



TEXTS ADOPTED

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Prisoners of war in the aftermath of the most recent conflict between Armenia and Azerbaijan

European Parliament resolution of 20 May 2021 on prisoners of war in the aftermath of the most recent conflict between Armenia and Azerbaijan (2021/2693(RSP))

The European Parliament,

- having regard to its previous resolutions on Armenia and Azerbaijan,
 - having regard to the EU-Armenia Partnership Council meeting of 17 December 2020 and the EU-Azerbaijan Cooperation Council meeting of 18 December 2020 and their respective conclusions,
 - having regard to the Charter of the United Nations (UN), the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the European Convention on Human Rights and the Geneva Convention (III) relative to the Treatment of Prisoners of War,
 - having regard to the tripartite ceasefire statement by Armenia, Azerbaijan and Russia of 9 November 2020, which came to effect on 10 November 2020,
 - having regard to the Human Rights Watch report of 19 March 2021 entitled ‘Azerbaijan: Armenian POWs Abused in Custody’,
 - having regard to the EU statement of 28 April 2021 on captives from the recent conflict between Armenia and Azerbaijan,
 - having regard to the Statements by the Co-Chairs of the OSCE Minsk Group of 25 October 2020, 30 October 2020, 14 December 2020, 13 April 2021 and 5 May 2021,
 - having regard to the European Court of Human Rights’ notification to the Council of Europe’s Committee of Ministers of 9 March 2021, under Rule 39 of the Rules of the Court, of interim measures in relation to the recent armed conflict between Armenia and Azerbaijan,
 - having regard to Rules 144(5) and 132(4) of its Rules of Procedure,
- A. whereas since the first war over Nagorno-Karabakh between 1988 and 1994, the international community has been trying to broker a lasting and comprehensive peace

settlement for the Nagorno-Karabakh conflict, led by the OSCE Minsk Group Co-Chairs;

- B. whereas the most recent armed conflict between Armenia and Azerbaijan from 27 September to 10 November 2020 took the lives of more than 5 000 soldiers, injured and killed hundreds and displaced thousands of civilians; whereas it continues to afflict the population owing to a lack of information about the whereabouts of relatives, the return of only some prisoners of war and other captive persons, problems with the return of human remains, impediments to access to humanitarian assistance and the destruction of basic infrastructure;
- C. whereas the people affected over the course of this long-standing conflict have already experienced excessive suffering; whereas overall, the conflict has led to extensive and unacceptable civilian casualties;
- D. whereas hostilities ended after 44 days following an agreement on a complete ceasefire in and around Nagorno-Karabakh between Armenia, Azerbaijan and Russia, which was signed on 9 November 2020 and entered into force on 10 November 2020;
- E. whereas point 8 of the tripartite ceasefire statement stipulates that prisoners of war, hostages and other detainees, as well as the remains of those killed, must be exchanged; whereas these exchanges should be conducted according to the 'all for all' principle;
- F. whereas both Armenia and Azerbaijan are parties to the Geneva Convention (III) relative to the Treatment of Prisoners of War, which in Article 118 stipulates that prisoners of war must be released and repatriated without delay after the cessation of active hostilities; whereas Article 13 of the Geneva Convention (III) stipulates that prisoners of war must at all times be humanely treated, any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the Convention; whereas the Convention also protects prisoners of war (POWs) against acts of violence or intimidation, insults and public curiosity;
- G. whereas military personnel and civilians detained before and after the ceasefire enjoy different statuses under international law; whereas, on the one hand, military personnel taken into captivity before and after the ceasefire should be recognised as POWs and benefit from protection under the Geneva Conventions; whereas, on the other hand, civilians detained during the conflict must be recognised as protected persons and are also protected under the Geneva Conventions; whereas civilians detained after the ceasefire are instead protected under international human rights law;
- H. whereas since the hostilities were suspended, several exchanges of prisoners, both military and civilian, have been conducted, with the most recent taking place on 4 May 2021;
- I. whereas according to worrying reports, approximately 200 Armenians are being held in Azerbaijani captivity; whereas the European Court of Human Rights (ECtHR) stated that it has received complaints regarding 249 Armenians captured by Azerbaijan; whereas the ECtHR has applied interim measures with regard to the 229 Armenians, and 183 still remain in force; whereas the ECtHR concluded on 9 March 2021 that Azerbaijan had failed to comply with the measures, judging the information provided as

too general and limited; whereas the Azerbaijani authorities acknowledged that 72 Armenians are in their captivity; whereas with regard to a further 112 individuals, no information has been submitted by Azerbaijan to the ECtHR; whereas the fate of the other Armenian POWs is unknown; whereas since the cessation of hostilities, 73 Armenian POWs and civilians have been repatriated to Armenia;

- J. whereas the ECtHR has also received complaints in relation to 16 Azerbaijanis allegedly captured by Armenia, 12 of whom were repatriated in December 2020; whereas the ECtHR suspended its examination under Rule 39 in relation to the other four individuals, given the nature of the information received from the Government of Armenia;
- K. whereas credible reports have been made that Armenian service personnel and civilians have also been taken prisoner since the cessation of hostilities on 10 November 2020; whereas the Azerbaijani authorities claim that these hostages and prisoners are terrorists and do not deserve POW status under the Geneva Convention;
- L. whereas Human Rights Watch reported on 19 March 2021 that Azerbaijani security and armed forces had abused Armenian POWs, subjecting them to cruel and degrading treatment and torture either when they were captured, during their transfer, or while in custody at various detention facilities; whereas Azerbaijani forces have used violence to detain civilians and have subjected them to torture and inhuman and degrading conditions of detention, leading to the death of at least two detainees in Azerbaijani captivity; whereas Azerbaijani forces detained these civilians even though there was no evidence that they posed any security threat that could justify their detention under international humanitarian law; whereas Azerbaijan denies accusations that Armenian POWs have been subjected to treatment violating the Geneva Conventions;
- M. whereas videos circulated on the Internet and social media reportedly show evidence of abuse and ill treatment of captives by members of the armed forces of both sides; whereas there is no indication that the Azerbaijani or Armenian authorities have conducted prompt, public and effective investigations into these incidents, or that the investigations, if any have taken place, have resulted in criminal prosecutions; whereas there are allegations that POWs and other protected persons have been subjected to extrajudicial killings, enforced disappearances and desecration of the dead;
- N. whereas on 17 May 2021 the Commission announced the allocation of an additional EUR 10 million in humanitarian aid to help civilians affected by the recent conflict in and around Nagorno-Karabakh, bringing the EU's assistance to people in need, since the start of the hostilities in September 2020, to over EUR 17 million;
- O. whereas all sides should provide up-to-date maps of minefields to permit civilians to return to former conflict regions;
- P. whereas the 'Park of Military Trophies' inaugurated in Baku on 12 April 2021 reportedly displays Armenian military equipment, wax mannequins depicting dead and dying Armenian soldiers and models of Armenian POWs chained in a cell, which may be perceived as a glorification of violence and risks inciting further hostile sentiment, hate speech or even inhumane treatment of remaining POWs and other Armenian captive civilians, thereby perpetuating the atmosphere of hatred and contradicting any official statements on reconciliation;

- Q. whereas on 12 May 2021, troops from Azerbaijan temporarily entered the territory of Armenia, which amounts to a violation of the territorial integrity of Armenia and of international law; whereas this violation of Armenian sovereign territory follows worrying statements by Azerbaijani representatives, including the president, which appeared to raise territorial claims and threaten the use of force and thereby undermine the efforts towards security and stability in the region;
- R. whereas the repatriation of human remains and the provision of humanitarian assistance to populations severely affected by the conflict has taken place over the past months;
- S. whereas renewed efforts are needed to build confidence between both countries and make progress towards sustainable peace;
1. Demands the immediate and unconditional release of all Armenian prisoners, both military and civilian, detained during and after the conflict, and that Azerbaijan refrain from making arbitrary detentions in the future; urges the parties to fully implement the tripartite ceasefire statement of 9 November 2020, which provides for an exchange of prisoners of war, hostages and other detainees, as well as the remains of those killed during hostilities;
 2. Deplores the violence that took place during the most recent war between Armenia and Azerbaijan over Nagorno-Karabakh; expresses solidarity with the victims and their families; deplores the violation of the ceasefire, which led to further human suffering, loss of life and destruction; condemns all attacks targeting civilians and recalls states' obligation under international humanitarian law to protect civilian lives;
 3. Urges the Government of Azerbaijan to provide exhaustive lists of all persons held in its captivity in connection with the armed conflict and to provide information about their whereabouts and health, including of those who have died in captivity;
 4. Recalls that failure to disclose information regarding the fate and whereabouts of missing persons may amount to enforced disappearance, which both Azerbaijan and Armenia have committed to preventing; calls on all sides to clarify the fate and whereabouts of the disappeared and to treat dead bodies with dignity;
 5. Demands that the Government of Azerbaijan respect legal safeguards, allow access for lawyers, doctors and human rights defenders to the Armenian prisoners and facilitate their communications with relatives;
 6. Expresses its grave concern about credible reports, according to which Armenian prisoners of war and other captive persons have been and are being held in degrading conditions, and that they have been subjected to inhuman treatment and torture when captured or during their detention; condemns all instances of torture and enforced disappearances, including those perpetrated in armed conflict, as well as the ill-treatment and desecration of bodies;
 7. Calls on the Azerbaijani authorities to ensure that those still in custody are provided with all protections required under international human rights and humanitarian law, including freedom from torture and inhuman treatment; calls on the Armenian and Azerbaijani authorities to conduct independent, prompt, public and effective investigations and prosecute all credible allegations of grave breaches of the Geneva

Conventions and other violations of international law and war crimes, in order to ensure accountability of those responsible and redress for the victims, possibly with the assistance of an international dedicated mission; calls on the Government of Azerbaijan to fully cooperate with the ECtHR to investigate the validity of reports of dehumanising treatment of Armenian prisoners and to hold those responsible to account;

8. Recalls that there is currently no publically available credible information about Azerbaijani POWs and detainees in Armenian captivity;
9. Reminds all the parties to the conflict of their obligation to respect international humanitarian law, which prohibits torture and other degrading or inhumane treatment, and reiterates that torture and ill-treatment of POWs constitute war crimes;
10. Strongly condemns the incident that took place on 9 April 2021, when the Azerbaijani authorities dispatched an empty plane which was supposed to repatriate Armenian detainees; considers this a highly insensitive act and, moreover, one that illustrates a generally degrading attitude from Azerbaijan towards Armenian detainees and their families;
11. Insists on the urgent need to refrain from any hostile rhetoric or actions that may be perceived as inciting hatred or outright violence or as supporting impunity, or that risk undermining the efforts to establish and promote an atmosphere conducive to trust and reconciliation, cooperation and sustainable peace;
12. Calls on the Government of Azerbaijan to cooperate fully with the ECtHR on the issue of Armenian prisoners and to comply with the interim measures of the Court, which ordered Azerbaijan to provide detailed information on the conditions of detention of the prisoners, their state of health and measures undertaken to return them;
13. Expresses its belief that a full exchange of prisoners and remains of the deceased and the final settlement of this issue is a humanitarian emergency, especially for the families of those affected, and would be a first, desperately needed trust-building measure to bring rudimentary stability to the region;
14. Calls on the Government of Azerbaijan to guarantee free and unimpeded access to prisoners for relevant international organisations, such as the International Committee of the Red Cross and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;
15. Highlights the urgent need to ensure that humanitarian assistance can reach those in need, that the security of the Armenian population and its cultural heritage in Nagorno-Karabakh is ensured, and that internally displaced persons and refugees can return to their former places of residence;
16. Strongly insists that both parties refrain from any actions destroying Armenian heritage in Azerbaijan and Azeri heritage in Armenia; calls for the full restoration of demolished sites and for greater involvement of the international community in protecting world heritage in the region;
17. Recalls the efforts of the international community spearheaded by the Co-Chairs of the OSCE Minsk Group to find a peaceful, lasting, comprehensive and sustainable solution on the basis of the OSCE 2009 Basic Principles (Non-Use of Force, Territorial Integrity,

and the Equal Rights and Self-Determination of Peoples) with the objective of determining the future status of the Nagorno-Karabakh region; recalls that this can only be achieved through a negotiated political solution with genuine commitment from all concerned parties; calls on the parties to resume high-level political dialogue at the earliest opportunity, under the auspices of the Co-Chairs of the OSCE Minsk Group; calls on the Armenian and Azerbaijani governments, as well as international mediators, to systematically include women in the peace process and consult with women human rights defenders;

18. Regrets that the EU Member States participating in the OSCE Minsk Group were not present when the ceasefire agreement was brokered, and that the EU did not demonstrate leadership in bringing two of its highly valued Eastern Partners to the negotiating table;
19. Deplores the opening of the so-called Trophy Park in Baku, open to the public since 14 April 2021, as it further intensifies long-lasting hostile sentiments and undermines mutual trust between Armenia and Azerbaijan; urges, therefore, that it be closed without delay;
20. Calls on the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy (VP/HR) and the Commission to offer all necessary assistance to both Armenia and Azerbaijan to consolidate the ceasefire, and support any efforts leading to stability, reconstruction, confidence building and post-war rehabilitation, as well as to closely follow the implementation of the provisions of the ceasefire, especially with regard to its monitoring mechanism; calls on the European External Action Service, the Commission and the Member States to increase their support for and cooperation with civil society and human rights defenders, in particular in relation to restrictions on their work; considers that the EU Special Representative for the South Caucasus has an important role to play in this regard;
21. Calls on the Commission and the Member States to continue supporting the provision of urgent humanitarian assistance and the work of international organisations in this area and on the protection of cultural and religious heritage, as well as to support civil society organisations in Armenia and Azerbaijan that genuinely contribute to reconciliation;
22. Calls on the VP/HR, together with the Member States, to also address security, stability and regional cooperation in the South Caucasus at the upcoming Eastern Partnership summit in autumn 2021;
23. Instructs its President to forward this resolution to the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the Council, the Commission, the governments and parliaments of the Member States, the United Nations Secretary-General, the OSCE Secretary-General, the Minsk Group Co-Chairs, the President, Government and Parliament of Armenia and the President, Government and Parliament of Azerbaijan.