

STATEMENT

By Azerbaijani civil society representatives and political activists regarding the consequences of the second Karabakh war and peaceful resolution process of the Nagorno-Karabakh conflict

3 December 2020

Baku city

The trilateral statement signed by the heads of governments and states of Azerbaijan, Armenia and Russia on 10 November 2020 that ended the 44 days lasting second Karabakh war and thus, has opened up new opportunities for the final resolution of conflict by peaceful means.

We remind with regret that the first Karabakh war that ended in 1994 resulted with the occupation of approximately 15% of the entire territory of the Republic of Azerbaijan, the expulsion of half a million Azerbaijanis from their homes, and catastrophic consequences for the cultural heritage of Azerbaijanis both in occupied territories and in Armenia. In the past 27 years, the failure to execute 4 resolutions adopted by the United Nations Security Council (822, 853, 874, 884) during the first Karabakh war, the disregarding of the calls made by other international organisations that demanded to end the occupation, the ineffectiveness of the negotiations carried out with the mediation of the OSCE Minsk Group Co-Chairs, as well as the various provocative actions of the government of Armenia disrupting the negotiations – all gave rise to a new war.

We are deeply saddened by the loss of thousands of military personnel and large numbers of civilians, especially children, on both sides in the 44-day war. We strongly condemn both the deliberate attacks on civilian settlements in the Republic of Azerbaijan, such as Ganja, Barda, Tartar, and the loss of life as a result of the indiscriminate use of force, which is a gross violation of international humanitarian law. We consider it important to prosecute such actions in accordance with international law. We also express our deepest condolences for the loss of Armenian civilians living in Khankendi (Stepanakert) during the military operations.

We hope that the mistreatment of prisoners during the 44-day operations will not be justified as a bitter reality of the war, that the authorities will treat the images on social media as a violation of international humanitarian law, and that the actions of those responsible will be evaluated according to the law.

We appreciate the fact that the Azerbaijani Military Prosecutor's Office has opened a criminal case on the insulting actions of the dead Armenian servicemen, as well as videos of inhumane treatment of captured Armenian prisoners of the war, which we consider important in terms of legal norms and human values. At the same time, we consider it important that the international community demand that the Republic of Armenia conducts a real investigation into similar cases.

We also welcome the end of the war, consider the trilateral statement signed on 10 November a new opportunity for a peaceful settlement of the 30-year long conflict, and express our concern about the issues not clarified in this document as below:

1) The situation with the part of Nagorno-Karabakh that did not come under Azerbaijani control

During the counter-offensive launched on 27 September, the Azerbaijani armed forces managed to return part of the territory of the former Nagorno-Karabakh Autonomous Oblast (NKAO) to Azerbaijani control, including, above all, the city of Shusha. However, this statement does not ensure the transfer of the entire territory of the former Nagorno-Karabakh to the control of Azerbaijan, as it does with Agdam, Kalbajar and Lachin districts. These territories of the former NKAO, which are part of the internationally recognised and sovereign territory of Azerbaijan, are still out of Azerbaijan's control. The public's concern about the future plans for the transfer of control of these territories to Azerbaijan has not yet been resolved. To address these concerns, we consider it important that the relevant government bodies of the Republic of Azerbaijan inform the public in detail.

At the same time, the statement does not clarify the issue of disarmament of local Armenian military units and disarmament of the local Armenian population in the part of the former NKAO where Russian peacekeepers are dislocated. Clarification of this issue is of particular importance for ensuring peaceful coexistence in the future.

2) Mandate of the Russian peacekeeping contingent

The mandate of the Russian peacekeeping contingent mentioned in the 10 November statement remains unspecified. In particular, the lack of a clear definition of the mission of the Russian peacekeeping contingent in the region, as well as the absence of conditions under which the mission shall continue or end is a matter of grave public concern.

In addition, the status of the Russian peacekeeping contingent in accordance with the requirements of the Constitution and other normative legal acts of the host country, which is the Republic of Azerbaijan in this case, for the existence of the peacekeeping contingent in accordance with the principles of the UN Rules of Conduct, whether the consent procedure for presence in the country complies with the requirements of domestic legislation, and proportional liability for various types of violations during the period of activity are unclarified.

In this regard, we consider it necessary to sign an agreement between Azerbaijan and Russia defining the mission, mandate and powers of the peacekeeping contingent in Nagorno-Karabakh, in particular, to clarify issues related to civil administration and inform the Azerbaijani public about it in detail.

Given Russia's imperial past in the region, there are expectations in society that the peacekeeping contingent should not be composed only of Russian servicemen, but should also involve servicemen from Minsk Group's permanent members, and that such a peacekeeping mission should be supported with international legal documents. It is important to inform the public about the government's efforts to meet these expectations.

3) Joint use of transit highways in the territory of Karabakh

One of the issues left open in the 10 November statement is the organisation of joint access to transit routes for people of both ethnic groups in the area where the Russian peacekeeping contingent is dislocated.

For example, the historic Agdam-Shusha highway, which is very close in the distance, passes near Khankendi (Stepanakert), so the issue of its future operation remains open. In the same way, the possibility and safety of using the highway to Kalbajar passing through the territory of Aghdara region are not specified. One of the uncertainties at the moment is the use of the Gubadli-Lachin-Shusha highway by Azerbaijani citizens and the provision of security during the use.

We also understand that the construction of new alternative highways in Karabakh is temporary, and we believe that the restoration of other existing historical highways as soon as possible is vital for the future integration of peoples.

4) The issue of return and safety of Armenian and Azerbaijani IDPs

Although the statement notes the return of IDPs and refugees to the territory of Nagorno-Karabakh and surrounding areas under the supervision of the Office of the UN High Commissioner for Refugees, the issue of the placement of this category of persons remains open. In particular, we consider it necessary for the government to disclose the mechanisms for the safety of Azerbaijani IDPs after their return to Agdara (Mardakert), Khankendi (Stepanakert), Khojaly (Askeran) and Khojavend (Martuni) areas, where Russian peacekeepers are currently stationed, as well as issues related to their living (language, education, access to public services, etc.).

5) Mandate of the peacekeeping centre for ceasefire control

Another issue that remains open in the document is the lack of detailed information on the mandate of the peacekeeping centre. Although it is said that the centre will be established with the joint representation of the Russian and Turkish militaries, the issues related to the control of the centre, its legal status and agreements on its location are still unknown to the public.

At the same time, we see the need for additional clarification on the fact that the ceasefire control centre is considered to operate for only one year, while the Russian peacekeeping contingent is considered to operate for at least five years.

6) The status of the Lachin corridor and the location of the Azerbaijani population in that area

The statement considers the deployment of Russian peacekeepers in a 5 km wide strip and 60 km long distance from the Armenian border to Khankendi (Stepanakert). However, this creates concerns about the issue of settlement and regulation of civilian life in Azerbaijani settlements in an area of about 300 square kilometres. Another issue that is currently unclear is the status of the Lachin corridor, in particular, the control by representatives of the Azerbaijani border troops on the border with Armenia and the rules for future use of the corridor. Similarly, following the status of this corridor, there is a need to clarify the status of the road through Mehri to Nakhchivan and the rules of its use.

Considering the need for responsible and accountable behaviour of all parties, including governments and socio-political forces in the new political situation, we consider it essential to launch initiatives in the following areas:

- 1) Transparent investigation of mutual claims related to war crimes within the framework of the national legislation of both countries and the international legal instruments to which they are parties;
- 2) Establishment of a joint assessment commission consisting of international experts to determine the mutual damage to civilian objects, historical and cultural monuments, natural reserves and forestry during the entire conflict and the Second Karabakh War;
- 3) Inviting international humanitarian organisations specialising in mine clearance to support local mine clearance efforts in the liberated areas;
- 4) Eliminating existing barriers to the activities of international development organisations, as well as local civil society to support the reconstruction of infrastructure and local community building in the liberated areas, including the areas where Azerbaijanis and Armenians will live together, and simplify relevant legal regulation, including the OSCE restoration of the country's representation in Baku;
- 5) Development and adoption of an appropriate state program on the rehabilitation of war veterans, residents of settlements along the frontline, prisoners and hostages, as well as the families of martyrs;
- 6) Adopting new normative legal acts in order to increase the social protection of war veterans and families of martyrs, as well as to restore and strengthen the health of war veterans whose physical or psychological health was damaged as a result of the war and who in need of long-term or regular medical examination and treatment;
- 7) Preparing a re-integration plan for the return of the Azerbaijani and Armenian population of Karabakh to all pre-conflict settlements in accordance with the relevant UN mechanisms, and identifying in this process the legal status of the population settled in Karabakh during the occupation (illegal migrants, IDPs or refugees);
- 8) Establishing the State Committee for Reconstruction and Re-integration in the liberated territories and its branches in the liberated territories;
- 9) Inviting international organisations for joint cooperation in the process of reconstruction and re-integration;

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