

Urgent Appeal on Arbitrary Arrest and Persecution of Vagif Khachatryan
by Azerbaijan

To:

Ms. Priya Gopalan,
Chair of the United Nations Working Group on Arbitrary Detention

Ms. Alice Jill Edwards,
United Nations Special Rapporteur on torture and other cruel,
inhuman or degrading treatment or punishment

Ms. K.P. Ashwini,
United Nations Special Rapporteur on contemporary forms of racism,
racial discrimination, xenophobia and related intolerance

8 August 2023

On 29 July 2023, Mr. Vagif Khachatryan, a 68-year-old Armenian from Nagorno-Karabakh, was abducted at the checkpoint in the Lachin Corridor by the Azerbaijani security forces while being transferred by the International Committee of the Red Cross (ICRC) to Armenia for medical treatment. Vagif Khachatryan was being transferred to Yerevan to undergo heart surgery. No explanations were given to the family and the ICRC on the grounds of de facto detention. The ICRC stated that such an act was unprecedented in their practice.¹

On the same day, the Office of the Prosecutor General of Azerbaijan announced about the arrest of Vagif Khachatryan and stated that there was an international arrest warrant for him issued by Azerbaijan as a suspect in war crimes against Azerbaijanis allegedly taken place on December 22, 1991 in Meshali village of Khojaly district of Nagorno-Karabakh. According to the statement of the Prosecutor General of Azerbaijan, Mr. Khachatryan is accused of ‘genocide’ and ‘deportation or forced movement of the population’ under the Criminal Code of Azerbaijan.² The Ombudsperson of Armenia, Ms. Anahit Manasyan refuted the information on the existence of any international arrest warrant for Mr. Khachatryan.³

On the photo published by the Azerbaijani authorities, Mr. Vagif Khachatryan looked intimidated and distressed.⁴ Moreover, there was no contact with the family after his arrest.

Detention of a civilian under the protection of the ICRC being transferred for medical treatment is a part of the broader policy of ethnic cleansing of Nagorno-Karabakh from its indigenous

¹ Infocom, Representatives of ICRC visited Vagif Khachatryan, 30 July 2023, https://infocom.am/hy/article/106942?fbclid=IwAR3kiLuiUpw10NVxlGJYit0xFLw4sHpBkYFiwW_PljeUYjpXfHWY2ASfl4o_aem_AXeX_vx7sD_ICjse7f_HAJP7-vsWOwytQSIUT3tWu9z_k7LTK-9LLEhHZw2YH4wEFgM

² Eurasianet, Azerbaijan arrests Nagorno-Karabakh Resident during Medical Evacuation for ‘War Crime’, 31 July 2023, <https://eurasianet.org/azerbaijan-arrests-nagorno-karabakh-resident-during-medical-evacuation-for-war-crime>

³ https://www.ombuds.am/en_us/site/ViewNews/2635

⁴ <https://www.azerbaycan24.com/en/azerbaijani-ombudsperson-visits-vagif-khachatryan/>

population through intimidation and persecution and, among others, along with the use of starvation as a method of warfare through the total blockade of the Lachin Corridor. The President of Azerbaijan not once has threatened the Armenian population of Nagorno-Karabakh with punishment and criminal charges for their fight for independence providing that checkpoint 'should be a lesson' for the Armenians of Nagorno-Karabakh offering 'amnesties' if they 'bend their necks and come themselves or things will develop differently now'.⁵

In this respect, the detention of the person being under the protection of the ICRC sends a clear signal to the whole population of Nagorno-Karabakh that all men can be subjected to arbitrary detention and persecution by the Azerbaijani authorities as the majority had participated in the defence of their homeland. Azerbaijan has a proven poor record of failure to ensure fair trial rights, especially in politically or ethnically motivated trials. The Azerbaijani military court had already sentenced two Armenian prisoners of war, Mr. Lyudvig Mkrtchyan (54 years old) and Mr. Alyosha Khosrovyan (56 years old) to 20-year imprisonment for alleged 'crimes against Azerbaijanis during the First Karabakh War' in sham trials.⁶ Human Rights Watch documented that Lyudvig Mkrtchyan was subject to torture.⁷

There is a real threat to the life and well-being of Vagif Khachatryan under the Azerbaijani control given the practice of torture and extrajudicial executions of ethnic Armenians fallen under the Azerbaijani control both during the conflict and in peace time.⁸ The evidence shows that combatants and civilians fallen under the Azerbaijani control during and in the aftermath of the 2020 hostilities were subjected to the most severe forms of torture and degrading treatment, including resulting in death, arbitrarily executed by the Azerbaijani armed forces or representatives of law enforcement. Moreover, interviewed repatriated prisoners of war stated that elderly persons, presumed of taking part in the First Karabakh war were subjected to more severe torture and ill-treatment.⁹ This coupled with his serious health condition may lead to the loss of life.

All this gives us reasonable grounds to have serious concern that life, security and well-being of Vagif Khachatryan in Azerbaijani detention are endangered. There can be no fair trial for Vagif Khachatryan by the Azerbaijani judiciary given the lack of independent judicial system, and poor record of fundamental human rights.¹⁰ To-date, Azerbaijani authorities have failed to present convincing and grounded evidence of allegations against Mr. Khachatryan. Moreover, the photo published as evidence by the Azerbaijani Prosecutor's Office of purportedly of young Vagif Khachatryan was in fact another man, an ethnic Azerbaijani, in an area controlled by Azerbaijan

⁵ OC Media, Aliyev ready to Offer Amnesty to Stepanakert Authorities if They Dissolve Government and Parliament, 29 May 2023 <https://oc-media.org/aliyev-ready-to-offer-amnesty-to-stepanakert-authorities-if-they-dissolve-government-and-parliament/>

⁶ Institute for Peace and Democracy, 20 years imprisonment imposed on two Armenian Prisoners of War : Analysis of violation of law during 2 Armenian prisoners of war judicial proceedings, https://www.ipd-az.org/two-armenian-prisoners/?fbclid=IwAR29DJ3tmbZ4PprfSmTHZayKryVI7uqOSnu7EAZT_ZPQDZLWuGXiQGm0WWQ_aem_AQAOM88ypYhR451qu1GV98yD8VvBSnIXjNVLxX0u0sEdWvTFrcGOehTdgddD0rTIGXc

⁷ HRW, Azerbaijan: Armenian Prisoners of War Badly Mistreated, <https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated>

⁸ UN CERD, Concluding observations on the combined seventh to ninth periodic reports on Azerbaijan, [https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fCO%2fAZE%2fCO%2f10-12&Lang=en, paras. 4-5; Human Rights Watch, "Azerbaijan: Armenian Prisoners of War Badly Mistreated.", 2 December 2020, <https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated>; Azerbaijan: Armenian POWs Abused in Custody, 19 March 2021, \[https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody#:~:text=\\(Berlin\\)%20%E2%80%93%20Azerbaijani%20forces%20abused,Human%20Rights%20Watch%20said%20today\]\(https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody#:~:text=\(Berlin\)%20%E2%80%93%20Azerbaijani%20forces%20abused,Human%20Rights%20Watch%20said%20today\)](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fCO%2fAZE%2fCO%2f10-12&Lang=en, paras. 4-5; Human Rights Watch,)

⁹ OSF, HCAV, LDPF and PRWB, Human rights violations during the 44-day war in Artsakh, fact-finding report, 2022, p. 109, available at: https://www.osf.am/wp-content/uploads/2022/06/Fact-Finding-Report_FINAL_web.pdf?fbclid=IwAR31CU-VDDByUv6JmriY4pjWid2EevkQVOcPJOZ8NqDWrhEw3JLhwB9m8

¹⁰ Freedom House, Freedom in the World 2023: Azerbaijan, <https://freedomhouse.org/country/azerbaijan/freedom-world/2023>

in May 1994.¹¹ Furthermore, the fabricated case might serve for fuelling the existing state-sponsored Armenophobia and hatred and propaganda against Armenians as reported by international human rights bodies and organizations.¹²

The detention of Mr. Khachatryan is arbitrary at least on two grounds:

1. Azerbaijan's total non-observance of the international norms relating to the right to a fair trial is of serious gravity as demonstrated above, and
2. deprivation of liberty constitutes a violation of international law for reasons of discrimination based on birth; national, ethnic or social origin; and which aims towards or can result in ignoring the equality of human right.

In this respect, we, the undersigned civil society organizations, request you to take all measures under your disposal, including:

- To strongly condemn the reprehensible act of kidnapping a civilian from Nagorno-Karabakh who was under the protection of the ICRC,
- To communicate with the Government of the Republic of Azerbaijan on human rights issues and to prevent the human rights violations of Mr. Vagif Khachatryan,
- To contribute to the cessation of arbitrary detention and immediate repatriation of Mr. Vagif Khachatryan from Azerbaijani custody.

Protection of Rights without Borders NGO

Transparency International Anticorruption Center

Helsinki Citizens' Assembly – Vanadzor

Democracy Development Foundation

Law Development and Protection Foundation

For Equal Rights NGO

Public Journalism Club NGO

¹¹ NK Observer, <https://twitter.com/NKobserver/status/1685859636488839168?s=20>

¹² CERD, Concluding Observations on the combined tenth and twelfth periodic reports on Azerbaijan, CERD/C/AZE/CO/10-12, 30 August 2022, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fAZE%2fCO%2f10-12&Lang=en; ECRI, Report on Azerbaijan, adopted on 28 June 2002, available at <https://rm.coe.int/first-report-on-azerbaijan/16808b5579>; ECRI, Report on Azerbaijan, adopted on 15 December 2006, available in <https://rm.coe.int/ecri-second-report-on-azerbaijanadopted-on-15-december-2006-published/16808b78b4>; ECRI, Report on Azerbaijan (fifth monitoring cycle) Adopted on 17 March 2016, available at <https://rm.coe.int/fourth-report-on-azerbaijan/16808b5581>