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## **Submission**

**to the United Nations Special Procedures Working Group on Enforced or  
Involuntary Disappearances**

**International and Comparative Law Center NGO**



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## I. INTRODUCTION

1. This report is submitted to the United Nations Special Procedures Working Group on Enforced or Involuntary Disappearances (hereinafter – Working Group) by the International and Comparative Law Center.
2. On 27 September 2020, Azerbaijan launched an armed attack against Nagorno Karabakh. The hostilities lasted for 44 days. This report focuses on Azerbaijan’s policy of enforced disappearances, noncompliances with European Court of Human Rights interim measures to ensure respect for the Convention rights and provide necessary and appropriate medical treatment, to provide more information on the conditions under which the captives were being held, their medical conditions, and the possibility of exchange of prisoners of war. The report addresses the total number of enforced disappearances, including six detailed accounts of disappeared persons. Finally the report focuses on the policy of racial discrimination and ethnic hatred against ethnic Armenians which is intrinsically linked to the enforced disappearances.

## II. THE EUROPEAN COURT OF HUMAN RIGHTS’ DECISIONS AND AZERBAIJAN’S NON-COMPLIANCE WITH THE INTERIM MEASURES

### **A. Azerbaijan’s Continuous Non-compliance with Rule 39 Interim Measures Issued against it by the European Court of Human Rights Regarding Captives and the Safety of the Civilian Population**

3. Since the signing of the 9 November, 2020 trilateral agreement between Armenia, Azerbaijan, and Russia the agreement between Armenia and Azerbaijan, Armenia has lodged requests to the European Court of Human Rights for interim measures under Rule 39 of Court (hereinafter - Interim measures) relating to safeguarding the civilian population of Artsakh and the treatment and identification of missing persons.
4. Armenia first lodged a request for Interim measures against Azerbaijan (application number 42521/20) on or around 28 September 2020, requesting that Azerbaijan cease the military attacks towards the civilian settlements along the entire line of contact of the armed forces of

Armenia and Artsakh, stop indiscriminate attacks, and to stop targeting the civilian population, civilian objects and settlements.<sup>1</sup>

5. On 29 September 2020, the court granted Armenia's request for Interim measures against Azerbaijan and called on Azerbaijan and Armenia to refrain from taking any measures, in particular military action, which might entail breaches of the Convention rights of the civilian population, including putting their life and health at risk, and to comply with their engagements under the Convention, notably in respect of Article 2 (right to life) and Article 3 (prohibition of torture and inhuman or degrading treatment or punishment) of the Convention. Furthermore, the Court also invited both Contracting Parties to inform it, as soon as possible, of the measures taken to comply with their obligations.<sup>2</sup>
6. Between 29 September 2020 and 11 November 2020, the ECtHR received numerous requests under Rule 39 concerning individual captives, lodged either by the Government of Armenia or by relatives of the captives. In these cases, the Court suspended the examination of Rule 39 and invited the respondent Government to provide information on whether the named individuals have been captured and, if so, under which conditions they are currently held, including any medical examinations or treatment they have undergone.<sup>3</sup>
7. As outlined below, Azerbaijan has routinely ignored the Interim measures granted against it by the ECtHR.
8. As of 12 December 2020, the ECtHR received 148 Rule 39 requests concerning alleged captives. The Court specifically noted Azerbaijan's non-compliance with its Interim measures in its decision, "a very large number of Rule 39 requests, predominantly directed against Azerbaijan, continue to arrive at the Court, containing allegations that individuals have been captured and, in some cases, severely ill-treated. The Azerbaijani Government has frequently failed to provide the information requested by the Court."<sup>4</sup>
9. Furthermore, Azerbaijan attempted to circumvent its responsibility to provide information regarding Armenian captives as required by the Interim measures imposed by the ECtHR by arguing that the Court should suspend proceedings on Interim measures, until the applicants show that they have addressed the International Committee of the Red Cross (ICRC), because the issues raised fell entirely under international humanitarian law and that some applicants had failed to properly substantiate their Rule 39 requests and their claim that there was a real danger of irreparable harm to the captives. However, the Court disregarded this argument, noting, "the possibility to address the ICRC does not preclude applicants from seizing the Court, claiming violations of the Convention and requesting the application of Rule 39. In these circumstances, the Court did not find any basis for discontinuing or suspending the

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<sup>1</sup>Press Release, European Court of Human Rights, Request for Interim Measures Lodged by Armenia against Azerbaijan (28 Sep. 2020).

<sup>2</sup> Press Release, European Court of Human Rights, The Court Grants an Interim Measure in the Case of Armenia v. Azerbaijan (29 Sep. 2020).

<sup>3</sup> Press Release, European Court of Human Rights, The Court Makes a Statement on Requests for Interim Measures Concerning the Conflict in and around Nagorno-Karabakh (04 Nov. 2020).

<sup>4</sup> Press Release, European Court of Human Rights, The Interim Measure Indicated in the Case of Armenia v. Azerbaijan and Rule 39 Proceedings with Regard to Alleged Captives to Remain in Force (16 Dec. 2020).

examination of requests under Rule 39 in reasonably substantiated cases concerning alleged captives.”<sup>5</sup>

10. While the Court unambiguously mentioned Azerbaijan’s failure to provide information that it requested, the court made no mention of a failure to provide information requested to the court by Armenia.<sup>6</sup>
11. On 9 March 2021, the ECtHR released Interim measures for 229 of 249 Armenians allegedly captured by Azerbaijan. The requests were made both by the Armenian government within the framework of its inter-state application *Armenia v. Azerbaijan* (no. 42521/20) and by relatives of alleged captives in 62 individual applications.<sup>7</sup>
12. While Azerbaijan acknowledged the captivity and detention of 72 individuals, it failed to provide any information relating to the remaining 112 individuals, claiming that they have not been able to identify them among their captives.<sup>8</sup>
13. The ECtHR invited the Government of Azerbaijan to provide specific information on the individuals concerned, including the conditions of their detention, any medical examinations they have undergone and details of the measures that have been taken or are planned to be taken to repatriate them.<sup>9</sup>
14. However, the Government of Azerbaijan once again failed to provide the required information, in an effort to sidestep its responsibilities to the Court, gain political leverage over Armenia, and harm the psyches of the families of missing persons in Armenia.
15. On 9 March 2021, the Court decided to notify the Committee of Ministers of the measures taken by it, having regard to the Azerbaijani Government’s failure to respect the time-limits set by the Court for the submission of information on the individuals concerned and the rather general and limited information provided by them.<sup>10</sup>

#### **B. Azerbaijan’s Non-compliance with Rule 39 Interim Measures Issued against it by the European Court of Human Rights Regarding Six Specific Individual Cases of Captives**

16. Complaints were submitted to the ECtHR on behalf of Karen Petrosyan, Maksim Grigoryan, Yurik Poghosyan, Aleksander Yeghiazaryan, Arsen Karapetyan, and Norik Arakelyan.
17. On 7 December 2020, the families of Karen Petrosyan and Maksim Grigoryan submitted to the ECtHR a request for an Interim measure against the Republic of Azerbaijan, demonstrating serious threat to life. By the Court’s letter of that same date, the Interim measure was granted against Azerbaijan under Rule 39 to ensure respect for the Convention rights and provide them

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<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Press Release, European Court of Human Rights, *Armenia v. Azerbaijan* and alleged captives: Notification of the Committee of Ministers of Interim Measures Indicated (16 Mar. 2021).

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id.

with necessary and appropriate medical treatment. The Court also invited Azerbaijan to submit more information on the conditions under which they were being held, their medical conditions, the possibility of exchange of prisoners of war, and set a deadline of 14 December 2020. In its reply on 15 December 2020, Azerbaijan provided no information failing to comply with the interim measure. Despite video materials confirming that Karen Petrosyan and Maksim Grigoryan were alive, Azerbaijan did not confirm their captivity nor submit their inability to identify them. The applicants also requested that Karen Petrosyan and Maksim Grigoryan be made aware of the ECtHR application which was supposed to result in communication with their legal representatives but this did not happen.

18. On 27 January 2021, the family of Yurik Poghosyan applied to the ECtHR. On 29 December 2020, the family of Yurik Poghosyan submitted to the ECtHR a request for an Interim measure against the Republic of Azerbaijan, demonstrating serious threat to his right to life. By the Court's letter dated 30 December 2020, the Interim measures were granted against Azerbaijan under Rule 39 to ensure respect for the Convention rights and provide necessary and appropriate medical treatment. The Court also invited Azerbaijan to submit more information on the conditions under which he was being held, his medical condition, the possibility of exchange of prisoners of war, and set a deadline of 6 January 2021. However the applicants did not receive any response from Azerbaijan. The legal representatives of the applicants, with a letter dated 12 January 2021, requested the Court to invite Azerbaijan to specify the names of the Armenian captives shown in the video material. This request was made after Azerbaijan submitted its inability to identify individuals, regardless of irrefutable video evidence. In the Court's reply dated 15 January 2021, the Court noted it received Azerbaijan's reply and would determine whether it needed to adopt further measures. Then on 18 January 2021, the Court mentioned Azerbaijan submitted general information and reiterated its requests for more details. Specifically the Court invited Azerbaijan to identify individuals in a list, explain the measures they are using to identify the captured individuals, and state whether they consider their government to have considered itself in compliance with the 9 November 2020 ceasefire agreement. The Court gave a 1 February 2021 deadline. The applicants also requested that Yurik Poghosyan be made aware of the ECtHR application which was supposed to result in communication with their legal representatives but this did not happen.
19. Information on Aleksander Yeghiazaryan's whereabouts was sought through a complaint and interim measures in the ECtHR as well as through the ICRC. The family appealed to the Armenian Government who filed an interstate complaint against Azerbaijan. On 27 September 2020 the Court received a request for interim measures, lodged by Armenia. On 29 September 2020, acting on a request for a general interim measure lodged by Armenia against Azerbaijan, the ECtHR decided to apply Rule 39 of the Rules of Court in regard to the conflict in and around Nagorno-Karabakh. In a statement of 4 November 2020, the Court clarified that the States were under an obligation to respect also the Convention rights of those captured during the conflict and those whose rights might otherwise be violated. On 16 December 2020, the Court invited the respondent Government to provide information on the individuals concerned, including Aleksander Yeghiazaryan. In all these cases, the Court has invited the respondent Government

to provide information on the individuals concerned, in particular whether they have been captured, under what conditions they are being held, including any medical examinations or treatment they have undergone, and whether, in view of the exchange of prisoners of war and other detainees envisaged in the ceasefire agreement signed on 9 November 2020, any measures to repatriate the captives have been taken or planned. No information was provided regarding Aleksander through the ECtHR or the ICRC. On 6 March 2023, a submission was made to the United Nations Special Procedures Working Group on Enforced or Involuntary Disappearances.

20. Arsen Karapetyan's family lodged a complaint to the ECtHR. A request for an Interim measure was filed before the ECtHR. On 27 October 2020, the Court made the decision to suspend the examination of the request and invited Azerbaijan to submit information on the conditions of which Arsen Karapetyan is being held, his medical condition, and the possibility of exchange of prisoners of war. The information was to be submitted to the Court by 3 November 2020. On 10 November 2020, the Applicant received the reply from Azerbaijan however the reply did not contain any information on Arsen Karapetyan. The Court gave a second opportunity for Azerbaijan to submit the requested information by extending the deadline to 16 November 2020. By the Court's letter dated 20 November 2020, the Interim measures were granted against Azerbaijan to ensure respect for the Convention rights and provide necessary and appropriate medical treatment. Information on measures taken or planned to repatriate Arsen Karapetyan were also requested with a deadline of 27 November 2020. The applicants also requested that Arsen Karapetyan be made aware of the ECtHR application which was supposed to result in communication with their legal representatives but this did not happen. On 6 March 2023, a submission was made to the United Nations Special Procedures Working Group on Enforced or Involuntary Disappearances.
21. On 29 October 2020, the family of Norik Arakelyan submitted a request for an Interim measure to the ECtHR) against the Republic of Azerbaijan, demonstrating serious threat to life. On 5 November 2020, the Court made the decision to suspend the examination of the request and invited Azerbaijan to submit information on the conditions under which Norik Arakelyan was being held, his medical condition, the possibility of exchange of prisoners of war. This information was to be submitted to the Court by 13 November 2020. In a letter dated 20 November 2020, the Court granted the information to grant Interim measures against Azerbaijan. The Court again invited Azerbaijan to submit information with a deadline of 27 November 2020. At the request of Azerbaijan the deadline was extended to 4 December 2020. On 4 December 2020, the applicants were informed of Azerbaijan's reply to the Court's request. Despite video materials confirming that Norik Arakelyan was alive, Azerbaijan did not confirm his captivity but submitted its inability to identify him, and did not submit any information about him. The Court invited Azerbaijan to provide the Court with more information should the individuals later be identified. The applicants also requested that Norik Arakelyan be made aware of the ECtHR application which was supposed to result in communication with their legal representatives but this did not happen. On 1 March 2023, a submission was made to the United Nations Special Procedures Working Group on Enforced or Involuntary Disappearances.



### III. DETAILED ACCOUNTS OF SIX CIVILIANS AND SERVICEMEN WHO ARE VICTIMS OF ENFORCED DISAPPEARANCES <sup>11</sup>

#### A. Karen Petrosyan

22. Karen Poghosyan, a civilian and resident of Avetaranots village was captured by Azerbaijani soldiers and taken to a forest near the village. Valeri Poghosyan, an elderly resident of Avetaranots village, who was captured together with him on the same day, and was repatriated later to Armenia, has testified that on 27-28 October 2020 he was captured by Azerbaijani military personnel and taken to the forest where his co-villagers Maksim Grigoryan and Karen Petrosyan were also kept after capture. All three spent the night in the forest. In the morning, they were instructed to get on the car to be transferred to Azerbaijan. Karen's legs were crippled, Maksim and Valeri helped carry him to the military vehicle and lifted him into the vehicle. The three of them got on the truck and were blindfolded. They were interrogated. They were transported to a two-story detention facility and placed in a cell. On the next day, 29 October 2020, Valeri saw how Azerbaijanis dragged Karen out of the cell while kicking him on the way.
23. A video that appeared on telegram channels shows Karen, Valeri, and Maksim sitting on the ground of a forest. Valeri, who was repatriated on 14 December 2020, confirms the fact that he was in these video materials, and the 2 other captives next to him are Karen and Maksim. In the video, an Azerbaijani soldier asks the captives in Azerbaijani whether they were ready to live with Azerbaijanis. The other two captives do not take part in the conversation.
24. Another video shows Karen Petrosyan, Maksim Grigoryan, and a third individual appearing to be in the trunk of a vehicle. Two Azeri soldiers are on the left and right of Karen kicking his head and other parts of his body. Maksim Grigoryan's son recognized both Karen and Maksim Grigoryan.

#### B. Maksim Grigoryan

25. Maksim Grigoryan, a civilian and resident of Avetaranots village was captured by Azerbaijani soldiers and taken to a forest near the village. Valeri Poghosyan, an elderly resident of Avetaranots village, who was captured together with him on the same day and was later repatriated to Armenia, has testified that on 28 October 2020 he was captured by Azerbaijani military and taken to the forest where his co-villagers Maksim Grigoryan and Karen Petrosyan were also kept after capture. All three spent the night in the forest. In the morning, they were instructed to get on the car to be transferred to Azerbaijan. Karen's legs were crippled, Maksim

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<sup>11</sup> Videos mentioned in the report will be provided per request.

and Valeri helped carry him to the military vehicle and lifted him into the vehicle. The three of them got on the truck and we blindfolded. They were interrogated, transported to a two-story detention facility, and placed in a cell. On the next day, 29 October 2020, Valeri saw Azerbaijanis drag Karen out of the cell while kicking him along the way.

26. The next day, on 30 October, Valeri was taken to a building where he was interrogated and forced to make derogatory statements about Armenians. After that, they returned Valeri to the cell, but Maksim was not there. They brought Maksim back in the evening. Valeri understood from his appearance that something was wrong with Maksim. He was very weak but had no visible injuries. Maksim could not communicate with Valeri, but made it clear that he wanted to urinate. Valeri gave Maksim the bottle that was available in their cell. Maksim sat down, then when he wanted to get up, he fell on the floor. Maksim remained in that condition throughout the night, and in the morning, they took Valeri for questioning. When Valeri returned around noon, Maksim was no longer in the cell. They did not bring Maksim back that day. The next day Valeri was transferred to Baku prison, and he never saw Maksim again.
27. A video that appeared on telegram channels shows Karen, Valeri, and Maksim sitting on the ground of a forest. Valeri, who was repatriated on 14 December 2020, confirms the fact that he was in these video materials, and the 2 other captives next to him are Karen and Maksim. In the video, an Azerbaijani soldier asks the captives in Azerbaijani whether they were ready to live with Azerbaijanis. The other two captives did not take part in the conversation.

### **C. Yurik Poghosyan**

28. On 28 September 2020, Yurik Poghosyan was conscripted and transported to the military commissariat of Berdzor (Lachin) city to the recruitment center of Ivanyan (Khojalu) city, from where they transported them to Jini village of the Askeran region. From there he was moved to Hadrut. Yurik Poghosyan last spoke to his wife on the phone on 14 October 2020, while he was in Hadrut, and told her they were forced to retreat to the forest. There has been no contact with Yurik Poghosyan since then.
29. On 19 December 2020, there was a video spread on social media containing two captives, one in military uniform and one in civilian clothing. Yurik Poghosyan's wife recognized her husband as the one in civilian clothing. Based on the video evidence, it is believed that Yurik introduced himself as a civilian.
30. Yurik is seen kneeling on the ground in front of three Azeri soldiers with his hands bound behind his back. One of the three Azeri soldiers is also kneeling and talking to Yurik. It can be heard that Yurik says in Russian "I know these lands belong to Azerbaijan." The Azeri soldier says, "if you know that, then why are you fighting?" The continuation of their conversation cannot be heard but the Azeri soldier later says, "Do you know that?" to which Yurik responds, "I do." Right after, they pull him from the ground and take him in the same direction as the Armenian soldier was being taken. An Azeri soldier kicks him in the face, and Yurik

Poghosyan falls down to the ground. Other soldiers continue kicking him in the legs. Yurik tries to get up, but fails to do so and continues receiving kicks in different parts of his body. Two Azeri soldiers grab him from his arms and they continue walking until they reach the Armenian soldier and some other Azeri soldiers. Another Azeri soldier kicks Yurik, and other soldiers slap and kick the Armenian servicemen in the face and shoulder respectively. Yurik says “I will say everything” in Russian then the video ends.

31. The video depicts Yurik Poghosyan under duress and being subjected to torture and degrading treatment, and serves as proof that he has been taken captive alive by Azeri soldiers and is currently in their hands. His captivity has not been acknowledged by Azerbaijan. No information has been provided on his fate and whereabouts despite the video taken by Azerbaijani servicemen themselves.

#### **D. Aleksander Yeghiazaryan**

32. Aleksander Yeghiazaryan was involved in the defense of Nagorno Karabakh during the 44-day war launched by Azerbaijan on 27 September 2020. On 21 October 2020, Aleksander Yeghiazaryan, along with other members of the group, around 60 servicemen, traveled to Kovsakan (Zangilan) where their group was ambushed by Azerbaijani armed forces. As a result, according to the testimony of one of the repatriated Armenian prisoners of war (hereinafter - POWs), Aleksander together with three other Armenian servicemen got separated from the main group. When it got dark, the four of them were captured by Azerbaijani servicemen whose uniforms were consistent with the Azerbaijani State Border Service uniforms. Three out of four Armenian POWs (except for Aleksander) were later repatriated to Armenia. According to the testimony of one of the three repatriated servicemen, A.S., the four of them, blindfolded, were taken to a place where they were subjected to beating and insults in Russian. The Armenian POWs, including Aleksander, were also subjected to ill-treatment during the transfer to Baku as well as in Baku, to a place in formally known by repatriated POWs as the “Military Police” Building.
33. On 21 October 2021, a year after his capture, a video appeared on Azerbaijani telegram channels depicting the capture of Aleksander Yeghiazaryan with at least one other Armenian serviceman. In the video, Aleksander is seen without a shirt with his hands tied behind his back, seated on the ground with a now-returned Armenian serviceman captured together with Aleksander. In the video, there are at least three armed Azerbaijani servicemen standing around them. In November 2021, a separate video of Aleksander was published on Telegram. In the video, an Azerbaijani serviceman slaps Aleksander while holding a bayonet. In the second video, the Azerbaijani serviceman wears a uniform consistent with the uniform of the Azerbaijani State Border Service. According to the testimony of a now repatriated serviceman, G.E., who was captured together with Aleksander and other Armenian servicemen by Azerbaijani armed forces on 21-22 October 2020, Aleksander was alive. He last saw

Aleksander alive on 24 October 2020 in Baku. Aleksander translated for his servicemates captured with him from Russian into Armenian as some of them did not understand Russian spoken by their Azerbaijani captors. No information is available on Aleksander's whereabouts and fate since then. Despite the ECtHR's granted requests for Interim measures in relation to Armenian captives, including Aleksander Yeghiazaryan, the Azerbaijani government failed to provide information on his fate and whereabouts.

#### **E. Arsen Karapetyan**

34. Arsen Karapetyan participated in the defense of Nagorno Karabakh during the 44-day war launched by Azerbaijan on 27 September 2020. Arsen was part of a group of approximately 60 Armenian servicemen deployed on 21 October 2020 towards Kovsakan (Zangilan). He was ambushed and taken captive by members of the Azerbaijani State Border Service along with 24 other servicemen. 5 of the servicemen have since been repatriated to Armenia. He kept in touch with his family until 22 October 2020. There has been no contact with him since then. On 25 October 2020, footage appeared on Azerbaijani media where Arsen can be seen in the hands of Azerbaijani servicemen. In the video, Arsen looks stressed. The Azerbaijani serviceman asks Arsen to repeat and finish the sentence, "Karabakh is ... Azerbaijan." The video serves as evidence that Arsen was alive when he became subject to Azerbaijani custody. When the family saw the video, they lodged a complaint to the ECtHR. A request for an Interim measure was filed before the ECtHR. The Court requested information regarding Arsen's well-being and/or whereabouts from Azerbaijan by 3 November 2020. No information was provided regarding Arsen, so the Court extended the deadline to 16 November. The Court in its letter dated 20 November 2020, informed Arsen's brother that due to Azerbaijan's failure to comply with the Court's request for information, the Court granted the Interim measure. The Court also requested from Azerbaijan to provide information on measures taken or planned to be taken to repatriate Arsen Karapetyan by 27 November 2020. There has been no further information provided by Azerbaijan since then.

#### **F. Norik Arakelyan**

35. Norik Arakelyan left home on 1 October 2020 to take part in the defense of Nagorno Karabakh following the armed attack launched by Azerbaijan on 27 September 2020 against Nagorno Karabakh. Until 20 October 2020, Norik was able to maintain contact with his family. Norik Arakelyan was part of a group of approximately 60 Armenian servicemen deployed on 21 October 2020 towards Kovsakan (Zangilan). Norik was ambushed and taken captive by members of the Azerbaijani State Border Service along with 24 other servicemen. 5 of the

servicemen have since been repatriated to Armenia. There has been no contact with Norik since 21 October 2020. On 26 October 2020, Azerbaijani media disseminated video footage, by which Norik's family was able to identify him. In the video, Norik is standing with his hands tied. He is visibly frightened. His arms are tied in front of him and his pants are wet. A voice in the background, presumably belonging to an Azerbaijani soldier, forces him to repeat and finish the sentence, "Karabakh is ... Azerbaijan." The video serves as evidence that Norik was alive when he was subject to Azerbaijani custody. One of the repatriated servicemen from Norik's group testified that Norik was together with him alive in Kovsakan when the group was ambushed by Azerbaijani servicemen.

#### IV. 80 ADDITIONAL ENFORCED DISAPPEARANCES

36. According to the Declaration on the Protection of All Persons from Enforced Disappearance, proclaimed by the General Assembly in its resolution 47/133 of 18 December 1992 as a body of principles for all States, an enforced disappearance occurs when: "persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law."<sup>12</sup> <sup>13</sup>
37. Similarly under Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance, "For the purposes of this Convention, "enforced disappearance" is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law."<sup>14</sup>
38. There continue to be eighty Armenian captives whose captivity is rejected by Azerbaijan, despite the existence of first hand and credible evidence of their captivity.
39. Of the eighty, four are from the Kovsakan event. During the 44-day war, on 20 October 2021, the city of Kovsakan, was claimed to be seized by Azeri soldiers.<sup>15</sup> The following day, on 21 October 2021, 61 Armenian military personnel traveled towards Kovsakan from the military

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<sup>12</sup> United Nations General Assembly (UNGA), Declaration on the Protection of All Persons from Enforced Disappearance (1993), UN Doc A/RES/47/133

<sup>13</sup> *International Day of the victims of enforced disappearances* (no date) *United Nations*. Available at: <https://www.un.org/en/observances/victims-enforced-disappearance> (Accessed: 16 August 2023).

<sup>14</sup> General Assembly of the United Nations in its resolution 47/133, International Convention for the Protection of All Persons from Enforced Disappearance, December, 23 2010, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-all-persons-enforced#:~:text=For%20the%20purposes%20of%20this, followed%20by%20a%20refusal%20to>

<sup>15</sup> The Kosakan Incident Report, page 1, Yerevan, 2021, Armenian Legal Center for Justice and Human Rights and International and Comparative Law Center, Armenia.

base in Kapan.<sup>16</sup> They were met and ambushed by armed Azerbaijani servicemen resulting in the capture of the Armenian soldiers.<sup>17</sup> The military unit involved in the ambush in Kavsakan was the State Border Service of the Republic of Azerbaijan.<sup>18</sup> 20 soldiers escaped, 15 were killed, 25 were captured.<sup>19</sup> Of those captured 4 were executed shortly after, 17 more were killed in captivity, leaving the fate of four, Arsen Karapetyan, Norik Arakelyan, and Aleksander Yeghiasaryan, and one other unknown.<sup>20</sup>

40. Of the eighty, eight are from a group that was captured on a date after the Kavsakan ambush. Video evidence shows a group of 13 was captured, although Azerbaijan only acknowledged the captivity of 5 of the soldiers.<sup>21</sup>
41. In a statement by the Armenian Minister of Foreign Affairs (hereinafter - MFA) last year on 30 August 2022, on the International Day of the Victims of Enforced Disappearances, the MFA stated: “The international humanitarian and human rights law seeks to refrain people from going missing as a result of arbitrary arrests and other violations occurring during detention and captivity. After the ceasefire signed on 9 November 2020, Azerbaijan continues to hold Armenian prisoners of war, including civilians, while the fate of hundreds of missing persons and dozen cases of enforced disappearances resulting from the First Nagorno-Karabakh War and the 44-Day War remain unclarified.”<sup>22</sup>

## V. WIDESPREAD SYSTEMATIC ARMENOPHOBIA

### A. Azerbaijan’s Attempt to Create Political Leverage Against Armenia by Inflicting Psychological Harm to the Families of Victims of Enforced Disappearances

42. The consequences of enforced disappearances not only impact the direct victims, but creates a ripple effect affecting the families of victims and society as a whole. As explained by Amnesty International, “Family and friends of people who have disappeared experience slow mental anguish. Not knowing whether their son or daughter, mother or father is still alive. Not knowing where he or she is being held, or how they are being treated. Searching for the truth

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<sup>16</sup> The Kosakan Incident Report, page 1, Yerevan, 2021, Armenian Legal Center for Justice and Human Rights and International and Comparative Law Center, Armenia.

<sup>17</sup> The Kosakan Incident Report, page 1, Yerevan, 2021, Armenian Legal Center for Justice and Human Rights and International and Comparative Law Center, Armenia.

<sup>18</sup> The Kosakan Incident Report, page 1, Yerevan, 2021, Armenian Legal Center for Justice and Human Rights and International and Comparative Law Center, Armenia.

<sup>19</sup> The Kosakan Incident Report, page 1, Yerevan, 2021, Armenian Legal Center for Justice and Human Rights and International and Comparative Law Center, Armenia.

<sup>20</sup> The Kosakan Incident Report, page 1, Yerevan, 2021, Armenian Legal Center for Justice and Human Rights and International and Comparative Law Center, Armenia.

<sup>21</sup> The Kosakan Incident Report, page 14, Yerevan, 2021, Armenian Legal Center for Justice and Human Rights and International and Comparative Law Center, Armenia.

<sup>22</sup> Statement of the Ministry of Foreign Affairs on the International Day of the Victims of Enforced Disappearances, August 30, 2022, [https://www.mfa.am/en/interviews-articles-and-comments/2022/08/30/Statement\\_ed/11583](https://www.mfa.am/en/interviews-articles-and-comments/2022/08/30/Statement_ed/11583)

may put the whole family in great danger. Not knowing if their loved one will ever return often leaves their relatives living in limbo.”<sup>23</sup>

43. This phenomenon is widespread, occurring all over the world, including in Syria, Sri Lanka, Argentina, and Zimbabwe, where tens of thousands of people have become victims of enforced disappearances, causing both familial turmoil and casting an overarching shadow over the affected societies.<sup>24</sup>
44. Today, Azerbaijan is taking a page out of the playbook of similar authoritarian regimes who prey on the grief and anger of families whose members are victims of enforced disappearances with hopes to turn the families against their governments.
45. Thus, these disappearances are not isolated incidents, clerical errors, or honest attempts by Azerbaijan to locate over eighty victims of enforced disappearances. Azerbaijan is deliberately and systematically depriving Armenian families from information relating to their captured loved ones in order to create havoc in Armenia and more easily gain political concessions.
46. While withholding information is one method that Azerbaijan is currently using to gain a psychological advantage over Armenian families, it has previously relied on various similar methods to create the same consequences as outlined in the Center for Law and Justice “Tatoyan Foundation” Report titled *Suffering of Families of Armenian Soldiers Caused by Azerbaijan*.
47. For instance, as confirmed by Human Rights Watch’s 2 December 2020 Report, Azerbaijan routinely abused Armenian prisoners of war, which they filmed and uploaded to social media channels in order to cause turmoil for the families of the prisoners back home. The videos depict Azerbaijani captors variously slapping, kicking, and prodding Armenian POWs, and compelling them, under obvious duress and with the apparent intent to humiliate, to kiss the Azerbaijani flag, praise Azerbaijani President Ilham Aliyev, swear at Armenian Prime Minister Nikol Pashinyan, and declare that Nagorno-Karabakh is Azerbaijan. In most of the videos, the captors’ faces are visible, suggesting that they did not fear being held accountable.<sup>25</sup>
48. The sheer amount of these publicly displayed torture videos as well as a deliberate attempt to preserve the identities of the victims and the perpetrators clearly indicate that Azerbaijan’s actions were neither isolated incidents nor failed attempts at creating warmongering media for the consumption of its own general public. Instead, given that the victims are usually clearly identifiable, there were dozens of videos made, and the videos were widely accessible, it is highly likely that Azerbaijan attempted to systematically psychologically torture the families of captured persons who were left powerless in Armenia, and whose only outlet was to redirect their anger towards their own government.
49. In another specific instance, Armenia’s Human Rights Defender reported that during the 44-day war, on 16 October, at around 1 PM a member of the Azerbaijani armed forces called the brother of an Armenian soldier and said that his brother is with them; they beheaded him and

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<sup>23</sup> *What would you do if state authorities made your loved one disappear?* (2023) Amnesty International. Available at: <https://www.amnesty.org/en/what-we-do/enforced-disappearances/#:~:text=Overview,to%20say%20where%20they%20are> (Accessed: 16 August 2023).

<sup>24</sup> Id.

<sup>25</sup> “Azerbaijan: Armenian Prisoners of War Badly Mistreated”, Human Rights Watch, available at: <https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated>.

were going to post his photo on the Internet. Afterwards, several hours later, the brother found the photo on his killed brother's social media page.<sup>26</sup>

50. While the return of the remains and personal effects of the dead upon request of the party to which they belong or upon the request of the next of kin is an important principle of the International Humanitarian Law (IHL), Azerbaijan regularly violated this principle in order to psychologically torture the families of deceased Armenian soldiers.
51. As outlined in the Center for Law and Justice "Tatoyan Foundation" Report, Azerbaijan routinely stood in the way of families of Armenian soldiers of the Tsor military unit D20 Artillery Division from discovering their childrens' remains, as is their right under IHL.<sup>27</sup>
52. A father of a fallen soldier stated "After the incident, we tried all possible options to bring back the bodies of our children, but the enemy did not allow us to approach the scene, also, the Azeri military corps did not take the initiative to return our children to us or at least exchange them with the bodies of their victims. Then, after the end of the war, on 1 December 2020, we were able to enter the battle site, where our children were killed, for search purposes. There I saw traces of our children's bodies, however, the bodies disappeared, and we found only the remains of nine children. We collected the remains, other parents J. M., A. B. and others were also with me..."<sup>28</sup>
53. Another father stated: "I found my son's helmet with a bunch of hair stuck to it. I wanted to take it, but Azeri soldiers didn't allow me. After all my efforts and persuasions, they allow me to take the hair from the helmet. That bunch of hair was the only memory left for me and my wife. We searched for our children for a long time and negotiated by suggesting all possible options, but for fourteen months we did not achieve any success. Fourteen months later, the Azeri side hands over the remains to us, but in fact, they were bags with mixed bones, the identification process took a month, and then it turned out that some bones belonged to our son. We had hard days, I had a heart attack and surgical intervention, my wife had a stroke, and now she doesn't speak or walk, we move around in a wheelchair."<sup>29</sup>
54. Thus, Azerbaijan's withholding of information on victims of enforced disappearances are not isolated incidents. Azerbaijan has stopped at nothing to inflict psychological damage onto the families of deceased soldiers and civilians, including regularly uploading torture videos online of caputred Armenian servicemen meant to be seen by family members and withholding the remains of fallen soldiers from their families as required by IHL. This current withholding of information is nothing more than a new systematic approach to psychologically harm what little sanity the Armenian families of missing persons have remaining.

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<sup>26</sup>Report on the Suffering of Families of Armenian Soliders Caused by Azerbaijan, Center for Law and Justice "Tatoyan Foundation", July 2023, available at [https://tatoyanfoundation.org/wp-content/uploads/2023/08/Report\\_Human-Rights-Violations-of-the-Relatives-of-the-Armenian-Soldiers-by-Azerbaijan-1.pdf](https://tatoyanfoundation.org/wp-content/uploads/2023/08/Report_Human-Rights-Violations-of-the-Relatives-of-the-Armenian-Soldiers-by-Azerbaijan-1.pdf)

<sup>27</sup> Report on the Suffering of Families of Armenian Soliders Caused by Azerbaijan, Center for Law and Justice "Tatoyan Foundation", July 2023, available at [https://tatoyanfoundation.org/wp-content/uploads/2023/08/Report\\_Human-Rights-Violations-of-the-Relatives-of-the-Armenian-Soldiers-by-Azerbaijan-1.pdf](https://tatoyanfoundation.org/wp-content/uploads/2023/08/Report_Human-Rights-Violations-of-the-Relatives-of-the-Armenian-Soldiers-by-Azerbaijan-1.pdf)

<sup>28</sup> Report on the Suffering of Families of Armenian Soliders Caused by Azerbaijan, Page 11, Center for Law and Justice "Tatoyan Foundation", July 2023, available at [https://tatoyanfoundation.org/wp-content/uploads/2023/08/Report\\_Human-Rights-Violations-of-the-Relatives-of-the-Armenian-Soldiers-by-Azerbaijan-1.pdf](https://tatoyanfoundation.org/wp-content/uploads/2023/08/Report_Human-Rights-Violations-of-the-Relatives-of-the-Armenian-Soldiers-by-Azerbaijan-1.pdf)

<sup>29</sup> Report on the Suffering of Families of Armenian Soliders Caused by Azerbaijan, Page 13, Center for Law and Justice "Tatoyan Foundation", July 2023, available at [https://tatoyanfoundation.org/wp-content/uploads/2023/08/Report\\_Human-Rights-Violations-of-the-Relatives-of-the-Armenian-Soldiers-by-Azerbaijan-1.pdf](https://tatoyanfoundation.org/wp-content/uploads/2023/08/Report_Human-Rights-Violations-of-the-Relatives-of-the-Armenian-Soldiers-by-Azerbaijan-1.pdf)



## **B. Azerbaijan's Practice of Enforced Disappearances as a Manifestation of State Policy of Armenophobia**

55. In addition to such systematic approach to enforced disappearances, Azerbaijan also disseminates a general state-sponsored policy of Armenophobia.
56. The Azerbaijani state policy of hatred and enmity toward Armenians has been the primary source of the human rights violations before and during the 44-Day-War (27 September to 9 November 2020) that started with Azerbaijan's military aggression against Artsakh and Armenia.<sup>30</sup>
57. There is a pattern of inflammatory speech by Azerbaijani politicians against Armenians, including by President Ilham Aliyev himself.
58. There is a widespread state sponsored practice and common scheme of racial discrimination employed by Azerbaijani authorities against ethnic Armenians. The racial discrimination policy against ethnic Armenians is being continuously and consistently fueled by hate speech of public officials. The President of Azerbaijan actively develops Armenophobic statements that are translated into the public consciousness. President Aliyev in his speeches often makes references to Armenians as "barbarians", "vandals", and "fascists".<sup>31</sup>
59. "Armenians are being regularly compared to uncivilized "barbarians" by him, and even "dogs" ["gyaur"] driven away by the "glorious soldiers of the Azerbaijani army."<sup>32</sup> The term "dogs" is used derogatorily as something that is impure or in reference to infidels.<sup>33</sup>
60. Ilham Aliyev has also made comments such as: "For 30 years, it [meaning Artsakh] was in the hands of wild beasts, in the hands of predators, in the hands of jackals. The remains of the city of Fuzuli are a manifestation of Armenian fascism and a witness to Armenian fascism."<sup>34</sup>
61. This state sponsored policy of discrimination against ethnic Armenians is often reiterated by the military leadership, governmental institutions and high-ranking officials have systematically echoed their President's racist lead.<sup>35</sup>
62. In 2004 an Azeri army officer beheaded an Armenian officer and attempted to kill another while at a NATO-organized training course in Budapest. When he was transferred to

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<sup>30</sup> The ongoing Armenophobic state policy of Azerbaijan: the nexus of Azerbaijan's atrocities against ethnic Armenians, Page 2, Center for Law and Justice "Tatoyan Foundation", 2023, available at <https://tatoyanfoundation.org/adrbejani-petakan-sharunakvogh-hayatyac-khaghakhakanuthyunch-hayeri-nkatmamb-adrbejani-vayraguthyunnereh-angleren/?lang=en> and "Nothing can justify the criminal aggression of Azerbaijan against Armenia- MEP François-Xavier Bellamy" <https://en.armradio.am/2022/09/13/nothing-can-justify-the-criminal-aggression-of-azerbaijan-against-armenia-mep-fx-bellamy/>

<sup>31</sup> Armenophobia in Azerbaijan, Authors: Armine Adibekyan, Anzhela Elibegova, [https://www.academia.edu/19420142/ARMENOPHOBIA\\_IN\\_AZERBAIJAN](https://www.academia.edu/19420142/ARMENOPHOBIA_IN_AZERBAIJAN)

<sup>32</sup> The ongoing Armenophobic state policy of Azerbaijan: the nexus of Azerbaijan's atrocities against ethnic Armenians, Page 3, Center for Law and Justice "Tatoyan Foundation", 2023, available at <https://tatoyanfoundation.org/adrbejani-petakan-sharunakvogh-hayatyac-khaghakhakanuthyunch-hayeri-nkatmamb-adrbejani-vayraguthyunnereh-angleren/?lang=en>

<sup>33</sup> The ongoing Armenophobic state policy of Azerbaijan: the nexus of Azerbaijan's atrocities against ethnic Armenians, Page 2, Footnote 12, Center for Law and Justice "Tatoyan Foundation", 2023, available at <https://tatoyanfoundation.org/adrbejani-petakan-sharunakvogh-hayatyac-khaghakhakanuthyunch-hayeri-nkatmamb-adrbejani-vayraguthyunnereh-angleren/?lang=en>

<sup>34</sup> The ongoing Armenophobic state policy of Azerbaijan: the nexus of Azerbaijan's atrocities against ethnic Armenians, Page 3, Center for Law and Justice "Tatoyan Foundation", 2023, available at <https://tatoyanfoundation.org/adrbejani-petakan-sharunakvogh-hayatyac-khaghakhakanuthyunch-hayeri-nkatmamb-adrbejani-vayraguthyunnereh-angleren/?lang=en>

<sup>35</sup> The ongoing Armenophobic state policy of Azerbaijan: the nexus of Azerbaijan's atrocities against ethnic Armenians, Page 6, Center for Law and Justice "Tatoyan Foundation", 2023, available at <https://tatoyanfoundation.org/adrbejani-petakan-sharunakvogh-hayatyac-khaghakhakanuthyunch-hayeri-nkatmamb-adrbejani-vayraguthyunnereh-angleren/?lang=en>

- Azerbaijan to serve the remainder of his sentence 8 years later, he was released, pardoned, given the status of a national hero, promoted, and awarded back salary and housing.<sup>36</sup>
63. Another example is the Military Trophy Park in Baku, where wax figures of Armenian military servicemen are depicted demeaningly, meant to increase humiliation. Even the European Commissioner for Human Rights commented on the wax mannequins depicting dead and dying Armenians, finding it “highly disturbing and humiliating.”<sup>37</sup>
  64. There is also the example of the “Azerbaijan 2020” postage stamp. “The Ministry of Transport, Communication and High Technologies of Azerbaijan, inspired by disinfection methods against the COVID-19 global pandemic, issued a new postage stamp that constitutes open propaganda of the extermination of the Armenians of Artsakh. The stamp depicts a man in an ‘exterminator’ uniform ‘disinfecting’ Artsakh from Armenians, openly presenting them as ‘infection,’ or ‘dirt.’”<sup>38</sup>
  65. “For years, especially during and since the 44-Day-War, the Azerbaijani authorities have openly spoken occupying the sovereign territories of Armenia and have taken concrete steps in this direction.”<sup>39</sup>
  66. “...Ilham Aliyev delivered a speech to the ‘Western Azerbaijan’ group at the end of 2022 (<https://president.az/en/articles/view/58470>) and he made claims on Armenian territory and declared that ‘No one can influence us. There may be some phone calls and some statements, but we do not need to pay attention. We take those phone calls simply out of political courtesy, but this will not change our position.’ This is also a confession directly from the mouth of Aliyev of his insincerity in negotiations and Western calls for peace or resolution.”<sup>40</sup>
  67. The names and locations of several communities in Syunik, Armenia have been referred to with Azerbaijani names and in the Azerbaijani language.<sup>41</sup>
  68. The video game “Turkish indie shooter Marron Berets: 2030” released on 19 May 2022, simulates forces in Turkey and Armenia. “According to the rules of the game Turkish special forces must brutally kill Armenians...”<sup>42</sup>

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<sup>36</sup> The ongoing Armenophobic state policy of Azerbaijan: the nexus of Azerbaijan’s atrocities against ethnic Armenians, Page 7, Center for Law and Justice “Tatoyan Foundation”, 2023, available at <https://tatoyanfoundation.org/adrbejani-petakan-sharunakvogh-hayatyac-khaghakhakanuthyunch-hayeri-nkatmamb-adrbejani-vayraguthyunnerah-angleren/?lang=en>

<sup>37</sup> The ongoing Armenophobic state policy of Azerbaijan: the nexus of Azerbaijan’s atrocities against ethnic Armenians, Page 7, Center for Law and Justice “Tatoyan Foundation”, 2023, available at <https://tatoyanfoundation.org/adrbejani-petakan-sharunakvogh-hayatyac-khaghakhakanuthyunch-hayeri-nkatmamb-adrbejani-vayraguthyunnerah-angleren/?lang=en>

<sup>38</sup> The ongoing Armenophobic state policy of Azerbaijan: the nexus of Azerbaijan’s atrocities against ethnic Armenians, Page 7, Center for Law and Justice “Tatoyan Foundation”, 2023, available at <https://tatoyanfoundation.org/adrbejani-petakan-sharunakvogh-hayatyac-khaghakhakanuthyunch-hayeri-nkatmamb-adrbejani-vayraguthyunnerah-angleren/?lang=en>

<sup>39</sup> The ongoing Armenophobic state policy of Azerbaijan: the nexus of Azerbaijan’s atrocities against ethnic Armenians, Page 18, Center for Law and Justice “Tatoyan Foundation”, 2023, available at <https://tatoyanfoundation.org/adrbejani-petakan-sharunakvogh-hayatyac-khaghakhakanuthyunch-hayeri-nkatmamb-adrbejani-vayraguthyunnerah-angleren/?lang=en>

<sup>40</sup> The ongoing Armenophobic state policy of Azerbaijan: the nexus of Azerbaijan’s atrocities against ethnic Armenians, Page 18, Center for Law and Justice “Tatoyan Foundation”, 2023, available at <https://tatoyanfoundation.org/adrbejani-petakan-sharunakvogh-hayatyac-khaghakhakanuthyunch-hayeri-nkatmamb-adrbejani-vayraguthyunnerah-angleren/?lang=en>

<sup>41</sup> The ongoing Armenophobic state policy of Azerbaijan: the nexus of Azerbaijan’s atrocities against ethnic Armenians, Page 22, Center for Law and Justice “Tatoyan Foundation”, 2023, available at <https://tatoyanfoundation.org/adrbejani-petakan-sharunakvogh-hayatyac-khaghakhakanuthyunch-hayeri-nkatmamb-adrbejani-vayraguthyunnerah-angleren/?lang=en>

<sup>42</sup> The ongoing Armenophobic state policy of Azerbaijan: the nexus of Azerbaijan’s atrocities against ethnic Armenians, Page 23, Center for Law and Justice “Tatoyan Foundation”, 2023, available at <https://tatoyanfoundation.org/adrbejani-petakan-sharunakvogh-hayatyac-khaghakhakanuthyunch-hayeri-nkatmamb-adrbejani-vayraguthyunnerah-angleren/?lang=en>

69. The torture and mutilation of Armenian female military personnel who were killed between 13-14 September 2022, and general torture and inhuman treatment of Armenian military personnel demonstrate an Armenophobic trend.<sup>43</sup>
70. The mental suffering of family members of Armenian military personnel as mentioned above also demonstrates such a pattern.
71. The extrajudicial executions of Armenian servicemen in a video disseminated on 11 October 2022 (having taken place on 13-14 September 2022 in Ishkhanasar) also continues this policy.<sup>44</sup>
72. The special forces of Azerbaijani Armed Forces direct engagement in the torture and execution of Armenian military personnel demonstrates specific behavior towards Armenians based on their ethnicity.<sup>45</sup>
73. The destruction of Armenian cultural heritage also demonstrates a policy of Armenophobia.
74. In conclusion the enforced disappearances above are a systematic continuation of such Armenophobic state policy.

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<sup>43</sup> The ongoing Armenophobic state policy of Azerbaijan: the nexus of Azerbaijan's atrocities against ethnic Armenians, Page 24-25, Center for Law and Justice "Tatoyan Foundation", 2023, available at <https://tatoyanfoundation.org/adrbejani-petakan-sharunakvogh-hayatyac-khaghakhakanuthyunch-hayeri-nkatmamb-adrbejani-vayraguthyunnereh-angleren/?lang=en>

<sup>44</sup> The ongoing Armenophobic state policy of Azerbaijan: the nexus of Azerbaijan's atrocities against ethnic Armenians, Page 32, Center for Law and Justice "Tatoyan Foundation", 2023, available at <https://tatoyanfoundation.org/adrbejani-petakan-sharunakvogh-hayatyac-khaghakhakanuthyunch-hayeri-nkatmamb-adrbejani-vayraguthyunnereh-angleren/?lang=en>

<sup>45</sup> The ongoing Armenophobic state policy of Azerbaijan: the nexus of Azerbaijan's atrocities against ethnic Armenians, Page 35, Center for Law and Justice "Tatoyan Foundation", 2023, available at <https://tatoyanfoundation.org/adrbejani-petakan-sharunakvogh-hayatyac-khaghakhakanuthyunch-hayeri-nkatmamb-adrbejani-vayraguthyunnereh-angleren/?lang=en>