



# ARTSAKH OMBUDSMAN'S SECOND INTERIM REPORT ON ATROCITIES COMMITTED BY AZERBAIJAN DURING THE 2016 APRIL WAR

**PUBLIC EDITION**

**Shushi 2016**

**The findings of the present report are alarming for the international community, in particular the international human rights community. The systemic and grave violations of the International Humanitarian Law in April 2016 by the Azerbaijani armed forces still require proper actions from the respective international human rights organizations, as a matter of concern for the whole international community**

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## Abbreviations

<b>AF</b>	Armed Forces
<b>C/P</b>	Command post
<b>GC</b>	Geneva Convention
<b>IHL</b>	International Humanitarian Law
<b>ICRC</b>	International Committee of the Red Cross
<b>KIA</b>	Killed in action
<b>M/P</b>	Military position
<b>NKDA</b>	Nagorno Karabakh Defense Army
<b>NKR</b>	Nagorno Karabakh Republic
<b>OSCE</b>	Organization for Security and Co-operation in Europe

## Foreword

1. In the early morning hours of April 2, 2016 the Azerbaijani armed forces launched a thoroughly planned large-scale offensive along the entire line of contact between NKDA and Azerbaijani AF, deploying tanks, attack helicopters, heavy artillery, rocket launchers (including 220mm TOS-1 Heavy Flamethrower System *Solntsepyok*, and 300mm *Smerch* Multiple Rocket Launchers), and unmanned combat aerial vehicles (including IAI *Harop*). The Azerbaijani surprise and unprovoked offensive was the largest and bloodiest breach of the cease-fire regime installed in 1994 through a trilateral agreement between NKR, Armenia and Azerbaijan.

The active phase of the armed conflict lasted until 12pm on April 5, when by active interference of the international community the cease-fire regime of 1994 was restored.

2. On April 2, 2016 the first evidences of atrocities committed by Azerbaijani AF emerged on social media.
3. NKR Ombudsman Yuri Hayrapetyan condemned the Azerbaijani offensive in a public statement, dated April 2. Later he issued two public reports on the Azerbaijani atrocities. The first report (titled *“Interim Public Report on Atrocities Committed by Azerbaijani Military Forces Against the Civil Population of the Nagorno Karabakh Republic and Servicemen of Nagorno Karabakh Defense Army on 2-5 April 2016”*, issued on April 21, 2016) addressed a wide range of human rights issues stemming from the Azerbaijani aggression, including beheadings, torture, and mutilation of combatants’ and civilians’ dead bodies, as well as indiscriminate shelling of civilian objects, etc. The report was prepared based on publicly available information (traditional media, social media etc.).

The second report (titled *“Legal Assessment: Facts on Human Shielding and Use of Indiscriminate Attacks against the Civilian Population of Nagorno Karabakh by Azerbaijani Military Forces”*, issued on May 2, 2016) included evidences of human shielding, as well as indiscriminate shelling by Azerbaijan.

4. As newly-elected Ombudsman of the NKR, I publicly pledged in my speech before the NKR National Assembly to launch a fact-finding mission, aiming to publish a final report on the April 2-5 events. The fact-finding was initiated by the NKR Ombudsman decision of May 11, 2016, under the NKR Law on the Human Rights Defender, Article 11(4).
5. The still on-going fact-finding mission includes numerous on-sight visits, dozens of witness interviews, consultations with military, medical and technical experts, as well as information requests to the respective authorities, and media monitoring. While finalizing the report, I found it appropriate to address a particular issue of extreme importance from the human rights perspective in a separate interim report: the issue of Azerbaijani military’s behavior towards those people (civilians and combatants), who fell under Azerbaijani control for short (from several minutes to one-two hours) or long (a week and more) periods.
6. This report is issued as two editions – public and restricted. Due to ethical reasons, the public version does not include victims’ names and graphic images, while the restricted version does. The restricted version of the report is issued in a small number of copies, with limited access and subject to a non-disclosure commitment.



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DURING THE 2016 APRIL WAR  
**31** FELL UNDER CONTROL  
OF AZERBAIJAN



28 COMBATANTS / 3 CIVILIANS

ABOUT  
**90%** WERE TORTURED,  
EXECUTED OR  
MUTILATED



## WAR CRIMES

● TORTURE

● EXECUTION

● MUTILATION

● BEHEADING



### NORTH-EAST



### NORTH (TALISH)



### SOUTH



## Definition of the Relevant War Crimes under the International Law

7. Within the present report, three war crimes are considered, which were committed by Azerbaijani AF against NKR combatants and civilians during April 2-5 aggression against NKR. Those war crimes are:
- a. Torture
  - b. Execution (violence to life)
  - c. Mutilation of dead bodies

All three actions are war crimes under International Humanitarian Law, as each of the listed actions clearly constitutes a serious violation of IHL.

8. *Torture*. Four Geneva Conventions of 1949<sup>1</sup> strictly prohibit torture. The relevant clauses are set forth, *inter alia*, in the First GC, Article 12<sup>2</sup>; and in the Fourth GC, Article 32<sup>3</sup>. The prohibition of torture is one of the most fundamental principles of IHL<sup>4</sup>. Moreover, International Court of Justice has ruled that “the prohibition of

torture is part of customary international law and it has become a peremptory norm (*jus cogens*)”<sup>5</sup>.

GC’s do not specify a definition of torture. Thus, a definition stipulated in the *UN Convention against Torture (UNCAT)*<sup>6</sup> of 1984, Article 1.1, can be applied. It states: “[t]he term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him, or a third person, information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”

In the *Kunarac* case the Trial Chamber of the International Criminal Tribunal for the Former Yugoslavia (ICTY) formulated the definition of the offence of torture under IHL, which is broader than the definition under the UNCAT. It states: “[I]n the field of international humanitarian law, the elements of the offence of torture, under customary international law are as follows: (i) The infliction, by act or omission, of severe pain or suffering, whether physical or mental; (ii) The act or omission must be intentional; (iii) The act or omission must aim at obtaining information or a confession, or at punishing, intimidating or coercing the victim or a third person, or at discriminating, on any ground, against the victim or a third person.”<sup>7</sup>

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<sup>1</sup> Azerbaijan is a state party since 1993.

<sup>2</sup> “[Wounded or sick combatants] shall not be ... subjected to torture...”

<sup>3</sup> “The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering . . . of protected persons in their hands. This prohibition applies not only to . . . torture . . . but also to any other measures of brutality ...”

<sup>4</sup> It’s clearly specified in the Common Article 3 of the four GC’s, which sets the core and indispensable principles of IHL: “cruel treatment and torture” are prohibited with regard to “[p]ersons taking no active part in the hostilities, including members of armed forces ... placed hors de combat by ... wounds, ... or any other cause” (Article 3(1)(a))

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<sup>5</sup> See *Questions Relating to the Obligation to Prosecute or Extradite (Belgium v Senegal)*, Judgment of 20 July 2012, ICJ Reports 2012, §99.

<sup>6</sup> Azerbaijan is a state party since 1996.

<sup>7</sup> See ICTY, *Kunarac* case, Judgment, 22 February 2001, §497.

9. *Execution (violence to life)*. Four Geneva Conventions of 1949 strictly prohibit violence to life. The relevant clauses are set forth, *inter alia*, in the First GC, Article 12<sup>8</sup>; and in the Fourth GC, Article 32<sup>9</sup>. The prohibition of the violence to life is one of the most fundamental principles of IHL<sup>10</sup>.

Well-established customary law particularly prohibits attacking persons, who are recognized as *hors de combat*. A person *hors de combat*, *inter alia*, is: (a) anyone who is in the power of an adverse party; (b) anyone who is defenseless because of unconsciousness, shipwreck, wounds or sickness; provided he or she abstains from any hostile act and does not attempt to escape<sup>11</sup>.

10. *Mutilation of dead bodies* is prohibited under IHL. The customary nature of this rule, as well as its applicability on Azerbaijan clearly follows from a long list of arguments. Some of them are as follows:

- a. Article 19 of the *Laws of War on Land* adopted by the *Institute of International Law* back in 1880 (the Oxford Manual) provided: “It is forbidden to ... mutilate the dead lying on the field of battle.”

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<sup>8</sup> “[Wounded or sick combatants] shall not be murdered or exterminated...”

<sup>9</sup> “The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering . . . of protected persons in their hands. This prohibition applies not only to murder . . . but also to any other measures of brutality ...”

<sup>10</sup> It’s clearly specified in the Common Article 3 of the four GC’s, which sets the core and indispensable principles of IHL: “violence to life and person, in particular murder of all kinds” are prohibited with regard to “[p]ersons taking no active part in the hostilities, including members of armed forces ... placed *hors de combat* by ... wounds, ... or any other cause” (Article 3(1)(a)).

<sup>11</sup> For extensive national practice, see: ICRC, *Customary International Humanitarian Law, Vol. II: Practice*, edited by Jean-Marie Henckaerts and Louise Doswald-Beck, 2005, pp. 930-938.

- b. Mutilation or other maltreatment of dead bodies during armed conflict is prohibited under the military manuals of more than twenty different countries, including Australia, Canada, Greece, Israel, Netherlands, Spain, USA etc.<sup>12</sup>
- c. Mutilation of dead bodies during armed conflict is considered a criminal offence in at least 25 national legislation of countries representing different legal systems from all the continents, including Australia, Bangladesh, Morocco, Ethiopia, Somalia, USA, Venezuela, Italy, Spain, etc.<sup>13</sup>
- d. The prohibition of mutilating dead bodies in international armed conflicts is covered by the war crime of “committing outrages upon personal dignity” under the Statute of the International Criminal Court (ICC), which according to the Elements of Crimes, also applies to dead persons<sup>14</sup>.
- e. Article 3(a) of the *1990 Cairo Declaration on Human Rights in Islam* adopted by The Organisation of Islamic Conference<sup>15</sup> provides: “In the event of the use of force and in case of armed conflict... it is prohibited to mutilate dead bodies”.
- f. Azerbaijan’s state practice also proves its acceptance of the aforementioned customary rule. In particular, in 1993 the Ministry of Interior of Azerbaijan ordered that troops “in zones of combat, during military operations . . . must not desecrate the remains of enemies”.<sup>16</sup>

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<sup>12</sup> ICRC, *Customary International Humanitarian Law, Vol. I: Rules*, by Jean-Marie Henckaerts and Louise Doswald-Beck, 2009, p. 410

<sup>13</sup> *Ibid.*

<sup>14</sup> Elements of Crimes for the ICC, *Definition of outrages upon personal dignity, in particular humiliating and degrading treatment, as a war crime* (ICC Statute, Article 8(2)(b)(xxi) and (c)(ii)).

<sup>15</sup> Azerbaijan joined the Organization in 1991. In 2011 it was renamed to *Organization of Islamic Cooperation*.

<sup>16</sup> Azerbaijan, Ministry of the Interior, Command of the Troops of the Interior, Order No. 42, Baku, 9 January 1993, §5; cited from ICRC, *Customary International Humanitarian Law, Vol. II: p. 2668*.

# The Circumstances of NKR Civilians and Combatants Falling under Azerbaijani Control and the Facts of War Crimes

## General Observations

11. As a result of the Azerbaijani military aggression during 2-5 April 2016, the NKR side had 80 casualties (76 combatants and 4 civilians). Meanwhile, 31 of them (28 NKDA servicemen and 3 NKR civilians) fell under the control of Azerbaijan, which lasted from about one hour to more than two weeks.

Five individuals (including all of the three civilians) out of the 31 fell under Azerbaijani control as a result of a subversive attack on the territory of NKR; 25 individuals – as a result of the Azerbaijani AF's assaults on the NKDA military positions that led to their temporary or lasting occupation by the Azerbaijani AF; 1 NKDA servicemen – as a result of the NKDA counter-attack, aiming to recapture the M/P's, occupied by Azerbaijan earlier.

The incidents that led to establishment of Azerbaijani control over the NKR civilians or NKDA servicemen are distributed in 3 geographic areas: the northern area (Talish village area) – 3 civilians and 6 servicemen (4 incidents); the north-eastern area – 4 servicemen (1 incident); and the southern area – 18 servicemen (2 incidents).

12. Graphic images and videos of atrocities committed by Azerbaijani AF emerged on the Azerbaijani social media starting in the afternoon of April 2. In particular, a graphic image of a man happily carrying an NKDA serviceman's decapitated head (later identified as *NKDA*

*Serviceman #8*)<sup>17</sup> appeared on April 2.<sup>18</sup> On April 3, at 9:36pm the Armenian media resource “Hetq” published the shocking picture of three elderly civilians who had been executed and subjected to outrage in their house in the Talish village<sup>19</sup>.

Later, many of the Azerbaijani media resources that contained proof of Azerbaijani atrocities were removed. But some part of them had been archived by the NKR Ombudsman's Office and are used in the present report.

New evidence of Azerbaijani atrocities emerged on the Internet during April 2016, mostly uploaded by Azerbaijani users. One of the most shocking pieces of evidence is the *YouTube* video uploaded by Samsaddin Hasanov on April 27, 2016<sup>20</sup>, depicting a fallen serviceman (later identified as *NKDA Serviceman #19*)<sup>21</sup> and recording a conversation in Azeri (the collocutors are not seen). One of collocutors requests a knife to cut the serviceman's ears. Then, the other collocutor finds out that the left ear of the serviceman is already cut off. Later, the video was edited (the part depicting that the serviceman's ear is cut off was removed, and the part of the conversation on the knife request was muted)<sup>22</sup>.

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<sup>17</sup> See §§25-28 of the present report.

<sup>18</sup> Available in the restricted edition only.

<sup>19</sup> See <https://hetq.am/arm/news/66976/vayragutyunner-talishum-zgushacum-hraparakvats-e-gndakaharvats-andzanc-lusankar.html> (accessed on November 12, 2016).

<sup>20</sup> See <https://youtu.be/BUcwVdVyvm4> (accessed on November 12, 2016).

<sup>21</sup> See §§29-38 of the present report.

<sup>22</sup> The original version of the video had been copied and later was stored on the Internet with limited access by the Office of NKR Ombudsman. The link is available in the restricted edition only.



13. 18 NKDA servicemen's bodies were returned to the NKR authorities on 10 April, 2016 in the framework of the exchange of human remains under the ICRC and OSCE auspices. The next day, the NKR State Commission on Prisoners of War, Hostages and Missing Persons issued a statement that "[in] the presence of the representatives of the International Committee of the Red Cross, the NKR State Commission on Prisoners of War, Hostages and Missing Persons registered that all bodies of the deceased transferred by the Azerbaijani side had signs of torture and mutilation"<sup>23</sup>.
14. The facts of torture, execution, and mutilation documented in the present report are established on the basis of forensic expertise reports (and photographs attached to them), as well as, in some cases, collaborating evidence (such as witness interviews, the analysis of pictures and videos published by the Azerbaijani users).
15. The circumstances of NKR civilians and NKDA servicemen falling under Azerbaijani control and the facts of war crimes committed by Azerbaijani AF with regard to NKR civilians and NKDA servicemen under their control, as presented below, are organized into three sections according to the geography. Each section is illustrated with a map, as well as a sheet containing the relevant data.

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<sup>23</sup> See <https://news.am/eng/news/321638.html> (accessed on November 12, 2016).

*The North (village of Talish)*



	<u>Name</u>	<u>Circumstances and time of death</u>	<u>Time of losing control by NKR over the individual</u>	<u>Place of losing control by NKR over the individual</u>	<u>Atrocities of Azerbaijani military over the individual</u>	<u>Time of regaining control by NKR over the individual</u>	<u>Place and manner of regaining control by NKR over the individual</u>	<u>Notes</u>
1	Civilian #1	02/04, after 5:00am, before 1:00pm. Executed by Azerbaijani AF subversive attack in Talish village, NKR.	02/04, after 5:00am, before 1:00pm	Her house in Talish village	<u>Torture, Execution and Mutilation:</u> Cut-wounded in the abdomen when alive, and then shot dead. Postmortem: left ear is cut off.	03/04, around 4:00pm	Her house in Talish village. Discovered by NKR Emergency Department rescuers at the call of "Hetq" media journalists.	
2	Civilian #2	02/04, after 5:00am, before 1:00pm. Executed by Azerbaijani AF subversive attack in Talish village, NKR.	02/04, after 5:00am, before 1:00pm	His house in Talish village	<u>Execution and Mutilation:</u> Shot dead; both ears are cut off.	03/04, around 4:00pm	His house in Talish village. Discovered by NKR Emergency Department rescuers at the call of "Hetq" media journalists.	
3	Civilian #3	02/04, after 5:00am, before 1:00pm. Executed by Azerbaijani AF subversive attack in Talish village, NKR.	02/04, after 5:00am, before 1:00pm	Her house in Talish village	<u>Execution and Mutilation:</u> Shot dead; both ears are cut off.	03/04, around 4:00pm	Her house in Talish village. Discovered by NKR Emergency Department rescuers at the call of "Hetq" media journalists.	
4	NKDA Serviceman #1	02/04, around 1:00pm. Executed by Azerbaijani AF subversive attack aiming military truck near Talish village, NKR.	02/04, around noon.	The road from Talish village to NKDA northern military positions	<u>Torture and Execution:</u> Both hands are cut off when alive, and then executed by beheading.	03/04, around 10:30am	Near the road from Talish village to NKDA northern military positions	The decapitated head is not returned by Azerbaijan.

5	NKDA Serviceman #2	02/04, around noon. Killed as a result of Azerbaijani AF subversive attack aiming military truck near Talish village, NKR.	02/04, around noon.	The road from Talish village to NKDA northern military positions	<u>Mutilation:</u> Beheading.	02/04, around 9:00pm	Near the road from Talish village to NKDA northern military positions	The decapitated head is not returned by Azerbaijan.
6	NKDA Serviceman #3	02/04, around 06:00pm. KIA in result of the Azerbaijani AF assault on M/P #170	02/04, around 06:00pm.	M/P #170	<u>Mutilation:</u> The left ear is cut off; the abdominal region is subjected to outrage.	03/04, around 7:00am	M/P #170; regaining control over the M/P as a result of NKDA counterattack.	
7	NKDA Serviceman #4	02/04, around 06:00pm. KIA as a result of the Azerbaijani AF assault on M/P #170	02/04, around 06:00pm.	M/P #170	<u>Mutilation:</u> Both ears are cut off; both eyes are gouged out; the face, the neck, the right thigh are subjected to outrage.	03/04, around 7:00am	M/P #170; regaining control over the M/P as a result of NKDA counterattack.	
8	NKDA Serviceman #5	02/04, around 06:00pm. Executed or KIA as a result of the Azerbaijani AF assault on M/P #170	02/04, around 06:00pm.	M/P #170	<u>Execution (possible):</u> Possibly, head-shot when unable to resist.	03/04, around 7:00am	M/P #170; regaining control over the M/P as a result of NKDA counterattack.	
	NKDA Serviceman #6	02/04, around 06:00pm. KIA as a result of the Azerbaijani AF assault on M/P #170	02/04, around 06:00pm.	M/P #170		03/04, around 7:00am	M/P #170; regaining control over the M/P as a result of NKDA counterattack.	Probably didn't fall under Azerbaijani control because the body was under debris

9	NKDA Serviceman #7	Probably 04/04, after 11:30am. Probably KIA during NKDA counter-attack	04/04, around 11:30am.	A C/P in the North-East from the village of Talish	No indication.	20/04	Exchange of human remains under the ICRC and OSCE auspices	A cut in the left thigh (probably made for forensic reasons)
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16. There were four incidents that led to Azerbaijani control over the NKR civilians and the NKDA servicemen in the northern area.

17. The first incident: execution and mutilation of three civilians, as well as torture of one of them in their home in the Talish village.<sup>24</sup> The victims were relatives who lived in their home at the north-western edge of the Talish village together with 8 other family members (including 6 children). *Civilians #2* and *#3* were spouses, 64 and 60 years old, respectively, and *Civilian #1* was 92-years-old mother of *Civilian #2*. During the night of April 2, Azerbaijan started shelling of their village, and the son of *Civilians #2* and *#3* took his six children and wife and drove them to a safer place. He couldn't take with him his parents and grandmother, because there was not enough room in the car. When he was returning to take out the remaining family members and was approaching his house, he noticed from some distance a number of Azei-speaking servicemen near his house. Therefore, he turned back.

18. The next day, on April 3, the dead-shot and outraged bodies of three old people were discovered by NKR Emergency Department rescuers at the call of "Hetq" media journalists.

19. All three old people had been executed by gun-shooting. The perpetrators fired eight shots at *Civilian #3*, five shots at *Civilian #2*, and two shots at *Civilian #1*. The latter was also tortured by a knife-cut in left part of the abdomen shortly before execution. In addition to that, the Azerbaijani AF servicemen cut off both ears of *Civilians #2* and *#3*, as well as the left ear of *Civilian #1*.

20. The second incident: subversive attack of Azerbaijani AF at the road to NKDA M/Ps, near village of Talish.<sup>25</sup> In the morning of April 2 *NKDA Servicemen #1* and *#2* were heading to NKDA M/P #170<sup>26</sup> in a military truck. Their mission was to supply the M/P, which was under Azerbaijani AF's shelling and assaults, with ammunition and medicines. At around 11:30-12:00am, their truck was attacked by Azerbaijani AF servicemen. *NKDA Serviceman #2*, who was the driver, most probably was killed at once. *NKDA Serviceman #1* presumably fought back for a while, but was heavily wounded and unable to move. Thus, he was captured by Azerbaijani troops, clearly being *hors de combat*. Azerbaijani AF servicemen firstly decapitated *NKDA Serviceman #2* in the presence of *NKDA Serviceman #1*, then the latter was tortured by cutting his both arms, and subsequently

<sup>24</sup> See map #1, point A.

<sup>25</sup> See map #1, point B.

<sup>26</sup> See map #1, point C.

executed by decapitation. The decapitated heads of both NKDA servicemen have not been returned to NKR by Azerbaijan yet.

21. The mutilated body of *NKDA Serviceman #2* was discovered in the evening of April 2 by the rescue mission of the NKR Emergency Department, near the military truck. *NKDA Serviceman #1's* dismembered body was discovered the next morning by the same mission at some distance from the attack location.
22. *The third incident: the assault and twelve-hours-long capture by the Azerbaijani AF of NKDA M/P #170.*<sup>27</sup> *NKDA Servicemen #3, #4, #5, and #6* were among the NKDA squad, which was assigned to defend M/P #170. *NKDA Serviceman #5* was the commander of the squad. Azerbaijani AF started their attack on M/P #170 at around 0:30am on April 2. They used heavy artillery, tanks, mortars, as well as attack helicopters. Soon, they started the assault, which was not successful. At around 3:30am, Azerbaijani AF launched the second assault, again with no success. They started the third assault in the afternoon of April 2, which eventually led to establishment of control over NKDA M/P #170 at around 6:00pm, April 2. Some NKDA servicemen of M/P #170 retreated with fight, whereas three were KIA while defending the M/P from Azerbaijani attacks. They were *NKDA Servicemen #3 and #4*, as well as *NKDA Serviceman #6*, who was under debris of a defensive military construction. *NKDA Serviceman #5* was most probably heavily wounded. The last NKDA servicemen, who retreated from #170, saw him lying on his stomach, with no wound in his head. At that time the resistance in M/P #170 had ended and the Azerbaijani AF had full control over the M/P, which lasted for about twelve hours.

23. NKDA restored control over M/P #170 in the morning of April 3. They discovered four bodies of the NKDA servicemen within the M/P. *NKDA Serviceman #6's* body was discovered under the debris of the same military construction, so Azerbaijani AF had not gained access to his body and thus hadn't exercised control over him. By contrast, the Azerbaijani AF had exercised control over the rest of the NKDA servicemen fallen in M/P #170. In particular, the bodies of *NKDA Servicemen #3 and #4* were discovered mutilated. *NKDA Serviceman #4's* ears were both cut off, both his eyes were gouged out, his face, neck, and right thigh were subjected to knife-cuts. *NKDA Serviceman #3's* left ear was cut off, and his abdominal region was subjected to knife-cuts. *NKDA Serviceman #5's* body was discovered shot in the occiput. Later, the forensic expert found that a head-shot had been the cause of his death. Thus, *NKDA Serviceman #5* was most probably executed by a head-shot.
24. *The fourth incident: counter-attack of the NKDA in the North-East from Talish village.* *NKDA Serviceman #7* was commanding a group of the NKDA servicemen, who launched a counter-offensive on April 4, aiming to restore control over NKDA M/Ps in the North-East from Talish village, which had been occupied by the Azerbaijani AF on April 2. *NKDA Serviceman #7* was last seen at around 11:30am, April 4, entering an NKDA C/P, occupied by the Azerbaijani AF. Most probably, he was KIA shortly thereafter. *NKDA Serviceman #7's* body was returned by Azerbaijan on April 20, and no signs of torture or mutilation were discovered.

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<sup>27</sup> See map #1, point C.

**ARTSAKH OMBUDSMAN'S SECOND INTERIM REPORT ON ATROCITIES COMMITTED BY AZERBAIJAN DURING THE 2016 APRIL WAR**

**MAP # 2 NORTH-EAST**

**WAR CRIMES**

- TORTURE
- EXECUTION
- MUTILATION
- BEHEADING

**INCIDENT #1** | D

Google Earth ©2016

	<u>Name</u>	<u>Circumstances and time of death</u>	<u>Time of losing control by NKR over the individual</u>	<u>Place of losing control by NKR over the individual</u>	<u>Atrocities of Azerbaijani military over the individual</u>	<u>Time of regaining control by NKR over the individual</u>	<u>Place and manner of regaining control by NKR over the individual</u>	<u>Notes</u>
10	NKDA Serviceman #8	02/04, around 4:30am. KIA as a result of Azerbaijani AF assault on M/P #116	02/04, around 5:00am	M/P #116	<u>Mutilation:</u> Beheading; the head is subjected to outrage.	Over body: 02/04, around 8:00am  Over the decapitated head: 08/04	Over body: M/P #116; regaining control over the M/P as a result of NKDA counterattack. Over the decapitated head: line of contact; exchange of human remains under the ICRC and OSCE auspices	The decapitated head is subjected to public exposure as a "trophy".
11	NKDA Serviceman #9	02/04, around 5:30am. Executed or KIA as a result of Azerbaijani AF assault on M/P #116	02/04, shortly before 5:30am	M/P #116	<u>Torture, Execution (possibly) and Mutilation:</u> The right hand was cut off when alive, and then possibly shot dead when unable to resist.  Postmortem: partial beheading; the skull bones are broken and the brain was collapsed; both ears are cut off.	08/04	Neutral zone between M/P #116 and Azerbaijani military post, as a result of collection of human remains under the ICRC and OSCE auspices	
12	NKDA Serviceman #10	02/04, around 6:00am. KIA as a result of Azerbaijani AF assault on M/P #116	02/04, around 6:00am	M/P #116	<u>Mutilation:</u> Both ears are cut off.	08/04	Neutral zone between M/P #116 and Azerbaijani military post, as a result of collection of human remains under the ICRC and OSCE auspices	



13	NKDA Serviceman #11	02/04, around 4:30am. KIA as a result of the Azerbaijani AF assault on M/P #116	02/04, around 5:00am	M/P #116	No indication.	02/04, around 8:00am	M/P #116; regaining control over the M/P as a result of NKDA counterattack.	The body is dismembered as a result of a tank shelling by the Azerbaijani AF.
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25. There was one incident that led to Azerbaijani control over the NKDA servicemen in the north-eastern area. That was the assault and two-hours-long capture by the Azerbaijani AF of NKDA M/P #116.<sup>28</sup> *NKDA Servicemen #8, #9, #10, and #11* were among the NKDA squad that was assigned to defend M/P #170. The commander of the squad was *NKDA Serviceman #11*. The Azerbaijani AF started an attack on M/P #116 at around 2:00am, April 2. They used heavy artillery, tanks and mortars. At around 4:30am, in the northern trenches of M/P #116 *NKDA Servicemen #8 and #11* were killed by a tank shelling. The body of *NKDA Serviceman #11* was dismembered as a result of the shelling. After a short while, Azerbaijani troops entered the northern trenches of M/P #116 and decapitated the fallen *NKDA Serviceman #8*. Some other members of the squad, including *NKDA Servicemen #9 and #10*, were continuing the defense of the M/P in the central trenches. The last resisting members of the squad were *NKDA Servicemen #9 and #10*. *NKDA Serviceman #9*, heavy wounded, fell under the control of the Azerbaijani AF, who cut his right hand off while alive and possibly executed him. After a while, *NKDA Serviceman #10* was KIA at around 6:00am. Shortly thereafter, the NKDA reinforcement

approached and engaged in combat, aiming to recapture M/P #116. The NKDA restored full control over M/P #116 at around 08:00am. At such time, the beheaded body of *NKDA Serviceman #8* was discovered.

26. Since the evening of April 2, the pictures and videos of *NKDA Serviceman #8*'s decapitated head were emerging in the social media. An individual in Azerbaijani military uniform was exposing his decapitated head as a "trophy". The same person also emerged on a video, covering the fact of demonstration of *NKDA Serviceman #8*'s decapitated head to the crowd of civilians, including children<sup>29</sup>. There are two more videos of demonstration to the crowd of his decapitated head<sup>30</sup>.

27. Decapitated head of *NKDA Serviceman #8* was subjected to abuse. It was returned to the NKR on April 8, within the framework of exchange of human remains under the ICRC and OSCE auspices.

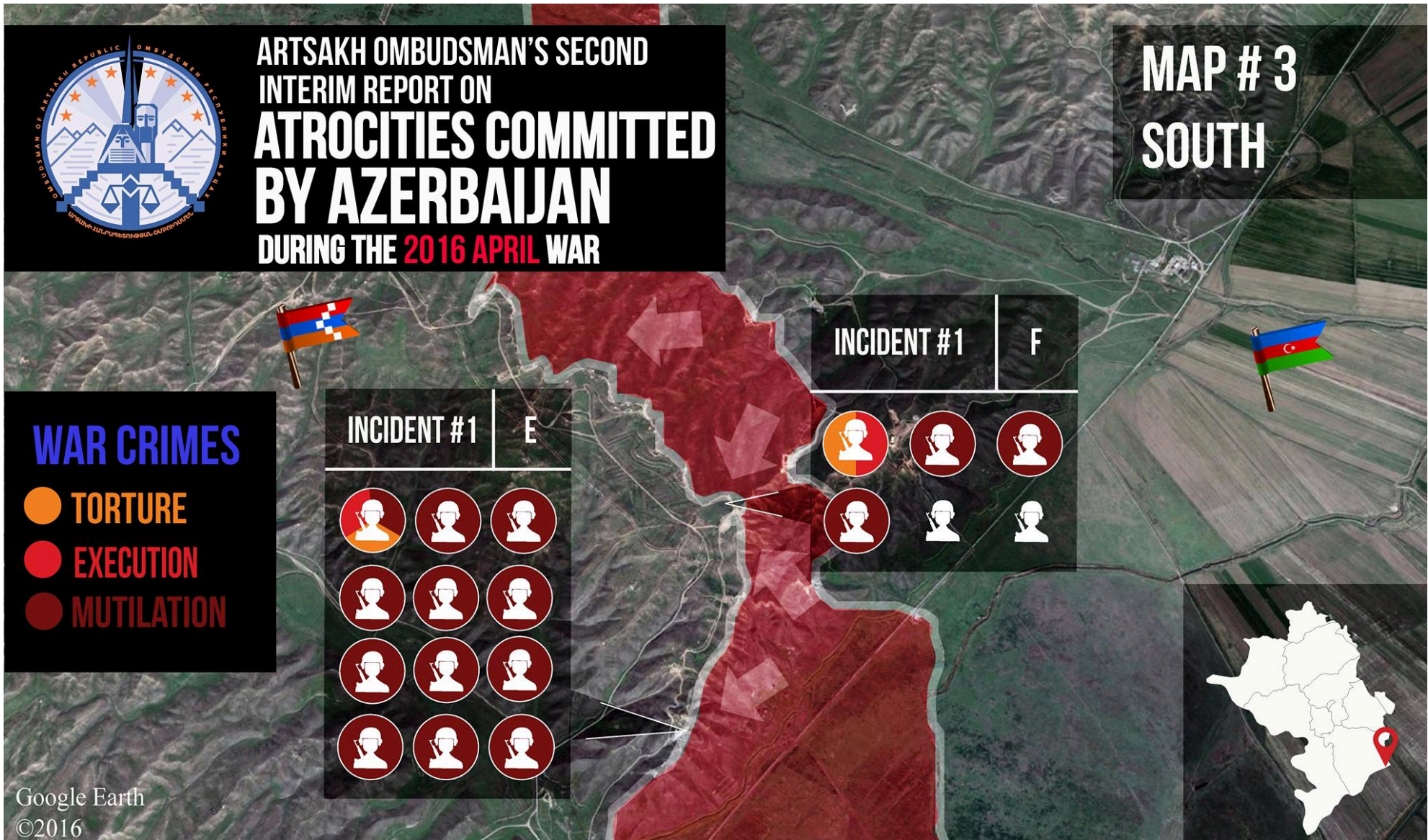
<sup>29</sup> The video was subsequently removed from the web. However, it had been copied and later was stored on Internet with limited access by the Office of NKR Ombudsman. The link is available in the restricted edition only.

<sup>30</sup> The videos were subsequently removed from the web. However, they had been copied and later were stored on Internet with limited access by the Office of NKR Ombudsman. The link is available in the restricted edition only.

<sup>28</sup> See map #2, point D.

28. On the same day, the abused bodies of *NKDA Servicemen #9* and *#10* were discovered in the neutral zone between NKDA and Azerbaijani AF. Most probably, the Azerbaijani AF servicemen had been attempting to take their bodies as “trophy” as well, but they had been stopped by the NKDA counter-attack. During the short period of control over M/P #116, the Azerbaijani AF servicemen managed

to mutilate and dismember *NKDA Servicemen #9's* and *#10's* bodies. In particular, after torturing *NKDA Serviceman #9* by cutting his hand off, Azerbaijani AF servicemen also partially decapitated his body and broke his skull bones. Also, both his ears were cut off. *NKDA Serviceman #10's* ears were similarly cut off as well.



	<u>Name</u>	<u>Circumstances and time of death</u>	<u>Time of losing control by NKR over the individual</u>	<u>Place of losing control by NKR over the individual</u>	<u>Atrocities of Azerbaijani military over the individual</u>	<u>Time of regaining control by NKR over the individual</u>	<u>Place and manner of regaining control by NKR over the individual</u>	<u>Notes</u>
14	NKDA Serviceman #12	02/04, shortly after 08:00am. Executed by Azerbaijani AF after capturing M/P #112	02/04, around 08:00am.	M/P #112	<u>Torture, Execution, and Mutilation:</u> The throat is cut, and then executed by head-shot when unable to resist. Postmortem: both ears are cut off.	10/04	Exchange of human remains under ICRC and OSCE auspices	A cut in the left thigh (probably, made for forensic reasons)
15	NKDA Serviceman #13	02/04, around 08:00am. KIA as a result of the Azerbaijani AF assault on M/P #112	02/04, around 08:00am.	M/P #112	<u>Mutilation:</u> Both ears are cut off	10/04	Exchange of human remains under ICRC and OSCE auspices	A cut in the right thigh (probably, made for forensic reasons)
16	NKDA Serviceman #14	02/04, shortly after 08:30am. KIA as a result of the Azerbaijani AF assault on M/P #112	02/04, shortly after 08:30am.	near M/P #112	<u>Mutilation:</u> Both ears are cut off; a cut in the 2nd finger of the right hand; 2 cuts in the chest	10/04	Exchange of human remains under ICRC and OSCE auspices	
17	NKDA Serviceman #15	02/04, around 08:00am. KIA as a result of the Azerbaijani AF assault on M/P #112	02/04, around 08:00am.	M/P #112	<u>Mutilation:</u> Both ears are cut off; a cut in the neck.	10/04	Exchange of human remains under ICRC and OSCE auspices	A cut in the left thigh (probably, made for forensic reasons)

18	NKDA Serviceman #16	02/04, around 08:00am. KIA as a result of the Azerbaijani AF assault on M/P #112	02/04, around 08:00am.	M/P #112	<u>Mutilation:</u> Both ears are cut off.	10/04	Exchange of human remains under ICRC and OSCE auspices	A cut in the left thigh (probably, made for forensic reasons)
19	NKDA Serviceman #17	02/04, around 08:00am. KIA as a result of the Azerbaijani AF assault on M/P #112	02/04, around 08:00am.	M/P #112	<u>Mutilation:</u> Both ears are cut off.	10/04	Exchange of human remains under ICRC and OSCE auspices	A cut in the right thigh (probably, made for forensic reasons)
20	NKDA Serviceman #18	02/04, around 08:00am. KIA as a result of the Azerbaijani AF assault on M/P #112	02/04, around 08:00am.	M/P #112	<u>Mutilation:</u> Both ears are cut off; 2nd and 3rd fingers of the left hand are cut off.	10/04	Exchange of human remains under ICRC and OSCE auspices	A cut in the left thigh (probably, made for forensic reasons)
21	NKDA Serviceman #19	02/04, around 08:00am. KIA as a result of the Azerbaijani AF assault on M/P #112	02/04, around 08:00am.	M/P #112	<u>Mutilation:</u> Both ears are cut off; 2 cuts in the left shoulder.	10/04	Exchange of human remains under ICRC and OSCE auspices	A cut in the right thigh (probably, made for forensic reasons)
22	NKDA Serviceman #20	02/04, around 08:00am. KIA as a result of the Azerbaijani AF assault on M/P #112	02/04, around 08:00am.	M/P #112	<u>Mutilation:</u> Both ears are cut off; a cut in the left arm.	10/04	Exchange of human remains under ICRC and OSCE auspices	
23	NKDA Serviceman #21	02/04, around 08:00am. KIA as a result of the Azerbaijani AF assault on M/P #112	02/04, around 08:00am.	M/P #112	<u>Mutilation:</u> Both ears are cut off; the left eye is gouged out; both thighbones are broken; numerous cuts on both thighs and groin	10/04	Exchange of human remains under ICRC and OSCE auspices	A cut in the left thigh (probably, made for forensic reasons)

24	NKDA Serviceman #22	02/04, around 08:00am. KIA as a result of the Azerbaijani AF assault on M/P #112	02/04, around 08:00am.	M/P #112	<u>Mutilation:</u> The right ear is cut off.	10/04	Exchange of human remains under ICRC and OSCE auspices	A cut in the left thigh (probably, made for forensic reasons)
25	NKDA Serviceman #23	02/04, around 08:00am. KIA as a result of the Azerbaijani AF assault on M/P #112	02/04, around 08:00am.	M/P #112	<u>Mutilation:</u> Both ears are cut off; 2nd finger of the left hand is cut off.	10/04	Exchange of human remains under ICRC and OSCE auspices	A cut in the left thigh (probably, made for forensic reasons)
26	NKDA Serviceman #24	02/04, around 07:30am. Executed by Azerbaijani AF after capturing M/P #115	02/04, around 06:30am.	M/P #115	<u>Torture and Execution (probably):</u> Heavily wounded dragged on his back, and then probably shot dead when unable to resist.	10/04	Exchange of human remains under ICRC and OSCE auspices	
27	NKDA Serviceman #25	02/04, around 06:30am. KIA as a result of the Azerbaijani AF assault on M/P #115	02/04, around 06:30am.	M/P #115	<u>Mutilation:</u> A part of the right ear is cut off; the right humerus is broken; 3rd finger of the right hand is broken; possibly head-shot; numerous cuts in the neck, abdomen, upper limbs.	10/04	Exchange of human remains under ICRC and OSCE auspices	A cut in the left thigh (probably, made for forensic reasons)
28	NKDA Serviceman #26	02/04, around 06:30am. KIA as a result of the Azerbaijani AF assault on M/P #115	02/04, around 06:30am.	M/P #115	<u>Mutilation:</u> A part of the left ear is cut off; probably head-shot.	10/04	Exchange of human remains under ICRC and OSCE auspices	A cut in the left thigh (probably, made for forensic reasons)

29	NKDA Serviceman #27	02/04, around 06:30am. KIA as a result of the Azerbaijani AF assault on M/P #115	02/04, around 06:30am.	M/P #115	Mutilation: A cut on the chest.	10/04	Exchange of human remains under ICRC and OSCE auspices	
30	NKDA Serviceman #28	02/04, shortly after 07:00am. KIA as a result of the Azerbaijani AF assault on M/P #115	02/04, shortly after 07:00am.	Near M/P #115	No indication.	10/04	Exchange of human remains under ICRC and OSCE auspices	
31	NKDA Serviceman #29	02/04, around 06:30am. KIA as a result of the Azerbaijani AF assault on M/P #115	02/04, around 06:30am.	M/P #115	No indication.	10/04	Exchange of human remains under ICRC and OSCE auspices	A cut in the right thigh (probably, made for forensic reasons)

29. There were two incidents that led to Azerbaijani control over the NKDA servicemen in the southern area.

30. *The first incident: the assault and capture by the Azerbaijani AF of NKDA M/P #112.*<sup>31</sup> NKDA Servicemen #12, #18, #19, #20, #21, #22, and #23 were among the NKDA squad that was assigned to defend M/P #112. The Azerbaijani AF launched an assault on M/P #112 at around 4:00am, April 2. At around 4:30am, NKDA Officer and NKDA Private #1 joined them from the nearby C/P. At around 5:30am, the squad in M/P #112 received reinforcement of five – NKDA Servicemen #13, #14, #15, #16, and #17. Meanwhile the

Azerbaijani AF continued the assault on M/P #112. At around 7:30am, NKDA Officer was informed that there was a wounded at the C/P, and together with NKDA Private #1, he left M/P #112 for C/P in order to organize the evacuation of the wounded. After organizing the evacuation, NKDA Officer was informed that there was a wounded serviceman in M/P #112, and again joined by NKDA Private #1, he headed to M/P #112. At around 8:00am, when the two were approaching the M/P, they faced two wounded NKDA servicemen - NKDA Serviceman #14 and NKDA Private #2 from M/P #112, who told that M/P #112 was already under Azerbaijani control and there seemed to be no alive NKDA serviceman there.

<sup>31</sup> See map #2, point E.

Thus, 11 NKDA servicemen of M/P #112 fell under the control of the Azerbaijani AF.

31. The four remaining NKDA servicemen (*NKDA Officer*, *NKDA Serviceman #14*, *NKDA Private #1*, and *NKDA Private #2*) started retreating while fighting. After a while, the group split into two: *NKDA Serviceman #14* was with *NKDA Officer*. After some five minutes, *NKDA Serviceman #14* was shot dead in the presence of the company commander at some distance from M/P #112. *NKDA Officer* had to continue retreating alone, since the Azerbaijani AF servicemen were approaching. The place where *NKDA Serviceman #14* was shot soon fell under Azerbaijani control.
32. The bodies of 12 NKDA servicemen fallen in M/P #112 were returned to NKR on April 10, 2016 in the framework of exchange of human remains under the ICRC and OSCE auspices. Forensic expertise reports indicate that all of the bodies had clear signs of mutilation and abuse. Both ears were cut off in cases of *NKDA Servicemen #12*, *#13*, *#14*, *#15*, *#16*, *#17*, *#18*, *#19*, *#20*, *#21*, and *#23*. As to *NKDA Serviceman #22*, one of his ears was cut off. Fingers were cut off in cases of *NKDA Servicemen #18* and *#23*. There were multiple posthumous knife cuts in cases of *NKDA Serviceman #14* – in the chest and a finger, *NKDA Serviceman #15* – in the neck, *NKDA Serviceman #19* – in the shoulder, *NKDA Serviceman #20* – in the arm, *NKDA Serviceman #21* – in the thighs and groin. The body of *NKDA Serviceman #21* was abused with additional brutality: in addition to ear-cuts and knife-cuts, his left eye was gouged out, and his both thighbones were broken.
33. The facts of mutilations, committed by Azerbaijani AF, are further corroborated by the materials published and then deleted or edited by Azerbaijani sources. In particular, picture ... confirms that *NKDA*

*Serviceman #13*'s left ear was absent when his body was under Azerbaijani control. Additionally, a video referred in the *Foreword* proves that *NKDA Serviceman #19*'s ears were also cut off by the Azerbaijani AF servicemen while his body was under their control.

34. There also was a case of torture in M/P #112. In particular, the analysis of the forensic expertise report supports the conclusion that *NKDA Serviceman #12* was heavily wounded when the M/P fell under Azerbaijani control. He was subjected to a throat-cut while still alive, but unable to resist, after which he was executed by a head shot.
35. *The second incident: the assault and capture by the Azerbaijani AF of NKDA M/P #115.*<sup>32</sup> *NKDA Servicemen #24*, *#25*, *#26*, *#27*, *#28*, and *#29* were among the NKDA squad that was assigned to defend M/P #115. The Azerbaijani AF launched an assault on M/P #115 at around 4:00am, April 2. After a while, one of the NKDA servicemen was heavily wounded, and the squad requested evacuation for him. At around 5:30am, two NKDA servicemen reached M/P #115 with the mission of evacuating the wounded servicemen. At such time, the Azerbaijani AF servicemen had already entered the trenches of M/P #115, but the NKDA squad was still resisting. After around half an hour, the evacuating group managed to take the first wounded to their vehicle and drove to the military base. They saw three Azerbaijani tanks entering M/P #115. Soon, the Azerbaijani troops established full control over M/P #115. *NKDA Serviceman #28* and one more NKDA serviceman, wounded, attempted to retreat with fight, but *NKDA Serviceman #28* was shot dead in short distance from M/P #115. Thus, six NKDA servicemen from M/P #115 fell under the control of Azerbaijani AF.

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<sup>32</sup> See map #2, point F.



36. The bodies of the six NKDA servicemen killed in M/P #115 were returned to NKR on April 10, 2016 in the framework of exchange of human remains under the ICRC and OSCE auspices. Three out of the six bodies had clear signs of mutilation and abuse. *NKDA Serviceman #25*'s body was abused with additional brutality: a part of his right ear was cut off, his right humerus, as well as a finger of his right hand were broken. There were also numerous knife-cuts in his neck, abdomen and upper limbs. A part of the ear of *NKDA Serviceman #26* was cut off, too. And the third abused in M/P #115 was *NKDA Serviceman #27*: there was a big knife cut in his chest.
37. The comparative analysis of forensic expertise reports with pictures published in Azerbaijani sources supports the conclusion that *NKDA Servicemen #25*'s and *#26*'s dead bodies also included gunshot wounds to the head. Two pictures, which were published in Azerbaijani Internet resources, depict two fallen NKDA servicemen from different angles<sup>33</sup>. The one with the visible face has been identified as *NKDA Serviceman #25*. A large bloodspot is noticeable behind his head in both pictures, and the character and direction of injuries on *NKDA Serviceman #25*'s head correspond with the presumption that the bloodspot emerged from *NKDA Serviceman #25* being shot in the head. Another picture, which was also published in Azerbaijani Internet resources, depicts all six fallen NKDA servicemen of M/P #115<sup>34</sup>. The second from the left is identified as *NKDA Servicemen #26*, and it is clear that the right side of his head was not mutilated at the time of taking the picture, yet, his returned body had two big headshot injuries in the right side of the head.
38. There was also a case of torture. In particular, the analysis of forensic expertise report supports the conclusion that *NKDA Servicemen #24* had multiple scrapes on his back. The scrapes had appeared around an hour prior to his death and were typical of dragging. Thus, most probably, *NKDA Servicemen #24* was heavily wounded when the M/P fell under Azerbaijani control. He was dragged in the trenches and after a while executed by a headshot.

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<sup>33</sup> Available in the restricted edition only.

<sup>34</sup> Available in the restricted edition only.

## Responsibility for the War Crimes Committed by the Azerbaijani Armed Forces

39. As a State Party to the Geneva Conventions of 1949, Azerbaijan “[undertook] to respect and to ensure respect for [the GC’s] in all circumstances”<sup>35</sup>.
40. State Responsibility for grave breaches of 1949 Geneva Conventions is set forth in the respective Geneva Conventions<sup>36</sup>. Moreover, the general rule of *State responsibility for violations of international humanitarian law attributable to it, including violations committed by its armed forces* is of customary nature. It is a well-established rule of customary international law, prescribed back in 1907 in *Hague Convention (IV)*<sup>37</sup> and repeated in *Additional Protocol I* to the Geneva Conventions<sup>38</sup>. There is also an excessive national practice of application of the aforementioned customary rule<sup>39</sup>.

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<sup>35</sup> See Common Article 1 of the four GC’s.

<sup>36</sup> “No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of [grave breaches of these Conventions]” (First GC, Article 51; Third GC, Article 131; Fourth GC, Article 148).

<sup>37</sup> “A belligerent Party which violates the provisions of the [1907 Hague Regulations] shall . . . be responsible for all acts committed by persons forming part of its armed forces.” (1907 Hague Convention (IV), Article 3).

<sup>38</sup> “A Party to the conflict which violates the provisions of the Conventions or of this Protocol . . . shall be responsible for all acts committed by persons forming part of its armed forces” (1977 Protocol Additional I to the Geneva Conventions of 1949, Article 91).

<sup>39</sup> See ICRC, *Customary International Humanitarian Law, Vol. II: Practice*, edited by Jean-Marie Henckaerts and Louise Doswald-Beck, 2005, pp. 3508-3514.

41. On April 2, 2016, Zakir Hasanov, the Minister of Defense of Azerbaijan, stated that “reconnaissance units of Azerbaijani armed forces carried out planned activities in three directions in the early hours of 2 April. In view of the operational situation and as a result of a combat operation, we recaptured the villages of Talish and Seysulan, as well as several mountain tops in the direction of Horadiz”<sup>40</sup>. Minister Hasanov’s statement clearly demonstrates the thoroughly organized character of the April 2 operations of the Azerbaijani AF.
42. Accordingly, Azerbaijan bears State responsibility under International Law for war crimes committed by Azerbaijani AF on April 2, 2016 within and nearby Talish<sup>41</sup>, nearby Seysulan<sup>42</sup>, and in the direction of Horadiz<sup>43</sup>.
43. Aside from the State Responsibility, the aforementioned war crimes of torture, executions, and mutilation, presume Individual Criminal Responsibility, as well. The 1949 Geneva Conventions require States to search for persons alleged to have committed, or ordered to have committed, grave breaches, and to bring such persons before the court<sup>44</sup>. Under customary IHL, the individual criminal responsibility is addressed in much broader and stricter terms, including each State’s obligation of investigation into the war crimes allegedly committed by its AF’s, and, if appropriate, prosecution of the

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<sup>40</sup> The article (<http://en.president.az/articles/18280>) in Azerbaijani President’s official web site seems to be removed by November 28, 2016. The saved copy: <http://webcache.googleusercontent.com/search?q=cache:http://en.president.az/articles/18280>

<sup>41</sup> See §§16-24 of the present report.

<sup>42</sup> See §§25-28 of the present report.

<sup>43</sup> See §§29-38 of the present report.

<sup>44</sup> See First GC, Article 49; Third GC, Article 129; Fourth GC, Article 146.

suspects<sup>45</sup>, as well as each State's entitlement of vesting with the universal jurisdiction in its national courts over the war crimes<sup>46</sup>.

44. There is little information on the perpetrators of the war crimes described above. Only the identity of one perpetrator can be independently confirmed with high level of plausibility. That is an Azerbaijani AF serviceman, who appears in several pictures and a video, uploaded in Azerbaijani social media<sup>47</sup>. In the video, the operator approaches to the alleged perpetrator and talks to him in Azeri: "Did you bring this [meaning the decapitated head of *NKDA Serviceman #8*]? Good job, brother! May Allah bless your hands. May your hands, which have cut [presumably, the head of *NKDA Serviceman #8*], never experience a trouble."<sup>48</sup> In fact, the person was blessed for decapitation. Thus, either he was the real perpetrator, or he just showed up as the perpetrator aiming to receive a public accolade for a barbaric war crime in a deeply dehumanized environment.

The alleged perpetrator is also depicted in a picture while receiving military awards from Ilham Aliyev, the President of Azerbaijan, standing in a row of ten Azerbaijani AF servicemen.

45. In the framework of Individual Criminal Responsibility, customary IHL strictly stipulates the concept of *Command Responsibility*, meaning that commanders and other superiors are criminally responsible for war crimes (1) *committed pursuant to their orders*

("Command Responsibility for Orders to Commit War Crimes")<sup>49</sup>, as well as (2) *committed by their subordinates if they knew, or had reason to know, that the subordinates were about to commit or were committing such crimes and did not take all necessary and reasonable measures in their power to prevent their commission, or if such crimes had been committed, to punish the persons responsible ("Command Responsibility for Failure to Prevent, Repress or Report War Crimes" )*<sup>50</sup>.

46. There have been a number of materials in the Azerbaijani media, designating the commanding officers and generals of the Azerbaijani AF, who were in charge of Azerbaijani AF's different regiments that undertook military operations during April 2-5<sup>51</sup>.

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<sup>45</sup> See *Customary IHL*, compilation by ICRC, Rule 158. For extensive national practice (including Azerbaijan's), see: ICRC, *Customary International Humanitarian Law, Vol. II*, pp. 3948-3995.

<sup>46</sup> See *Customary IHL*, compilation by ICRC, Rule 157. For extensive national practice see: ICRC, *Customary International Humanitarian Law, Vol. II*, pp. 3888-3931.

<sup>47</sup> See §26 of the present report.

<sup>48</sup> See 0:51-0:59 of the video.

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<sup>49</sup> See *Customary IHL*, compilation by ICRC, Rule 152. For extensive national practice (including Azerbaijan's), see: ICRC, *Customary International Humanitarian Law, Vol. II*, pp. 3716-3726.

<sup>50</sup> See *Customary IHL*, compilation by ICRC, Rule 153. For extensive national practice (including Azerbaijan's), see: ICRC, *Customary International Humanitarian Law, Vol. II*, pp. 3738-3764, 3791-3798.

<sup>51</sup> See, e.g., <http://sonxeber.az/28221/aprelde-igaldan-azad-etdiyimiz-lelepede-bayraq-yurusu...-resmi>, <http://sesqazeti.az/az/news/politics/561568>, <http://oxu.az/war/130975>, etc.

## Conclusions

47. *During the 2016 April war, the Azerbaijani AF committed war crimes of torture, execution, and mutilation. The war crimes had a systemic and well-organized nature, as they were committed in all three areas by all the regiments of the Azerbaijani armed forces that established control over the NKR civilians or NKDA servicemen on April 2, 2016.*

48. *None of the 3 civilians and, presumably, the 4 combatants hors de combats survived the control of the Azerbaijani armed forces. Their murders seem to be executions merely for being Armenian.*

49. *27 out of the 31 NKR civilians and NKDA servicemen (about 90%), who fell under control of the Azerbaijani armed forces as a result of the Azerbaijani military aggression against NKR, were tortured, executed, or mutilated.*

50. *All the NKR civilians under Azerbaijani control were executed and mutilated. One of them, a 92 year old woman, was also tortured.*

51. *Three NKDA servicemen were beheaded. Two of them were beheaded postmortem, and one was executed by ISIS-style decapitation.*

52. *The most widespread war crime was mutilation (24 cases), including 21 cases of ear cuts-offs. There were 5 cases of torture (including hands cut off, and throats cut). There were 7 cases of execution, mostly by gun-shots.*

53. *Under the IHL, Azerbaijan bears State Responsibility for the war crimes of its armed forces, and has an obligation to investigate and properly prosecute the perpetrators and others who bear responsibility. The perpetrators and their commanders are also individually responsible.*

The Office of Artsakh Republic Human Rights Defender (Ombudsman) was established in 2008, under the Artsakh Republic Law “On the Human Rights Defender” of February 9, 2005.

The First Artsakh Ombudsman was Yuri Hayrapetyan, serving from 2008 to 2016.

The incumbent is Ruben Melikyan, who was elected by Artsakh National Assembly on May 5, 2016 by a secret ballot.

The Office of Artsakh Ombudsman is based in Shushi, a town close to the capital of Artsakh, Stepanakert.

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Infographics by Sedrak Mkrtchyan, and *TUMO Stepanakert* students  
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