian rhetoric during the blockade.¹⁵

13. On 5 May 2023 in Azerbaijan's reply to a 9.2 Communication to the Committee of Ministers in relation to this case, Azerbaijan's representative claimed that "all references to the conflict between Armenia and Azerbaijan and events howsoever linked to this conflict should be considered outside of the context of execution of this case."¹⁶ This approach fails to acknowledge the measurable effect R.S.' actions have had on the behaviour of the Azerbaijani military and people during the conflict in regards to both grave human rights breaches and the lack of action taken towards the perpetrators of these acts. References to other conflicts must be made, as the lack of measures taken by Azerbaijan has contributed to an atmosphere of impunity and has led to the establishment of a pattern human rights abuses in times of international armed conflicts that mirror the beheading committed by R.S. and that have gone without any investigation or punishment.

14. The 17 April 2023 Rule 9.2 Communication from NGOs notes numerous cases of beheadings of ethnic Armenian civilians and military personnel by the Azerbaijani military, as well as presents evidence of torture and mutilations of corpses.¹⁷ Among the cases noted are numerous instances of photos and videos, taken both post-mortem and during the act of beheading, and posted on various social media platforms by Azerbaijani military personnel. These include both the personal accounts of individuals affected by torture or photographs of perpetrators posing with mutilated bodies, making the perpetrators identifiable in either case.

15. Beheadings of Armenians have spanned across two recent armed conflicts. During the 2016 April conflict in Nagorno-Karabakh, one Azerbaijani special forces soldier, Sarkhan Mammadov,

¹⁴ Order on Application of The International Convention on The Elimination of All Forms of Racial Discrimination, (*Armenia V. Azerbaijan*), 22 February 2023, <https://www.icj-cij.org/sites/default/files/case-related/180/180-20230222-ORD-01-00-EN.pdf>

¹⁵ Martirosyan, Samson. "Azerbaijan Sends "Eco-Activists" to Block Nagorno-Karabakh Lifeline." Hetq, 13 December 2022. <https://hetq.am/en/article/151161>

¹⁶1468th meeting (June 2023) (DH) - Rule 9.6 - Reply from the authorities (09/05/2023) following a communication from NGOs (Democracy Development Foundation, Protection of Rights without Borders, Helsinki Citizens' Assembly Vanadzor, Transparency International Anti-Corruption Center, Law Development and Protection Foundation) (17/04/2023) in the case of Makuchyan and Minasyan v. Azerbaijan (Application No. 17247/13) [https://hudoc.exec.coe.int/eng/?i=DH-DD\(2023\)579E](https://hudoc.exec.coe.int/eng/?i=DH-DD(2023)579E)

¹⁷ 1468th meeting (June 2023) (DH) - Rules 9.2 and 9.6 - Communication from NGOs (Democracy Development Foundation, Protection of Rights without Borders, Helsinki Citizens' Assembly Vanadzor, Transparency International Anti-Corruption Center, Law Development and Protection Foundation) (17/04/2023) in the case of Makuchyan and Minasyan v. Azerbaijan (Application No. 17247/13) and reply from the authorities (09/05/2023) [https://hudoc.exec.coe.int/eng/?i=DH-DD\(2023\)575revE](https://hudoc.exec.coe.int/eng/?i=DH-DD(2023)575revE)

admitted to executing and beheading the Armenian personnel.¹⁸ Elnur Ferzeliev, the perpetrator of the beheading of another Armenian serviceman who posted photos and videos of the aftermath of the beheading on social media platforms was later rewarded by Azerbaijan for his role in the conflict.

16. Numerous cases of the beheading of ethnic Armenians were recorded during the more recent 2020 war in Nagorno-Karabakh. Two of these cases, the beheading of a 69-year-old civilian Genadi Petrosyan and the beheading of an 82-year-old civilian Yuri Asryan, were recorded on video and disseminated on social media.¹⁹ Numerous other instances exist where evidence of beheading was found during operations to recover bodies following the conflict.²⁰

17. In each of these circumstances, the perpetrators are either readily identifiable or can be easily identified by Azerbaijani authorities given their operational knowledge of their own military units during the conflict. An investigation could determine which units were present near the location of each of these incidents if the perpetrators were not already identifiable by their social media presence. The lack of willingness to investigate these incidents points to, at the very least, Azerbaijan's indifference in punishing severe human rights abuses against Armenians.

18. Notably, this manner of execution has spread to other conflict zones as well. The recent beheading of a Ukrainian soldier that was widely disseminated over social media shares many similarities to the circulated videos of the beheadings of ethnic Armenians by Azerbaijani military personnel.²¹ The manner of execution, display of the victims in a humiliating manner, and dissemination of the video with the intent to spread terror on ethnic grounds are shared between these conflicts. The lack of consequences for these horrid actions results in terror and intimidation becoming an accepted and commonplace tactic in conflict zones.

19. R.S. is the first notable case of the beheading of an ethnic Armenian by Azerbaijani military personnel; his case is particularly symbolic in this regard. Individual measures against R.S, including the immediate revocation of his pardon or pursuit of such through the courts, would be both a measure to fulfil Azerbaijan's obligations under the Convention and a symbolic measure to address the discrimination against ethnic Armenians, which R.S.'s case is a microcosm of.

20. Azerbaijan notes that R.S. was never expunged of his crime, nor treated as an innocent. The

¹⁸ New Age Media Group. "The Armenian Officer Took out His Pistol and Pointed It at My Friend" - from the Conversation Series of the Heroes of the April Battles." Yenicag, 16 April 2018. <https://yenicag.az/ermeni-zabiti-tapancasini-cixarib-dostuma-tusladi-aprel-doyuslerinin-qehremanlari-sohbet-silsilesinden/>

¹⁹ Roth, Andrew. "Two Men Beheaded in Videos from Nagorno-Karabakh War Identified." The Guardian, 15 December 2020. <https://www.theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified>

²⁰ See Human Rights Violations during the 44-Day War in Artsakh Fact-finding Report, 2022, https://www.osf.am/wp-content/uploads/2022/06/Fact-Finding-Report_FINAL_web.pdf?fbclid=IwAR3ICU-VDDByUv6JmrIY4pjWidt2EcvkQVOcPJOZ8NqDWcrhEw3JLhwB9m8

²¹ Olga Robinson, Shayan Sardarizadeh and Adam Robinson. "Ukraine War: President Zelensky Condemns Beheading Video." BBC News, 13 April 2023. <https://www.bbc.com/news/world-europe-65251204>. <https://www.bbc.com/news/world-europe-65251204>

concern here, however, is that his case is of a highly symbolic importance and one that established a pattern, resulting in an outcome that similar actions have gone without investigation and unpunished. By failing to punish R.S., Azerbaijan has sent a clear message that it does not consider the beheading of ethnic Armenians a crime, but rather, a celebratory event.

21. Finally, Azerbaijan has continued to fail to pay the amount determined by the Court for legal costs and expenses. The representatives of applicants have sent the bank account details to the Deputy Grand Chamber Registrar on 8 January 2021, and via email to the Department for the Execution of Judgments of the Court at the DGI and the Agent of the Government of the Republic of Azerbaijan on 15 January 2021. Despite having over two years to address this issue, Azerbaijan has failed to do so. The Action Plan devote a single sentence to this issue, noting that they will, “undertake all necessary arrangements required to provide prompt payment.”²² “Prompt payment” has been stalled for over two years now.

IV. Non-compliance with the Court's Judgment regarding General Measures

22. The lack of individual measures adhered to by Azerbaijan through the de facto treatment of R.S. and the refusal to take available actions to revoke his pardon and fulfil Azerbaijan’s obligations blunts the effectiveness of the proposed general measures by the Court.

23. Azerbaijan, in its Action Plan, claims that its constitution, “guarantees the rights and basic freedoms of everyone and the elimination of discrimination,” and that its criminal code, “stipulates liability for inciting national, racial, social or religious hatred and enmity.”²³ However, the state policy of discrimination against Armenians in Azerbaijan is manifest and can be clearly seen from their treatment of the ethnic Armenians of Nagorno-Karabakh. Despite the Azerbaijani claims that the Armenians of Nagorno-Karabakh are citizens of Azerbaijan, there are routine breaches of the 9 November 2020 ceasefire in the form of gunfire directed at civilians on a regular basis.²⁴ As Azerbaijan’s 5 May 2023 response noted,²⁵ and as was published on the President of Azerbaijan’s website, the President of Azerbaijan stated, “Just like all the other citizens of Azerbaijan, their rights and security will be provided.”²⁶ Despite claims by the government of Azerbaijan that the ethnic Armenians of Nagorno-Karabakh are citizens of Azerbaijan, Azerbaijani military personnel

²² 1468th meeting (June 2023) (DH) - Action Plan (05/04/2023) - Communication from Azerbaijan concerning the case of Makuchyan and Minasyan v. Azerbaijan (Application No. 17247/13), Article 15, [https://hudoc.exec.coe.int/eng#f1%22execidentifier%22:%5B%22DH-DD\(2023\)431E%22%5D](https://hudoc.exec.coe.int/eng#f1%22execidentifier%22:%5B%22DH-DD(2023)431E%22%5D)

²³ Ibid., Article 47-48

²⁴ See generally Nagorno Karabakh Observer [@NKobserver]. Twitter. <https://twitter.com/NKobserver>

²⁵ 1468th meeting (June 2023) (DH) - Rule 9.6 - Reply from the authorities (09/05/2023) following a communication from NGOs (Democracy Development Foundation, Protection of Rights without Borders, Helsinki Citizens’ Assembly Vanadzor, Transparency International Anti-Corruption Center, Law Development and Protection Foundation) (17/04/2023) in the case of Makuchyan and Minasyan v. Azerbaijan (Application No. 17247/13), Article 23.b, [https://hudoc.exec.coe.int/eng?i=DH-DD\(2023\)579E](https://hudoc.exec.coe.int/eng?i=DH-DD(2023)579E)

²⁶ <https://president.az/en/articles/view/58555>

routinely opens fire at them without repercussion.

24. Azerbaijan's practice of discrimination against Armenians has also been confirmed by the International Court of Justice ("ICJ"). On 6 July 2023, the ICJ reaffirmed the provisional measure it previously ordered on 22 February 2023, which mandated the following measures, "The Republic of Azerbaijan shall, in accordance with its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination... (b) Take all necessary measures to prevent the incitement and promotion of racial hatred and discrimination, including by its officials and public institutions, targeted at persons of Armenian national or ethnic origin; (c) Take all necessary measures to prevent and punish acts of vandalism and desecration affecting Armenian cultural heritage, including but not limited to churches and other places of worship, monuments, landmarks, cemeteries and artefacts."²⁷

25. The 17 April 2023 Rule 9.2 Communication to the Committee of Ministers from NGOs notes numerous cases of anti-Armenian rhetoric by Azerbaijani officials including the President of Azerbaijan himself.²⁸ In its 5 May 2023 response, Azerbaijan continues to state that the anti-Armenian statements by the President of Azerbaijan are directed at the Armenian leadership, not the Armenians of Nagorno-Karabakh.²⁹ These clarifications are always noted as coming after the fact, and no effort appears to have been made to specify which is being referred to until the anti-Armenian rhetoric is discussed.

26. In its 5 May 2023 letter of reply, Azerbaijan claimed that it did not publish the stamps visualizing a person in a protective anti-chemical uniform appearing to disinfect Nagorno-Karabakh, and that the only figures on the stamps were medical personnel and soldiers.³⁰ This is a case of intentionally misleading an international organization; the link provided by Azerbaijan showed only two of the stamps,³¹ while the page containing the stamps themselves shows the image described.³²

27. Dissent in Azerbaijan against conflict with Armenians and Armenia is not tolerated by the

²⁷ Application of the International Convention on the Elimination of all Forms of Racial Discrimination (Armenia V. Azerbaijan), Request for the Modification of The Order of 22 February 2023 Indicating A Provisional Measure. 6 July 2023.

²⁸ 1468th meeting (June 2023) (DH) - Rules 9.2 and 9.6 - Communication from NGOs (Democracy Development Foundation, Protection of Rights without Borders, Helsinki Citizens' Assembly Vanadzor, Transparency International Anti-Corruption Center, Law Development and Protection Foundation) (17/04/2023) in the case of Makuchyan and Minasyan v. Azerbaijan (Application No. 17247/13) and reply from the authorities (09/05/2023) [https://hudoc.exec.coe.int/eng?i=DH-DD\(2023\)575revE](https://hudoc.exec.coe.int/eng?i=DH-DD(2023)575revE)

²⁹ 1468th meeting (June 2023) (DH) - Rule 9.6 - Reply from the authorities (09/05/2023) following a communication from NGOs (Democracy Development Foundation, Protection of Rights without Borders, Helsinki Citizens' Assembly Vanadzor, Transparency International Anti-Corruption Center, Law Development and Protection Foundation) (17/04/2023) in the case of Makuchyan and Minasyan v. Azerbaijan (Application No. 17247/13), Article 19-28, [https://hudoc.exec.coe.int/eng?i=DH-DD\(2023\)579E](https://hudoc.exec.coe.int/eng?i=DH-DD(2023)579E)

³⁰ Ibid., Article 26

³¹ <https://mincom.gov.az/en/view/news/1125/heroes-of-azerbaijan-on-postage-stamps#gallery-img-1>

³² De la Torre, Lucia. "Azerbaijani postal stamps accused of spreading anti-Armenian propaganda" New East Digital Archive, 12 January 2021. <https://www.new-east-archive.org/articles/show/12442/azerbaijan-stamps-nagorno-karabakh-war-anti-armenian-propaganda>

government. Rather, the government promotes pro-conflict voices and views. The small percentage of Azerbaijani society that is willing to voice an opinion opposing that of the government's position is quickly identified and pressured. During the war in 2020, Giyas Ibrahimov spoke out against the war; he was summoned to the Azerbaijani Prosecutor General's Office, and, in his words, "I was told that if I'm not a supporter of nationalism, then it's better for me to leave, insinuating that people like me have no place in a society united by the idea of war."³³ Concerns remain for members of other ethnic minorities in Azerbaijan; another activist, only using a pseudonym, noted that due to their belonging to the minority Lezgin ethnic group, "Protesting in Azerbaijan would be a suicide mission for me... In my case, the conversation would immediately turn to ethnicity, and then I would be accused of separatism, treason, or terrorism."³⁴

28. Voices that speak out against the conflict with Armenia have increasingly been branded "traitors" in Azerbaijan. During the September 2022 attacks on the Republic of Armenia, those who expressed ambivalence or opposition to the conflict were the targets of an organised social media campaign, with the hashtag #Khainitaniaq - meaning "know who the traitors are" - trending on Azerbaijani social media.³⁵

29. In its Action Plan, Azerbaijan points to the role of its Human Rights Commissioner's (Ombudsman) Office in addressing civil rights complaints.³⁶ The above-mentioned issues remaining unaddressed raises concerns as to the ability and desire of the Ombudsman's office to address the anti-Armenian sentiment in Azerbaijan.

30. The ECRI, in its report on Azerbaijan published on 21 June 2023 and adopted on 29 March 2023 (the "Report"), deeply analysed and expressed its concerns the systematic hatred that Azerbaijanis express toward Armenians, which is only enflamed by decisions such as the pardoning of R.S.

31. Regarding state sponsored education, the Report notes, "Several interlocutors have expressed concerns to ECRI about the presence of discriminatory language in school textbooks, particularly against Armenians, as had been also pointed out by the Council of Europe's Commissioner for Human Rights and the CERD," and states that, "ECRI is deeply concerned that the use of hate speech linked to the long-lasting conflict and confrontations with neighbouring country Armenia, has been

³³ Kitachayev, Bashir. "A suicide mission' Anti-war activists explain the challenges of protesting in Azerbaijan" Meduza, 26 May 2023. <https://meduza.io/en/feature/2023/05/25/a-suicide-mission>

³⁴ Ibid.

³⁵ RFE/RL's Azerbaijani Service. "'Know Who the Traitors Are': Azerbaijanis Speaking out against the Karabakh War Are Being Targeted on Social Media." RadioFreeEurope/RadioLiberty, 23 September 2022. <https://www.rferl.org/a/azerbaijan-traitors-nagorno-karabakh-social-media-campaign/32047849.html>

³⁶ ³⁶ 1468th meeting (June 2023) (DH) - Action Plan (05/04/2023) - Communication from Azerbaijan concerning the case of Makuchyan and Minasyan v. Azerbaijan (Application No. 17247/13), Article 56-64 [https://hudoc.exec.coe.int/eng#%7B%22execidentifier%22:%5B%22DH-DD\(2023\)431E%22%5D%7D](https://hudoc.exec.coe.int/eng#%7B%22execidentifier%22:%5B%22DH-DD(2023)431E%22%5D%7D)

observed among young people in and outside schools and could eventually provide a breeding ground for further hostilities.”³⁷

32. Regarding hate speech, the Report notes, “Many interlocutors have confirmed that ethnic and linguistic minorities, such as Armenians, as well as sexual minorities were the groups that were most targeted by hate speech.”³⁸

33. Regarding anti-Armenian sentiment prior to, throughout, and after the 2020 Nagorno-Karabakh War, the Report states, “Before, during and after these hostilities, the public discourse has been marked by the use of inflammatory rhetoric in public statements by politicians, including at the highest political level, and other public figures, as well as by the wide dissemination of hateful and dehumanising content, in traditional and social media.” The ECRI expressed its grave concerns, along with multiple other international bodies, over Azerbaijan’s dehumanizing “Baku Trophy Park.”³⁹

34. Finally, regarding manifestations of hate-motivated violence against Armenians, the Report states, “ECRI has received numerous reports with graphic accounts of violence against Armenians, including wilful killings or the extensive destruction of their property during and after the 2020-armed conflict and confrontations in and around Nagorno-Karabakh.”⁴⁰

35. Moreover, Azerbaijan has failed to comply with a number of other judgments concerning the victims of Armenian ethnicity (*Petrosyan v. Azerbaijan* (Application no. 32427/16), *Khojuyan and Vardazaryan v. Azerbaijan* (Application no. 62161/14), *Badalyan v. Azerbaijan* (Application no. 51295/11), *Saribekyan and Balyan v. Azerbaijan* (Application no. 35746/11)), which reveals a state policy of intentional non-execution of the Court's judgments favoring innocent victims of Armenian ethnicity.

36. Under these circumstances, Azerbaijan is not merely delaying in its compliance, but barely failing to execute the Court’s judgment. The points presented by it are merely an excuse for its inaction in execution of the measures that Azerbaijan is under an obligation to undertake. This is all taking place despite continued evidence of abuses against ethnic Armenians that follow the pattern of execution and impunity established by the Azerbaijan’s treatment of R.S. Thus, it falls to the Committee of Ministers, acting under Article 46 of the Convention, to specify individual and general measures required of the Azerbaijan by way of compliance. Hence, it is now appropriate for the Committee of Ministers to specify feasible, timely, adequate, and sufficient measures that will bring

³⁷ ECRI Report on Azerbaijan, Page 10 (21 June 2023)

³⁸ ECRI Report on Azerbaijan, Page 15 (21 June 2023)

³⁹ ECRI Report on Azerbaijan, Page 16 (21 June 2023)

⁴⁰ ECRI Report on Azerbaijan, Page 21 (21 June 2023)

Azerbaijan into compliance with the Judgment.

V. Recommendations

37. Hereby, Petitioners urge the Committee of Ministers

- I. To consider whether Azerbaijani inaction (failure to submit any action plan or report, failure to pay the just satisfaction amount awarded by the Court, failure to adopt any individual or general measure at all) is best characterized as a "delay in execution" or as a "refusal to execute."
- II. To recommend that Azerbaijan
 - revoke the presidential order pardoning R.S. as the most appropriate measure of reparations for the violations given the nature of the acknowledged violations (Articles 2 and 14 of the Convention), the achievement of *restitutio in integrum*.
 - unconditionally enforce the sentence of life-imprisonment imposed onto R.S. by the Hungarian courts.
 - withdraw all benefits and advantages conferred onto R.S.
 - issue a public and decisive repudiation of R.S.'s hate crime, the elimination of impunity for racially motivated crimes and non-proliferation of xenophobic policies with the example of Safarov.
 - pay the amount of just satisfaction awarded by the Court.
- III. To call on the authorities of the member States and the Secretary General to raise the execution of the Judgment with the Azerbaijani authorities, to end impunity of R.S., and urge Azerbaijan to take meaningful steps towards stopping racial discrimination against Armenians, including but not limited to: (1) changing educational curriculum depicting Armenians negatively; (2) cessation of negative messaging directed to Armenians by all official government channels and personnel; and (3) fair and thorough investigations of crimes committed against Armenians.
- IV. To include the case on the agenda of each regular and Human Rights meeting of the Committee until the Court's recommendations are fully and timely executed.
- V. To ensure the implementation of the judgment by using all means at the disposal of the Committee, including under Article 46.4 of the Convention.