

## URGENT

### **UPCOMING TRIALS OF FOUR FORMER SENIOR OFFICIALS OF THE REPUBLIC OF NAGORNO-KARABAKH (ARTSAKH) IN AZERBAIJAN**

EXPLANATORY NOTE – REQUEST FOR TRIAL MONITORING AND OTHER SUPPORT<sup>1</sup>

#### **Trials Begin Friday January 17, 2025**

Azerbaijan will shortly begin the trials of 17 Armenian Christians, who are a mix of political prisoners and prisoners of war, before the Baku Military Court. Among the political prisoners being put on trial are four former senior officials of the Republic of Nagorno-Karabakh (Artsakh), including former State Counselor Ruben Vardanyan (2022-2023) and former Presidents Arkadi Ghukasyan (1997-2007), Ariyak Harutyunyan (2020-2023), and Bako Sahakyan (2007-2020).<sup>2</sup> The trials will begin and be held at the Baku Military Court on January 17, 2025, at the following address: Baku, Surakhani District, Govsan Settlement, Highway 3, 8th Kilometer, 10L., Baku, Azerbaijan. The trial of Ruben Vardanyan will be at 3:00 pm; the trial of Ariyak Harutyunyan, Arkadi Ghukasyan, and Bako Sahakyan, and others will be on the same day. The cases will be heard before one or more of Judges Zeynal Agayev, Jamal Ramazanov, and Anar Rzayev.<sup>3</sup>

It is **critical that representatives of multilateral organizations, foreign governments (and their embassies in Baku), media organizations, and civil society try and attend and monitor these trials.** While as of now, the trials are expected to be closed and held in secret, it will be much harder for Azerbaijan to sustain that position if a large number of people appear at the Baku Military Court to try and monitor the trials.

In addition, all **multilateral organizations, foreign governments, and civil society organizations,** based on their attempts to attend the trial and their analysis of the cases, are **urged to speak out publicly and to condemn these proceedings because of the systematic**

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<sup>1</sup> For further information, contact Jared Genser, International Counsel to Ruben Vardanyan, [zs Salman@perseus-strategies.com](mailto:zs Salman@perseus-strategies.com) or WhatsApp / Signal at +1 202 320 4135. This Explanatory Note does not and cannot address the situation of the alleged prisoners of war that are being put on trial because of a lack of publicly-reported information about their cases.

<sup>2</sup> Previously, the cases of the latter three former Presidents were joined together with that of the other Armenian political prisoners, including Levon Mnatsakanyan, Davit Babayan, Davit Ishkhanyan, and Davit Manukyan. Given the cases were previously connected and there has been no further update to suggest they have been separated, it is expected that the others may be put on trial at the same time. As of now, however, there is no confirmation this is in fact the case. Aytan Farhadova, *Azerbaijan Announces Trial Dates for 16 Former Nagorno-Karabakh Officials*, OC MEDIA, Jan. 7, 2025, available at <https://oc-media.org/azerbaijan-announces-trial-dates-for-16-former-nagorno-karabakh-officials/>; *Azerbaijan Reveals Trial Date for Armenian War Criminal Ruben Vardanyan*, APA, Jan. 6, 2025, available at <https://en.apa.az/incident/azerbaijan-reveals-trial-date-for-armenian-war-criminal-ruben-varpanyan-457324>.

<sup>3</sup> E. Mammadeliyev, *Ruben Vardanyan Has Been Charged With 42 Articles – The Criminal Case Will Be Investigated Under the Chairmanship of a Famous Judge*, USAVAT, Dec. 28, 2024, available at [https://musavat.com/news/ruben-varpanyana-42-madde-uzre-ittiham-verilib-cinayet-isi-meshur-hakimin-sedrliyi-ile-arasdirilacaq\\_1133971.html?ref=oc-media.org](https://musavat.com/news/ruben-varpanyana-42-madde-uzre-ittiham-verilib-cinayet-isi-meshur-hakimin-sedrliyi-ile-arasdirilacaq_1133971.html?ref=oc-media.org).

**and egregious violations of the substantive and procedural due process rights of at least the four political prisoners** under the International Covenant on Civil and Political Rights, as detailed below.

## I. RELEVANT BACKGROUND

In September 2023, President Ilham Aliyev of Azerbaijan launched his plan to eradicate the Republic of Nagorno-Karabakh by displacing its ethnic Armenian population, dissolving its institutions, and decapitating its leadership.

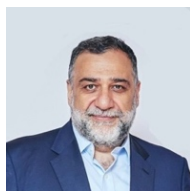
First, after the Azerbaijani Armed Forces reportedly killed 400 people, including civilians, it then forced the 120,000 ethnic Armenian residents of the Republic of Nagorno-Karabakh to flee West across the border into Armenia in a brazen campaign of ethnic cleansing.<sup>4</sup> While not defined in an international treaty, the term “ethnic cleansing,” according to a UN Commission of Experts, is “a purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population of another ethnic or religious group from certain geographic areas.”<sup>5</sup>

Second, under pressure from Aliyev, Nagorno-Karabakh President Samvel Shahramanyan signed a decree which dissolved its institutions, effective January 1, 2024, before later fleeing to Armenia.<sup>6</sup>

And third, to ensure nothing disrupted his plan, Aliyev also imprisoned six former leaders of the Nagorno-Karabakh Republic. This includes a former State Minister, three former Presidents, a former Foreign Minister, and the former President of the National Assembly/Acting President – with no transparency into the investigations that are being undertaken against them.

## II. BACKGROUND ON POLITICAL PRISONERS FACING TRIALS IN JANUARY 2025

### A. **Biographies**



**Ruben Vardanyan**, *State Minister of the Nagorno-Karabakh Republic* (November 2022-February 2023), is a businessman and philanthropist.

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<sup>4</sup> David J. Scheffer, *Ethnic Cleansing is Happening in Nagorno-Karabakh. How Can the World Respond?*, COUNCIL ON FOREIGN RELATIONS, Oct. 4, 2023, available at <https://www.cfr.org/article/ethnic-cleansing-happening-nagorno-karabakh-how-can-world-respond>.

<sup>5</sup> *Ethnic Cleansing*, U.N. OFFICE ON GENOCIDE PREVENTION AND THE RESPONSIBILITY TO PROTECT, available at <https://www.un.org/en/genocideprevention/ethnic-cleansing.shtml>.

<sup>6</sup> Christian Edwards, *Nagorno-Karabakh Will Cease to Exist From Next Year. How Did This Happen?*, CNN, Sept. 28, 2023, available at <https://www.cnn.com/2023/09/28/europe/nagorno-karabakh-officially-dissolve-intl/index.html>.



**Arkadi Ghukasyan**, *President of the Nagorno-Karabakh Republic* (September 1997-September 2007), *Foreign Minister* (July 1993-September 1997), is a former journalist and newspaper editor.



**Arayik Harutyunyan**, *President of the Nagorno-Karabakh Republic* (May 2020-September 1, 2023), *State Minister* (September 2017-June 2018), and *6th Prime Minister* (September 2007-September 2017), is an economist and businessman.



**Bako Sahakyan**, *President of the Nagorno-Karabakh Republic* (September 2007-May 2020), *Interior Minister* (1999-2001), was a Nagorno-Karabakh politician.

## B. The Charges

In Ruben Vardanyan's case, it has been reported by the state-run newspaper Usavat that he has been charged with 44 alleged violations of the Criminal Code of Azerbaijan. These include violations of Articles 100 (planning and waging a war of aggression), 107 (deportation or forced transfer of the population), 109 (persecution), 110 (enforced disappearance of persons), 112 (deprivation of liberty contrary to international law), 113 (torture), 114 (mercenary), 115 (violation of the laws and customs of war), 116 (violation of international humanitarian law during armed conflict), 120 (murder), 192 (illegal entrepreneurship); 206 (smuggling); 214 (terrorism), 214-1 (financing terrorism), 218 (creation of a criminal association), 228 (illegal acquisition, transfer, sale, storage, transportation and carrying of weapons, their components, ammunition, explosives and devices), 270-1 (acts threatening aviation safety), 278 (forcible seizure and retention of power, forcible change of the constitutional structure of the state), 279 (creation of armed formations and groups not provided for by law), 318 (illegal crossing of the state border of the Republic of Azerbaijan) and others.<sup>7</sup> If convicted, he faces life in prison.

And across the other 16 cases, including the three former Presidents, it is also reported by Usavat that those defendants have been charged with an extraordinary alleged 2,548 violations of the Criminal Code of Azerbaijan.<sup>8</sup> If convicted, they also face life in prison.

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<sup>7</sup> E. Mammadeliyev, *Ruben Vardanyan Has Been Charged With 42 Articles – The Criminal Case Will Be Investigated Under the Chairmanship of a Famous Judge*, USAVAT, Dec. 28, 2024, available at [https://musavat.com/news/ruben-varanyana-42-madde-uzre-ittiham-verilib-cinayet-isi-meshur-hakimin-sedrliyi-ile-arasdirilacaq\\_1133971.html?ref=oc-media.org](https://musavat.com/news/ruben-varanyana-42-madde-uzre-ittiham-verilib-cinayet-isi-meshur-hakimin-sedrliyi-ile-arasdirilacaq_1133971.html?ref=oc-media.org).

<sup>8</sup> *Id.*

### III. MAJOR VIOLATIONS OF INTERNATIONAL LAW

#### A. **Substantive Violations**

The definition of a political prisoner is a person who is detained for who they are or what they believe in violation of their fundamental rights and freedoms. In the cases of the four political prisoners, they all served the Republic of Nagorno-Karabakh in civilian leadership roles. The charges against them are pretextual and, in fact, they have actually been targeted for their outspoken advocacy for the right to self-determination and self-governance of their people in violation of the International Covenant on Civil and Political Rights, including Article 19 (right to freedom of opinion and expression), Article 25 (right to political participation), and Article 2 (right to be free from discrimination on the grounds of religion, political or other opinion, national or social origin, and birth or other status, among others).

Reaffirming the political nature of the charges, Azerbaijan's Prosecutor General Kamran Aliyev announced "[a] single investigative team has been established . . . regarding [the] *separatists* detained in the [Nagorno] Karabakh region of Azerbaijan."<sup>9</sup> He further explained that he has opened criminal investigations into *300 former officials* of Nagorno-Karabakh.<sup>10</sup> This approach is driven by a transparent political agenda that the very existence of the Republic was illegal and illegitimate. It also demonstrates that now that Baku has liquidated the ethnic Armenian population from the territory, anyone who ever held a significant role in its former Government is presumed guilty of crimes against Azerbaijan. Importantly, it is worth noting the Defense Army of the Nagorno-Karabakh Republic had some 5,500 personnel when it was dissolved in September 2023, as compared to 65,000 active, 300,000 reserve, and 15,000 paramilitary personnel of the Azerbaijani Armed Forces.<sup>11</sup> Yet Azerbaijan's approach to prosecuting this first group of four political prisoners shows that regardless of the insignificance of the Republic's former Defense Army, it intends to use its existence as a pretext to prosecute its former leaders as war criminals and terrorists under Azerbaijani law in the Baku Military Court.

With respect to the four political prisoners specifically, they, along with four other former leaders of Nagorno-Karabakh's government, have already been labeled as political prisoners by a group of 150 global leaders,<sup>12</sup> including Oscar Arias, former President of Costa Rica and Nobel Peace Prize Laureate; Mary Robinson, former UN High Commissioner for Human Rights and President of Ireland; and Elisha Wiesel, Chairman of the Board of the Elie Wiesel Foundation, as

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<sup>9</sup> *Baku Sets Up "Single Investigative Team" for Former Artsakh Leaders' Cases*, ASBAREZ, Dec. 12, 2023, available at <https://www.asbarez.com/baku-sets-up-single-investigative-team-for-former-artsakh-leaders-cases/> (emphasis added).

<sup>10</sup> *Azerbaijan Says It Has Detained Former Karabakh Separatist President Harutyunyan*, FRANCE 24, Oct. 5, 2023, available at <https://www.france24.com/en/europe/20231005-azerbaijan-says-it-has-detained-former-karabakh-separatist-president-harutyunyan>.

<sup>11</sup> Timucin Turksoy, *Azerbaijan Army Ranked As Strongest in South Caucasus*, CASPIAN NEWS, Jan. 9, 2023, available at <https://caspiannews.com/news-detail/azerbaijan-army-ranked-as-strongest-in-south-caucasus-2023-1-9-0/#:~:text=The%20total%20military%20personnel%20is,ranked%2088%20and%2098%2C%20respectively>.

<sup>12</sup> *Over 150 Global Leaders Demand Release of Armenian Prisoners in Azerbaijan*, ASBAREZ, Dec. 12, 2023, available at <https://asbarez.com/over-150-global-leaders-demand-release-of-armenian-prisoners-in-azerbaijan/>.

well as by the Center for Truth & Justice.<sup>13</sup> On January 17, 2024, the French Senate adopted<sup>14</sup> a resolution similarly recognizing that “the democratically elected authorities of Nagorno-Karabakh and its former leaders were arbitrarily arrested and detained” and calling “for their release without delay.”<sup>15</sup> Moreover, 10 prominent NGOs issued a Joint Statement condemning the “arbitrary arrests and detentions of former and current de-facto . . . officials of Nagorno-Karabakh, including Ruben Vardanyan (former State Minister), Davit Babayan (former Minister of Foreign Affairs), Bako Sahakyan (former president), Arkady Ghukasyan (former president), Arayik Harutyunyan (former president), [and] Davit Ishkhanyan (chairman of the National Assembly) . . . based on fabricated, mostly terrorism-related charges.”<sup>16</sup> The Joint Statement also “[d]emand[ed] [the] immediate and unconditional release and repatriation of all ethnic Armenians who were arrested before and after 19 September 2023 military attacks.”<sup>17</sup>

In addition, in a report issued in December 2023, former Prosecutor of the International Criminal Court Luis Moreno-Ocampo said the captivity of the “three former Artsakh presidents and . . . other community leaders” by Azerbaijan “is part of the genocide and a message to their community: if you come back to Nagorno-Karabakh, you will be starved, incarcerated, or killed.”<sup>18</sup> And Artak Beglaryan, a former Human Rights Ombudsman of Nagorno-Karabakh, said: “They are being prosecuted simply for protecting their own people and fighting for self-determination . . . [they are] political prisoners in the hands of one of the world’s top dictators.”<sup>19</sup>

It is also widely known that Azerbaijan imprisons political prisoners and the detention of these four is consistent with this practice. In December 2024, the Union for Freedom of Political Prisoners in Azerbaijan published an updated list of Azeri political prisoners with the names of

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<sup>13</sup> *Azerbaijan Must Release All Armenian Political Prisoners, POWs, and Hostages*, CENTER FOR TRUTH & JUSTICE, Nov. 21, 2023, available at <https://www.cftjustice.org/wp-content/uploads/2023/12/Armenian-POW-List6.pdf>.

<sup>14</sup> Sébastien Gray, *French Senate Adopts Resolution Calling for Sanctions Against Azerbaijan*, ATLAS NEWS, Jan. 17, 2024, available at <https://theatlusnews.co/latest/2024/01/17/french-senate-adopts-resolution-calling-for-sanctions-against-azerbaijan/>.

<sup>15</sup> *Resolution on the Territorial Integrity of the Republic of Armenia*, SENATE OF FRANCE, adopted Jan. 17, 2024, available at <https://www.senat.fr/leg/ppr23-157.html> [in French].

<sup>16</sup> *Joint Statement by Armenian Human Rights Defender Organizations on Unlawful Arrests by Azerbaijan*, Oct. 10, 2023, available at <https://demdev.org/2023/10/10/joint-statement-by-armenian-human-rights-defender-organizations-on-unlawful-arrests-by-azerbaijan/>. The 10 signing NGOs are: Democracy Development Foundation, Law Development and Protection Foundation, Protection of Rights Without Borders NGO, Helsinki Citizens’ Assembly-Vanadzor, Transparency International Anticorruption Center, Peace Dialogue, For Equal Rights, Women’s Resource Center, Union of Informed Citizens, and Human Rights Research Center.

<sup>17</sup> *Id.*

<sup>18</sup> Luis Moreno Ocampo, *Current Genocides and the Consistent International Practice to Deny Them: Summary of the Case of Nagorno-Karabakh*, UNIVERSITY OF SAO PAULO, Dec. 2023, available at <https://luismorenoocampo.com/wp-content/uploads/2023/12/USP-Innovation-on-Global-Order.-Nagorno-Karabakh-case-2023.pdf>.

<sup>19</sup> Joshua Kucera, *Concerns About Victor’s Justice As Nagorno-Karabakh’s Leaders Are Behind Bars and Facing Trial in Azerbaijan*, RADIOFREEEUROPE/RADIOLIBERTY, Oct. 11, 2023, available at <https://www.rferl.org/a/karabakh-leaders-arrested-azerbaijani-victor-justice-armenia-courts/32633354.html>.

331 people.<sup>20</sup> Both Amnesty International<sup>21</sup> and Human Rights Watch,<sup>22</sup> among others, report that Azerbaijan imprisons political prisoners.

Finally, Ruben and the three former Presidents of Nagorno-Karabakh are being discriminated against and targeted because they are Armenian Christians. As civil society has documented, “the Azerbaijani leader and various authorities are quite explicit in [their] intent to cleanse Nagorno-Karabakh from Armenians.”<sup>23</sup> Indeed, “Aliyev . . . has persistently repeated his goals of eliminating any Armenian presence from [Nagorno-Karabakh].”<sup>24</sup> For example, on July 23, 2021, Aliyev stated in an interview that Armenians have “no historical basis for living” in Nagorno-Karabakh,<sup>25</sup> and he has frequently referred to the region as “ancient” Azerbaijani land.<sup>26</sup> A related strategy is Azerbaijan’s erasure of all traces of Armenian culture. Azerbaijan’s destruction of Armenian churches, graveyards, and other historic sites is well documented, including the “systematic, state-sponsored program of cultural erasure” it perpetrated in the Nakhchivan Autonomous Republic between 1997 and 2011.<sup>27</sup> Using satellite imagery, Caucasus Heritage Watch has also documented the more recent destruction of and damage to numerous historic Armenian sites in Nagorno-Karabakh specifically,<sup>28</sup> including after the ICJ’s December 7, 2021, order requiring Azerbaijan to “to prevent . . . acts of vandalism and desecration affecting Armenian cultural heritage.”<sup>29</sup>

## **B. Procedural Violations**

Even before these trials have begun, there have already been systematic and egregious violations of the rights of these defendants to due process of law under Articles 9 and 14 of the International Covenant on Civil and Political Rights.

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<sup>20</sup> *New List of Political Prisoners in Azerbaijan – 331 People*, Turan, Dec. 12, 2024, available at <https://turan.az/en/politics/new-list-of-political-prisoners-in-azerbaijan-331-people-788109>.

<sup>21</sup> *Azerbaijan 2022*, AMNESTY INTERNATIONAL, available at <https://www.amnesty.org/en/location/europe-and-central-asia/azerbaijan/report-azerbaijan/>.

<sup>22</sup> *Azerbaijan: Events of 2022*, HUMAN RIGHTS WATCH, available at <https://www.hrw.org/world-report/2023/country-chapters/azerbaijan#8d1259>.

<sup>23</sup> *Risk Factors and Indicators of the Crime of Genocide in the Republic of Artsakh*, LEMKIN INSTITUTE FOR GENOCIDE PREVENTION, Sept. 5, 2023, at 109; *Anti-Armenian Xenophobia and Racism in Azerbaijan 2022*, TRANSPARENCY INTERNATIONAL ET AL., 2022, at ¶ 180, available at <https://transparency.am/en/publication/pdf/335/10651/>.

<sup>24</sup> *Risk Factors and Indicators of the Crime of Genocide in the Republic of Artsakh*, LEMKIN INSTITUTE FOR GENOCIDE PREVENTION, Sept. 5, 2023, at 107.

<sup>25</sup> *Aliyev on Armenian-Azerbaijan Border, Nagorno-Karabakh Status: We Are in Our Territory*, JAM NEWS, July 23, 2021, available at <https://jam-news.net/aliyev-on-armenian-azerbaijan-border-nagorno-karabakh-status-we-are-in-our-territory/>.

<sup>26</sup> *Anti-Armenian Xenophobia and Racism in Azerbaijan 2022*, TRANSPARENCY INTERNATIONAL ET AL., 2022, at ¶¶ 108, 140.

<sup>27</sup> David Nutt, *Report Shows Near-Total Erasure of Armenian Heritage Sites*, CORNELL UNIVERSITY DEPARTMENT OF NEAR EASTERN STUDIES, Sept. 12, 2022, available at <https://news.cornell.edu/stories/2022/09/report-shows-near-total-erasure-armenian-heritage-sites>.

<sup>28</sup> Caucasus Heritage Watch’s reports are available at [https://caucasusheritage.cornell.edu/?page\\_id=866](https://caucasusheritage.cornell.edu/?page_id=866). In particular, see Nagorno-Karabakh Monitoring Reports #1-#6.

<sup>29</sup> Order of Dec. 7, 2021, *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan)*, INTERNATIONAL COURT OF JUSTICE, at ¶ 98(c), available at <https://www.icj-cij.org/sites/default/files/case-related/180/180-20211207-ORD-01-00-EN.pdf>.

First, in the case of Ruben Vardanyan, for example, a week before what is expected to be a secret and closed trial, his counsel was only recently allowed to view the indictment in person at the courthouse, with no copy made available. Although the case consists of the asserted 422 volumes of “evidence” against him, only six volumes contain evidence related to him. Ruben has not had ample time to review the volumes, as they were only made available to him in Russian, a language he understands, one week before the trial. Previously, the volumes provided were exclusively in Azerbaijani. His counsel also was only recently provided a list of witnesses that might testify against him, included in the indictment made available one week prior to the trial date. Azeri authorities have justified these decisions by claiming his case involves state secrets. Previously, Azeri authorities denied Ruben his right to consult with his international counsel, Jared Genser, who was not given permission to travel to Azerbaijan and consult with him. In addition, Ruben has been declared guilty by Aliyev, other senior officials, and the state-run media. In January 2024, responding to a question about Ruben and other detained leaders of Nagorno-Karabakh, Aliyev replied, “The criminals who waged a bloody war against us, committed vandalism, perpetrated the Khojaly genocide, destroyed our lands, cities and villages have been arrested, detained and will be brought to justice soon. Among them are all the former leaders of [Nagorno-]Karabakh, the so-called prime minister [Ruben Vardanyan] who was imported to Karabakh, and others.”<sup>30</sup> Prosecutor General Kamran Aliyev commented that Ruben and the other detainees “were engaged in separatism, operating illegally on the territory of Azerbaijan.”<sup>31</sup> And state-run media have reported on Ruben’s “illegal acts.”<sup>32</sup> Ruben has also been held in extended pre-trial detention for almost a year-and-a-half and repeatedly denied bail. The other political prisoners have also seen be subjected to similar violations of their due process rights.

Second, Ruben and the former Presidents of Nagorno-Karabakh are being tried before the Baku Military Court and not in a civilian court. Yet the administration of justice through military tribunals has raised serious concerns in terms of “access to justice . . . the independence and impartiality of military tribunals, and respect for the fair trial rights of the accused.”<sup>33</sup> According to the UN Special Rapporteur on the Independence of Judges and Lawyers, the jurisprudence of international law shows that there is “a strong trend against extending the criminal jurisdiction of military tribunals over civilians”<sup>34</sup> and that the jurisdiction of military tribunals should be restricted to offenses of a “strictly military nature committed by military personnel.”<sup>35</sup> These concerns were previously identified by the UN Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights, who elaborated a set of principles aimed to establish a system of universally applicable rules to regulate military

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<sup>30</sup> *President of Azerbaijan Ilham Aliyev Was Interviewed by Local TV Channels*, AZERTAC, Jan. 11, 2024.

<sup>31</sup> *Azerbaijan Continues Investigation Against Armenian Separatists in Line With Int’l Conventions – Prosecutor General*, AZVISION.AZ, Jan. 20, 2024, available at <https://en.azvision.az/news/176133/azerbaijan-continues-investigation%C2%A0against-armenian-separatists-in-line-with-int%E2%80%9991-conventions-prosecutor-general.html>.

<sup>32</sup> See, e.g., *State Security Service: Ruben Vardanyan Charged With Financing Terrorism*, AZE.MEDIA, Sept. 28, 2023, available at <https://aze.media/state-security-service-ruben-var-danyan-charged-with-financing-terrorism/>; *Azerbaijan’s State Security Service: Armenian Citizen Ruben Vardanyan Taken Into Custody as Suspect*, BAKU TRIBUNE, Sept. 28, 2023, available at <https://bakutribune.com/en/news/1219/azerbaijan%E2%80%999s-state-security-service-armenian-citizen-ruben-var-danyan-taken-into-custody-as-suspect>.

<sup>33</sup> *Report of the Special Rapporteur on the Independence of Judges and Lawyers*, HUMAN RIGHTS COUNCIL, A/68/285, Aug. 7, 2013, at Summary.

<sup>34</sup> *Id.*, at ¶ 47.

<sup>35</sup> *Id.*, at ¶¶ 54, 100.

justice.<sup>36</sup> Specifically, Principle No. 5 states: “Military courts should, in principle, have no jurisdiction to try civilians. In all circumstances, the State shall ensure that civilians accused of criminal offences of any nature are tried by civilian courts.”<sup>37</sup>

And third, even if these defendants were being tried in civilian courts, there would be serious concerns about the lack of independence and impartiality of the judicial system in Azerbaijan. According to Freedom House, the Executive Branch has a “complete grip” over the judiciary and has “eliminated any meaningful checks and balances among the three branches of government.”<sup>38</sup> Amnesty International has called on Azerbaijani officials to “end their campaign against the independent judiciary.”<sup>39</sup> And the U.S. Department of State previously noted: “Credible reports indicated that judges and prosecutors took instructions from the Presidential Administration and the Justice Ministry, particularly in politically sensitive cases.”<sup>40</sup> And it further observed there are often wider and egregious due process abuses in cases as well:

Although the constitution provides for an independent judiciary, judges were not functionally independent of the executive branch. The judiciary remained largely corrupt and inefficient, and lacked independence. Many verdicts were legally unsupportable and largely unrelated to the evidence presented during a trial, with outcomes frequently appearing predetermined.<sup>41</sup>

In sum, even prior to the beginning of the trial against these four political prisoners, there have been systemic and egregious violations of their rights to due process of law under the International Covenant on Civil and Political Rights. This has included at least the following violations:

- Article 9(1) – right to be free from arbitrary arrest or detention;
- Article 9(2) – right to be informed of the reason for arrest and be promptly informed of any charges;
- Article 9(3) – right to trial within a reasonable time or to be released;
- Article 14(1) – right to a fair and public hearing by a competent, independent, and impartial tribunal;
- Article 14(2) – right to the presumption of innocence (and right to the presumption of bail);
- Article 14(3)(a) – right to be informed promptly and in a language which is understood of the nature and cause of the charges;
- Article 14(3)(c) – right to be tried without undue delay;
- Article 14(3)(d) – right to legal assistance of own choosing; and

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<sup>36</sup> Special Rapporteur, *Issue of the Administration of Justice Through Military Tribunals*, SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS, E/CN.4/2006/58, Jan. 13, 2006.

<sup>37</sup> *Id.*, at Principle 5 and ¶¶ 20-21.

<sup>38</sup> *Nations in Transit 2023: Azerbaijan*, FREEDOM HOUSE, available at <https://freedomhouse.org/country/azerbaijan/nations-transit/2023>.

<sup>39</sup> *Azerbaijan: Trump Administration Must Raise Human Rights During High Level Visit*, AMNESTY INTERNATIONAL, available at <https://www.amnestyusa.org/updates/azerbaijan-trump-bolton-human-rights/>.

<sup>40</sup> *2022 Country Reports on Human Rights Practice: Azerbaijan*, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEPARTMENT OF STATE, Mar. 20, 2023, available at <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/azerbaijan/>.

<sup>41</sup> *Id.*



- Article 14(3)(e) – right to know about and examine adverse witnesses.

#### REQUEST FOR SUPPORT

Representatives of multilateral organizations, foreign governments (and their embassies in Baku), news organizations, and civil society are urged to try and attend and monitor the trials of the four political prisoners.

And representatives of multilateral organizations, foreign governments, and civil society are urged to speak out publicly and to condemn these proceedings because of the systematic and egregious violations of substantive and procedural due process rights of the four political prisoners under the International Covenant on Civil and Political Rights.

Thanks so much in advance for your consideration.