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Peacebuilding and sustaining peace

**Elimination of racism, racial discrimination, xenophobia
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**The responsibility to protect and the prevention of
genocide, war crimes, ethnic cleansing and crimes
against humanity**

**Security Council
Seventy-eighth year**

Letter dated 11 May 2023 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a letter from the Minister for Foreign Affairs of the Republic of Azerbaijan, Jeyhun Bayramov, regarding two Azerbaijani servicemen deprived of their liberty by Armenia as a result of fabricated charges and trial process, in grave violation of international humanitarian law and international human rights law (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda items 30, 58, 66, 68, 73, 84 and 132, and of the Security Council.

(Signed) Yashar Aliyev
Ambassador
Permanent Representative



Annex to the letter dated 11 May 2023 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

I am writing to you with regard to the two Azerbaijani servicemen whom Armenia continues to deprive of liberty and fabricates sham accusations against them.

As you have been informed through the Permanent Mission of the Republic of Azerbaijan to the United Nations on 14 April 2023, the two Azerbaijani servicemen, Mr. Agshin Babirov and Mr. Huseyn Akhundov, lost their way due to bad weather conditions and accidentally crossed into the territory of Armenia. Afterwards, as it became evident from multiple videos and photographs disseminated through Armenian social media resources, the two servicemen were subjected to cruel and degrading treatment, heavily beaten and humiliated.

Instead of taking actions to properly investigate the matter and bring the perpetrators to justice, the Government of Armenia recklessly pursues the aim of exploiting the two captured Azerbaijani servicemen as a bargaining chip. With this purpose, Armenia has initiated sham accusations against these servicemen and fabricated a “trial process” over them.

Thus, on 8 May 2023, an Armenian court declared Mr. Agshin Babirov guilty of unlawfully crossing the border with firearms and ammunition and ordered 11 years, 6 months and 15 days prison sentence against him. The so-called investigation with regard to Mr. Akhundov, who is accused of murdering an Armenian national, continues. Given the sham order on Mr. Babirov, it is quite expected that an even worse “decision” will be followed with respect to him.

Against this background, it is of particular importance to emphasize that the sham investigation and order were accompanied by numerous controversial statements with respect to the Azerbaijani servicemen. Thus, the Armenian Prime Minister stated that Mr. Babirov had allegedly crossed the border to seek asylum, and thus did not want to return to Azerbaijan. This was then followed by statements by high-level Armenian authorities that Mr. Babirov had allegedly requested to be transferred to a third country through the relevant international institution. Yet despite these statements, the Armenian authorities opened a criminal investigation against Mr. Babirov and, through a hasty investigation process, in less than a month found him guilty of illegal crossing the border and ordered his imprisonment.

The same contradictory statements and fabricated criminal case were also followed with regard to Mr. Akhundov. At the outset, the Investigative Commission of Armenia stated that there is no evidence regarding the involvement of the Azerbaijani servicemen with the murder of an Armenian citizen. Later on, the Ministry of Foreign Affairs of Armenia, in its statement on 19 April 2023, already declared the Azerbaijani soldier guilty of the deliberate and brutal murder of an Armenian citizen, even without a court judgment. This constitutes a blatant violation of such a fundamental principle as the presumption of innocence.

With this irresponsible and provocative behaviour, Armenia once again demonstrates its disregard for its legal responsibility under international humanitarian law, and instead, recklessly opts to undermine the fragile process of normalization and reconciliation after a bloody conflict that took thousands of lives from both sides.

It is especially worrisome that Armenia’s conduct with respect to the captured Azerbaijani servicemen is in stark contrast with the actions Azerbaijan demonstrated in similar cases. As a sign of confidence-building measures, the Azerbaijani side immediately and unconditionally released more than 10 Armenian servicemen who,

like the two Azerbaijanis of concern, had lost their way and crossed the state border of Azerbaijan accidentally.

Armenia's manipulations around the case of the two captured Azerbaijanis happen at a time when the international community redoubled its efforts to advance the normalization process between Armenia and Azerbaijan. As a matter of fact, the mentioned so-called decision on the imprisonment of the Azerbaijani servicemen was declared just few days after four-day negotiations hosted in Washington and on the eve of the expected highest-level meetings arranged by the European Union and other regional partners. This discloses that Armenia is not genuinely interested in advancing the peace agenda and its ultimate objective is to stall the peace process, atrophy an already-fragile stable environment and undermine efforts for post-conflict reconciliation.

Armenia's fabricated trial process against the captured Azerbaijani soldiers is a grave violation of international humanitarian law and human rights law under different international instruments, in particular, the right to liberty and prohibition of arbitrary detention, the right to be treated with humanity and with respect for the inherent dignity of the human person under the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, under other human rights treaties, as well as customary international law. This is also a clear representation of state-driven and state-sponsored hate, racism and racial discrimination by Armenia against Azerbaijanis based on ethnic and national identity, being in stark contravention to Armenia's obligations under the Convention on the Elimination of all Forms of Racial Discrimination.

In light of the facts indicated above, I request you to strongly condemn Armenia's violation of humanitarian and human rights law with respect to the captured Azerbaijani soldiers, take all necessary measures to persuade Armenia to honour its relevant obligations, and immediately and unconditionally release both Azerbaijani servicemen in line with applicable norms of international humanitarian law, fully respecting their dignity and life.
