

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRETARIAT DU COMITE DES MINISTRES



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Meeting: 1280 meeting (7-9 March 2017) (DH)

Item reference: Action plan (06/03/2017)

Communication from Azerbaijan concerning the case of SARGSYAN v. Azerbaijan (Application No. 40167/06)

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Réunion : 1280 réunion (7-9 mars 2017) (DH)

Référence du point : Plan d'action

Communication de l'Azerbaïdjan concernant l'affaire SARGSYAN c. Azerbaïdjan (Requête n° 40167/06)
(anglais uniquement)

DGI

06 MARS 2017

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Action Plan

The Court's judgment in the above applicant's case concerns violation of the applicant's rights under Article 8 and 13 of the Convention and Article 1 of Protocol no. 1 because of his inability to return to his home.

Individual measures

The Court held that at the present stage, and pending a comprehensive peace agreement, it would appear particularly important to establish a property claims mechanism, which should be easily accessible and provide procedures operating with flexible evidentiary standards, allowing the applicant and others in his situation to have their property rights restored and to obtain compensation for the loss of their enjoyment.

In this respect it should be noted that the Government of Azerbaijan has established such mechanism which properly operates and was helpful in evaluation of the damages suffered by the applicant in the present case.

The Cabinet of Ministers of the Republic of Azerbaijan, by its executive order no. 51s of 26 February 2014, established the Working Group on Evaluation of loss and damages suffered as a result of occupation of the territories of the Republic of Azerbaijan by the Armed Forces of Armenia. This Working Group uses standard international methodology to assess damages suffered by refugees and internally displaced persons as a result of Armenian occupation. It is chaired by the Member of Parliament and consists of independent experts in economics and real estate.

This Working Group has evaluated the amount of compensation which may be due to the above applicant and resulted from violations of the Convention provisions established by the Court. The Government's submissions to the Court under Article 41 of the Convention have been based on the evaluations provided by the Working Group.

General measures

The village of Gölüstən, where the applicant alleged to have possessions before the military operations in the area, is situated in the Goranboy district of the Republic of Azerbaijan, right on the line of contact between the Armenian and Azerbaijani Armed Forces. The whole of the village as well as the Azerbaijani military positions are on the north bank of the river İncəçay, which constitutes a natural dividing line. The Armenian positions are on the south bank of the river, the closest being on a slope opposite the village.

The Government is still on the position that the main responsibility in this case belongs to the Republic of Armenia, whose presence on the edge of the Gölüstən village

poses real risk for the lives of individuals, once they are being settled in the area. From a legal point of view the Government of Azerbaijan have jurisdiction as the territorial state and full responsibility under the Convention, while they may encounter difficulties at a practical level in exercising their authority in the area of Gölüstən.

The facts of the Court's cases of Zalyan, Sargsyan and Serobyan v. Armenia show not only the presence of Armenian troops in Nagorno-Karabakh but also the operation of Armenian law enforcement agents and the exercise of jurisdiction by Armenian courts on that territory.

Massive shelling by the Armenian Armed Forces of the Azerbaijani settlements along the line of contact in April 2016 caused dozens casualties and injuries, and hundreds of properties destroyed. The village of Tap Qaraqoyunlu which is situated some 10 kilometres away from the Gölüstən village and the line of contact was among the settlements which suffered most seriously from these shelling.

On 2-5 and on 27-28 April 2016 heavy shelling by the Armenian Armed Forces of Azerbaijani towns and villages in Goranboy, Tər-Tər, Ağdam, Xocavənd and Füzuli districts led to significant casualties among civilian population and destruction of properties privately owned by individuals.

Armenian shelling of the settlements resulted in six civilians killed, 33 civilians wounded, 532 houses seriously damaged, 31 houses completely destroyed, 57 houses became unfit to live in, five schools, three kindergartens, two clinics, one community centre and two administrative buildings, three catering businesses, 27 auxiliary buildings seriously damaged, 309 head of cattle killed, 208 hectares of grain fields and 28 hectares of beetroot fields became unfit for cultivation, three sub-stations and five high-voltage power lines in three villages, thirty transformers in nine villages, 357 electrical poles, 297 traverses, 1,084 isolators, 49 meters, three kilometres of cables, 42 kilometres of conductors in 14 villages, 15 sub-artesian wells in eight villages, water containers and water lines in three villages, gas lines in seven villages, 9,560 meters of communication lines, 320 meters of conductors, 17 communication poles in seven villages, and four kilometre section of Tap Qaraqoyunlu – Naftalan road completely destroyed.

As stated earlier, the village of Tap Qaraqoyunlu is situated some ten to twelve kilometres from Gölüstən. Most part of residential buildings in the village was destroyed because of the shelling in April 2016.

The victims of these unlawful acts have already lodged their applications with the European Court of Human Rights – they are more than seven hundreds. Having regard to the fact that the Court had communicated the application by the relatives of three

Armenian individuals who had allegedly been killed by the Azerbaijani militaries inside the occupied territories and some 50 km away from the line of contact, we do hope that the Court will start examination of applications concerning the Azerbaijani victims in the nearest future, and they will not suffer the same destiny as hundreds of applications lodged by the Azerbaijani refugees and IDP's in 2005-2006 and still pending their examination.

A the same time, attention should be paid to the fact that the Government of Azerbaijan undertakes all measures necessary to secure safe return of individuals to their homes.

On 24 January 2017 President of Azerbaijan signed Executive Order concerning measures for reconstruction of the Cocuq Mərcanlı village freed from the Armenian occupation in April 2016 due to effective countercharge of Azerbaijani Armed Forces.

According to the Executive Order, at the first stage, four million manats has been allocated for the village's reconstruction, including construction of fifty private houses, school and relevant infrastructure.

At the same time Azerbaijan National Agency for Mine Action (ANAMA) continues its clearance operation in the village's area. To date, ANAMA has cleared 103 houses and the area allocated for construction of new road to the village, totalling to 742,450 sq. m.