

Information presented by the Republic of Azerbaijan for the questionnaire on the “Importance of casualty recording for the promotion and protection of human rights”

One of the tragic consequences of the military aggression of Armenia against Azerbaijan is the issue of missing persons which demands close attention and solution after three decades of suffering of dozens of missing persons' families waiting for the news on whereabouts of their relatives. To date, 3,890 citizens of Azerbaijan have been registered as missing, including 719 civilians as a result of the First Garabagh War. Among the civilians, 71 are children, 267 are women and 326 are older persons. 6 Azerbaijani servicemen have been missing since the Second Garabagh War.

Those reported missing among Azerbaijani population disappeared in circumstances that raise serious concerns as to their well-being, particularly given the atrocities widely practiced by the armed forces of Armenia during the conflict. Unlawful detention, torture and outrages on the personal dignity of detained hostages and POWs were part of systematic policy of collective punishment and discrimination against Azerbaijanis. The State Commission on Prisoners of War, Hostages and Missing Persons of the Republic of Azerbaijan identified that in violation of the norms of international humanitarian law the Azerbaijani hostages and POWs were detained under unbearable conditions, were transferred from one place of detention to another, both in the formerly occupied territories of Azerbaijan and in the territory of Armenia. There was mass annihilation of Azerbaijani POWs and hostages by armed forces of Armenia in 1990s. Many hostages, including children, women and the elderly, were brutally killed, some died later in Armenian captivity as a result of torture, intolerable conditions and diseases. As Armenian side did not conduct casualty recording among Azerbaijanis or did not hand over either death recordings or the corpses of the dead to Azerbaijani side, these persons are still considered missing.

The Azerbaijani civilians and servicemen who managed to survive Armenian captivity confirmed in their testimonies that the bodies of dozens of Azerbaijanis had been transferred in military trucks and buried in mass graves without any recording after being subjected to torture, degrading and other inhumane treatment, and subsequent arbitrary and extrajudicial killings.

The fact that Azerbaijani prisoners of war and civilian captives have themselves been forced to the transfer and bury the bodies in mass graves itself speaks of the gravity and brutality of the crimes committed by the armed forces of Armenia. Along with cruel treatment and torture leading to the death of dozens of POWs and hostages, the perpetrators also committed other serious war crimes by not ensuring that the dead were interred honourably, their death were recorded and graves were respected and properly maintained and marked as stipulated by international humanitarian law.

Amid such growing evidence, the perpetrators continue to enjoy impunity as Armenia has thus far failed to take steps towards the investigation of war crimes and crimes against humanity committed by its agents and subordinates. It is equally disturbing that despite the consistent calls of Azerbaijan, including at the highest level, this country still tries to escape from cooperation in providing information about the casualty recording, locations of burial sites, mass graves or any similar information that would help bring clarity to the whereabouts of the Azerbaijani missing persons. Only after the signing the Trilateral Statement on the secession of hostilities in November 2020 Armenia handed over the mixed remains presumably belonging to 138 Azerbaijanis in 67 bags to the Azerbaijani side without any information on death recording. The Office of the Military Prosecutor of the Republic of Azerbaijan opened 53 forensic molecular-genetic

expertise cases for the identification of these remains. The expertise identified that remains belong to 106 persons. It is heinous that the Armenian side kept this remains for almost three decades, and thus denied the right of the families of the missing persons to learn the fate of their loved ones.

Liberation of the territories of Azerbaijan from occupation in 2020 opened up opportunities for identifying the fate of the missing persons. Azerbaijan has already started exhumation and identification in the unnamed burial sites and mass graves found in the liberated territories. The State Commission on Prisoners of War, Hostages and Missing Persons addressed the relevant bodies conducting reconstruction works in these areas to demonstrate necessary alertness and inform the Commission immediately if such mass burial sites were found in order to conduct professional exhumation of remains.

Azerbaijan cooperates closely with the International Commission of Red Cross (ICRC) for discovering mass graves and conducting exhumation works in burial sites. Modern technologies are used for the search of remains. Since June 2022, a pilot project on exhumation of remains in six burial sites with precise geographical coordinates has been launched. The trainings and seminars have been conducted for the representatives of the relevant bodies participating at search and exhumation works. In total, remains presumably belonging to 118 persons were found in the liberated territories of Azerbaijan, including in the mass graves in Dashalti, Edilli and Farrukh villages from February 2021 to the end of November 2022. Unfortunately, all these people were buried in mass graves and unmarked burial sites without death recording.

In December 2021, Gagik Melkonyan, member of the Armenian parliament and former deputy-minister of defense of Armenia, confessed that he knows the mass burial sites of hundreds of Azerbaijani servicemen interred by the Armenian side without any death recording and marking of gravesites. The Azerbaijani side also possesses as evidence the audio-recording of the command given to the Armenian servicemen in 1993 that demanded killing of all Azerbaijani hostages and POWs detained by the Armenian side and burying them without any recording.

One of the most disturbing facts about the missing Azerbaijanis is that despite the written evidences of being visited and registered by the ICRC, 54 Azerbaijani prisoners of war and hostages, including 6 women were executed arbitrarily by the Armenian side. The remains of only 17 persons out of 54 were returned to Azerbaijan. 12 of them were held and subsequently killed on the territory of Armenia. 33 persons were reported dead, but their remains were not returned, and the fate of 4 persons was not reported at all.

As a country that suffered from the military aggression against its territory, Azerbaijan pays special attention to the adherence to the norms and principles of International Humanitarian Law (IHL) and supports the international efforts in this sphere. Azerbaijan is a party to the Geneva Conventions of 1949 and all core international human rights instruments. The national legislation of Azerbaijan incorporates the fundamental norms and principles of IHL. Several laws and presidential decrees, such as "Law on Protection of Civilians and Provision of Rights of Prisoners of War", "Law on Immortalization of memory of martyrs and concessions to families of martyrs", "Decree on additional measures to improve social and living conditions of families of martyrs" contribute to the realization of the international obligations taken in the sphere of human rights of people affected by war. Azerbaijan is a main sponsor of the UN General

Assembly resolution on “Missing persons” which also notes that casualty recording can contribute to preventing persons from going missing (A/RES/77/220).

Relevant state bodies of Azerbaijan periodically organize trainings on IHL in partnership with the ICRC. In July, September and December 2021, the Ministry of Defense of Azerbaijan and the ICRC held a number of seminars on IHL for the armed forces. During the first six month of 2022, more than thousand Azerbaijani cadets and officers participated at IHL trainings organized by the ICRC in collaboration with the Azerbaijan Red Crescent Society. The Ministry of Defense of Azerbaijan endorsed the “Instruction on application of law of armed conflicts in the Armed Forces of Azerbaijan”. All officers of Azerbaijan’s army were provided with the identification tags and necessary measures have been taken to provide other members of the army with ID tags.

INFORMATION

On the questionnaire regarding the report on the "Importance of casualty recording for the promotion and protection of human rights" to be prepared by the UN High Commissioner for Human Rights

On question 1 (How casualty recording has impacted the promotion and protection of human rights, in particular during situations of armed conflict, post-conflict situations, and where gross violations of international human rights law have occurred, and the implementation of international humanitarian law and the protection of civilians as relevant):

The State Commission on Prisoners of War, Hostages and Missing Persons was established with the aim of informing the world community of the genocidal policy implemented by Armenia against Azerbaijani people, and returning the persons who were captured and taken hostage as a result of the aggression to their homeland, increasing the efficiency of searching for prisoners of war, hostages and missing persons in conflict regions, coordinating the activities of state bodies with public and international organizations in this field according to the "Regulation on the State Commission on Prisoners of War, Hostages and Missing Persons" approved by Decree of the President of the Republic of Azerbaijan dated July 18, 2001 No. 536.

Moreover, Law "On the perpetuation of the martyr's name and concessions to the families of the martyrs" dated September 3, 1993 No. 697 was adopted in order to regulate the status and social protection of the persons who died for the freedom, sovereignty and territorial integrity of the Republic of Azerbaijan, went missing due to military operations and were considered dead in accordance with the legislation and their families. According to Article 1 of the aforementioned Law, a martyr is a person who died for the sake of the freedom, sovereignty and territorial integrity of the Republic of Azerbaijan, who went missing in connection with a military operation and is considered dead in accordance with the legislation.

It should be noted that according to Article 41.2 of the Civil Code of the Republic of Azerbaijan, a military serviceman or other person missing without notice due to military operations may be declared judicially dead after at least two years have passed from the day the military operations ended.

On question 2 (How casualty recording has impacted areas such as the right of access to justice, the right to obtain effective remedy and reparation, in particular for victims and their family members, the right to truth, the right to life, and other relevant human rights):

Regarding the issue, it should be noted that the circle of persons considered to be members of the martyr's family has been determined in the third part of Article 1 while the rights of the families of the martyrs have been defined in the second part of Article 3 of the Law "On the perpetuation of the martyr's name and concessions to the martyr's families".

Thus, the provision of labor pension for the members of the family who received the status of the family of martyrs due to the loss of the head of the family is regulated in

accordance with the Law of the Republic of Azerbaijan "On Labor Pensions" (family members of military personnel who were lost during military operations are considered equal to family members of those who died on the front according to Article 17.2 of the Law "On Labor Pensions" entitled "Conditions for the assignment of a labor pension due to the loss of the head of the family"), preference is given to the members of the family who have received the status of a martyr's family in keeping them at work when the number of employees or their staff is reduced, an allowance is given in the manner and amount determined by the legislation for buying medicine according to doctor's prescriptions, those who study on a paid basis in public higher, secondary and professional educational institutions and the Azerbaijan National Academy of Sciences are exempted from paying tuition fees, they are provided with sanatorium-resort treatment within the borders of the country by the referral of medical institutions in the manner determined by the relevant executive authority, and they are given preference during the organization of social workplaces and self-employment of unemployed persons, as well as vocational training.

At the same time, providing the family of the martyr with living space is carried out by the local executive authorities in the manner determined by the government of the Republic in accordance with the legislation in force, according to Article 4 of the Law "On the perpetuation of the martyr's name and concessions to the families of the martyrs". Families of martyrs who need to improve their housing conditions are provided with housing in the first place.

Also, the martyr's family is given preferential loan for the construction of individual housing according to his/her wish, a plot of land of the size provided by the legislation depending on the place of residence, as well as preference during admission to the horticulture association (cooperative), according to paragraph 3 of Article 4 of the same Law.

In addition, when the martyr's family buys an apartment or a private house on the basis of private ownership, notary operations are carried out without paying a state fee.

In addition to the above, it should be stated that in accordance with Articles 2.1.3 and 4.1 of the Law "On state compulsory personal insurance of military servants", insured persons, i.e. persons in military service in state bodies where military service is provided and for whom the insurance activity is carried out, and military officials who are in military gatherings are insured in the amount of eleven thousand manats. In accordance with paragraph "a)" of Article 5 of the aforementioned Law, an insurance event is considered to be an insurance event when the insured person is killed, perishes or is declared dead by a court decision due to his/her disappearance without notice while being in active military service (gathering), and insurance payments for them are given at the rate of 100 percent of the insurance amount of 11,000 manats.

In addition to what is listed above, it should be noted that the "YASHAT" Fund, which is a support fund for the support of the families of the injured and martyrs in connection with the protection of the territorial integrity of the Republic of Azerbaijan, was established for the implementation of civil society initiatives, in the direction of providing additional support to measures implemented by the state in the field of social protection of martyr families by Decree of the President of the country dated December 8, 2020 No. 1203, and "Unit coordination centers for applications of family members of martyrs, military personnel injured in the war and persons whose disability has been determined" was established in

are implemented from a single location by Decree of the President of the country dated June 25, 2021 No. 1380.

Question 6 (A description of casualty recording efforts within your State , who undertook them, relevant partnerships , the context in which they were deployed, the methodology used , the impact they had, the recommendations that arose, and any further information that would be of assistance in the preparation of the report):

As it is known, the registration of acts of civil status in accordance with Article 158.1 of the Family Code of the Republic of Azerbaijan (hereinafter - the Code) is carried out both for the state interest and public interest, and for the purpose of protecting the personal and property rights of citizens.

According to Article 159.1 of the Code, electronic registration of death is carried out by the registration departments of the Ministry of Justice of the Republic of Azerbaijan and of the Ministry of Justice of the Nakhchivan Autonomous Republic in the territory of the Autonomous Republic of Nakhchivan, and by the consular offices of the Ministry of Foreign Affairs of the Republic of Azerbaijan abroad, by the representations of the district, city, city-district executive authorities in cities, towns and villages subordinate to the district (hereinafter – “Registration department”, “consular office”, “representation of the executive authority”, respectively).

Furthermore, according to the requirements of Part 9 of the “Rules of state registration of civil status acts” approved by the Cabinet of Ministers of the Republic of Azerbaijan dated October 31, 2003 No.145, death shall be state registered at the registration department, consular office and executive authority representative office at the place chosen by the person who reported the death and at the place of issuance of the court resolution if the fact of death is determined by the court or the person is declared dead.

Information about the death is transmitted by the medical institution to the Ministry of Health, and by the Ministry of Health on the same day through the Electronic Government Information System (hereinafter - EGIS) to the information system of the Ministry of Justice and from there in an automated mode to the registration department at the place of death.

In accordance with the law, medical institution shall bear the administrative responsibility for the failure to transfer the information about the death immediately or for the transfer of incorrect information to the Ministry of Health, as well as the officials of the Ministry of Health shall bear the administrative responsibility for the failure to transfer that information to the information system of the Ministry of Justice through EGIS or for the transfer of incorrect information.

The registration department registers the death of a person who died in the territory of the Republic of Azerbaijan on the basis of the information transmitted to the information system within the working day of the transmission of that information.

In case of absence of a medical certificate of death, the fact of death is determined by the court. In this case, according to Article 194.2 of the Family Code, registration of death is carried out based on the extract from the legally binding court resolution on the determination of the fact of death or the declaration of a person dead, entered into the information system of the Ministry of Justice from the “Electronic Court” information system.

In cases where a citizen of the Republic of Azerbaijan, a stateless person or a

the death is not registered in the competent authorities and consular office of that country, the registration of death is carried out by the registration department on the basis of a medical certificate confirming the fact of death issued in this country.

Along with this, the possibility of applying for the registration of death has been created electronically, also the death certificate is provided to people in a paper form as well as in electronic form.

Apart from that, as a subsystem of the "Mobile Notary" application, the modern innovative "Mobile population" application was created and put into use on 27.11.2022 in order to provide accessibility and flexibility to electronic services for citizens during the registration of acts of civil status, in order to prevent additional loss of time and costs, and through this application, citizens of the Republic of Azerbaijan living both inside the country and abroad have the opportunity to register a death electronically and submit a certificate in electronic form.

**Ministry of Justice
Republic of Azerbaijan**