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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Institute for Reporters' Freedom and Safety, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[6 February 2023]

* Issued as received, in the language of submission only.



Increased Use of Torture and Lack of Accountability for this Crime in Eastern Europe

The Institute for Reporters' Freedom and Safety (IRFS) would like to draw the attention of the UN Human Rights Council (HRC) to the problem of the increased use of torture and the lack of accountability for perpetrating of this crime in Eastern Europe. In particular, it is about the war zone in Ukraine, where torture is increasingly being used by invading Russian forces against the local civilian population, and Azerbaijan, where torture is used by Azerbaijani government agencies against its own citizens.

It should be noted that the situation in Ukraine was thoroughly investigated by the Independent International Commission of Inquiry on Ukraine, the UN Human Rights Monitoring Mission in Ukraine, and also through the fact-finding missions of the Council of Europe.

Available results of the investigations into the incidents that occurred in the regions of Kyiv, Chernihiv, Kharkiv, and Sumy in 2022 revealed sufficient evidence to conclude that several war crimes, human rights violations, and violations of international humanitarian law occurred during the continuing war of aggression waged by the Russian Federation against Ukraine.

As can be seen from numerous reports and witness accounts, the effects of these transgressions on Ukraine's civilian population are profound. There have been thousands of fatalities. Infrastructure destruction is catastrophic.

It has been well-established that the Russian armed forces are responsible for these numerous violations identified, including war crimes, perpetrated against the civilian population of Ukraine. Among the war crimes were attacks by Russian forces including the indiscriminate use of explosive weapons in inhabited areas, as well as attacks by Russian military personnel against individuals trying to evacuate.

It should be noted that patterns of rape, other sexual violence, wrongful detention, torture, and summary killings were undoubtedly carried out in places held by Russian armed troops. According to the widely available information, many people are still listed as missing, while others have been illegally deported to the Russian Federation. Victims of sexual violence have ranged in age. Children and other family members were occasionally made to watch crimes being committed.

It is clear that the UN in general, and its specialized agencies, in particular, the OHCHR and the UN Human Rights Council (HRC), should act swiftly to improve coordination of national and international accountability efforts in this area to increase effectiveness and safeguard the rights of victims and witnesses and work to assist in identifying those directly and indirectly responsible for these atrocities.

The Institute for Reporters' Freedom and Safety (IRFS) regretfully acknowledges that the situation with torture use in Azerbaijan is deplorable. Azerbaijan is a party to the Universal Declaration of Human Rights, and the European Convention for the Prevention of Torture. However, violations of basic human rights by law enforcement agencies, torture of detainees, and ill-treatment have been continuing in recent years.

The most egregious example was the infamous Terter case, in which hundreds were detained, arrested, and tortured. In May 2017, mass detentions were carried out in the military units of the Azerbaijani Defense Ministry situated in the country's Terter district, as well as in the Beylagan and Shamkir districts of the Republic. A statement by responsible government agencies said that a group of servicemen of the Azerbaijani Army and civilians allegedly working for the intelligence and special services of the Armenian Armed Forces had been exposed.

As a result, 1,767 servicemen were detained. A criminal case was initiated against approximately 200 servicemen. None of the detainees were provided with a lawyer, there were no preliminary court hearings that decided on the choice of pretrial detention on official charges. A legal analysis of the subsequent trials confirmed gross violations of the legislation of Azerbaijan and international law when the said citizens were convicted.

A criminal case was also initiated against civilians, residents of the nearby villages, whose exact number is unknown.

The detainees were assembled in the buildings of a former military unit of the Ministry of Defense in Terter. Torturing of the detainees began. This torture continued for days. As a result of torture, eleven servicemen were killed (according to some sources, the death toll was higher). Five of those killed were acquitted after death.

The relevant authorities buried the killed servicemen without showing the bodies to their families. The funerals were attended by a large number of police officers. Some of the servicemen were taken to a military unit in the city of Mingachevir, where torturing continued. After these events, 101 servicemen were recognized as victims by the courts. 16 employees of the Ministry of Defense were arrested on the charge of torture. Arrests, however, were only formal.

Nine persons found guilty of using torture against 101 servicemen, and the death of 11 servicemen, were sentenced to 3 years 6 months in prison; six convicts were sentenced to 6 years of imprisonment, and one person (Fuad Aghayev) was sentenced to 10 years in prison. During the 44-day war in 2020, all military personnel convicted in the framework of this case, except for Fuad Aghayev, were released from prison and sent to the combat zone. After the end of the war, the servicemen (convicted criminals), who had participated in the torture of 101 and the murder of 9 servicemen, were returned to service in military units.

Many of those accused of espionage fell into a coma during the torture and were hospitalized.

According to eyewitnesses, torturing continued in hospitals as well.

From the investigative materials, it became known that on May 3, 2017, the military prosecutor personally visited the military units concerned and began an investigation. It was during this period that there were facts of torture and murder of servicemen. Most of the perpetrators of torture were later decorated.

Currently (as far as we know) 25 military servicemen are still serving sentences on charges of treason. They are sentenced to prison terms ranging from 7 to 20 years.

On December 18, 2021, the Prosecutor General's Office of Azerbaijan issued an extensive report, confirming the facts of gross lawlessness in the Army in 2017, when numerous servicemen had been indicted on false charges of treason, tortured and some had died.

Another well-publicized case was that of Bakhtiyar Hajiyev, a well-known blogger and human rights activist, former prisoner of conscience, and outspoken critic of the authorities. On April 21, 2022, B. Hajiyev was kidnapped by a group of masked people, most probably officers of the Azerbaijani security forces. He was subsequently subjected to torture and inhuman treatment for several hours: the abductors stripped B. Hajiyev naked, beat him, urinated on him, and threatened to rape him, filming everything on video camera. Under torture and humiliation, the abductors forced B. Hajiyev to remove critical publications about government officials, namely about arbitrariness at Azerbaijan's Ministry of Internal Affairs. They warned B. Hajiyev that if he continued to publicly criticize officials, then next time he would be raped and then killed. The fact of abduction and torture was not fully investigated by the Azerbaijani law-enforcement agencies, and no persons were detained or brought to justice in this respect.

It should be noted that recently, Bakhtiyar Hajiyev was arrested by Azerbaijani authorities on trumped-up charges, and as of now he is in prison.

In the last few years, there have been several other cases of torture, some of them ending in the death of the victim. For example, in August 2021, 31-year-old Tural Ismayilov died in the Siyazan police department on the day of his arrest. According to official information disseminated by law enforcement agencies, his "health suddenly deteriorated in the police station" and he was taken to a hospital, where he died. Ismayilov's family, however, alleged police tortured him to death.

Another notable torture case was that of opposition activist Tofig Yagublu. Pictures of Yagublu were widely available on the internet with his eyes swollen shut, apparently from beatings while he was in police detention in December 2021, following an unsanctioned rally in Baku. In 2022, Baku's local Sabail district prosecution office informed T. Yagublu that his request to launch a probe into his beating was declined, because according to the prosecution, "there were no signs of torture on Tofig Yagublu's images."

The Institute for Reporters' Freedom and Safety (IRFS) regretfully informs that in most cases the government did not prosecute or punish officials who committed human rights abuses, impunity remaining an acute problem.

Taking the aforementioned into account, the Institute for Reporters' Freedom and Safety (IRFS) urges the UNHRC to keep the problem of torture use under its constant attention, and to call upon the responsible governments to respect Article 5 of the Universal Declaration of Human Rights, which clearly states that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." The Institute for Reporters' Freedom and Safety (IRFS) believes that appropriate steps should be taken through the office of Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, to alleviate the existing situation and prevent its further deterioration.
