



**Association Française des Avocats et Juristes Arméniens
(AFAJA)**

**ALTERNATIVE REPORT TO THE COMMITTEE ON THE
ELIMINATION OF RACIAL DISCRIMINATION (CERD)**

FOR REVIEW OF THE PERIODIC REPORT OF AZERBAIJAN

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The "**Association Française des Avocats et Juristes Arméniens**" (AFAJA), based in Paris, France, was created in 1993 to provide a forum for French lawyers of Armenian origin to meet and address the legal concerns of the Armenian community in France, Armenia and other countries of the Diaspora. With the creation of an independent Republic of Armenia, the Association undertook the task of helping to build and encourage the growth of democratic institutions in Armenia.

AFAJA is officially registered with the Paris Bar Association. As a major player in the protection of human rights, AFAJA is an active member of the life of the Paris Bar Association, maintaining for decades a permanent institutional link with the President and the Vice President of the Paris Bar Association, in particular through its role in the Paris-Armenia Commission of the Paris Bar Association, as well as with the members of the Council of the Paris Bar Association and the presidents of the commissions of the Paris Bar Association.

AFAJA also plays an important role in the institutional life of the Armenian Community of France and in the relations between Armenia and France as they require legal expertise.

AFAJA brings together lawyers, notaries, bailiffs and in-house counsel of Armenian origin who are active not only in the field of human rights, but also in most areas of business law, with a high level of specialization that AFAJA strongly encourages. Indeed, the work carried out by AFAJA, which is done on a pro bono basis, requires a high level of specialization and it is with this in mind that its active members participate in this work.

AFAJA is a democratic organization. Its active or dues-paying members support it and give it direction. They approve its statutes, elect a Board of Directors, etc.

The Association is committed to the Paris Bar, the Armenian community and its members to promote, in France and abroad, the protection of human rights and the construction of an ever more just and efficient society based on the rule of law, whether in the field of human rights or business law.

INTRODUCTION

1. The Association Française des Avocats et Juristes Arméniens (AFAJA) submits this report (the “Report”) in advance of the Committee on the Elimination of Racial Discrimination’s (hereinafter “CERD” or the “Committee”) review of the periodic report of Azerbaijan at the 107th session. As Azerbaijan’s country review has been postponed, and as there have been new incidents of anti-Armenian speech and racial discrimination since then, this Report seeks to fill the gaps between that report’s submission in December 2020 and today’s submission, so that the CERD has the most complete information to date.
2. This Report details Azerbaijan’s continual efforts to systematically spread fear among the population of Nagorno-Karabakh and to destabilize the region through its rhetoric and actions. The Report demonstrates that Azerbaijan has not eliminated the problems highlighted in the CERD’s Concluding Observations of 2016 and has not implemented the CERD’s recommendations but has instead reinforced policies of racial hatred and discrimination against ethnic Armenians.
3. This Report also focuses on Azerbaijan’s policies of systematic hinderance of the return of Armenian prisoners of war (POW) and civilians currently in Azerbaijani custody. Despite several international human rights organizations, including the CERD, having confirmed Azerbaijan’s policies as “concerning” on numerous occasions, Azerbaijan not only has failed to end these policies and practices but rather has exacerbated them.
4. Paragraph 8 of the Trilateral Statement unequivocally provides that “The Parties shall exchange prisoners of war, hostages and other detained persons, and dead bodies.”¹ While Armenia has fully complied with the above-referenced provision of the Trilateral Statement, Azerbaijan still continues to illegally hold and refuses to allow the return of close to 200²

¹ See Annex to S/2020/1104 (11 November 2020); see also: <https://digitallibrary.un.org/record/3891171?ln=en>.

² The exact number is unknown as Azerbaijan refuses to release the names of all the captives in their custody that have been deprived of their liberty for reasons related to the conflict.

individuals that have been deprived of their liberty for reasons related to the Nagorno-Karabakh conflict.

5. There are no Azerbaijani captives in Armenian custody. This is a fact that has been confirmed by Russian Foreign Minister Sergei Lavrov on 18 January 2021, when he stated that “Armenia has returned all Azeri prisoners who were captured during the last year’s conflict over the Nagorno-Karabagh region, but the process with Armenian prisoners has been help up.”³

6. This Report is organized into the following IV sections:

- I. Azerbaijan’s hinderance of the return of Armenian POWs and civilians
- II. Torture, execution, humiliation, and inhumane treatment of Armenian POWs and civilians by Azerbaijani Armed Forces
- III. Testimony by repatriated Armenian POWs and civilians
- IV. Recommendations

I. Azerbaijan’s hinderance of the return of Armenian POWs and civilians

7. According to a Press Release issued by the European Court of Human Rights (“ECHR”) on 16 March 2021, the ECHR (sitting as a Chamber of seven judges) has decided not to apply Rule 39 and in fact has suspended its examination under Rule 39 of the complaints lodged by the Government of Azerbaijan, relating to Azerbaijanis allegedly captured by Armenia, because those captives were determined by the Court to have either repatriated or were not confirmed as captives.⁴

³ Reuters, Russia says all Azeri captives returned under Karabakh deal, 18 January 2021, <https://www.reuters.com/article/us-armenia-azerbaijan-prisoners-russia-idUSKBN29N1SQ>.

⁴ See ECHR 086 (2021), 16 March 2021, <https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-6965126-9374600&filena me=Armenia%20v.%20Azerbaijan%20and%20alleged%20captives%3A%20notification%20to%20the%20Committee%20of%20Ministers%20of%20interim%20measures%20indicated%20.pdf>.

8. According to the same ECHR Press Release however, between 13 October 2020 and 5 March 2021, ECHR has applied Rule 39 interim measures concerning 229 of the 249 Armenians captured by Azerbaijan that were the subject of complaints lodged by the Government of Armenia against the Government of Azerbaijan within the framework of the inter-State application *Armenia v. Azerbaijan* (no. 42521/20) and by relatives of captives in 62 individual applications.⁵
9. As part of the Rule 39 interim measures, the Government of Azerbaijan was “invited 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.”⁶
10. Because of “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”, on 9 March 2021, ECHR decided to notify the Committee of Ministers, pursuant to Rule 39 § 2 of the Rules of Court, of the interim measures relating to the Armenians captured by Azerbaijan.⁷
11. According to the ECHR Press Release, of the 249 Armenians: 58 “had been repatriated between December 2020 and February 2021”; 7 “had been found deceased”; “72 are still in Azerbaijan, their captivity and detention having been acknowledged by the Azerbaijani Government”; and “in regard to the remaining 112 individuals, the Azerbaijani Government claim that they have not been able to identify them among their captives.”⁸
12. Several international organizations, including Human Rights Watch, have stressed that Azerbaijan continues to violate international law and its obligations under the Trilateral

⁵ *Id.* With respect to the other 20 individuals, “the examination under Rule 39 was suspended or no decision was taken because the individuals concerned had been repatriated in the meantime.” *Id.*; *see also* *Armenia v. Azerbaijan* (no. 42521/20), Eur. Ct. H.R. (2020).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

Statement by not only refusing to return POWs and civilian captives to Armenia but also by continuing to subject them to cruel and degrading treatment and torture.⁹ There is even evidence that some captives confirmed to be in Azerbaijani custody have been found dead.¹⁰

13. Azerbaijan's failure to comply with paragraph 8 of the Trilateral Statement and continued subjection of POWs and detained civilians to deliberate executions, torture, inhumane treatment, and even beheadings is clearly intended to spread fear among the population of Nagorno-Karabakh and to further destabilize the region. If there is any doubt as to Azerbaijan's intentions, one only needs to look at images from the "War Trophy Park" that opened in Baku on 12 April 2021 displaying, among other things, cartoonist wax mannequins of Armenian servicemen in chain, dead, or dying, which deliberately inflict suffering on the relatives of the dead soldiers, missing people, prisoners of war and other captives.

14. Thus, in response the Committee's joint statement issued on 1 February 2021, calling, among other things, "for the prompt release of prisoners of war and other captives from the recent Nagorno-Karabakh conflict,"¹¹ we welcome your intervention and applaud your collective efforts to facilitate the return of the captives and to hold the Governments of Armenia and of Azerbaijan accountable for violations of relevant international norms and standards that are applicable to the issues brought forth to each of you. However, we fear that your joint statement calling for "both parties" to complete the "all for all exchange" is only emboldening Azerbaijan, the sole perpetrator in this particular case, as Armenia has fully complied and repatriated all Azerbaijani captives in Armenian custody, while the other party – Azerbaijan – is not only blatantly defying such calls by refusing to repatriate captives in its custody, but continues to subject them to cruel and degrading treatment and torture.

⁹ Tanya Lokshina, *Survivors of unlawful detention in Nagorno-Karabakh speak out about war crimes*, Human Rights Watch, 12 March 2021, <https://www.hrw.org/news/2021/03/12/survivors-unlawfuldetention-nagorno-karabakh-speak-out-about-war-crimes>; *Azerbaijan: Armenian POWs Abused in Custody*, Human Rights Watch, 19 March 2021, <https://www.hrw.org/news/2021/03/19/azerbaijanarmenian-pows-abused-custody>.

¹⁰ *Azerbaijanis murder 44-year-old Armenian captive and bury him in Karabakh's Hadrut*, News.am 19 March 2021, <https://news.am/eng/news/624334.html>.

¹¹ OHCHR, *Nagorno-Karabakh: captives must be released – UN experts*, 1 February 2021, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26702&LangID=E>.

15. In summary, while all Azerbaijani captives in Armenian custody have been fully repatriated, Azerbaijan continues to: 1) violate its obligations under the Trilateral Statement; 2) defy the interim measure imposed by ECHR; 3) ignore all calls to repatriate Armenian captives in Azerbaijani custody; and 4) continues to commit numerous violations of international law by detaining and torturing captives that have been deprived of their liberty for reasons related to the conflict by facetiously labeling them as “terrorist.”

II. Torture, execution, humiliation, and inhumane treatment of Armenian POWs and civilians by Azerbaijani Armed Forces

16. We recognize that you may have already been provided with some of the below information from various sources, including the Government of Armenia, relating to the torture and inhumane treatment of Armenian POWs and civilians. In the interest of thoroughness and in an effort to assist you in fulfilling your mandate, we respectfully submit for your review and consideration information we have compiled from various sources.

17. By way of introduction, it should be noted that these acts are in flagrant violation of international humanitarian law or the law of armed conflict, which obliges the parties to an international armed conflict to treat prisoners of war humanely in all circumstances. The Third Geneva Convention, ratified both by Armenia and Azerbaijan provides that “the Detaining Power is responsible for the treatment given them.” (Article 12). As such, “Detaining Power is responsible for the wrongful acts of all its organs, be they military or civilian, as well as for the unlawful behaviour of any person or entity formally empowered to exercise elements of governmental authority, or acting de facto on the instructions of, or under the direction or control of, the state, or even for violations committed by private persons or groups that the captor acknowledges and adopts as its own conduct”.¹²

¹² Andrew Clapham, Paola Gaeta, Marco Sassòli, *The 1949 Geneva Conventions: A Commentary* [Commentary to the Third Convention, Oxford, at. 981, § 12

18. The Convention protects by virtue of Article 13, prisoners of war "against acts of violence or intimidation and against insults and public curiosity." This is not a discretion, but an "absolute obligation" of the Detaining state.¹³ Prisoners of war are entitled, 'in all circumstances', to respect for their persons and honour (Article 14). Besides, "no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest." Finally, article 109 of the Third Geneva Convention provides that "Parties to the conflict are bound to send back to their own country, regardless of number or rank, seriously wounded and seriously sick prisoners of war, after having cared for them until they are fit to travel, in accordance with the first paragraph of the following Article"
19. Since 27 September 2020, the Azerbaijani Armed Forces have committed numerous crimes in violation of the Third Geneva Convention. A portion of those crimes were recorded by the perpetrators themselves and published as "heroic deeds" on social networks, including Telegram, Tik-Tok, Twitter and Instagram. The circulated photos and videos were of captured ethnic Armenian POWs and civilians. These videos and pictures show three groups of crimes in which the: 1) Armenian protected persons were killed; 2) Armenian protected persons were tortured and humiliated and; 3) dead bodies of Armenians were mutilated. The Human Rights Defenders of Armenia and Artsakh have completed a total of six reports on atrocities committed by the Azerbaijani Armed Forces against captured ethnic Armenian POWs and civilians.¹⁴
20. One of the first instances of the gruesome acts committed by Azerbaijani soldiers targeting Armenian soldiers was of the image of an Azerbaijani soldier holding the head of a decapitated

¹³ Andrew Clapham, Paola Gaeta, Marco Sassòli, *The 1949 Geneva Conventions: A Commentary* [Commentary to the Third Convention, Oxford, at. 981, § 17

¹⁴ See, The Human Rights Ombudsman of Artsakh "Sixth Ad Hoc Report On Torture and Inhuman Treatment of Members of Artsakh Defense Army and Captured Armenians by Azerbaijani Armed Forces" (From Dec. 2 - Dec. 16, 2020) (available upon request; these reports are not disseminated publicly, given the disturbing images and content they display).

Armenian soldier.¹⁵ Posing with severed heads and corpses is a serious ill-treatment of a person protected by international humanitarian law. Such photographs clearly show the individuals in the picture mocking the deceased, demeaning them in their deadly honor. The individuals shown in the pictures or videos spread these images on social networks to make the desecration of corpses available to the public and to be celebrated as heroes in their own ranks and among the civilian population.

21. Several videos were also published showing Azerbaijani soldiers willfully killing protected persons. In a Twitter video, a defenseless, injured Armenian soldier (hors de combat) was mercilessly killed with a headshot.¹⁶ In another video, an Azerbaijani soldier asks another combatant to record him and to watch. He then shoots first once and – after being asked to do so by the other soldiers – then shoots approximately another twenty times at a defenseless Armenian soldier.¹⁷ In yet another video, Azerbaijani soldiers execute two ethnic Armenians, one of them an elderly non-combatant, who are bound and draped in the Armenian flag.¹⁸
22. Other published videos show the willful execution of civilians by Azerbaijani soldiers. One of these videos shows an elderly Armenian pleading for mercy in Azerbaijani. Meanwhile, an Azerbaijani soldier grabs another soldier's knife and starts cutting the older man's throat.¹⁹ Another video shows an Azerbaijani soldier publicly beheading a civilian and placing the

¹⁵ Marianna Karapetyan, *Azerbaijani military forces beheaded an Armenian soldier - Human Rights Defender*, Public Radio of Armenia, 19 October 2020, <https://en.armradio.am/2020/10/19/azerbajanimilitary-forces-beheaded-an-armenian-soldier-human-rights-defender/>

¹⁶ **Warning: Graphic and Disturbing Content:** Operasyon, Telegram, https://dearjv.de/wpcontent/uploads/2021/03/Anhang-9_-Toetung.mov

¹⁷ **Warning: Graphic and Disturbing Content:** Kolorit_18, Telegram, 15 November 2020, https://t.me/kolorit_18/392

¹⁸ Nick Waters, *An Execution in Hadrut*, Bellingcat, 15 October 2020, <https://www.bellingcat.com/news/rest-of-world/2020/10/15/an-execution-in-hadrut-karabakh/>;

Atlantic Council's Digital Forensic Laboratory, *Evidence emerges of Azeri soldiers executing Armenian POWs*, Medium, 15 October 2020, <https://medium.com/dfrlab/evidence-emerges-of-azeri-soldiersexecuting-armenian-pows-bf7b28a95f16>.

¹⁹ Andrew Roth, *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-fromnagorno-karabakh-war-identified>.

severed head on a pig's body.²⁰ Several other photos and videos were also published showing the execution of the captured POWs and civilians.

23. Numerous videos were also circulated where Armenian POWs and civilians were ill-treated, humiliated, beaten, and tortured.²¹ Most of the videos show civilians and POWs being forced to say on camera that “Karabakh is Azerbaijan.”²² This is mainly in response to the statement made by Prime Minister Nikol Pashinyan that: “Artsakh is Armenia.”²³ The forced statements attack the dignity and honor of speaker because they were unable to “defend” themselves and to “protect” the Republic of Artsakh’s right to self-determination. For an Armenian man, the acceptance of defeat is portrayed as self-humiliation in the sense of weakness and lack of masculinity. Such videos and its dissemination on social networks create another dimension in which not only one person is tortured but the families of these POWs, civilians and the whole nation are as well, because it is meant to show that Armenian soldiers are so weak that they accept their defeat and are willing to say so in order to save themselves.

24. The crimes described above cover only a small fraction of the atrocities committed during and after the recent Nagorno-Karabakh conflict. Such recordings and actions of the Azerbaijani soldiers raises the question and serious concern as to what has happened and is happening to the Armenian POWs and the civilians that are still held in captivity.

²⁰ *Id.*

²¹ See, *Azerbaijan: Armenian Prisoners of War Badly Mistreated*, Human Rights Watch, 2 December 2020, <https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated>; See, *Azerbaijan: Armenian POWs Abused in Custody*, Human Rights Watch, 19 March 2021, <https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody>

²² Joshua Kucera, *Pashinyan calls for unification between Armenia and Karabakh*, Eurasianet, 6 August 2019, <https://eurasianet.org/pashinyan-calls-for-unification-between-armenia-and-karabakh>

²³ Kolorit_18, Telegram, 23 November 2020, https://t.me/kolorit_18/560; Kolorit_18, Telegram, 24 November 2020, https://t.me/kolorit_18/587; Kolorit_18, Telegram, 22 November 2020, https://t.me/kolorit_18/546

III. Testimony by repatriated Armenian POWs and civilians their treatment while held in captivity

25. Seven months after the 9 November 2020 ceasefire signed by the President of the Republic of Azerbaijan, the Prime Minister of the Republic of Armenia and the President of the Russian Federation (the “Trilateral Statement”), Azerbaijan continues to illegally hold and refuses to allow the return of some 2024 Armenian prisoners of war (POWs) and civilians currently in its custody. In fact, a video conversation between Recep Tayyip Erdogan’s wife, Emine Erdogan, and Aliyev, is evidence that many Armenian POWs and captives are illegally held as hostages in Azerbaijan to be used and traded as political bargaining chips.²⁵
26. Instead of following international law and fully complying with paragraph 8²⁶ of the Trilateral Statement, the Azerbaijani government insists on labeling POWs as terrorists²⁷ and is now conducting sham legal proceedings.
27. It is without a question that the Armenian soldiers currently in Azerbaijani custody are POWs, as are the soldiers that were captured after the signing of the Trilateral Statement. Ceasefire agreements, like the Trilateral Statement, temporarily stop a war, but the ultimate determination as to whether the hostilities have ceased depends on the actual situation on the ground. With the continued aggression by the Azerbaijani Armed Forces, such as invading the territory of Armenia⁵ and the continued subjection of torture and mental abuses towards Armenian soldiers and civilians,²⁸ there has been no cessation of hostilities. Thus, all the Armenian soldiers in Azerbaijani captivity are classified as POWs and must be protected under

²⁴ The precise number of the remaining POWs and captives is difficult to ascertain at the current moment due to the lack of cooperation from the Azerbaijani government.

²⁵ PanArmenian, *Erdogan’s Wife Tells Aliyev to Obtain Minefield Maps in Exchange for POWs*, Eurasiareview (June 17, 2021), <https://www.eurasiareview.com/17062021-erdogans-wife-tells-aliyev-to-obtain-minefield-maps-in-exchange-for-pows/>.

²⁶ See Annex to S/2020/1104 (Nov. 11, 2020); see also: <https://digitallibrary.un.org/record/3891171?In=en>

²⁷ Asbarez Staff, *Aliyev Calls Armenian POWs ‘Terrorists’*; Human Rights Defender Urges their Return to Armenia, Asbarez (Jan. 2, 2021), <https://asbarez.com/aliyev-calls-armenian-pows-terrorists-human-rights-defender-urges-their-return-to-armenia/>

²⁸ Azerbaijan: Armenian POWs Abused in Custody, Human Rights Watch (Mar. 19, 2021, 8:00 A.M.), <https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody>

international law as POWs, since they are members of the armed forces of one of the parties that have fallen into the hands of an adverse party during the times of hostility.

28. As you know, under customary international humanitarian law, POWs cannot be prosecuted for participating in hostilities but may be prosecuted for possible war crimes. Azerbaijan, however, has begun to conduct criminal proceedings against 40 POWs for their participation in the war and falsely accuses a Lebanese-Armenian civilian of terrorism.
29. VE is a dual Lebanese-Armenian civilian, who was captured by the Azerbaijani Armed Forces on 10 November 2020. In 2015, he obtained his Armenian citizenship and permanently moved to Armenia in 2019. During the 2020 Artsakh War, Mr. E volunteered to join the Armenian Defense Army, but was never deployed and spent most of the war in Yerevan. Following the announcement of the Trilateral Statement, not aware that Shushi was now occupied by Azerbaijan, Mr. E, along with MN, visited Shushi to retrieve their belongings. They were stopped by Azerbaijani soldiers and were captured along with other ethnic Armenians.²⁹
30. After four months of captivity, Ms. N was released. Mr. E however has been tried and sentenced to 20 years in prison on the outrageous grounds that he is a terrorist and a mercenary,³⁰ based on forced confessions that were obtained through obvious means of torture.³¹ Mr. E was only afforded a short trial, where he had no access to lawyers chosen by him, substantive evidence was not presented against him by the Azerbaijani state prosecutor, and Mr. E was only afforded a short trial. Mr. E continued to be unrepresented by competent

²⁹ Contributor, *Exclusive: Armenian POW VE's Daughter Opens Up About Letters from Her Father*, Asbarez (June 11, 2021), <https://asbarez.com/exclusive-armenian-pow-vicken-euljekjians-daughter-opens-up-about-letters-from-her-father/>

³⁰ *Trial of Lebanese mercenary accused of terrorism against Azerbaijan resumes*, Azerbaijan25 (June 11, 2021, 10:52 A.M.), <https://www.azerbaycan24.com/en/trial-of-lebanese-mercenary-accused-of-terrorism-against-azerbaijan-resumes/>

³¹ Artem Yerkanyan, *Lebanese Armenian will be tried as a mercenary: Baku prepares a mirror response to Yerevan*, Sputnik (May 11, 2021, 9:57 P.M.), https://m.ru.armeniasputnik.am/politics/20210511/27507510/Livanskogo-armyanina-budut-sudit-kak-naemnika-Baku-gotovit-zerkalnyy-otvetit-Erevanu.html?mobile_return=no

counsel during his appeal.³² Such a trial is a gross violation of Mr. E's rights and international law and must be condemned and redressed immediately.

31. Following Mr. E's trial, illegal trial proceedings of 14 Armenian POWs³³ began on 25 June 2021. The POWs being tried include Armenian soldiers that were captured in the Armenian controlled territories of Hadrut after the signing of the Trilateral Statement.³⁴ This was a clear violation of the truce agreement since the territories were not agreed to be handed to Azerbaijan nor were they conquered during the war. The 14 POWs are falsely accused of illegally crossing into the territory of Azerbaijan to take up positions in a forested area in the northwestern part of Hadrut.³⁵ A separate illegal trial proceeding will also be brought on 1 July 2021 against additional 13 Armenian POWs³⁶ that were captured along with the previously mentioned 14 POWs.³⁷ No other information regarding these illegal trials is currently available to the public.

32. The trials of the 27 Armenian POWs and Mr. E are a gross violation of international humanitarian law, as well as the Third Geneva Convention and Rome Statute of the International Criminal Court.

33. Recently, as reported by two Human Rights Watch reports, new evidence has emerged of the torture and inhuman treatment of Armenian POWs and civilians by Azerbaijani forces.

34. Several cases have documented that Azerbaijani soldiers have used violence in order to detain civilians, who were later tortured and subjected to inhuman and degrading conditions during

³² Contributor, *Azerbaijan Sentences Lebanese-Armenian VE to 20 Years*, Asbarez (June 15, 2021), <https://asbarez.com/azerbaijan-sentences-lebanese-armenian-vicken-euljekjian-to-20-years/>.

³³ The 14 POWs are: GS, HA, AB, GG, KS, VA, GA, SE, AP, RS, AM, MM, EM, and YK.

³⁴ RFE/RL's Armenian Service, *Dozens of Armenian Soldiers 'Captured' in Nagorno Karabakh – Kharabakh Raid*, Radio Free Europe/Radio Liberty (Dec. 16, 2020, 6:01 P.M.), <https://www.rferl.org/a/dozens-of-armenian-soldiers-captured-in-nagorno-karabakh-raid/31004394.html>

³⁵ Asbarez Staff, *Trial of 14 Armenian POWs Begins in Azerbaijan*, Asbarez (June 16, 2021), <https://asbarez.com/sham-trial-of-14-armenian-pows-begins-in-azerbaijan/#:~:text=The%20trial%20of%2014%20Armenian,of%20the%20Hadrut%20in%20the>

³⁶ The 13 POWs are: YA, KA, TA, GG, HM, GM, RG, VA, AS, AM, GS and EG.

³⁷ *Date of next court hearing in Baku on case of Armenian terrorist group announced (PHOTO)*, Trend.az (June 21, 2021, 11:27 A.M.), <https://en.trend.az/azerbaijan/politics/3442972.html>

their detention. For example, ES, 79, and his wife AS, 72, were detained by Azerbaijani soldiers at the end of October. Before they arrived at a pretrial detention facility, Eduard was beaten by Azerbaijani soldiers for “he had surely taken part in the war 30 years earlier [during the first war] and this was his punishment for killing Azerbaijani people back then.”³⁸ Almost two months later, while still in detention, A was told that E had died in his sleep, but when she viewed his body, she noted that his “face was black and blue.”³⁹ According to E’s death certificate, issued by Armenian authorities following an autopsy, “the cause of death is...blunt brain injury, brain swelling, and acute disorder of vital brain function.”⁴⁰

35. It is without a question that the Armenian soldiers currently in Azerbaijani custody are POWs, as are the soldiers that were captured after the signing of the Trilateral Statement. Ceasefire agreements, like the Trilateral Statement, temporarily stop a war, but the ultimate determination as to whether the hostilities have ceased depends on the actual situation on the ground. With the continued aggression by the Azerbaijani Armed Forces, such as invading the territory of Armenia⁵ and the continued subjection of torture and mental abuses towards Armenian soldiers and civilians,⁶ there has been no cessation of hostilities. Thus, all the Armenian soldiers in Azerbaijani captivity are classified as POWs and must be protected under international law as POWs, since they are members of the armed forces of one of the parties that have fallen into the hands of an adverse party during the times of hostility.

36. In another example, SG, 71, and his son AG, 44, were also detained by Azerbaijani soldiers in October. In December 2020, Sasha returned to Armenia where a medical examination revealed that he had scars on his wrists and ankles, from being tightly bound with wire, on the back of his head, where a soldier hit him several times with a rifle butt, and on his back, from being poked with a metal rod.⁴¹ As for A, his family had no news of his whereabouts or condition, except for two videos that circulated on social media showing A saying that “Karabakh is Azerbaijan.”⁴² In January 2021, after the Armenian government requested information on A’s

³⁸ Tanya Lokshina, *Survivors of unlawful detention in Nagorno-Karabakh speak out about war crimes*, Human Rights Watch, 12 March 2021, <https://www.hrw.org/news/2021/03/12/survivors-unlawfuldetention-nagorno-karabakh-speak-out-about-war-crimes>

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

fate, A's body was found days later in what appeared to be a fresh grave, with "marks of gunshots through [his] forehead and chin."⁴³

37. Numerous cases have also documented that Azerbaijani forces have abused Armenian POWs either when they were captured, during their transfer, or while they were in custody at detention facilities. D, a repatriated POW, has stated that, when he was being transferred to a hospital after he was captured, he was beaten and abused by Azerbaijani soldiers, where one soldier had used a windproof lighter to burn his hands.⁴⁴ T, another repatriated POW, also detailed that he and other Armenian POWs had been beaten for hours after their capture.⁴⁵

38. During their transfer, D, as well as other repatriated POWs, H and L, gave details of the conditions of their custody, where they were handcuffed in a way that would not allow them to lie down, were given no food, and were given water only once a day.⁴⁶ The three POWs also noted that they were beaten several times by Azerbaijani soldiers, where L has emphasized that the beatings were intended as punishment.⁴⁷ He stated that they were not interrogated, but were instead asked by the Azerbaijani soldiers "Why did you join the fighting?" and were blamed for the killings of Azerbaijani civilians during the first war.⁴⁸

39. All four of the above-mentioned POWs were beaten during their weeks of detention at a detention facility in Baku, where Tigran in particular had been tortured with electric shocks. The POWs were also forced to speak on camera that "Nagorno-Karabakh is part of Azerbaijan."⁴⁹

⁴³ *Id.*

⁴⁴ *Azerbaijan: Armenian POWs Abused in Custody*, Human Rights Watch, 19 March 2021, <https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody>

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

40. As previously mentioned, Azerbaijan still holds over 200 POWs and civilians as hostages. Currently, there is no information on their status, except for the fact that Azerbaijan incorrectly labels Armenian POWs as terrorists,⁵⁰ which denies them the protection of the law and places their lives at serious risk.

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IV. Recommendations

41. The Association Française des Avocats et Juristes Arméniens (AFAJA) respectfully requests that the Committee urge the Government of Azerbaijan to:

- i. Immediately, unequivocally, and unconditionally stop the illegal trials of Armenian POWs and civilians, release all remaining captives in its custody that have been deprived of their liberty for reasons related to the Nagorno-Karabakh conflict, in accordance with the Trilateral Statement.
- ii. Provide the Government of Armenia and/or the International Committee of the Red Cross the exact number of Armenian captives in custody that have been deprived of their liberty for reasons related to the Nagorno-Karabakh conflict regardless of their classification by the Government of Azerbaijan as POWs, civilians, or “terrorists”, as well as their names and other relevant personal information.
- iii. Provide specific information on the captives, 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.
- iv. Clarify to the international community that Armenia has already returned all prisoners of war in due time, in compliance with the provisions of the Trilateral Agreement.

42. The Association Française des Avocats et Juristes Arméniens (AFAJA) respectfully requests that the Committee:

⁵⁰Asbarez Staff, *Aliyev Calls Armenian POWs ‘Terrorists’; Human Rights Defender Urges their Return to Armenia*, Asbarez, 2 January 2021, <https://asbarez.com/199618/aliyev-calls-armenian-pows-terrorists-human-rights-defender-urges-their-return-to-armenia/>

- i. Organize an *in situ* mission in Artzakh as soon as possible in order to assess and acknowledge the situation and needs on the ground.