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DELEGATION OF THE REPUBLIC OF ARMENIA
ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE

Statement

On the Social and Economic Rights of the People of Artsakh
delivered by the Permanent Delegation of Armenia at the 1149th Meeting of the
OSCE Permanent Council
June 08, 2017

Mr. Chairman,

We would like to draw the attention of the Permanent Council to the topic of ensuring human rights and fundamental freedoms, including social and economic rights of the people residing in conflict areas, which is of utmost relevance for our security Organization.

The realization of the individual and collective human rights and fundamental freedoms including economic and social rights must not be dependent on the status of the territory where peoples live, a concept which is well embedded in all international instruments including Universal Declaration of Human Rights.

The international instruments such as the UN Covenant on Political and Civil Rights and the UN Covenant on Economic, Social and Cultural Rights empower people to pursue their economic, social and cultural development by the virtue of the right to self-determination. The UN Covenant on Economic, Social and Cultural Rights by its Article 1.2 establishes that “All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence”.

Accordingly, the people of Artsakh are entitled to all human rights including right to life, right to development, and other political, cultural and economic rights. The detailed position of the authorities of Artsakh in this regard was reflected in the Notes Verbale No. 04/1567/2016, dated October 20, 2016 and 04/0719/2015, dated 25 May, 2015. For easy reference of the Delegations we will attach the Notes to our Statement.

Moreover, there are no any international sanctions imposed against the people of Artsakh and its foreign economic cooperation.

We are grateful to the OSCE Austrian Chairmanship for outlining in their second dimension priorities the topic of building economic partnerships in conflict areas. Armenia and Artsakh have come up with number of proposals on confidence building measures in the field of economic and environmental dimension, which could

alleviate daily suffering of the people residing in the NK conflict zone and create conducive environment for advancing political talks.

Mr. Chairperson,

The attempt of Azerbaijan to define criminal all economic, social, cultural and humanitarian activities of the people of Artsakh aims at further violating individual and collective human rights and thus should be unequivocally condemned. Azerbaijan is not entitled to inflict collective punishment on the entire people through impeding their economic, cultural and humanitarian contacts with the international community.

Azerbaijan has itself recognized in its official communications, including in the most recent reply to OSCE Code of Conduct Questionnaire that it does not exercise sovereignty over Nagorno-Karabakh, which is indeed an accurate assessment. Therefore, Azerbaijan cannot apply its jurisdiction on NK and define what is legal or not.

Moreover, Azerbaijan has recognized that the equal rights and self-determination of peoples should be among the principles of the Nagorno-Karabakh conflict resolution during the OSCE Athens Ministerial Council and thus denying rights of the people of Nagorno-Karabakh to economic and cultural development is contradictory in this regard.

The attempts of Azerbaijan to isolate the people of Artsakh and deprive them of all their inalienable rights, alongside with the aggression unleashed last year in April are yet another clear indication that the people of Artsakh are facing existential threat and they have no future under the rule of Azerbaijan.

It is regrettable to see how Azerbaijan tries to pursue illegal actions beyond its jurisdiction and export its repressive policy to the other OSCE participating states, something that was referred here in the current case of Afgan Mukhtarli and in earlier case of Alexander Lapshin as well. The issue of enforced disappearance, abduction or so called extradition of journalists and bloggers imprisoned in Azerbaijan should be taken seriously by all those who stand for human rights and fundamental freedoms

We call on the OSCE participating States to deplore violation of inalienable human rights and fundamental freedoms of the people of Artsakh by Azerbaijan and encourage the latter to comply with the OSCE commitments.

Thank You.



04/1567/2016

The Ministry of Foreign Affairs of the Nagorno Karabakh Republic (NKR) presents its compliments to all Permanent Missions and Delegations to the OSCE, the OSCE Partners for Co-operation, the OSCE Secretariat and Institutions and with reference to the Note Verbale SEC.DEL/333/16 of the Permanent Mission of Azerbaijan has the honour to communicate the following:

The NKR MFA in its Note Verbale SEC.DEL/311/15 of 4 June 2015, addressed in detail the question of economic activities in Nagorno Karabakh and indicated the groundlessness and inconsistency of the statements of Azerbaijan on the alleged illegal character of such activities due to non-recognition of the NKR. Particular attention was given to the fact that contemporary international law does not contain any discriminatory provisions against non-recognized states and their populations. The lack of recognition by other states cannot affect the ability of a state to engage in international legal relations, including carrying out foreign economic activity, which is confirmed by international arbitration practice.

We have repeatedly pointed out the destructive and provocative nature of the attempts by the Azerbaijani authorities to involve the OSCE participating States and the international community as a whole in the implementation of a policy of isolation of Nagorno-Karabakh, officially declared by the President of Azerbaijan as a priority.

The war unleashed by Azerbaijan in April this year convincingly demonstrated that this policy was an integral part of the overall strategy of Azerbaijan aimed at expelling indigenous population of Nagorno-Karabakh from its ancestral homeland. Trying to isolate the Nagorno-Karabakh Republic in the political, economic and information spheres, Azerbaijan seeks to create favourable conditions for another cycle of violence. This is confirmed by the fact that Baku consistently rejects any proposals to reduce tensions and enhance stability and predictability on the Line of Contact, including the agreements reached at the summits in Vienna and St. Petersburg on 16 May and 20 June this year.

The logic of confrontation, aggressively imposed by Azerbaijan, poses not only a direct threat to peace and security in the South Caucasus, but also undermines the very concept of comprehensive and indivisible security, which lies at the core of the OSCE. The actions of Azerbaijan, which refuses to engage in dialogue and promotes isolation, are not aimed at resolving the existing problems in the region, but at their escalation. It is our firm conviction that dividing lines can be overcome only through the promotion and development of international co-operation based on the principle of inclusion, rather than exclusion.

With this in mind authorities of Nagorno Karabakh had made consistent calls on Azerbaijan to embark on confidence building measures including in the economic and environmental dimension before the April large scale offensive of Azerbaijani armed forces. It should be noted that authorities of Nagorno



04/0719/2015

The Ministry of Foreign Affairs of the Nagorno Karabakh Republic presents its compliments to all Permanent Missions and Delegations to the OSCE, the OSCE Partners for Co-operation, the OSCE Secretariat and Institutions and with regard to the Note Verbale SEC.DEL/179/15, No. 0124/10/10 dated March 27, 2015, of the Permanent Mission of Azerbaijan to the OSCE has the honour to communicate the following:

The allegations of Azerbaijan on the illegal nature of economic and other activities in the Nagorno Karabakh Republic (NKR) by virtue of its unrecognized status lack international legal basis and are aimed at justifying Azerbaijan's policy of complete isolation of the NKR and collective punishment of its population. Azerbaijani authorities spare no effort to engage the international community, including OSCE participating States, in the implementation of this policy officially declared by the president of Azerbaijan as a foreign agenda priority.

It should be noted that international law does not recognize any limitation over human rights of individuals or groups based on the status of the country of their residence and contains no discriminatory provisions in relation to non-recognized states. Moreover, in accordance with international practice, non-recognition by the international community of a particular state does not imply that other States are obliged not to acknowledge any legal acts and judicial decisions of the authorities of that country. The legitimacy of the acknowledgement of certain acts of de facto states has been recognized by international courts. In particular, when considering the case on Namibia, the UN International Court of Justice has made a conclusion that the legal acts and judicial actions of de facto existing unrecognized states should not be rejected.¹ A similar approach has been applied by the courts of different states, *inter alia*, by the New York Court on the "Salimoff & Co. v. Standard Oil of N.Y." case of 1933 and the British Court on the "Carl Zeiss Stiftung v. Rayner & Keeler Ltd." (№ 2) case of 1966. It should be noted that these court decisions set up important precedents and were invoked in other similar proceedings. Hence the legal acts and judicial actions of de facto existing unrecognized states are legitimate, which is proved by the international judicial practice.

The lack of recognition by other states should not affect the ability of a state to enter into international legal relations, including the implementation of foreign economic activity. Attempts to isolate de facto states from international cooperation first of all violate the rights and interests of its citizens and legal persons, which is unacceptable in a modern society where human rights and freedoms are key values.

The Note Verbale of the Permanent Mission of Azerbaijan to the OSCE also contains baseless allegations aimed at misleading the international community by manipulating the facts and distorting the essence of the conflict between Azerbaijan and Nagorno Karabakh.

**To All Permanent Delegations and Missions of the OSCE Participating States
To the OSCE Partners for Cooperation
To the OSCE Secretariat and the OSCE Institutions
Vienna**

¹ Advisory Opinion on "Legal Consequences for States of the Continued Presence of South Africa in Namibia (South-West Africa) notwithstanding Security Council Resolution 276 (1970)", which states that "non-recognition should not result in depriving the people of Namibia of any advantages derived from international co-operation"

First, Azerbaijan puts the blame on the Armenian sides for the war unleashed against Nagorno Karabakh by Azerbaijan. Meanwhile, from the very beginning of the conflict between Azerbaijan and Nagorno Karabakh and up to now it is Azerbaijan that has been trying to solve it by force. Azerbaijan responded to the will of the people of Nagorno Karabakh to exercise its right to self-determination with massive violations of human rights, pogroms, deportations and ethnic cleansing of the Armenian population of Azerbaijan. Seeking to finally resolve the conflict by force, in April-August 1991 Azerbaijani authorities, with the support of the Soviet army and internal troops, conducted a large-scale punitive operation "Ring" aimed at the deportation of the Armenian population of 24 borderline villages of Nagorno Karabakh. It became a prelude to the subsequent full-scale aggression of Azerbaijan against the Nagorno Karabakh Republic in 1991-1994.

Second, Azerbaijan constantly refers to the UN Security Council resolutions adopted during the active military phase of the conflict between Azerbaijan and Nagorno Karabakh although none of the requirements of those resolutions have been fully met by Azerbaijan itself. Since the adoption of the resolutions Azerbaijan has numerously violated the ceasefire (as clearly stated in UN SC resolution 884) and rejected proposals on establishing or extending the truce.

Even with the establishment of ceasefire, the main requirement of the UN Security Council resolutions on cessation of all hostilities and hostile acts have not been fully carried out. Azerbaijan continues to periodically violate the ceasefire, rejects the measures proposed by international mediators to strengthen the ceasefire, constantly threatens with renewed hostilities and continues the blockade of Armenia and the NKR.

The Azerbaijani side has been also ignoring a number of other requirements of the UN Security Council resolutions such as:

- *to refrain from any action that will obstruct a peaceful solution to the conflict (822, 853).*

Constant provocations by Azerbaijan on the Line of Contact, continuing threats of renewed hostilities, refusal to implement measures aimed at building confidence and reducing tensions, promoting xenophobia and hatred towards Armenians, as well as declaring Armenians around the world number one enemy of Azerbaijan further complicate the settlement process.

- *to pursue negotiations within the Minsk Group of the CSCE, as well as through direct contacts between the parties (853).*

The UN Security Council resolutions identified Azerbaijan and Nagorno Karabakh as parties to the conflict. Despite the demands and calls of the UN Security Council, Azerbaijan has ceased direct contacts with the Nagorno Karabakh Republic since October 1993 and trilateral Nagorno Karabakh-Armenia-Azerbaijan negotiations since April, 1997. It should be recalled that direct contacts between Azerbaijan and the Nagorno Karabakh Republic resulted in nearly a dozen bilateral agreements on limitation of military operations and establishment of a temporary truce that set the ground for achieving a permanent ceasefire in May 1994.

- *an early convening of the CSCE Minsk Conference for the purpose of arriving at a negotiated settlement to the conflict (874).*

In May 1992, Azerbaijan blocked the convening of the Minsk Conference, deliberately putting forward unrealistic preconditions. Subsequently, despite calls from the UN Security Council, the Azerbaijani side continued to adhere to this position, which made it impossible to convene the Minsk Conference.

- *restoration of economic, transport and energy links in the region (853);*

In its attempts to solve the conflict by force Azerbaijan from the very beginning resorted to a blockade of Nagorno Karabakh and Armenia, which continues to this day. Moreover, complete isolation of Armenia and Nagorno Karabakh has been declared by the President of Azerbaijan as a top priority of the country's foreign policy.

- *unimpeded access for international humanitarian relief efforts in the region (822, 853, 874)*

Azerbaijan continues to prevent specialized international organizations from visiting Nagorno Karabakh to assist Armenian refugees from Azerbaijan as well as internally displaced persons residing in the NKR.

Azerbaijan's refusal to comply with the requirements and calls of the four UN Security Council resolutions, its bet on a military solution to the conflict and unwillingness to guarantee the irreversibility of the peace process, as well as constant threats of a renewed war have led to the breakdown of the UN SC resolutions.

Third, baseless accusations of Azerbaijan about the alleged settlement policy pursued by Armenia in Nagorno Karabakh territories have been fully refuted by the conclusion of the OSCE fact-finding mission (CIO.GAL/33/05, March 16, 2005). The mission found no direct evidence of the involvement of the Armenian authorities. Moreover, the mission noted that the territories, which were not part of the former Nagorno Karabakh Autonomous Oblast in Soviet times, were inhabited by Armenian refugees from Azerbaijan. Five years later, a second fact-finding mission led by the OSCE Minsk Group Co-Chairs assessed that there has been no significant growth of population since 2005.

Fourth, Azerbaijan constantly appeals to the issue of Azerbaijani refugees, while violating the fundamental rights of Armenian refugees residing in the NKR and preventing humanitarian access of specialized international organizations to them. Such a discriminatory policy of collective punishment pursued by Azerbaijani authorities against Armenian refugees residing in Nagorno Karabakh deprives them of international humanitarian protection and assistance.

Fifth, Azerbaijan's allegations on the use of the NKR territory for terrorist activities fall short of being persuasive. The Nagorno Karabakh Republic was among the first to face the problem of terrorism, when Azerbaijan, in violation of international law, involved mercenaries and terrorist groups from different countries in the military hostilities of 1991-1994 as part of its armed forces.² Involvement of Afghan mujahidin fighters in the war against NKR has been a major factor in the transformation of Azerbaijan into a transit country for drugs towards Europe and Russia, as well as a transit point for terrorists, terrorist activities and their subsidies. As noted in the annual US State Department report on global terrorism for 1999, "Azerbaijan...served as a logistic hub for international mujahedin with ties to terrorist groups".³ In 1998, terrorist infrastructure located in Azerbaijan has been used to coordinate the bombings of US embassies in Kenya and Tanzania.⁴

² In accordance with Article 5 paragraph 2 of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, "States Parties shall not recruit, use, finance or train mercenaries for the purpose of opposing the legitimate exercise of the inalienable right of peoples to self-determination, as recognized by international law, and shall take, in conformity with international law, the appropriate measures to prevent the recruitment, use, financing or training of mercenaries for that purpose".

³ Patterns of Global Terrorism, Eurasia Overview. US Department of State, 1999
<http://www.state.gov/www/global/terrorism/1999report/eurasia.html#Azerbaijan>

⁴ The 9/11 Commission report. The Final Report of the National Commission on Terrorist Attacks upon the United States, Official Government Edition, p. 70 <http://www.gpoaccess.gov/911/>

Since the mid-1990s Azerbaijan's territory has been one of the main transit routes for international drug trafficking, which is also reflected in the US Department of State's International Narcotics Control Strategy Reports (INCSR). The latest evidence of it is the seizure in July 2014 of 2.79 tons of liquid heroin from a cargo truck that entered into Georgia from Azerbaijan and heading towards Turkey. The first Deputy of the General Prosecutor of Azerbaijan Rustam Usubov has confirmed the facts of drug smuggling through Azerbaijan, saying that nearly 35 per cent of drugs produced in Afghanistan are transferred through Azerbaijan.⁵

Sixth, it has become common practice for Azerbaijan to blame Armenian sides for ceasefire violations while consistently rejecting all initiatives of both the OSCE Minsk Group Co-Chairs and the Armenian sides to strengthen the ceasefire regime. It should be stressed that consolidating of ceasefire constitutes an obligation of Azerbaijan emanating from the Agreement on Ceasefire Consolidation, concluded by Azerbaijan, Nagorno Karabakh and Armenia on February 4, 1995.

Recognizing the importance of confidence and security buildings measures aimed at consolidation of the ceasefire and prevention of new military escalation, the NKR has repeatedly made proposals to reduce tensions and promote stability and predictability on the Line of Contact of the armed forces of the Nagorno Karabakh Republic and Azerbaijan. These measures include, but are not limited to, the establishment of direct contacts between the parties and their operational headquarters, as well as continuous monitoring of the ceasefire through expansion of the activities of the Office of the Personal Representative of the OSCE Chairman. However, neither the NKR initiatives nor the proposals of the OSCE Minsk Group Co-Chairs and calls from the international community on the withdrawal of snipers and establishment of an investigating mechanism into ceasefire violations on the Line of Contact has been accepted by the Azerbaijani authorities. Such a stance of Azerbaijan indicates the lack of real desire to strengthen the ceasefire and establish predictability and stability on the Line of Contact, as well as perfectly fits into its ongoing policy of escalation of tension in the conflict zone in recent years.

The NKR Ministry of Foreign Affairs takes this opportunity to renew to the Permanent Missions and Delegations of the OSCE participating States, the OSCE Partners for Co-operation, the OSCE Secretariat and Institutions the assurances of its highest consideration.



⁵ <http://en.trend.az/azerbaijan/politics/1757149.html>