

Voir Note explicative  
*See Explanatory Note*

Numéro de dossier  
*File-number*

COUR EUROPÉENNE DES DROITS DE L'HOMME  
*EUROPEAN COURT OF HUMAN RIGHTS*

Conseil de l'Europe – *Council of Europe*  
Strasbourg, France

REQUÊTE  
*APPLICATION*

présentée en application de l'article 34 de la Convention européenne des Droits de l'Homme,  
ainsi que des articles 45 et 47 du règlement de la Cour

*under Article 34 of the European Convention on Human Rights  
and Rules 45 and 47 of the Rules of Court*

**IMPORTANT:** La présente requête est un document juridique et peut affecter vos droits et obligations.  
*This application is a formal legal document and may affect your rights and obligations.*

**I. LES PARTIES**  
**THE PARTIES**

**A. LE REQUÉRANT/LA REQUÉRANTE**  
**THE APPLICANT**

1. Nom de famille ..... 2. Prénom(s)  
*Surname* *First name(s)*  
a. Kocharov Aleksandr Eduardovich  
b. Ayrapetov Val M.

Sexe: *Sex*: a. Male b. Male

3. Nationalité ..... 4. Profession  
*Nationality* *Occupation*  
a. American Salesperson  
b. American Baker (Pastry Chef)

5. Date et lieu de naissance  
*Date and place of birth*  
a. 16 November 1955 Baku, Azerbaijan  
b. 23 June 1955 Baku, Azerbaijan

6. Domicile  
*Permanent address*  
a. 1417 Olympia Avenue, Edmonds, Washington 98020 United States of America  
b. 2076 Hazelwood Way, Salt Lake City, Utah 84121 United States of America

7. Tel. N°  
a. 206-761-1975  
b. 801-943-0120

8. Nom et prénom du/de la représentant(e)<sup>1</sup>  
*Name of representative\** Gwynne Skinner

9. Profession du/de la représentant(e)  
*Occupation of representative* Visiting Clinical Professor of Law

10. Adresse du/de la représentant(e)  
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**B. LA HAUTE PARTIE CONTRACTANTE**  
**THE HIGH CONTRACTING PARTY**

12. Azerbaijan

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<sup>1</sup> Si le/la requérant(e) est représenté(e), joindre une procuration signée par le/la requérant(e) et son/sa représentant(e).  
*If the applicant appoints a representative, attach a form of authority signed by the applicant and his or her representative.*

## **II. EXPOSÉ DES FAITS** **STATEMENT OF THE FACTS**

14.

### **A. Background and Factual Summary**

1. The territory disputes over Nagorno-Karabakh between Armenia and Azerbaijan led to nearly continuous intercommunal violence, particularly against ethnic Armenians within Azerbaijan as early as 1987.<sup>2</sup> In 1988, there was violence against ethnic Armenians in Sumgait. After these pogroms, tensions grew between the Armenians and Azerbaijanis in Baku. Large demonstrations, which were heavily anti-Armenian, were held in the streets of Baku by a group called the Popular Front,<sup>3</sup> an organization that formed for the most part to gain independence from the Soviet Union, but which also organized anti-Armenian activities and demonstrations. In September 1989, the Azerbaijan government officially recognized the Popular Front.<sup>4</sup>
2. Beginning in 1988, throughout 1989, and into 1990, discrimination, hate speech, and violence were directed against the ethnic Armenian population. By 13 January 1990, anti-Armenian pogroms broke out in Baku.<sup>5</sup> As discussed in more detail below, hundreds of thousands of ethnic-Armenians were forced to flee their homes in Baku, and hundreds were killed by mob violence.
3. The state-owned television and radio stations, being the main sources of information for much of the population, were typically used by the Azerbaijan

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<sup>2</sup> Amnesty International Press Release USSR: Pogrom in Azerbaizhan, EUR 46/04/90, UA 22/90, 16 January 1990. Attached. See also Amnesty International Report: 1991. Attached.

<sup>3</sup> Human Rights Watch, "Playing the 'Communal Card': Communal Violence and Human Rights." 1 April 1995, available at [www.hrw.org/reports/1995/communal/](http://www.hrw.org/reports/1995/communal/).

<sup>4</sup> A Compendium of Recent Insurgency Analyses (GI 90-10043), Central Intelligence Agency, available at [www.foia.cia.gov](http://www.foia.cia.gov), at p. 9.

<sup>5</sup> Human Rights Watch, *supra* note 3.

government to convey its positions against the ethnic Armenians.<sup>6</sup> Azeri police and soldiers took no steps to protect the ethnic Armenians.<sup>7</sup>

4. Two of the ethnic Armenians that suffered from the 1990 violence in Baku are the Applicants, Aleksandr Eduardovich Kocharov and Val M. Ayrapetov, both of whom are now U.S. citizens after fleeing Baku as refugees. The following accounts relate facts from the Applicants' affidavits.

## **B. The Anti-Armenian Violence in Baku and the Ethnic Cleansing**

### **1. Aleksandr Eduardovich Kocharov**

5. Aleksandr Eduardovich Kocharov was born in Baku, Azerbaijan on 16 November 1955. He is an Armenian by ethnicity. He has lived in Baku for several generations since 1915. His grandfather was originally from Nagorno-Karabakh. However, because of the Nagorno-Karabakh genocide that occurred around 1914-1915, Mr. Kocharov's great-grandmother took his grandfather, along with the rest of the family, to live in Baku. Mr. Kocharov's relatives who have died are all buried in Baku. These relatives include his grandfather's mother, his grandmother's mother, his grandmother's sister's husband, both his grandfather and grandmother, and his aunt.

6. As described below, Mr. Kocharov and his family lived in Baku until they, and hundreds of thousands of other ethnic Armenians, were forced out of the country in January 1990 by the Popular Front, a political group that worked hand-in-hand with the Azerbaijan government to incite violence against ethnic Armenians so that Armenians like Mr. Kocharov would leave Baku. Mr. Kocharov had to leave all his property behind,

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<sup>6</sup> Azerbaijan Foundation of Democracy Development and Human Rights Protection Report: Country Reports on Human Rights Practices – 2003, available at <http://www.foundhr.narod.ru/simple-22.html>. See also State Department Reports: 2002, 2003, 2004, 2005.

<sup>7</sup> Amnesty International, *supra* note 2.

including bank accounts held at the government bank, and the Azerbaijan government has never returned them to him or compensated him for his loss.

*Rise of anti-Armenian sentiment*

7. Mr. Kocharov noticed that after the Sumgait pogroms of 1988 against Armenians, tensions grew between the Armenians and Azerbaijanis in Baku. As ethnic tensions grew in Baku, a group called the “Popular Front” began to emerge. The group worked to incite violence against Armenians. Mr. Kocharov alleges that the Popular Front was supported by the Azerbaijan government (and he believes the Popular Front was even part of the Azerbaijan government) not only for many reasons described below, but also because this group became so powerful in Azerbaijan, and no one in Azerbaijan can become that powerful unless they are the Azerbaijan government. Also, Mr. Kocharov points to the fact that only one family has been in control of Azerbaijan for the last 40 years. The power of that family passes on from one generation to the next. The son of the secretary of the Communist Party before 1990, Ilham Aliyev, is now the man in power. It is known in Azerbaijan that the family in power does not just give away their power to anybody. In addition to all the reasons outlined below, given that the same family was in control of Azerbaijan before and after 1990, Mr. Kocharov believes that the Popular Front was supported by the Azerbaijan government.

8. In 1989, the Popular Front started to organize mass demonstrations on the streets of Baku. In the beginning, Mr. Kocharov witnessed the demonstrations that were held about once a month. By the end of 1989, he witnessed demonstrations that became more frequent, occurring almost everyday. Mr. Kocharov heard the demonstrations and what was being said because the speakers at the demonstrations were very loud. From his flat,

he could hear everything that was going on. The demonstrations consisted of speakers reading poems about how the land belonged to the Azerbaijanis. He also could hear the speakers yelling that the Armenians should get out of Azerbaijan. He heard speakers say how it was unfair to give land to Armenians and how the Armenians should be thrown out so that the Azerbaijanis could get their land back—an Azerbaijan for Azerbaijanis, not for Armenians. Further, Mr. Kocharov heard from others that in the demonstrations, there were signs saying that Armenians need to get out of Baku. In addition to his listening to these demonstrations himself, his co-workers and neighbors also told him about the details of the demonstrations they witnessed. He heard that towards the end of 1989, after each demonstration, the demonstrators would lead the mobs to search for Armenians on the streets so that the group could threaten and hurt them.

9. What was being said at the demonstrations was also echoed by the television and radio stations. The radio and television stations, which are owned and controlled by the government, promoted discrimination against the Armenians. For example, Mr. Kocharov listened to the radio stations and watched the television as popular celebrities and knowledgeable and respected professionals went on the air to talk about how Azerbaijan belongs to Azerbaijanis. These guest speakers included individuals who were identified by the announcers as Popular Front members, national singers, artists, actors, writers, history professors, government employees such as the city hall workers, and anyone the government could think of to speak on the air and convince listeners that Armenians should leave Baku. Although the guest speakers did not explicitly say “kill Armenians” or “get rid of Armenians,” he knew from hearing their messages that they meant the same thing.

10. Mr. Kocharov also saw fliers in many public buildings inciting violence against Armenians. These fliers were in stacks, out in the open, readily available for anyone to grab and read. There was only one printing press in Baku (although it printed several different newspapers), and it was owned and controlled by the government.

11. As a result, Armenians were persecuted in every part of society. Mr. Kocharov knows many Armenians who lost their jobs and were unable to regain employment. He was one of them. In late 1989, his supervisor at the restaurant where he worked told him not to come in to work anymore. His supervisor was an Azerbaijani.

*Family's escape to Moscow*

12. The ethnic tensions escalated to the point that Mr. Kocharov began to worry for his safety and especially for the safety of his family. One of Mr. Kocharov's friends, who is an Armenian and who worked for the KGB, left Baku. That was when he began to suspect that something was terribly wrong.

13. As a precautionary measure, Mr. Kocharov sent his wife and daughter along with his wife's sister and her children to Moscow toward the end of spring 1989. His mother-in-law, who was stubborn, stayed behind in Baku. His mother-in-law's brother and his wife also stayed behind. Sending his family to Moscow was supposed to be temporary. He thought that the ethnic tensions would eventually go away and his family would be able to reunite with him again in Baku. However, the day that his wife, daughter, and relatives left for Moscow was the last time they would ever set foot in Baku.

14. After sending his family away, Mr. Kocharov continued to manage his business of manufacturing picture frames. However, business was very slow, and he began to think of ways to earn and save money. Towards the latter part of 1989, he tried to sell

everything that he owned, but it was very difficult to sell because after an Armenian sold an item, the buyer would return to the Armenian seller a few days later to get his money back because the seller was an Armenian. He heard that if you did not give the buyer's money back, the buyer and a mob would kill you. He sold very few items. One of the items he was able to sell was his piano. But even for the piano, he was paid very little because he did not have bargaining power because he was an Armenian—if he did not agree to the buyer's price, he knew that he could have been physically hurt or even killed.

*Living in fear*

15. The violence escalated and became so bad, with mobs roaming the streets, looking for Armenians. Mr. Kocharov became fearful of any noise that he heard. Fear consumed him. He never went to bed with his sleepwear on. Instead, he went to bed wearing his shoes and street clothes. He would lay down on his stomach with his hands on his head ready to push himself up and run, should a mob come for him at any time.

16. Mr. Kocharov felt like he had been reduced to something much less than what he used to be. Instead of openly walking the streets of Baku, he planned his routes to reach his destination without being seen or being recognized as an Armenian. He began to do things at night so that the darkness of the streets would hide him. He felt like he was an escaped prisoner, always in hiding.

17. Mr. Kocharov was afraid of encountering his Armenian friends on the streets because he was afraid that, during conversation, they might suffer a mental breakdown or might begin to cry because someone they know had been hurt during the ethnic violence against them. He was afraid that if his Armenian friends ever acted vulnerably on the

streets, the mobs would recognize them as Armenians and would immediately attack them.

18. Mr. Kocharov began to disguise himself. He grew a mustache to look like a typical Azerbaijani on the street. He put on a happy face and acted boisterous to make it look like he was an Azerbaijani taking over the streets. He acted in every way to make himself look like he was not worried for his safety. Being able to speak Azeri fluently also helped him to pretend that he was an Azeri while he was in public.

19. One incident during which Mr. Kocharov was almost discovered to be Armenian was when his car had a flat tire. He took the car to a repair shop. The man who ran the repair shop knew him because he took his car to his shop whenever he had problems with it. The man approached him at the car's window and asked him in Azeri, "Aren't you an Armenian?" Mr. Kocharov answered him in Azeri, "Shame on you. How dare you think of me as an Armenian!" or words to that effect.

20. Another incident during which Mr. Kocharov was discovered was when he and a friend went to a fish market. When his friend paid for the items he bought, the lady selling the fish stared at his friend and told him that she thought he was Armenian. Not knowing how to react, Mr. Kocharov's friend immediately left. Mr. Kocharov also left. After they were able to compose themselves, Mr. Kocharov quickly returned to the lady and handed her additional money to make sure that she did not report them as Armenians.

21. Mr. Kocharov also found it difficult to buy gasoline for his car. The gasoline stations were owned and controlled by the government. To pay for the gasoline, he would have to get out of his car and walk up to a cashier. When paying, your ethnicity became an obstacle. He had heard that if you were detected as an Armenian, the gasoline station

would not give you gasoline. He felt very lucky that every time he bought gas, he successfully disguised himself as an Azerbaijani.

*No help from government*

22. As described below, the government of Azerbaijan allowed the persecutions of Armenians in Baku to happen under its watch. The government did not do anything to stop its involvement in the persecutions of ethnic Armenians, nor did it do anything to prevent others from persecuting Armenians.

23. Mr. Kocharov remembers calling the police for help and protection. He called them three or four times. Each time, the police told him they would not be able to help him. They cursed at him and asked him why he had not left Baku. After talking with other Armenians, he discovered that they had similar experiences with the police.

24. In the summer of 1989, Mr. Kocharov's wife's flat, which was occupied by his mother-in-law, was broken into and everything in it was taken. He went to Police Station Number 8 located on Lenin Avenue, to report the burglary. He informed the police that the amount of the items stolen totaled about 10,000 RUB, but then the police told him that it was not worth 10,000 RUB but rather only 5,000 RUB. When Mr. Kocharov asked the police officer how he can be sure about the amount, the police officer directed him to talk to a person he identified as a member of the Popular Front, who was in the room with them. After the police said that, Mr. Kocharov felt like his life was in danger. He immediately left the police station.

25. In October 1989, the flat of the brother of Mr. Kocharov's mother-in-law was taken over. Because Mr. Kocharov feared that they might be risking their lives by confronting the occupants, he asked some friends to call the flat. They found out that it

had been taken over and occupied by an ethnic-Azerbaijani family. Mr. Kocharov and his mother-in-law's brother asked the police for help, but the police did not go to the flat to expel the occupants. Mr. Kocharov's mother-in-law's brother and his wife did not have a choice but to abandon their flat.

26. On the streets, Mr. Kocharov saw Armenians brutally targeted. He saw so many times—about at least once or twice a day—when an Armenian was attacked by a mob of about 15 to 20 people. He felt helpless because he could not do anything to help those being beaten. If he stepped in, he knew that he would also be a target of the beatings. Some of Mr. Kocharov's Armenian friends and acquaintances were killed, injured, raped, or robbed. While these beatings were all over the streets of Baku, and it was publicly known, he did not see any police officers stop these attacks. He also did not see any police officers patrol the streets of Baku to protect the safety of Armenians.

27. In late 1989, around November or December, Mr. Kocharov heard his mother-in-law whimpering in the corner of her flat, looking outside the window. When he came up to her and looked out the window, he saw an old Armenian man being beaten to death by a mob. It was terrible for him to see what was happening, but at the same time, he knew that he could not help him.

28. Mr. Kocharov encountered Armenians who could no longer think clearly because of what was happening around them and also because of their fear of what might happen to them and to their family.

*The incident which caused Mr. Kocharov to Flee*

29. After his wife and daughter left Baku, Mr. Kocharov stayed at two different flats. Sometimes, he stayed at his flat and other times, he stayed at his wife's flat, where his

mother-in-law lived. In mid-December 1989, his neighbors told him that there was a mob that returned to his flat several times while he was at his wife's with his mother-in-law. Because he feared that he might be risking his life if he continued to live at his flat, he had little choice but to concede to an ethnic-Azerbaijani family from Georgia to live there instead. Feeling helpless and inferior, he did not have a choice but to find shelter elsewhere. He was also forced to abandon his picture frame business. He continued to stay at his wife's flat with his mother-in-law and also sought refuge in his wife's sister's parents-in-law's flat, which had been vacant because they had already left Baku for Moscow.

30. Then, on or about 6 or 7 January 1990 (Mr. Kocharov does not remember the exact date), the Popular Front came for Mr. Kocharov. Mr. Kocharov's friend was with him at his wife's sister's parents-in-law's flat when they saw a mob of about 60 people heading their way. He took his bonds and whatever cash he had, along with a rifle, and quickly left the flat. Mr. Kocharov and his friend could not leave through the main door, so they exited through the window and jumped from one balcony to another. On each balcony, they knocked on the windows hoping that someone would let them in.

31. After jumping to the second balcony away from his relative's flat, someone finally let them in. However, the woman who let them in and the other people in that flat were hesitant to help them. They were Azerbaijanis. There were 5 of them in the flat: 3 children, their grandmother, and a young woman.

32. As Mr. Kocharov tried to persuade them to help him and his friend, the grandmother and the young woman argued in front of him. The grandmother told the young woman that his relatives were good neighbors. The young woman replied to the

grandmother, saying that it did not matter whether or not they were good neighbors. The young woman continued by saying that if they helped him and his friend, their own lives would be in danger, and that she did not want that. The grandmother reminded the young woman that if they turned in Mr. Kocharov and his friend, the mob would likely murder him and his friend right in front of their doorstep. The grandmother said that if the mob slit their throats, the blood would splatter all over their flat, which they had recently remodeled. The young woman then replied that she did not care and that she would clean the splattered blood on the walls and ceiling herself. Hearing them argue about who was going to clean up his blood on their newly remodeled flat was disheartening and extremely difficult for Mr. Kocharov to listen to, when his life and his friend's life could end in any minute.

33. Finally, Mr. Kocharov interrupted their argument and made them an offer. He offered them whatever he had with him—his rifle, some bonds and stocks, and cash. The young woman eventually agreed with the grandmother to hide him and his friend. In return, the young woman and the grandmother accepted his offer of rifle, bonds, and cash. He does not remember how much bonds and cash he gave them, but all he knows is that he gave them whatever he had. The grandmother let him keep a little bit of the cash for himself.

34. Because of the Muslim tradition that no one is allowed to open the underwear closet of an old lady, the grandmother told Mr. Kocharov and his friend to hide in her underwear closet. He and his friend hid in the closet for about 40 minutes, trying not to make the slightest sound. During that 40-minute period, he and his friend heard members of the Popular Front enter the apartment, asking if the grandmother or the young woman

had seen them Armenians who were living in that building. The grandmother and young woman denied seeing Mr. Kocharov and his friend. A few minutes later, the husband of the young woman returned and told them that he knew Mr. Kocharov was in their flat because there was no way he could have run away so fast. The teapot in his relative's flat was still hot, evidence that someone had been there just a few minutes before the mob raided the flat. The grandmother confessed that they hid Mr. Kocharov and his friend, but that the man should not kill Mr. Kocharov and his friend because the man now has a rifle, some cash, stocks and bonds. In addition, the grandmother told the man that he could also take ownership of the garage he had had his eyes on for so many years. The garage was owned by Mr. Kocharov's relative. The man finally agreed to let Mr. Kocharov and his friend go. After coming out of the closet, Mr. Kocharov requested that the man move his car near the door so he and his friend can exit quickly without being seen by the rest of the mob.

35. For at least the next 3 days, Mr. Kocharov was on the run, staying at his friends and once returning to his wife's flat with his mother-in-law. But that soon came to an end, too.

*Final exit from Baku*

36. On about 9 or 10 January 1990, the manager of the building of his wife's flat turned in his wife's address to the Popular Front, despite the fact that they were old family friends. He found this out a day after she submitted their name and address to the Popular Front, when she called his wife's flat to let his mother-in-law know what she had done.

37. In Baku, each flat is in a condominium-style building. The building and the flats were owned by the government, and each family leased a flat from the government. The government hired a person to manage each building. Mr. Kocharov heard that the managers usually would turn in a list of names and residential addresses of ethnic Armenians to the Popular Front. He also heard that the Popular Front compiled this information into an "address book." The Popular Front then went to each address listed in the address book to threaten or kill the Armenians living there.

38. After his mother-in-law told him what the manager of his wife's flat had done, Mr. Kocharov quickly decided out of panic and despair that he needed to get his wife's family out of their flat. It took some convincing on his part because his mother-in-law refused to leave the flat. He asked for help from an Azerbaijani friend who lived in a high-crime Muslim district in Baku. Mr. Kocharov thought that his friend's district was a perfect place to hide because no Armenian would ever think of setting foot in this dangerous neighborhood. When his friend agreed to help him, he took his mother-in-law, his wife's brother and his wife's brother's wife out of their flat and they all headed to the high-crime Muslim district. They stayed there for one night. This happened on 11 January 1990.

39. After these close encounters with death, Mr. Kocharov realized that the violence against Armenians and the ethnic tensions between Armenians and Azerbaijan would never ease. He knew right away that his life would always be in danger as long as he was an Armenian living in Baku. At that point, he had to make the most difficult decision in his life or risk losing it: to leave the only place he had known as home.

40. Because it would have been very suspicious if Mr. Kocharov had any belongings with him while fleeing, he had to leave everything behind and was not able to take anything with him. Also, he was not able to withdraw his money from the bank because that would have drawn suspicion that he was an Armenian. He was also afraid that the bank would turn him in to the Popular Front once the bank discovered that he is an Armenian because of his last name. He had heard from others that if the bank noticed that your last name was Armenian, the employees of the bank would not give you your money. He knew of some Armenians who were able to withdraw their money because they had Azerbaijani friends at the bank who helped them withdraw. With the mobs taking the streets, local officials and other government employees being anti-Armenian, and the police unwilling to help, going to the bank to retrieve money was simply unthinkable and too dangerous for him.

41. The following day, after the night that they stayed at his friend's house, Mr. Kocharov asked around about how he could get out of Baku. He was told that the only way out was by taking a ferry because the roads and railroads were blocked by masses of people looking for Armenians to hunt down. He saw the streets of Baku; it was plain chaos. But he did not see any police officers on the streets restoring order. Also, air transportation was halted so that there was no way to fly out of the country.

42. On 12 January 1990, Mr. Kocharov made his escape with his wife's family. An Azerbaijani friend helped them escape. The women were in one car and the men were in another car so that if anything happened to them, hopefully, the mob would be more sympathetic to the women and let them go. His Azerbaijani friend drove the car with the women. He drove the car with the men. While driving, he saw mobs on the streets. There

were so many angry people who were loitering in the streets. He was so afraid that someone would stop him, so he started to make the sign of the cross. The other men in the car had to stop him from praying because making the sign of the cross would have given away the fact that he is Armenian. The drive to the ferry docks took about half an hour. He took the main roads because there were more cars there so it would be harder for anyone to catch them.

43. When they made it to the ferry docks, Mr. Kocharov was scared because although the Azerbaijan government had them board the ferry, he heard from friends that some ferries carrying escaped Armenians were attacked once it was already headed out to the waters. His friends said that the ferries sank and the people on it drowned. Luckily, their ferry was able to cross the Caspian Sea and reach Turkmenistan safely. When he arrived in Turkmenistan, the military official there asked him all of his personal information. He told them that he was an Armenian from Baku. Because, the persecution of Armenians in Baku was widely known, the military official quickly issued Mr. Kocharov a document indicating that he was Armenian and was leaving Azerbaijan as a refugee. After being issued that document, he was put on a plane and was sent to Yerevan. In Yerevan, he was given a little bit of money. Soon, he eventually made his way to Moscow. In Moscow, he was told that as a visitor, he had only 45 days to stay there, and he would have to leave after that time.

44. Mr. Kocharov had nowhere to go. He eventually stayed in Russia a little bit longer than 45 days with his family, with whom he was reunited after 6 to 8 months of being separated from them. He then went to Kaliningrad and stayed there most of the time until he went to the United States.

45. Mr. Kocharov heard from some friends and from some of the Russian authorities that the United States accepts refugees. He took the documents he had been given from Turkmenistan and submitted those documents to the United States Embassy in Moscow. The United States Embassy was aware of the situation in Azerbaijan and of the large number of Armenians who were refugees because of the pogroms. The United States Embassy said he needed someone from the United States to sponsor him and his family. After some waiting, he received a call from the Embassy that there was a Lutheran church in North Dakota willing to sponsor him and his family. He finally made his way to the United States. Mr. Kocharov has since become a citizen of the United States.

## **2. Val M. Ayrapetov**

46. Val Ayrapetov is also a victim of the 1990 pogroms that took place in Baku, Azerbaijan. As described in detail below, these pogroms were the culmination of ethnic hatred on the part of many Azerbaijani people against Armenians living in Baku. These pogroms were only capable of manifesting into the level of ethnic cleansing due to the help and acquiescence on the part of the Azerbaijani government. The result of these pogroms was the removal of thousands of Armenians from Azerbaijan. The fact is most of these Armenians had lived their whole lives in Azerbaijan. Not only did Mr. Ayrapetov suffer emotional and physical harm during the pogroms, he was forcibly driven out of Baku and had to leave all of his property behind.

47. Counter to claims made by the perpetrators of these pogroms that Armenians had recently moved into Azerbaijan to take land and jobs from Azerbaijanis, Mr. Ayrapetov's family had been in Azerbaijan for generations. His great grandparents came to Baku from the town of Shimaha, which is about 40 minutes away from Baku. Both of his great

grandparents and his grandparents were born in Azerbaijan; thus Azerbaijan was as much Mr. Ayrapetov's homeland as any other resident of Azerbaijan. Moreover, he spoke the native language of Azeri. Mr. Ayrapetov had always spoken the native language because he was not only born in Azerbaijan, but he had always lived there until he was forcibly removed in January 1990. Mr. Ayrapetov had no real connection with the country of Armenia as Azerbaijan was his true homeland. Furthermore, his wife, Anna Ayrapetov, was born in Azerbaijan, as well his son, Roman Ayrapetov. Lastly, Mr. Ayrapetov's father represented Azerbaijan by fighting in World War II against Nazi Germany, risking his own life for the benefit of all Azerbaijanis.

48. Growing up Mr. Ayrapetov never really noticed any significant ethnic tensions between Azerbaijanis and Armenians. However, in 1978 he was told by his boss that he was a good worker but that he was Armenian, which made him feel as if he was not on an equal level with his Azerbaijani co-workers. Moreover, in 1988 Mr. Ayrapetov heard from friends that something bad was going to happen. He saw on one of the government-owned TV stations a 60-year-old grey-haired man, who was a famous writer that had written numerous books over the years in Azerbaijan, talking about how bad Azerbaijan had become because there were so many Armenians living in the country. At this time, Mr. Ayrapetov worked at a restaurant in a tourist area. Some of his Azerbaijani friends started to ask him what he was still doing in Baku, making him feel as if he was no longer welcome in Azerbaijan. The horrific events at Sumgait took place the same year in 1988.

49. These discriminatory events towards Armenians were clear signs something was happening, and potentially something was going to occur in or around Baku. Another sign something was happening between Azerbaijanis and Armenians was that in 1989

some of Mr. Ayrapetov's friends were talking about moving out of Baku to find a safe place to live. He saw and heard Armenian people leaving Baku because they did not feel as safe as they used to. Mr. Ayrapetov began to feel fearful for not only his safety, but his innocent family's safety as well.

*Violent Popular Front Demonstrations*

50. Despite hearing in 1988 that after the Sumgait pogroms something bad potentially could occur in Baku, Mr. Ayrapetov opened up a bakery business with his brother because things had finally calmed down. There was a period of silence after the Sumgait pogroms in anti-Armenian rhetoric around this time in 1988. However, within 6 months of this silent period in Baku concerning Armenians, the comments in Azerbaijan about how horrible Armenians were began to occur again. Mr. Ayrapetov felt disheartened and unwanted in his own country.

51. From May through August 1989, Mr. Ayrapetov saw at least two major anti-Armenian demonstrations with between 2,000-3,000 demonstrators. He saw the first demonstration at the county building in Baku in the summer of 1989. The demonstrations were organized by a group called the Popular Front. Mr. Ayrapetov knew the Popular Front was in charge of organizing these demonstrations because he saw signs stating the demonstrators were members of the Popular Front. Also, he saw signs that read "Armenians get out of here" and other anti-Armenian statements. Mr. Ayrapetov saw the local police surrounding these demonstrations in a fashion showing their support for the demonstrators. He knew the police were supportive of the demonstrators because he would see them clap their hands in support of the anti-Armenian rhetoric. The speaker at the first demonstration was the leader of the Popular Front. He was a regular worker

whom became popular with members of the Popular Front. At these demonstrations, speakers would use microphones so everyone in the huge crowd could hear them. The fact the Popular Front was capable of using resources, such as microphones and signs, shows involvement by the Azerbaijan government because it was the only entity with the necessary resources to carry out these mass demonstrations. The Popular Front invited popular artists, singers, and writers to speak at the demonstrations.

52. Mr. Ayrapetov heard these speakers asking the crowd why there are so many Armenians in Azerbaijan, as well as promoting the idea of getting rid of all Armenians out of Baku. He heard statements such as “Azerbaijan for Azerbaijanis,” which meant the removal of all Armenians. Moreover, the Popular Front talked about the disputed land of Nagorno-Karabakh and how it belonged to Azerbaijanis and not the Armenians that lived there. Mr. Ayrapetov felt helpless in that the Popular Front was using a conflict occurring in another part of the country to rid Baku of Armenians. The dispute in Nagorno-Karabakh had no direct connection to his life in Baku.

53. The Popular Front was an organization built from the ground level of society to a state of power, promoting the removal of all perceived outsiders, including native-born Armenians such as Mr. Ayrapetov. He saw the Popular Front use famous speakers to gain control of the Azerbaijani population. After seeing the growing tensions towards Armenians in these demonstrations, Mr. Ayrapetov decided in August 1989 to take his sister, mother, and brother to Sochi City in Russia to live in a safer area. He returned to Baku after settling his family in Russia. Mr. Ayrapetov was devastated because he was forced to be separated from his family solely because of the ethnic hatred being promoted

by the Popular Front against Armenians. All Mr. Ayrapetov wanted to do was live peacefully in Baku with his family.

*State-controlled Media*

54. Not only did Mr. Ayrapetov see the Popular Front using the government-controlled media outlets (newspapers, radio, and TV) to promote the removal of Armenians from Baku, but the Azerbaijani government helped and promoted discriminatory actions against Armenians. The government allowed these violent demonstrations and incidents against Armenians to occur without attempting to protect Armenians. Mr. Ayrapetov did not hear government officials ordering the killing of Armenians, but he heard government officials telling Azerbaijanis to rid Baku of innocent Armenians on government-controlled television and radio. In addition, popular writers, singers, and other famous people would be provided scripts to be read on government-controlled television and radio to promote anti-Armenian propaganda. Mr. Ayrapetov felt betrayed by his own government because it was viciously promoting his removal from the country.

55. For instance, on an occasion Mr. Ayrapetov remembers an Azeri General in uniform talking on the TV making anti-Armenian comments, as well as other Azerbaijani officials using the media to promote the actions of the Popular Front. He heard government officials on the radio asking the Azerbaijani population why are Armenians living in Azerbaijan (i.e. promoting the idea of Azerbaijan for Azerbaijanis). Mr. Ayrapetov knew they were government officials because they would state their names on the radio. Instead of providing news about what was happening to Armenians, the government-controlled television and radio stations would focus on spreading anti-

Armenian rhetoric. Mr. Ayrapetov did not understand this concept of removing non-Azerbaijanis because he had lived his whole life in Azerbaijan, making Azerbaijan Mr. Ayrapetov's true homeland.

Armenian Addresses

56. After witnessing these huge demonstrations organized by the Popular Front, Mr. Ayrapetov saw the demonstrators leave in search of Armenians living in Baku to forcefully remove them. One such method by which these demonstrators would know where Armenians were living in Baku was by getting a list of names and addresses of where they were living by the local Union of Apartment Management. In addition, Popular Front members would come to Armenian apartments with the local police in search of Armenians to force them out of Baku.

57. On one such occasion, some Azerbaijani people came to Mr. Ayrapetov's father's flat looking to buy his furniture, as well as telling his father to leave his house. In addition, these people told Mr. Ayrapetov's father they had gotten his name and address from Apartment Management.

58. Prior to getting a list of where Armenians lived, Mr. Ayrapetov heard members of the Popular Front randomly go around buildings yelling, "Where are the Armenians living?" On many of the apartment doors would be name tags stating whom lived in the apartment and if the tag was taken off the door, it was a sign to the Popular Front that an Armenian likely lived in the apartment. Lastly, Mr. Ayrapetov heard stories from friends and people he knew about apartment raids carried out by these Popular Front demonstrators, which would include stealing property from these apartments. It was a

helpless feeling to know these demonstrators could come into his flat and take anything they wanted knowing the local police would not intervene to protect his rights.

*Violent Incidents in Baku*

59. The violence escalated in the second week of January 1990 to a point where it was dangerous for any Armenians to be in Baku. Mr. Ayrapetov was scared and fearful for his own safety. For instance, Mr. Ayrapetov received numerous threatening phone calls from Popular Front members at his house. He knew they were Popular Front members because they were the only people trying to scare him out of his home and out of Baku. People would ask him why he was still living in Baku and why he had not left Azerbaijan. At one point, Mr. Ayrapetov received 5-6 phone calls a day. It got the point where he did not want to answer the phone for fear the caller would threaten to hurt him. Furthermore, Mr. Ayrapetov called the local police station for help and protection from demonstrators. Not only did he not get any protection from the police, they acted as if they were shocked he was still in Baku. They would ask him questions such as, "Are you still alive? Are you still living there? and Why are you not running?" Mr. Ayrapetov felt as if he was alone when it came to protecting himself, solely because of his ethnicity. These comments and acquiescence on the part of the police, whom were in charge of protecting all Baku residents, shows the government's involvement and promotion of the 1990 pogroms.

60. Furthermore, Mr. Ayrapetov was also told by an Armenian friend, a captain in the local police department named Macir, he had been called into his supervisor's office and his badge was removed from his uniform. Mr. Ayrapetov saw this uniform without its badge because Macir and he had become friends over time and he told Mr. Ayrapetov

about how he was discriminated against. He told Mr. Ayrapetov the only reason he was fired from the police department was because his mother was Armenian. Mr. Ayrapetov could not understand how the supervisor could justify removing the officer's badge solely because of his ethnicity.

61. During this violent episode towards Armenians, the state-run media was asking all citizens with guns to bring them to the local police department for safety reasons.

Armenians were told the police would protect them if anything happened to them. All of the weapons brought to the police departments by Armenians were stored in a police building. A few days after they all turned their weapons in, Mr. Ayrapetov heard the police building holding all of the weapons had been raided by the Popular Front, resulting in the arming of hundreds of Popular Front members with Armenian weapons. It was a heart-wrenching feeling to know he helped to arm his own attackers, whom would not have had the multitude of weapons had it not been for those of them like him who turned in their weapons. Also, this incident meant Armenians no longer had any weapons to protect themselves or their families from violence. Mr. Ayrapetov heard from other Armenians that the local police had actually negotiated with the Popular Front concerning the weapons being stored. The police failed to stop the Popular Front from taking their weapons from the police buildings. Also, the Popular Front knew exactly which police buildings to raid to get their weapons.

62. In addition, Mr. Ayrapetov heard from friends the police would take Armenians seeking help in busloads, supposedly being transported to a "safe place," and drop them off in random places, such as on streets or at parks. After dropping the Armenians off Popular Front members would show up to attack the Armenians.

63. Not only did Mr. Ayrapetov see and hear of horrific violent attacks against Armenians in Baku, he personally experienced violent incidents. For instance, in January 1990 his brother and he were driving down a street in Baku where Popular Front members were looking for Armenians. They saw these demonstrators were carrying sticks, and they saw multiple burning cars upside down on the street. Mr. Ayrapetov's car was stopped by a group of people and his brother and he had no choice but to pretend to be Azerbaijani and not Armenians because they would have been violently attacked, if not killed by these demonstrators if they knew they were Armenians. Mr. Ayrapetov was less likely to be identified as Armenian if he acted like an Azerbaijani citizen. Eventually, they sped away from the Popular Front demonstrators after tricking them into thinking they were Azerbaijani. Mr. Ayrapetov felt horrible after this potentially life-threatening experience because he had to pretend to be a member of the group trying to force him out of Azerbaijan. Throughout this violent period in Baku Mr. Ayrapetov did not see any police patrolling the streets, despite the police knowing chaos was occurring throughout Baku's streets.

64. Furthermore, Mr. Ayrapetov was driving in late 1989 in Baku when a bottle containing burning gasoline was violently thrown into his rolled-down car window. The car became dark and smoke filled, the fire burned the carpet, the dashboard, and his hair and eyebrows. Mr. Ayrapetov experienced pain from a burn on his left arm that resulted in a scar for the next few years. After this violent episode he decided to leave his car behind because it was no longer safe for him to drive around in Baku. It was a horrific and helpless feeling to know he was violently attacked based solely upon his ethnicity,

while at the same time knowing the Azerbaijani government purposely failed to prevent the 1990 pogroms.

65. On another occasion, Mr. Ayrapetov's mother-in-law told him her Azerbaijani boss at a local phone company had talked to her in the summer of 1989. He told her that Popular Front demonstrators had burned two Armenian bodies in bags. Her boss was laughing while he was telling her about how the human body smelled when it was burning. She was shocked and stunned about how her boss thought it was funny an Armenian person was being burned. The violence and discrimination against Armenians became so bad Mr. Ayrapetov had no choice but to look like an Azerbaijani man by wearing a mustache and talking with a deeper voice (which was common for Azerbaijani men). Luckily, Mr. Ayrapetov spoke the Azeri language fluently because he had lived his whole life in Azerbaijan. He felt as if he was hiding in the shadows of Baku because he knew it was dangerous for him to be himself on the streets of Baku.

#### *Escape from Baku*

66. Even when Mr. Ayrapetov tried to leave Baku he was discriminated against by the Popular Front and Azerbaijani government. The airports and railroads were blocked so that no Armenians would be able to escape by train or airplane. Mr. Ayrapetov heard from friends that had gone to the airport with tickets to leave Azerbaijan that the Popular Front was in control of the airport, which was government-owned, and if your passport said you were Armenian, they would take your passport and luggage and burn it in a bonfire on the airport runway. Although Mr. Ayrapetov had purchased a plane ticket for 13 January 1990 to leave Baku for Sochi City, he decided not to attempt leaving by plane because it was extremely dangerous for him to go to the airport. Prior to leaving Baku,

Mr. Ayrapetov was forced to stay at several different friends' houses in order to survive on a day to day basis. He was running in fear for his life, while at the same time trying to safely escape Azerbaijan.

67. Mr. Ayrapetov eventually was driven by a friend that had agreed to take him to the military navy college on 12 January 1990 prior to sailing on a ship out of Baku. The people running the safe area were students of the military college. They stayed overnight at this military safe area. They were told by local top officials that the 300 Armenians at the college were safe. They were bused from the military college to the ships, where Russian troops were securing a path to the ships because there were Popular Front members surrounding the Russian troops.

### **3. Witnesses' Affidavits**

68. Two ethnic Armenians who were present during the violence in Baku in 1990 have also provided affidavits in support of this Application. They are an individual who has asked to be identified as T.A. due to his fear that family that is still in Baku will be persecuted if his full name is used, and Mikhael Artsakhtsi. They each witnessed the violence, and below are their descriptions from their affidavits.

#### **Affidavit of T.A.**

69. T.A.'s parents were born in Baku, and he lived there with his mother, father, and grandmother. His sister and her husband (who is Azeri) lived close to them. They intended to live there indefinitely, but the anti-Armenian violence and propaganda initiated by the Popular Front made him so unsafe that he had no choice but to leave Baku.

Sumgait

70. On 27 February 1988, he saw Alexander Katusev, the military prosecutor of the USSR, speaking on the television about the killing of two young Azeris in the Nargorno Karabakh region five days earlier. He intentionally named the nationality of the men that were killed. Within hours, a pogrom against Armenian residents began in the city of Sumgait.

71. The pogrom, marked by forms of extreme cruelty, lasted for three days. T.A.'s friend, who lived in Sumgait, told him: "The pogrom was organized in advance. The gangs were close to my building, but they did not come in my condo. They killed natives of Karabakh and other districts of Azerbaijan only. They got the exact information."

72. The leaders of the pogroms knew where to find Armenians they were targeting. The same thing happened later in Baku. Azeri neighbors of Armenians would tell the pogroms where Armenians lived. Neighbors of Armenians would seem to be friendly, then, as the propaganda intensified, these same neighbors would turn and point their fingers at the Armenians.

73. For several months after the Sumgait pogroms, the situation in Baku was quiet. T.A.'s mother told him, "My Azeri co-workers feel shame. They avoided talking about Sumgait." Gradually, their shame vanished, and they started to justify the Sumgait murderers.

Baku Pogroms

74. In Baku, T.A. saw the Popular Front hold organized rallies on Lenin Square in late 1989 and early January 1990. These rallies occurred almost every day and night in front of the government buildings in the square. The Popular Front would spread anti-

Armenian propaganda all day and night during this time. They would claim that Armenians who had jobs or apartments had stolen them from Azeris or were preventing Azeris from obtaining better jobs. T.A. and his family did not leave Baku immediately because they believed the Soviet army would help us.

75. On 5 January 1990, T.A. was fired from his job. His supervisor was not a member of the Popular Front; rather, he received his orders from people higher up in the organization. All Armenians working for this company were fired.

76. T.A.'s sister worked in a hospital at that time. She told him that some people with the Popular Front came into the hospital and said that all Armenians working there were fired.

77. After being fired, T.A. went to the airport to attempt to fly to Moscow, but the atmosphere at the airport was highly explosive and planes were not flying. Many angry Azeris were in charge of the airport and were trying to detect Armenians in the crowd. They would shout anti-Armenian propaganda. T.A. tried to call a friend in Moscow, but he was afraid to pronounce his name because it is an Armenian name. He was afraid that if an Azeri knew he was Armenian, he would be in danger.

78. T.A. remembers his mother telling him that she recalls strange people calling then during this time. Unknown men would suggest that they leave Azerbaijan immediately. They were very aggressive and promised to visit T.A.'s family's apartment. His sister and her husband, who is Azeri, lived close to T.A.'s apartment and invited his family to come live with them on 18 January 1990. The next day, his parents heard the crowd cry, "Armenians, we know who you are. We have to occupy the Central Committee of the

Communist Party, and then we will be back.” They came back to his parents’ house, but they were not there.

79. While T.A.’s family was living at his sister’s apartment, a neighbor came to warn them that the crowd of a pogrom was close. However, his mother, father, and grandfather had gone to hide at another relative’s house, but his sister’s husband was at home with his children. The Popular Front came up to the apartment and tried to break down the door. They said, “We know you have Armenians there.” His sister’s husband opened up the door and, while holding an axe, told the crowd to leave.

80. In addition, T.A.’s sister has told him that medical workers would hide crimes. For example, they would say that a person died due to a heart attack, and not because they were an Armenian killed in a violent attack by the Popular Front, even though such was the case.

81. T.A. eventually escaped Baku during January 1990 and arrived in Moscow.

#### **Affidavit of Mikhael Artsakhtsi**

82. Mr. Artsakhtsi also lived in Baku during this time. At the end of 1988, Mr. Artsakhtsi’s brother was sick. In Baku of the Soviet period, parents of sick children could stay home from work to take care of their kids. To do this, a doctor was required to visit the home and give the parent a written confirmation that the child was sick. Mr. Artsakhtsi’s family’s long-time family doctor had fled Baku, and another pediatrician, an ethnic Azeri, was assigned to their district. His grandmother, a prominent physician herself, was well known by this doctor. During the visit, Mr. Artsakhtsi’s mother asked the doctor for the confirmation letter for the employer (she was still working as a university math professor), but the doctor refused to provide one on the grounds that she

was forbidden from giving the notes to Armenians. She said that the clinic where she worked, which was run by the Azeri-Soviet government, had given her these orders.

83. During 1989 and early 1990, Mr. Artsakhtsi saw Azeri celebrities like Anar (his literary name) or historian Ziya Bunyatov on television denouncing Armenians as traitors and spreading anti-Armenian propaganda. He also heard Baku government authorities who would make statements on the radio and television that the Armenians were “traitors” and “blood suckers” who had been living off (Azeri) land and now the Azeris were taking it back. Some other speakers would declare that the Armenians had no rights to anything in the land of Azerbaijan.

84. He states that there was only one local television channel in Baku at that time, and it was owned and operated by the Azeri-Soviet government.

85. Mr. Artsakhtsi and his family knew that the Azeri-Soviet government bureau, Zhek (abbreviation of the Russian “Zhilishno-Ekspluatatsionnaya Kontora”), in charge of street cleaning, city services, and upkeep of buildings (all apartments were state-owned), kept a database with names and information on where people lived. The neighborhood managers of this bureau would make lists of Armenians and where they lived and provide these to various anti-Armenian nationalistic organizations, including the so called Popular Front. Mr. Artsakhtsi and his family know this because in November 1989, his grandmother caught one of the ZhEK neighborhood managers with one such list of Armenians. She managed to wrestle the list from him as he was paying a visit to their building to update his “database” with the latest information on the families that had already departed or still remained.

### C. The Aftermath

86. On 20 January 1990, 12,000 Soviet troops entered Baku to “ostensibly...protect the lives of Armenians” who had been the subject of the violent pogroms.<sup>8</sup> However, while Amnesty International reported that there were sufficient Soviet troops in Baku to stop the racial violence,<sup>9</sup> these troops took no action.

87. Following the mass killings of Armenians in Baku in January 1990, Amnesty International expressed its concern that the Azerbaijan government condoned the killings.<sup>10</sup> For example, it noted that local police took no steps to protect its citizens from the degrading treatment they suffered.<sup>11</sup> Amnesty International also noted that despite its urging to the Azerbaijan government to immediately conduct an impartial investigation, there is no clear evidence that such an investigation was ever conducted.<sup>12</sup>

88. Azerbaijani deputies persistently tried to characterize the events of Baku “as accidental and spontaneous actions of hooligan elements.”<sup>13</sup> However, Soviet Interior Minister Vadim Bakatin has pointed out that “it isn’t possible that the ASSR rulers, and, particularly, the relevant bodies, didn’t know that a provocation fault was previously organized at the specially organized demonstrations. That time 5,000 participants in the demonstration were spread all over the town with a list of the addresses of Armenian houses in their hands.”<sup>14</sup>

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<sup>8</sup> Human Rights Watch Report: Human Rights Developments: Soviet Union, p. 19, available at [www.hrw.org/reports/1990/WR90/HELSINKI.BOU-03.htm](http://www.hrw.org/reports/1990/WR90/HELSINKI.BOU-03.htm).

<sup>9</sup> *Id.*

<sup>10</sup> Amnesty International, *supra* note 2.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Burke, Justin, “Prominent Armenian writer recalls 1990 “slaughters” in Azerbaijan,” 20 January 2000, available at <http://www.eurasianet.org/resource/armenia/hypermail/20001/0018.html>.

<sup>14</sup> *Id.*

89. The only apparent action taken by either government in the wake of the violence was documented by Amnesty International, which states that the USSR did reportedly arrest hundreds of Popular Front supporters, charging them with “inciting racial hatred” and “organizing mass disorders.”<sup>15</sup> However, this report also states that most of those arrested appeared to have been released.<sup>16</sup> Furthermore, no record of their arrests can be found.

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<sup>15</sup> Amnesty International, *supra* note 2.

<sup>16</sup> *Id.*

#### D. Continuing Discrimination

90. Widespread negative sentiment and discrimination against Armenians continue to be present in today's Azerbaijan society.<sup>17</sup> For example, ethnic Armenians in Azerbaijan continue to complain of discrimination in employment, schooling, housing, the provision of social services, and many other areas.<sup>18</sup>

91. In 1997, Doctors for Human Rights, a human rights organization, reported that Azerbaijan authorities participated in institutionalized hostage-taking and torture of ethnic Armenian children and adults between 1990 and 1996.<sup>19</sup> The organization also reported that there is testimonial evidence that Azerbaijan authorities murdered imprisoned ethnic Armenians.<sup>20</sup>

92. In 2003, the European Commission against Racism and Intolerance (ECRI) reported that in order to avoid discrimination, Armenians living in Azerbaijan "tend to shield their ethnic identity or, in any event, avoid exposing it publicly."<sup>21</sup>

93. The ECRI also reported that "public institutions have contributed to fuel sentiments of animosity *vis-à-vis* Armenians."<sup>22</sup> The ECRI noted that "[i]n general hate-speech and derogatory public statements against Armenians take place routinely. In fact, the mere attribution of Armenian ethnic origin to an ethnic Azerbaijani may be perceived

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<sup>17</sup> Report on Azerbaijan adopted on 28 June 2002 and made public on 15 April 2003, European Commission against Racism and Intolerance, Council of Europe, available at [www.coe.int/ecri](http://www.coe.int/ecri), § 48.

<sup>18</sup> Country Reports on Human Rights Practices, *U.S. Department of Justice* 2005, available at <http://www.state.gov/g/drl/rls/hrrpt/2005/61637.htm>. See also ECRI Report on Azerbaijan, *supra* note 19, § 53.

<sup>19</sup> Doctors for Human Rights Report: Nagorno Karabakh and Armenia 1997, available at <http://www.doctorsforhumanrights.org/index.php?php=true&content=showitem&table=rep>.

<sup>20</sup> *Id.*

<sup>21</sup> ECRI Report on Azerbaijan, *supra* note 17, § 51.

<sup>22</sup> *Id.* at § 52.

as an insult, as illustrated by trials for slander and insult opened by public figures against persons who had publicly and falsely alleged their Armenian ancestry.”<sup>23</sup>

94. While Azerbaijan has established some new Criminal Code provisions that are set up to prohibit racism, they have been seldom consulted. Azerbaijani authorities use the relative low number of cases under these codes “as indicating that racism and racial, national, ethnic or religious discrimination do not exist in Azerbaijan.”<sup>24</sup> However, ECRI believes that “discrimination in daily life is overlooked by both the legislation and society at large.”<sup>25</sup>

95. ECRI noted that “discrimination can sometimes be present in the way in which legal provisions are applied in practice.”<sup>26</sup> This, along with stereotyping and prejudice, has resulted in members of the minority groups, such as Armenians, to probably “not actively seek access to or full enjoyment of, certain rights.”<sup>27</sup> The ECRI reports that “[j]udicial proceedings opened by Armenians trying to protect their property have reportedly not led to the restoration of their rights.”<sup>28</sup>

96. Moreover, the ECRI reports that “[t]here is no Armenian national cultural association, no school providing education in the Armenian language and none of the Armenian Orthodox churches are functioning. The Azerbaijani authorities have stated their readiness to support any requests on the part of the Armenian population to establish such associations and schools or to resume the use of the churches, but stress that no requests in the sense have been made. ECRI considers that such lack of initiative on the

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<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at § 47.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at § 48.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at § 53.

part of the Armenian population is a sign of the negative climate prevailing in Azerbaijani society vis-à-vis Armenians.”<sup>29</sup>

### **Armenian Cemeteries Being Destroyed**

97. The International Council on Monuments and Sites (ICOMOS) reported the destruction of an Armenian cemetery in Djulfa in November 1998.<sup>30</sup> After some protests from UNESCO, the destruction was temporarily halted.<sup>31</sup> Many others also protested, including the Armenian foreign minister, Vartan Oskanian; the Armenian National Committee; and members of the U.S. House of Representatives.<sup>32</sup> However, by November 2002, the destruction of the cemetery resumed.<sup>33</sup> In 2006, the European Parliament issued a resolution condemning the events at Djulfa.<sup>34</sup>

98. Research on Armenian Architecture (RAA) described the destruction, stating that in December 2005, about 200 soldiers of the Azerbaijani army used heavy hammers and pickaxes to reduce the displaced headstones to a heap of crushed pieces.<sup>35</sup> Over a period of 3 days beginning on 14 December 2005, local witnesses who watched the devastation from across the river in Iran described the destruction of the last remains: “a large group of Azeri soldiers destroyed the remaining grave markers with sledgehammers, loaded the broken stones onto trucks, and dumped them into the waters of the Araxes.”<sup>36</sup> Among the witnesses were representatives from the Armenian Apostolic Church Diocesan Council in

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<sup>29</sup> *Id.* at § 51.

<sup>30</sup> “Destruction of the Armenian Cemetery at Djulfa,” International Council on Monuments and Sites, 2002-2003, available at <http://www.international.icomos.org/risk/2002/azerbaijan2002.htm>.

<sup>31</sup> *Id.*

<sup>32</sup> Pickman, Sarah, “Tragedy on the Araxes,” Archaeological Institute of America, 30 June 2006, available at <http://www.archaeology.org/online/features/djulfa/index.html>.

<sup>33</sup> International Council on Monuments and Sites, *supra* note 30.

<sup>34</sup> European Parliament, 19 January 2006, Resolution, P6\_TA(2006)0028; *See also* Pickman, Sarah, *supra* note 32.

<sup>35</sup> “Jugha the Annihilation of the Armenian Cemetery by Nakhijevan’s Azerbaijani Authorities between 1998 and 2006,” available at [http://www.raa.am/Articles/Juga\\_buklet\\_E.htm](http://www.raa.am/Articles/Juga_buklet_E.htm).

<sup>36</sup> Pickman, Sarah, *supra* note 32.

the Iranian city of Tabriz and an Armenian film crew, who captured a significant amount of the event on camera.<sup>37</sup>

99. In addition, the destruction could not have been carried out without the support of the Azerbaijan government. For example, “[t]he transportation (of the excavated tombstone from the cemetery) by the State Railway is clear evidence of the planned action by the Government of Azerbaijan.”<sup>38</sup> Further, because the Armenian cemetery in Djulfa is located near the border with Iran, the Azerbaijani forces patrol the area heavily, so that it is unlikely that the destruction of the Djulfa cemetery could have occurred without the Azerbaijan government’s knowledge.<sup>39</sup>

100. Despite strong evidence to the contrary, on 9 January 2006, Azerbaijan’s Ambassador to the United States, H. Pashayev, denied allegations of any government activities of destroying Armenian cemeteries in Azerbaijan.<sup>40</sup> In a letter to U.S. Congressmen Joe Knollenberg and Frank Pallone, Jr., Pashayev wrote that “Azerbaijan’s Ministry of Defense officially confirmed that its personnel have never engaged in any activity even remotely related to what you claim in your letter.”<sup>41</sup> The activity referred to in the congressmen’s letter was video footage of a number of men destroying medium-sized gravestones in Djulfa, Nakhichevan.<sup>42</sup>

101. In April 2006, 10 European Union Members of Parliament (MEPs) traveled to Djulfa to investigate the eyewitness accounts of the destruction of the cemetery.<sup>43</sup>

However, the Azerbaijani government denied the 10 MEPs access to the cemetery,

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<sup>37</sup> *Id.*

<sup>38</sup> International Council on Monuments and Sites, *supra* note 32, citing RAA report.

<sup>39</sup> Pickman, Sarah, *supra* note 32.

<sup>40</sup> H. Pashayev’s letter, 9 January 2006, available at [www.azembassy.com/news/pages.php?name=jan09,2006](http://www.azembassy.com/news/pages.php?name=jan09,2006).

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

<sup>42</sup> *Id.*

<sup>43</sup> Pickman, Sarah, *supra* note 32.

insisting that it would only allow access if the MEPs also visited alleged sites of Armenian destruction of Azeri cultural heritage.<sup>44</sup>

## **E. Applicants' Life Displaced, Property Lost**

### **1. Mr. Kocharov**

102. Although he is grateful for what the United States has given him, Mr. Kocharov never wanted to go to the United States. He wanted to continue living in Baku. His great-grandparents were from Baku and generations of family members were buried in Baku. He liked the city and the life he had there. He had been robbed of where and how he wanted to live and where his wife and he wanted to raise their family. He has also been deprived of being able to visit his dead relatives' gravesites. While it has been more than 15 years since he left Baku, the thought of moving back there is simply out of the question. He feels that if he moved back to Baku, his life would continue to be in danger. He cannot risk his life and the lives of his family by moving back there.

103. Mr. Kocharov knows that the discrimination against Armenians in Azerbaijan continues. He heard from friends that Armenians in Baku continue to conceal their ethnic Armenian identity. Mr. Kocharov's friends who are currently living in Baku have told him that the situation for Armenians there is still too dangerous. They told him that those Armenians who stayed in Baku because of interracial marriages with Azerbaijanis try to conceal their ethnic identity by changing the names on their passports and other documents. Mr. Kocharov also knows of some Armenian friends and he has heard of Armenians who traveled back to Baku but who hid the fact that they are Armenians, for fear of persecution. Instead of going out with their families or enjoying the city, Mr.

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<sup>44</sup> *Id.*

Kocharov heard from friends that these Armenians ended up just hiding in their family's flat.

104. But more importantly, he knows that going back to Baku would bring back the horrific memories of killing, discrimination, and living in terror each moment—memories that he continues to struggle with. It took him several years to recover mentally and emotionally. He became claustrophobic and he was so afraid of flying. To this day, he has nightmares of being killed or of his family being hurt. Sometimes, his nightmare would be about his daughter being touched by an Azeri and all he could do was to watch it happen, as he was powerless to help her. Some other times, his nightmare would be of him being caught and killed by the Popular Front.

105. Mr. Kocharov wants the Azerbaijan government to acknowledge the 1990 pogroms in Baku and the prior violence against Armenians that led to the pogroms. To this day, he does not know of any investigation that the Azerbaijan government has conducted to find and prosecute the people who killed, injured, or threatened ethnic Armenians in Baku. Just as the Azerbaijan government had allowed and had not stopped the persecution of Armenians in Baku, the Azerbaijan government today still is not stopping and continues to allow discrimination against Armenians.

106. In addition, Armenian gravesites have been raided or torn down, or are in the process of being torn down. Five years ago, Mr. Kocharov asked his Russian friends who were living in Baku to visit the gravesites of his relatives. After his friends visited the gravesites, they reported back to him that the headstones of his grandparents were gone. These headstones were expensive black marble that his family had bought in Ukraine and especially made for his grandparents. They also told him that the pictures of some

headstones in the cemetery were wiped out and then sold to Azerbaijanis. The cemetery was known as an Armenian cemetery located on Inclub Street in Baku. Instead of the Azerbaijan government acting to preserve and protect the Armenian cemetery, he heard from friends that the Azerbaijan government was planning to tear down the cemetery instead.

107. Mr. Kocharov believes that the Azerbaijani government also denies that Armenians once populated Baku. He remembers long ago that the church that many Armenians went to was demolished. However, because the church was built with great structure, the foundation, which was shaped like a cross, remained. The government subsequently built a conservatory on top of that foundation and now denies that an Armenian church once stood in its place. His friends told him that the government is now thinking of demolishing the conservatory and the cross-shaped foundation to put to rest the talks that the structure was once a church.

108. Because the Azerbaijan government continues to be anti-Armenian, Mr. Kocharov feels that filing a lawsuit in the Azerbaijan court system would be futile. As an Armenian, he believes that his case will not be treated fairly and it would simply be suicidal for him to take a case before the local courts in Azerbaijan.

#### *Property Loss*

109. Before the Popular Front and the Azerbaijan government began to expel Armenians, Mr. Kocharov and his family lived a decent, comfortable life in Baku. He was relatively well off, having been a businessman for almost 20 years. In the early 1970s, his grandfather started the business of producing handmade picture frames in their family flat. He helped his grandfather with the business until he passed away in 1979.

Thereafter, he took over the business. His business was very successful because there was no competition; no other families or businesses in Baku made picture frames and there was high demand. Once President Gorbachev changed the law that allowed craftsman to sell their products through government warehouses or retail stores, given that there were few who made these picture frames, Mr. Kocharov was very successful. (Before this change of law, one could not legally sell their crafts, even in government stores). Mr. Kocharov sold the picture frames both in television stores, but also through the official warehouse—Azertiphag—that in turn were sold at national fairs. They would buy huge quantities from Mr. Kocharov. Toward the end of the 1980s, they had him come to the back door to be paid because he was Armenian, but they did not care because they also made money on his picture frames. Mr. Kocharov produced about 50 of these per day with the assistance of three or four helpers. Beginning around 1986, his business began making 2,000-3,000 RUB per month and this continued until he was forced to leave. In addition to his business, he also worked as a supply manager for a restaurant. He made about 200 RUB per month for 2 years (2,400 RUB annually) as a supply manager.

110. Mr. Kocharov and his family lived in a 56 square-meter flat which was worth approximately 100,000 RUB in 1990. His wife and her family also owned other flats. In his flat, his family and he had belongings that in total were worth between 20,000 RUB and 25,000 RUB in 1990. These belongings included china, several sets of high-quality furniture, silverware, and family heirlooms. He owned expensive vases of china, which were passed down to him from his grandmother. The vases had been with their family for generations and are almost 100 years old. They were worth about 5,000 RUB in 1990.

111. Mr. Kocharov's family also owned a valuable game set for playing a game called "narde." Mr. Kocharov's grandfather had heard about a very famous craftsman in Baku who was commissioned by the Azerbaijan government to handcraft a narde set for Joseph Stalin's 60<sup>th</sup> birthday. His grandfather approached this famous craftsman and asked him to make one for him. Mr. Kocharov does not know how much his grandfather paid for it, but it was passed down to his family after his grandfather's death. He believes the game was worth about 20,000 RUB in 1990. Mr. Kocharov knows this because he was experienced at buying antique items, and also from shopping at antique stores and other places that sold similar items.

112. Living in Baku, Mr. Kocharov accumulated wealth that included bonds and a large sum of money in a bank account in the national bank. He does not remember the exact official name of the bank, but he knows that there was only one bank at that time, and it was owned and controlled by the Azerbaijan government. Mr. Kocharov had approximately 3,000 to 4,000 RUB in a bank account in his name. In addition, he had approximately 50,000 RUB in several different accounts at different branches with the bank that were anonymous—had no name. One could keep such accounts; as long as you had the paperwork, you could take the paperwork to the bank and get your money. Mr. Kocharov, as well as others, did this because if the OBXS learned how much money you were making or had, corrupt agents and other corrupt officials would attempt to extort money from you in order to allow you to keep your business going. Mr. Kocharov's wealth also included his business, which made a profit of about 2,000-3,000 RUB per month. At the time, 3 RUB was worth about 1 US dollars on the black market.

## **2. Mr. Ayrapetov**

113. Unfortunately, due to the continuing anti-Armenian atmosphere in Azerbaijan Mr. Ayrapetov feels it is still too dangerous for him to live in Baku. Although he is truly thankful for being able to build a secure and successful life in the United States, he is devastated by the fact his homeland was ripped from his life without any rights or protections from the Azerbaijani and Russian governments. Mr. Ayrapetov has experienced horrendous nightmares and re-occurring dreams about the events in Baku over the past 17 years. He experienced a continuous feeling of helplessness during these pogroms because he knew he could do nothing to help other Armenians. All Mr. Ayrapetov could do was to ensure his own safety on a day to day basis because he knew he had a family in Russia that needed him. Mr. Ayrapetov is truly sorry the violent pogroms occurred in his beloved homeland of Azerbaijan.

114. Mr. Ayrapetov's true goal, along with seeking compensation for his lost property interests, is to seek recognition and justice in the European Court of Human Rights. He wants the truth about the horrific incidents that occurred in the 1990 Baku pogroms to be known on the domestic, as well as international levels. Moreover, he wants to see the Azerbaijani government held accountable and responsible for its involvement in the pogroms. Lastly, Mr. Ayrapetov wants to see acknowledgment that his human rights had been violated during the 1990 Baku pogroms.

### *Property Loss*

115. Not only was Mr. Ayrapetov violently forced out of his homeland, but he was forced to leave behind numerous property interests. For instance, he had to leave his car behind after the burning bottle being thrown into his car incident. Second, Mr. Ayrapetov

was forced to sell his successful bakery business in May 1989 to an Azerbaijani man. Although they came to a deal for only US\$80,000 for the business, Mr. Ayrapetov only received US\$12,000 of that deal because the man he sold the business to knew he was desperate and would be unable to enforce any contract deal they agreed upon, thus Mr. Ayrapetov was forced to take what money he could get for the business.

116. Third, Mr. Ayrapetov was forced to leave his fully-furnished home behind in late 1989. He had been able to sell the rights to his house for a measly US\$8,000 but the buyer returned after they agreed to the deal and asked for his money back because he knew he could get the house without paying for it since Mr. Ayrapetov was an Armenian man being forced to leave Azerbaijan. Inside of his house he was forced to leave a set of China, crystal, jewelry, 10,000 RUB, and his grandmother's ring that had been passed down in his family. She had been born in 1887 and the ring Mr. Ayrapetov had was an expensive gold ring she owned.

117. Moreover, Mr. Ayrapetov had to leave behind his family relatives who had been buried in their family cemetery. He had five family members buried in the cemetery he left behind, his sister (buried in 1957), his grandfather (buried in 1946), his grandmother (buried in 1986), his uncle (buried in the early 1970's), and another uncle.

118. By being forced to leave his family members behind, Mr. Ayrapetov has been stripped of the right to visit his buried family anytime he wants. On several occasions Mr. Ayrapetov has wanted to bring flowers to the graves of these family members, but because he lives in the United States this basic ability has been stolen from him.

119. A last property interest left behind in Baku was the money Mr. Ayrapetov was unable to retrieve from the bank before having to leave. He was unable to go to the bank

for fear of being found by the Popular Front. Also, due to the violent nature of Baku at the time Mr. Ayrapetov had no time to go to the bank; life was his most precious commodity at that point. In 1990, Mr. Ayrapetov called the savings bank in Sochi City to ask for the 15,000 RUB he had in his banking account. The bank failed to give him the money because he did not have any paperwork, but even after he found his banking account number the bank told him they could not give him the money because they said they did not have any money. Mr. Ayrapetov believed the only true reason for not giving him his money was because he was Armenian.

#### **F. Status of the Bank in Azerbaijan**

120. On 12 March 1922, the Federative Union of the Transcaucasus Soviet Socialist Republics (TSSR), which included Azerbaijan, was established.<sup>45</sup> The TSSR moved to a single monetary system and thus terminated banking activity of the former State Bank of Azerbaijan.<sup>46</sup> On 30 December 1922, TSSR was included in the Union of the Soviet Socialist Republics.<sup>47</sup> Incorporation into the USSR meant that the State Bank of the USSR would have control over all banking activities in Azerbaijan.

121. During this time, the State Bank of the USSR established its Baku Branch. After the adoption of the Constitution and until the end of 1991, the Azerbaijan Department of the National Bank of the USSR exclusively carried out banking activities in Azerbaijan.

122. Early in 1991 and prior to state independence, the National Bank of the Azerbaijan Republic (National Bank) was formed and took control over the banking activities of the Azerbaijan Department of the National Bank of the USSR. Under the Act

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<sup>45</sup> The TSSR included Azerbaijan, Georgia, and Armenia. National Bank of Azerbaijan, *About the Bank: History*, available online at [www.nba.az/?mod=inside&id=456&lang=en&sub1=463](http://www.nba.az/?mod=inside&id=456&lang=en&sub1=463).

<sup>46</sup> The Decree of the Board of Union of the TSSR, 10 January 1923.

<sup>47</sup> National Bank of Azerbaijan, *supra* note 45.

on Basis of Economic Independence of Azerbaijan Republic, the status and authority of the National Bank was recognized.<sup>48</sup> According to the National Bank, it was declared “a supreme emission agency which carries out state policy” during this period.<sup>49</sup> Moreover, the National Bank was granted the authority to issue credit, provide money turnover, issue settlements, regulate other activity of banking system as a whole, and fulfill its duty as a reserve bank.

123. In February 1992, the government of the Azerbaijan Republic formally established the National Bank of the Azerbaijan Republic as the State Bank. All prior banks merged into the National Bank of the Azerbaijan Republic. The National Bank of Azerbaijan has the exclusive rights to issue banknotes and to function as a reserve system. Moreover, the Bank has the exclusive authority to promulgate regulations.

124. The first Constitution of independent Azerbaijan Republic, which was adopted in a referendum, held on 12 November 1995. The 1995 Constitution reinforces the fact that the Bank is under the exclusive ownership of state.<sup>50</sup>

**III. EXPOSÉ DE LA OU DES VIOLATION(S) DE LA CONVENTION ET/OU DES PROTOCOLES ALLÉGUÉE(S), AINSI QUE DES ARGUMENTS À L’APPUI**  
***STATEMENT OF ALLEGED VIOLATION(S) OF THE CONVENTION AND/OR PROTOCOLS AND OF RELEVANT ARGUMENTS***

15.

125. Article 34 of the Convention states: “The Court may receive applications from any...group of individuals claiming to be a victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or one of the protocols.”

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<sup>48</sup> “Act on Basis of Economic Independence of Azerbaijan Republic, 25 May 1991,” which was called “Banking system and money turnover,” included these issues as a whole.

<sup>49</sup> National Bank of Azerbaijan, *supra* note 45.

<sup>50</sup> See Article 19 (Paragraph II) of the Azerbaijan Constitution.

126. During the January 1990 Baku pogroms against ethnic Armenians, Azerbaijani authorities' failure to protect Applicants, failure to investigate the pogroms, Azerbaijan's failure to return property to Applicants, as well as the ongoing injuries continuing from that event, constitute violations under the Convention.

**Summary of Specific Articles and Protocol Violated**

127. Applicants submit they have suffered violations of the following rights:
- a. **Article 3**, due to Azerbaijani authorities' lack of investigation into the acts of ethnic cleansing and Applicants' forced displacement and failure to hold those accountable responsible, for which both countries have a continuing legal duty, leaves Applicants subjected to continuous anguish and feelings of inferiority that amount to degrading treatment;
  - b. **Article 1 of Protocol No. 1**, due to Applicants having been illegally deprived of their possessions as well as the peaceful enjoyment of these possessions, and Azerbaijan's continuing failure to return or ensure the return of Applicants' property or compensate them for their loss;
  - c. **Article 8**, due to Azerbaijan's policy or practice of condoning racism which continues to create a barrier for Applicants return to their homes and homeland;
  - d. **Article 14**, in conjunction with Article 8 and Article 3, Applicants have been the victims of discriminatory treatment that continues to deserve vigorous investigation under the Convention.

### **Jurisdiction**

128. When the forced displacement of Applicants occurred in 1990, Azerbaijan SSR and the Soviet Union each had degrees of political control in Baku. The Applicants submit that Azerbaijan has obligations that were created in or arose out of the events of 1990.

129. In addition, although Azerbaijan ratified and/or enacted the Convention after the events in 1990, the allegations contained herein refer to violations of the Convention that have continued beyond such dates of enactment.

#### **A. Jurisdiction Ratione Loci**

130. Article 1 of the Convention establishes a State's *ratione loci* jurisdiction: "The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of [the] Convention." It follows from Article 1 that member States must answer for any infringement of the rights and freedoms protected by the Convention committed against individuals placed under their jurisdiction.<sup>51</sup>

131. Applicants submit that all violations of their rights arise within the control and jurisdiction of Azerbaijan.

132. In 1920, the Soviet Red Army invaded the Azerbaijan Democratic Republic. Eventually Azerbaijan became a constituent republic of the USSR as the Azerbaijan SSR. Even though politics were highly centralized in Moscow, Azerbaijan SSR had its own communist party and controlled many aspects at the local level. The Court has noted that when one State occupies another, each State "has a duty to take all the appropriate measures which it is still within its power to take" in order to fulfil their obligations.<sup>52</sup> It

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<sup>51</sup> *Ilascu and Others v. Moldova and Russia*, judgment of 8 July 2004, § 311.

<sup>52</sup> *Ilascu*, at § 313.

is not necessary to determine the detailed control that Azerbaijan had under this framework.<sup>53</sup>

## **B. Ratione Temporis**

### **1. Continuing Violations**

133. Azerbaijan enacted the Convention and Protocol No. 1 on 15 April 2002, yet the violations are either continuing in nature, or are currently occurring, thus fall within the Court's *ratione temporis* jurisdiction.<sup>54</sup>

134. Namely, under Article 3 the access to the information in uncovering what occurred and who was responsible for the violence in January 1990 and the events leading up to that week, lies within the control of Azerbaijan. Its failure to conduct an investigation, and continuing to fail to do so, is a continuing violation.

135. Under Article 1 of Protocol No. 1, Azerbaijan failed to protect the Applicants' rights to their property and the peaceful enjoyment of this property. It is the continuing obligation and within Azerbaijan's control to return such property to Applicants, or to compensate them for their losses. The fact that Applicants property has not been returned to them is a continuing violation. The fact they cannot return to their homelands to enjoy their property is a current violation.

136. Under Article 8, Azerbaijan has done little if anything to combat the racial hatred that ignited the violence of 1990, and is thus maintaining a constant barrier preventing Applicants from returning to their homeland to live freely there and enjoy their homes and property. This is a continuing and current violation.

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<sup>53</sup> *Id.*, at § 315.

<sup>54</sup> See *Ilascu*, *supra* note 51, p. 50, at § 397; see also *Dubinskaya v. Russia*, judgment of 13 July 2006 § 28; *Broniowski v. Poland* (dec.) [GC], no. 31443/96, §§ 74-77, ECHR 2002-X.

137. Under Article 14, Azerbaijan is responsible for allowing, if not aiding in creating, the hostile discriminatory environment that existed at the time Applicants fled for their lives, and which continues to exist today. If the Applicants are to ever return the place where they have spent the majority of their lives, Azerbaijan must act to alleviate this hostile discriminatory environment. This is both a continuing and current violation.

**Alleged Violation of Article 3 – Prohibition of Torture, Inhuman and Degrading Treatment**

138. The Applicants submit that the continuing procedural failure of competent Azerbaijani authorities to carry out a prompt and impartial investigation in itself constitutes an ongoing violation of Article 3.

139. Article 3 of the Convention states: “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.” The absolute prohibition enshrined in Article 3 is one of the Convention’s most fundamental values and as such has no limitations or exceptions.<sup>55</sup> Even in the most difficult circumstances, as in the event of a public emergency threatening the life of the nation, the Convention prohibits in absolute terms torture and inhuman or degrading treatment.<sup>56</sup>

140. The Court has confirmed there is an Article 3 obligation on States to carry out an effective official investigation into an allegation of serious ill-treatment.<sup>57</sup> Such a positive obligation cannot be considered in principle to be limited solely to cases of ill-treatment by State agents.<sup>58</sup> An investigation should be capable of leading to the identification and punishment of those responsible.<sup>59</sup> If this were not the case, the general

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<sup>55</sup> *Ilascu, supra* note 51, at § 424.

<sup>56</sup> *Id.*

<sup>57</sup> *Assenov and Others v. Bulgaria*, judgment of 28 October 1998, § 102.

<sup>58</sup> *M.C. v. Bulgaria*, judgment of 4 December 2003, § 151.

<sup>59</sup> *Assenov, supra* note 57, at § 102.

legal prohibition of torture and inhuman and degrading treatment and punishment, despite its fundamental importance, would be ineffective in practice, and it would be possible in some cases for agents of the State to abuse the rights of those within their control with virtual impunity.<sup>60</sup>

141. The only apparent action taken by either Azerbaijan or the Soviet Union in the wake of the violence was documented by Amnesty International, which states that the USSR did reportedly arrest hundreds of Popular Front supporters, charging them with “inciting racial hatred” and “organizing mass disorders.”<sup>61</sup> However, this report also states that most of those arrested appeared to have been released. Furthermore, no record of their arrests can be found.<sup>62</sup>

142. Instead of conducting an investigation, government officials and employees worked to hide the crimes. Azerbaijani prosecutors hid the crimes by saying that the murders never happened.<sup>63</sup> Medical workers also hid the crimes by saying that an ethnic Armenian had died because of a heart attack and not because he was killed in a violent attack.<sup>64</sup>

143. The investigation of the violent removal of a whole minority race from Azerbaijan continues to be non-existent. Applicants submit that the only way to gain a complete historical and legal account of the incidents around their forced displacement is for the Azerbaijani authorities to carry out a complete investigation.

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<sup>60</sup> *Asenov, supra* note 57, at § 102.

<sup>61</sup> Amnesty Report, *supra* note 2, at 234.

<sup>62</sup> Amnesty Report, *supra* note 2, at 234.

<sup>63</sup> T.A. Affidavit § 14.

<sup>64</sup> T.A. Affidavit § 16.

**Alleged Violation of Article 1 of Protocol No. 1 – Protection of Property**

144. Applicants submit that they were deprived of their possessions and continue to be deprived of the peaceful enjoyment of their possessions, and Azerbaijan has not returned their property or compensated Applicants for their loss.

145. Article 1 of Protocol No. 1 of the Convention states: “Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.” Article 1 of Protocol No. 1 in substance guarantees the right of property.<sup>65</sup>

146. Article 1 of Protocol No. 1 comprises three distinct rules. Rule number 1 enunciates the principle of the peaceful enjoyment of property. Rule number 2 covers deprivation of possessions. Rule number 3 recognizes that the Contracting States are entitled to control the use of property in accordance with the certain public interests.<sup>66</sup> Applicants submit that their rights under both rule number 1 and rule number 2 have been violated.

**A. Peaceful enjoyment and deprivation of property**

147. Applicants submit that the continuing refusal to permit the return of the displaced persons to Baku not only prevents them from having access to their property there, but also prevents them from using and enjoying it. This is a continuing violation of the right to peaceful enjoyment of possessions guaranteed by Article 1 of Protocol No. 1.

148. In *Cyprus v. Turkey*, there was found to be a continuing violation of Article 1 of Protocol No. 1 due to the denial to Greek-Cypriot property owners of their access to and

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<sup>65</sup> *James and Others v. the United Kingdom*, judgment of 21 February 1986, § 37.

<sup>66</sup> *Id.*

control, use and enjoyment of their property, as well as the absence of any compensation.<sup>67</sup> Similarly, in this case there was not a formal and unlawful expropriation of the property of the displaced persons; instead, because Applicants cannot return to Baku there is a continuing denial of access to their property, in which they have lost all control over and possibilities to enjoy their land.<sup>68</sup>

149. Mr. Kocharov and Mr. Ayrapetov had to leave everything behind, including their flats, bank accounts, valuables, and their respective businesses.<sup>69</sup> This total loss must be seen as amounting to loss of all control of their property.

150. On either 6 or 7 January 1990, Mr. Kocharov was forced to flee and to give up possession of his family's 100,000 RUB flat.<sup>70</sup> Included in the flat were many family possessions financially worth upwards of 45,000 RUB.<sup>71</sup>

151. Both Applicants were deprived of their bank accounts. Mr. Ayrapetov was unable to recover any of the 15,000 RUB in his bank account.<sup>72</sup> Mr. Kocharov had approximately 54,000 RUB accumulated in his bank accounts.<sup>73</sup> In 1990, Applicants' bank accounts were under the control of the Azerbaijan Department of the National Bank of the USSR, which continues in form today as the National Bank of the Azerbaijan Republic.<sup>74</sup>

152. The ethnic hatred directed towards Applicants compelled them to sell their properties, against their will, to private individuals who deprived the Applicants of their

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<sup>67</sup> Leach, Philip, *Taking a Case to the European Court of Human Rights*. New York, Oxford University Press, 2005, at 363, *citing Cyprus v. Turkey*.

<sup>68</sup> *Cyprus v. Turkey*, judgment of 10 May 2001, § 185.

<sup>69</sup> Mr. Kocharov Affidavit, § 25, 36; and Mr. Ayrapetov Affidavit § 24-25, 28.

<sup>70</sup> Mr. Kocharov Affidavit, § 26, 51.

<sup>71</sup> Mr. Kocharov Affidavit, § 51-52.

<sup>72</sup> Mr. Ayrapetov Affidavit, § 28.

<sup>73</sup> Mr. Kocharov Affidavit, § 53.

<sup>74</sup> National Bank of Azerbaijan, *supra* note 45.

property at a price below market value. “I sold very few items. One of the items I was able to sell was my piano. But even for the piano, I was paid very little because I did not have bargaining power—if I did not agree to the buyer’s price, I knew that I could have been physically hurt or even killed.”<sup>75</sup>

153. Mr. Ayrapetov was also forced to sell his business, at a price well below market value. “Although we came to a deal for only \$80,000...I only received \$12,000 of that because the man I sold the business to, knew I was desperate and would be unable to enforce any contract.”<sup>76</sup> Also Mr. Ayrapetov was unable to receive any of the money he contracted on a sale of his flat. There “the buyer returned after we agreed to the deal and asked for his money back because he knew he could get the house without paying for it.”<sup>77</sup> Not only was Mr. Ayrapetov being deprived of his flat, but all of the furniture too.

154. There is a positive obligation on the State to protect the enjoyment of possessions that are included in Article 1 of Protocol No. 1, including obligations to prevent private interferences.<sup>78</sup> The racist policy and practice of Azerbaijan, as outlined above under Article 8, creates a barrier that blocks Applicants from their property.

155. Even if the Applicants were able to return home, it appears their efforts to enforce their property rights would be futile. Indeed to this day ethnic Armenians living in Baku still are unable to assert their property rights. The ECRI reports that “[j]udicial proceedings opened by Armenians trying to protect their property have reportedly not led

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<sup>75</sup> Mr. Kocharov Affidavit, § 10.

<sup>76</sup> Mr. Ayrapetov Affidavit, § 24.

<sup>77</sup> Mr. Ayrapetov Affidavit, § 25.

<sup>78</sup> D.J. Harris, M. O’Boyle and C. Warbrick, *Law of the European Convention on Human Rights*. (London Butterworths, 1995) at 520.

to the restoration of their rights.”<sup>79</sup> Applicants submit that their rights to their property must be recognized.

### **B. Failure to compensate**

156. Azerbaijan is in continuing violation of Article 1 of Protocol 1 for failing to compensate Applicants for the property they have been deprived of.

<sup>157.</sup> In *Garrett v. Portugal*, Portugal maintained that the Court had no jurisdiction *ratione temporis* to examine the applicants' complaints of expropriations because they had taken place in 1975, before the ratification of the Convention and Protocol No. 1 by Portugal on 9 November 1978. Referring to the case-law of the Convention institutions, the Government submitted that the deprivation of property was an instantaneous act and did not produce a continuing lack of a right. The applicants contested that argument and contended that there was a continuing deprivation of property until the compensation that was due had been paid. The Court noted that the deprivation of property was indisputably an instantaneous act, but went on to find that the failure to pay the applicants final compensation could be looked at by the Court.<sup>80</sup>

158. There has been no compensation of Applicants' losses. Applicants submit that their rights under Article 1 of Protocol No. 1 are continuously violated because “no compensation has been paid...in respect of the interferences which they have suffered and continue to suffer in respect of their property rights.”<sup>81</sup>

159. In another similar case, *Broniowski v. Poland*, there was a violation of Article 1 of Protocol No. 1 as a result of the failure of the Polish authorities to compensate the applicant for land which his family had to abandon after the Second World War. The

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<sup>79</sup> ECRI Report on Azerbaijan, *supra* note 17, § 53.

<sup>80</sup> *Garrett v. Portugal*, judgment of 11 January 2000, § 41-43.

<sup>81</sup> *Cyprus*, *supra* note 68, at § 187.

Court found that the Government failed to provide a satisfactory explanation for continuously failing, over many years, to implement the applicant's legal entitlement to compensation.<sup>82</sup>

160. There was a similar result in *Cyprus v. Turkey*, discussed above.

161. Applicants' Article 1 of Protocol No. 1 are continue to be in violation with out fair compensation for their loss of property.

**Alleged Violation of Article 8 – The Right to Respect for Private and Family Life and Home**

162. The Applicants submit that Azerbaijan's policy or practice of condoning racism continues to create a barrier for their return to their homes and homeland, which constitutes an ongoing violation of the respect of their private and family life and home.

163. Article 8 of the Convention in its pertinent section states: "Everyone has the right to respect for his private and family life, his home and his correspondence." The positive obligations inherent in Article 8(1) require the State to protect persons against the activities of other private individuals which prevent the effective enjoyment of their rights.<sup>83</sup> This obligation stems from the Article's language, "to respect for." While the choice of the means to secure compliance with Article 8 is left to the discretion of the State, effective deterrence against grave acts requires efficient criminal-law provisions.<sup>84</sup>

**A. Official policy or practice that does not allow the return of Applicants.**

164. In *Cyprus v. Turkey*, the Court found a continuing violation of Article 8 for the refusal of the Turkish Government to allow the return of any displaced Greek-Cypriot to

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<sup>82</sup> Leach, *supra* note 67, at 359, citing *Broniowski v. Poland*.

<sup>83</sup> Harris, *supra* note 78, at 302.

<sup>84</sup> *M.C.*, *supra* note 58, at § 150.

their homes in northern Cyprus.<sup>85</sup> The Court found that this physical exclusion of Greek-Cypriot persons for the territory of northern Cyprus was enforced as a matter of policy or practice.<sup>86</sup> Similarly here, the Applicants submit that racism toward ethnic Armenians is a policy or practice of the Azerbaijan, which creates a barrier that does not allow their return home.

165. ECRI states that “there is widespread negative sentiment towards Armenians in Azerbaijan society today.”<sup>87</sup> “The Armenians today living on the territory of Azerbaijan...tend to shield their ethnic identity or, in any event, avoid exposing it publicly.”<sup>88</sup> The report went on to find that “[i]n general hate-speech and derogatory public statements against Armenians take place routinely. In fact, the mere attribution of Armenian ethnic origin to an ethnic Azerbaijani may be perceived as an insult, as illustrated by trials for slander and insult opened by public figures against persons who had publicly and falsely alleged their Armenian ancestry.”<sup>89</sup>

166. While Azerbaijan has established some new Criminal Code provisions that are set up to prohibit racism, they have been seldom consulted. Azerbaijani authorities use the relative low number of cases under these codes “as indicating that racism and racial, national, ethnic or religious discrimination do not exist in Azerbaijan.” However, the ECRI believes that “discrimination in daily life is overlooked by both the legislation and society at large.”<sup>90</sup>

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<sup>85</sup> Gomien, Donna, Short guide to the European Convention on Human Rights. (Strasbourg, Council of Europe, 2005) at 92, *citing Cyprus v. Turkey*.

<sup>86</sup> *Cyprus*, *supra* note 68, at § 185.

<sup>87</sup> ECRI Report on Azerbaijan, *supra* note 17, at § 51.

<sup>88</sup> *Id.*

<sup>89</sup> *Id.* at § 52.

<sup>90</sup> *Id.* at § 47.

167. Mr. Kocharov also describes the discrimination against ethnic Armenians in Azerbaijan that continues. “I heard from friends that Armenians in Baku continue to conceal their ethnic Armenian identity.”<sup>91</sup> A recent United States Department of Justice report states that ethnic Armenians have complained of discrimination in employment, schooling, housing, the provision of social services, and many other areas.<sup>92</sup> In yet another report from Doctors for Humans Rights, it was stated that Azerbaijan authorities participated in institutionalized hostage-taking and torture of ethnic Armenian children and adults.<sup>93</sup> It has also been reported that an Armenian NATO officer was recently killed in his in sleep.<sup>94</sup>

168. Mr. Kocharov never wanted to go to the United States. “I wanted to continue living in Baku. My great-grandparents were from Baku and generations of family members were buried in Baku.”<sup>95</sup>

169. The racist policy or practice of the authorities has created a barrier that prohibits Applicants’ return to their home. Until the racial atmosphere of hatred that caused the pogroms of 1990 is cured, Applicants will continue to be unable to return to their lives in Baku. The lives they have established during the majority of their lifetimes will continue to be disrespected, if not lost.

## **B. Destruction of Culture**

170. It was also held in *Cyprus* that there was a deliberate destruction and manipulation of the human, cultural and natural environment and conditions of life in northern Cyprus.<sup>96</sup> The same can be said for failure to respect Applicants’ culture.

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<sup>91</sup> Mr. Kocharov Affidavit, § 43.

<sup>92</sup> U.S. Department of Justice, *supra* note 18.

<sup>93</sup> Doctors for Human Rights Report, *supra* note 19.

<sup>94</sup> T.A. Affidavit, § 17.

<sup>95</sup> Mr. Kocharov Affidavit, § 42.

171. The ECRI reports that “[t]here is no Armenian national cultural association, no school providing education in the Armenian language and none of the Armenian Orthodox churches are functioning. The Azerbaijani authorities have stated their readiness to support any requests on the part of the Armenian population to establish such associations and schools or to resume the use of the churches, but stress that no requests in the sense have been made. ECRI considers that such lack of initiative on the part of the Armenian population is a sign of the negative climate prevailing in Azerbaijani society vis-à-vis Armenians.”<sup>97</sup>

172. Aggravating the inability of Applicants to visit their sites, are reports that Armenian gravesites have been destroyed in Azerbaijan.<sup>98</sup>

173. Applicants both express sentiments of loss because they cannot visit the churches and gravesites that they have been forced to leave behind. Mr. Ayrapetov states, “I have been stripped of the right to visit my buried family anytime I want to.”<sup>99</sup>

174. “I had been robbed of where and how I wanted to live and where my wife and I wanted to raise our family,” echoes Mr. Kocharov. “I have also been deprived of being able to visit my dead relatives’ gravesites. While it has been more than 15 years since I left Baku, the thought of moving back there is simply out of the question.”<sup>100</sup>

175. Thus, Applicant’s rights under Article 8 are being violated, both because of Azerbaijan’s failure to end the discrimination and ethnic violence against ethnic Armenians that displayed itself in the 1990 pogroms and thus is both a continuing and current violation.

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<sup>96</sup> *Cyprus*, *supra* note 68, at § 167.

<sup>97</sup> ECRI Report on Azerbaijan, *supra* note 17, at § 51.

<sup>98</sup> See International Council on Monuments and Sites, *supra* note 32.

<sup>99</sup> Mr. Ayrapetov Affidavit, § 27.

<sup>100</sup> Mr. Kocharov Affidavit, § 42.

**Alleged Violation of Article 14 – Prohibition of Discrimination**

176. Applicants submit that under Article 14, Azerbaijan is in continuous violation for the discrimination of the minority Applicants that has been created and sustained in the continuing violations of Article 8 and Article 3.<sup>101</sup>

177. Article 14 of the Convention states: “The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

178. Applicants submit that the ethnic cleansing violence that was allowed to occur was discrimination in violation of Article 14.

179. Discrimination is treating differently, without an objective and reasonable justification, persons in relevantly similar situations.<sup>102</sup> There are no reasonable justifications for the horrific acts that took place in Baku in 1990, for the failure to investigate or hold perpetrators accountable, or for the treatment they are receiving today.

**A. Azerbaijan is in Continuing Violation of Article 14 in Conjunction with Article 8.**

180. Azerbaijan is responsible for allowing, if not aiding in creating, the hostile discriminatory environment that existed at the time Applicants fled for their lives, and which continues to exist today. If the Applicants are to ever return the place where they have spent the majority of their lives, Azerbaijan must act to alleviate this hostile discriminatory environment.

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<sup>101</sup> Article 14 protects against discrimination in securing the rights and freedoms guaranteed by the ECHR. This means that the Article is not a freestanding right and must be invoked in conjunction with another substantive Convention right.

<sup>102</sup> *Nachova and Others v. Bulgaria*, judgment of 6 July 2005, § 145.

181. In *Nachova and Others v. Bulgaria*, the Court noted that “[r]acial violence is a particular affront to human dignity and, in view of its perilous consequences, requires from the authorities special vigilance and a vigorous reaction.”<sup>103</sup> It is for this reason that the authorities must use all available means to combat racism and racist violence.<sup>104</sup>

182. All the evidence shows that the violent movement against Applicants and their fellow ethnic Armenians was for the sole purpose of removing this group from Azerbaijan. The Azerbaijan police failed to respond to numerous pleas from Applicants for help. Moreover the hostile environment of racism directed at ethnic Armenians that continues to exist in Azerbaijan is discriminatory and continuously blocks the Applicants return home.

**B. Azerbaijan in Continuing Violation of Article 14 in Conjunction with Article 3.**

183. Applicants submit that the complete failure to investigate into the racial motivated and degrading treatment against minority ethnic Armenians continues to cause violations of discrimination.

184. In *Nachova*, the Court endorsed the Chamber’s statements that: “Where there is suspicion that racial attitudes induced a violent act it is particularly important that the official investigation is pursued with vigor and impartiality, having regard to the need to reassert continuously society’s condemnation of racism and ethnic hatred and to maintain the confidence of minorities in the ability of the authorities to protect them from the threat of racist violence.”<sup>105</sup> When investigating violent incidents, State authorities have the additional duty to take all reasonable steps to unmask any racist motive and to

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<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

establish whether or not ethnic hatred or prejudice may have played a role in the events.<sup>106</sup>

185. Failing to do so—and treating racially-induced violence and brutality on an equal footing with cases that have no racist overtones—would be turning a blind eye to the specific nature of acts that are particularly destructive of fundamental rights.<sup>107</sup> The authorities must do what is reasonable in the circumstances to collect and secure the evidence, explore all practical means of discovering the truth and deliver fully reasoned, impartial and objective decisions, without omitting suspicious facts that may be indicative of a racially induced violence.<sup>108</sup>

186. As noted above the investigation into the violent cleansing of a minority race from Baku has to this day not been investigated. Because no investigation has been conducted, there is nothing to be evaluated on a reasonableness standard.

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<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

**IV. EXPOSÉ RELATIF AUX PRESCRIPTIONS DE L'ARTICLE 35 § 1 DE LA CONVENTION**  
**STATEMENT RELATIVE TO ARTICLE 35 § 1 OF THE CONVENTION**

16. Décision interne définitive (date et nature de la décision, organe – judiciaire ou autre – l'ayant rendue)  
*Final decision (date, court or authority and nature of decision)*

17. Autres décisions (énumérées dans l'ordre chronologique en indiquant, pour chaque décision, sa date, sa nature et l'organe – judiciaire ou autre – l'ayant rendue)  
*Other decisions (list in chronological order, giving date, court or authority and nature of decision for each of them)*

18. Dispos(i)ez-vous d'un recours que vous n'avez pas exercé? Si oui, lequel et pour quel motif n'a-t-il pas été exercé?  
*Is there or was there any other appeal or other remedy available to you which you have not used? If so, explain why you have not used it.*

**A. Explanation for Non-Pursuit of Remedies**

187. Article 35 of the Convention requires that an applicant exhaust domestic remedies before applying to the Court.<sup>109</sup> However, “the rule of exhaustion is neither absolute nor capable of being applied automatically,”<sup>110</sup> and “it must be applied with some degree of flexibility and without excessive formalism.”<sup>111</sup> In *Aksoy v. Turkey*,<sup>112</sup> the Court found that “there is no obligation to have recourse to remedies which are inadequate or ineffective” and “the existence of the remedies in question must be sufficiently certain not only in theory but in practice.”<sup>113</sup>

188. According to the “generally recognized rules of international law,” there may be special circumstances which absolve the applicant from the obligation to exhaust the

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<sup>109</sup> Section 1 of Article 35 of the Convention: “The Court may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law, and within a period of six months from the date on which the final decision was taken.”

<sup>110</sup> *Akdivar and Others v. Turkey*, 16 September 1996. See also *Ayder and Others v. Turkey*, 8 January 2004.

<sup>111</sup> *Id.*

<sup>112</sup> *Aksoy v. Turkey*, 18 December 1996. See also *Akdivar*, *supra* note 110. See also *Andronicou and Constantinou v. Cyprus*, 9 October 1997. See also *Assanidze v. Georgia*, 8 April 2004.

<sup>113</sup> *Id.*

domestic remedies at his disposal.<sup>114</sup> The Court must take into account the particular circumstances of each applicant.<sup>115</sup>

189. Applicants submit that there are special circumstances present which render pursuing a claim inadequate and ineffective in Azerbaijan.

### **1. Special Circumstances in Azerbaijan**

190. Special circumstances exist in this case which absolves the Applicants from exhausting domestic remedy because the respondent Government (1) participated in the ethnic persecutions of the Armenians; (2) failed to offer assistance and protection to the Armenians; (3) failed to investigate any wrongdoing; (4) allows discrimination against ethnic Armenians to continue today; (5) denies any participation in today's continued discrimination; and (6) does not have an independent and impartial judicial system.

#### **a. Respondent Government's Participation**

191. First, the Applicants' domestic remedies are futile because the respondent Government itself participated in the persecutions of Armenians. In *Akdivar v. Turkey*, the applicants maintained that any domestic remedies were illusory, inadequate and ineffective because the destruction of their homes was part of a State-inspired policy, and this policy was tolerated and condoned.<sup>116</sup> This Court agreed, stating that special circumstances exist "where an administrative practice consisting of a repetition of acts incompatible with the convention and official tolerance by the state authorities has been shown to exist and is of such a nature as to make proceedings futile or ineffective."<sup>117</sup>

Similarly, in this case, the respondent Government engaged in administrative practices

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<sup>114</sup> *Aksoy*, *supra* note 112. See also *Akdivar*, *supra* note 110. See also *Ayder and Others v. Turkey*, 8 January 2004.

<sup>115</sup> *Akdivar*, *supra* note 110. See *Ayder*, *supra* note 114.

<sup>116</sup> *Akdivar*, *supra* note 110.

<sup>117</sup> *Id.*

that were incompatible with the Convention—that is, the persecution of ethnic Armenians. For example, although many of the incidents surrounding the persecution of Armenians in Baku were directly attributed to a group known as the Popular Front, there is substantial evidence that the government supported the Popular Front’s actions in inciting violence against the Armenians and thus compounded even more the violence against Armenians.

192. For instance, state-owned television and radio stations invited guest speakers, such as Popular Front members, government employees, respected professionals, and popular celebrities to convey the message that Azerbaijan land belongs only to the Azerbaijanis and no one else.<sup>118</sup> The state-owned television and radio stations, being the main sources of information for much of the population, were typically used by the Azerbaijan government to convey its positions.<sup>119</sup> In addition to the broadcast media, the only printing press in Baku was state-owned and controlled.<sup>120</sup> Fliers that incited violence were distributed from government buildings.<sup>121</sup> Combined together, these two facts point squarely at government involvement in the production of those fliers.

193. Furthermore, the respondent Government worked against Armenians through its control of residential buildings. The government kept a database of names and addresses, from which the names and addresses of Armenians were consolidated to a list provided to the Popular Front.<sup>122</sup> The Popular Front used this “address book” to hunt down Armenians

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<sup>118</sup> Affidavits of Mr. Kocharov, § 5, Mr. Ayrapetov § 9, and Mr. Artsakhtsi § 5.

<sup>119</sup> Azerbaijan Foundation of Democracy Development and Human Rights Protection Report, *supra* note 6.

<sup>120</sup> Affidavit of Mr. Kocharov, § 6. *See also* U.S. State Department Human Rights Report: 1999 (Azerbaijan government has near monopoly of publishing facilities).

<sup>121</sup> Affidavit of Mr. Kocharov, § 6.

<sup>122</sup> Affidavit of Mr. Artsakhtsi, § 3. *See* Affidavits of Mr. Kocharov, § 32-33, and Mr. Ayrapetov, § 11.

in their flats.<sup>123</sup> In addition, other government-run services, such as gasoline stations, the airport, and the national bank refused to serve Armenians because of their ethnicity.<sup>124</sup>

194. Moreover, the respondent government supported anti-Armenian sentiment through the police. In some instances, Armenians who had gone to the police to seek protection from persecution were transported to what police called a “safe place.”<sup>125</sup> In reality, however, these “safe places” were public streets or parks, and within minutes after the Armenians were dropped off to these “safe places,” Popular Front members arrived to attack the Armenians.<sup>126</sup> In another example, Popular Front members came to Armenians’ apartments with police officers to force them out of Baku.<sup>127</sup>

#### **b. No Help from the Respondent Government**

195. Azeri police and soldiers took no steps to protect ethnic Armenians.<sup>128</sup> When Armenians called for protection from the police, the police never came to help.<sup>129</sup> Even worse, the police ridiculed the Armenians seeking help by asking them why they have not left Baku.<sup>130</sup> Further, although it was publicly known and visible that mobs roamed the streets in search of Armenians, the police were not on the streets to prevent these mobs from hurting Armenians.<sup>131</sup> Witnesses saw the chaos on the streets of Baku, with mobs hunting down every single Armenian they saw on the streets.<sup>132</sup> Yet, the police stayed off the streets and allowed the crimes against Armenians to occur.<sup>133</sup> The refusal of the police

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<sup>123</sup> Affidavits of Mr. Kocharov, § 33, and Mr. Ayrapetov, § 11.

<sup>124</sup> Affidavits of Mr. Kocharov, §§ 17, 36; Mr. Ayrapetov §§ 21, 28; and T.A, § 8.

<sup>125</sup> Affidavit of Mr. Ayrapetov, § 17.

<sup>126</sup> *Id.*

<sup>127</sup> *Id.* at § 11.

<sup>128</sup> Amnesty International, *supra* note 2.

<sup>129</sup> Affidavits of Mr. Kocharov, § 19, and Mr. Ayrapetov, § 14.

<sup>130</sup> *Id.*

<sup>131</sup> Affidavits of Mr. Kocharov, § 22, and Mr. Ayrapetov, § 18.

<sup>132</sup> Affidavit of Mr. Kocharov, § 37.

<sup>133</sup> *Id.* at § 37.

to intervene is evidence of a government that not just condoned the persecution of Armenians, but also participated in meeting its objectives.

196. Given that the respondent Government failed to protect the Armenians, the Applicants' domestic remedies are futile. In *Akdivar v. Turkey*, which concerned the burning of houses by security forces in southeast Turkey, this Court held that special circumstances exist where national authorities fail to offer assistance and remain totally passive in the face of serious allegations of misconduct or the infliction of harm by state agents.<sup>134</sup> In the present case, when active persecution against ethnic Armenians in Azerbaijan began in 1988, the respondent Government was totally passive and did nothing to protect the Armenians.

### **c. No Investigation Conducted by Respondent Government**

197. Moreover, the respondent Government failed to investigate the pogroms and killings. In examining whether special circumstances exist that would absolve the Applicants from pursuing domestic remedies and to establish futility, this Court placed "particular significance to the absence of any meaningful investigation by the authorities into the applicants' allegations."<sup>135</sup> This Court further noted that the "prospects of success of civil proceedings based on allegations against the security forces must be considered to be negligible in the absence of any official inquiry into the [applicants'] allegations."<sup>136</sup> Accordingly, because the respondent Government in *Akdivar* failed to investigate, this Court found that the applicants were absolved from exhausting domestic remedies. Similarly, in this instant case, the Azerbaijan government failed to investigate and therefore the Applicants' exhaustion of domestic remedies is futile.

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<sup>134</sup> *Akdivar*, *supra* note 110.

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

198. To this day, there is no record of the Azerbaijan government investigating the persecutions of ethnic Armenians, and there is no record of the Azerbaijan government prosecuting those responsible. The Azerbaijan government simply watched and tolerated the violence committed against ethnic Armenians, and continues to watch continued discrimination against ethnic Armenians today.

199. Following the mass killings of Armenians in Baku in January 1990, Amnesty International expressed its concern that the Azerbaijan government condoned the Armenian killings, and despite its urging to the respondent government to immediately conduct an impartial investigation, there is no clear evidence that such an investigation was ever conducted.<sup>137</sup>

200. Further, no witness is aware of any investigation that the respondent government Azerbaijan has conducted to find and prosecute the people who killed, injured, or threatened ethnic Armenians in Baku.<sup>138</sup> Azerbaijani deputies persistently tried to characterize the events of Baku “as accidental and spontaneous actions of hooligan elements.”<sup>139</sup> However, Soviet Interior Minister Vadim Bakatin has pointed out that “it isn’t possible that the ASSR rulers, and, particularly, the relevant bodies, didn’t know that a provocation fault was previously organized at the specially organized demonstrations. That time 5,000 participants in the demonstration were spread all over the town with a list of the addresses of Armenian houses in their hands.”<sup>140</sup> Because no investigation was conducted, no one has been punished.<sup>141</sup>

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<sup>137</sup> Amnesty International, *supra* note 2.

<sup>138</sup> Affidavits of Mr. Kocharov, § 45, and Mr. Ayrapetov, § 23.

<sup>139</sup> Burke, Justin, *supra* note 13.

<sup>140</sup> *Id.*

<sup>141</sup> See Burke, Justin, *supra* note 13.

201. In addition, instead of conducting an investigation, government officials and employees worked to hide the crimes. A witness recalled that the Azerbaijani prosecutors hid the crimes by saying that the murders never happened.<sup>142</sup> Medical workers also hid the crimes by saying that a person had died because of a heart attack and not because he was an Armenian who was killed in a violent attack by the mobs.<sup>143</sup>

#### **d. Discrimination Continues**

202. In absolving Applicants from exhausting domestic remedies, the Court must take “realistic account not only of the existence of formal remedies in legal system of the contracting party concerned but also of the general legal and political context in which they operate, as well as the personal circumstances of the applicant.”<sup>144</sup>

#### *Ethnic Tension in General*

203. The ECRI reported in 2002 and 2003 that discrimination against Armenians continue to be present in today’s Azerbaijan society.<sup>145</sup>

204. Further, Armenians in Azerbaijan “tend to shield their ethnic identity or, in any event, avoid exposing it publicly.”<sup>146</sup> For instance, Armenians in Azerbaijan conceal their true ethnicity to avoid discrimination by changing the ethnic description on their passports.<sup>147</sup> Witnesses also indicate that the situation for Armenians in Baku is still too dangerous.<sup>148</sup>

205. In addition, ECRI reported that “[t]here is no Armenian national cultural association, no school providing education in the Armenian language and none of the

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<sup>142</sup> Affidavit of T.A., § 14.

<sup>143</sup> *Id.*

<sup>144</sup> *Akdivar*, *supra* note 110. See *Ayder*, *supra* note 114.

<sup>145</sup> ECRI Report on Azerbaijan, *supra* note 17, at § 48.

<sup>146</sup> *Id.*, at § 51.

<sup>147</sup> U.S. Department of Justice, *supra* note 18.

<sup>148</sup> Affidavits of Mr. Kocharov § 43, and T.A. § 18.

Armenian Orthodox churches are functioning.”<sup>149</sup> The Armenian community’s lack of initiative in lobbying the Azerbaijan Government to support and promote the Armenian culture “is a sign of the negative climate prevailing in Azerbaijani society vis-à-vis Armenians.”<sup>150</sup>

206. Perhaps the most immediate first-hand example of the continuing discrimination against Armenians is that during the course of the Applicants’ investigation, an Azerbaijani lawyer residing in Azerbaijan refused to provide the Applicants’ counsel with information as soon as the Applicants’ counsel disclosed that the clients were ethnic Armenians. The Azerbaijani lawyer expressed that “due to the current political situation between Azerbaijan and Armenia, and illegal occupation of 20% of Azerbaijani territory by Armenian military forces, we are not in position to assist you on the matter that involves an Armenian client.”<sup>151</sup> In *Akdivar v. Turkey*, the Court found that “the difficulties in securing probative evidence for the purposes of domestic legal proceedings, inherent in such a troubled situation, may make the pursuit of judicial remedies futile.”<sup>152</sup> Accordingly, in the instant case, the incident is evidence of how domestic remedies for the Applicants would be futile because not only do the Applicants have difficulty in obtaining basic information from local lawyers, but it also shows how difficult it would be for the Applicants to obtain local lawyers to represent them if they were to file a claim in the local courts.

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<sup>149</sup> ECRI Report on Azerbaijan, *supra* note 17, at § 51.

<sup>150</sup> *Id.*

<sup>151</sup> Farhad Mirzayev, 2 March 2007 email.

<sup>152</sup> *Akdivar*, *supra* note 110.

Government Participation

207. In this case, it would be unreasonable to expect the respondent Government to properly and fairly address the Applicants' complaints given that discrimination against Armenians in Azerbaijan continue today, particularly when taking into account that the respondent Government participates in the continued persecutions.

208. ECRI reported that "public institutions have contributed to fuel sentiments of animosity vis-à-vis Armenians," with "hate-speech and derogatory public statements against Armenians" being routinely made.<sup>153</sup>

209. In addition, Doctors for Human Rights reported that Azerbaijan authorities participated in institutionalized hostage-taking and torture of ethnic Armenian children and adults between 1990 and 1996.<sup>154</sup> The organization also reported that there is testimonial evidence that Azerbaijan authorities murdered imprisoned ethnic Armenians.<sup>155</sup>

210. Ethnic Armenians in Azerbaijan have also complained of discrimination in employment, the exercise of their property rights, schooling, housing, the provision of social services, and many other areas.<sup>156</sup> In the media, which is state-controlled, Armenians are still portrayed as the enemy of Azerbaijanis.<sup>157</sup>

211. Perhaps most disturbing, Armenians are discriminated against because of their racial ethnicity in the local judicial system. For instance, ECRI reported that "judicial proceedings opened by Armenians trying to protect their property have reportedly not led

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<sup>153</sup> ECRI Report on Azerbaijan, *supra* note 17, at § 52.

<sup>154</sup> Doctors for Human Rights Report, *supra* note 19.

<sup>155</sup> *Id.*

<sup>156</sup> See ECRI Report on Azerbaijan, *supra* note 17, at § 53. See also U.S. Department of Justice, *supra* note 18.

<sup>157</sup> Affidavit of T.A., § 17.

to the restoration of their rights.”<sup>158</sup> “Discrimination can sometimes be present in the way in which legal provisions are applied in practice.”<sup>159</sup> This, along with stereotyping and prejudice, has resulted in members of the minority groups, such as Armenians, to probably “not actively seek access to or full enjoyment of, certain rights.”<sup>160</sup>

**e. Respondent Government denies any wrongdoing in today’s discrimination**

212. The Applicants’ domestic remedies are also futile because respondent Government has denied any participation in today’s discrimination against Armenians. In *Ilascu and Others v. Moldova and Russia*, this Court found that because the Russian government had denied all the allegations that its armed forces, or other officials, had taken part in the Applicant’s arrest, imprisonment or conviction, it would be contradictory to expect the Applicants to have approached the Russian authorities.<sup>161</sup> Similarly, in this case, the respondent Government has denied its participation in current discrimination against Armenians. For example, despite eyewitnesses, the respondent Government has refused to acknowledge that it was responsible for the destruction of an Armenian cemetery in Azerbaijan.<sup>162</sup> Even assuming that the respondent Government was not involved in the destruction of the Armenian cemetery, the respondent Government, similar to its past inaction during the pogroms, allowed the desecration to happen. Because the Armenian cemetery in Djulfa is located near the border with Iran, the respondent Government’s forces patrol the area heavily, so that it is unlikely that the

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<sup>158</sup> ECRI Report on Azerbaijan, *supra* note 17, at § 53.

<sup>159</sup> *Id.*, at § 48.

<sup>160</sup> *Id.*

<sup>161</sup> *Ilascu*, *supra* note 51.

<sup>162</sup> See H. Pashayev’s letter, *supra* note 40, See also Pickman, Sarah, *supra* note 32. See also International Council on Monuments and Sites, *supra* note 30.

destruction of the Djulfa cemetery could have occurred without the respondent Government's knowledge.<sup>163</sup>

#### **f. Local Judicial System Lacks Independence and Impartiality**

213. The Applicants' domestic remedies are futile because Azerbaijan's judicial system in practice is politically oriented and not independent, and it overlooks human rights issues. Focus must be directed on actual practice and not just on the laws as they are written.

214. Although the Azerbaijan Constitution provides for an independent judiciary, in practice, judges do not function independently of the Executive Branch.<sup>164</sup> The Azerbaijan judiciary system is corrupt and inefficient.<sup>165</sup> For example, there are credible allegations that judges routinely accept bribes.<sup>166</sup> ECRI reported that "[i]t is not infrequent that, in order to benefit from a service or to avoid adverse treatment in a specific situation," one must either be closely linked to a government employee or pay a bribe.<sup>167</sup> Also, one-third of the complaints that Transparency Azerbaijan, a human rights group, receives are about corruption in the courts and the difficulties with the implementation of court rulings.<sup>168</sup>

215. Furthermore, there are credible reports that judges and prosecutors have taken instruction from the presidential administration and the Ministry of Justice, particularly in

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<sup>163</sup> Pickman, Sarah, *supra* note 32.

<sup>164</sup> See "Azerbaijan: Fair Trial Concerns in Cases Associated with the 2005 Parliamentary Elections," Amnesty International, 25 May 2006, available at <http://web.amnesty.org/library/print/ENGEUR550022006>. See also U.S. Department of Justice 2005, *supra* note 18. See also Country Reports on Human Rights Practices, *U.S. Department of Justice 2004*, available at <http://www.state.gov/g/drl/rls/hrrpt/2004/41670.htm>.

<sup>165</sup> *U.S. Department of Justice 2005*, *supra* note 18. See also *U.S. Department of Justice 2004*, *supra* note 164.

<sup>166</sup> *Id.*

<sup>167</sup> ECRI Report on Azerbaijan, *supra* note 17, at § 48.

<sup>168</sup> Ismayilov, Rovshan, *Civil Society: Observers: European Court Ruling on Azerbaijani Torture Case Could Prompt Change*, 24 January 2007, available at [www.eurasia.net.org/departments/insight.articles/eav012407a\\_pr.shtml](http://www.eurasia.net.org/departments/insight.articles/eav012407a_pr.shtml).

cases in which international observers were interested.<sup>169</sup> Even though Article 127 of the Azerbaijan Constitution and Article 97 of the laws on courts and judges provide that judges cannot be dismissed before the expiration of their terms, in practice, judges are not immune to political manipulation.<sup>170</sup> For example, Shukur Mammedli, a judge of the Ismailli region court, was released from his position by a presidential instruction and decree signed, without any legal basis, by the Chairman of the Supreme Court.<sup>171</sup> In July 1993, President Aliyev ousted the Supreme Court chief justice because of alleged political loyalties to the opposition.<sup>172</sup>

216. In addition to susceptibility to political influence, there are serious doubts as to the courts' ability to be impartial. Amnesty International noted that "the Azerbaijan government may be pursuing aims of discrediting and removing political opposition rather than criminal justice."<sup>173</sup> The Azerbaijan Foundation of Democracy Development and Human Rights Protection, a human rights organization, reported that the emphasis in the courts is on obtaining convictions and not on ensuring fairness and impartiality.<sup>174</sup> Although the Azerbaijan Constitution prohibits the use of illegally obtained evidence, judges have not dismissed cases on the basis of defendants' confessions having been obtained through torture or abuse.<sup>175</sup> Judges require only a minimal level of proof to

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<sup>169</sup> U.S. Department of Justice 2005, *supra* note 18. *See also*, U.S. Department of Justice 2004, *supra* note 164.

<sup>170</sup> Safaraliva, Rena, *Transparency Azerbaijan: Overview of the Judiciary System in Azerbaijan 2003-2004*, available at <http://www.transparency-az.org/files/klim0.pdf>.

<sup>171</sup> *Id.*

<sup>172</sup> Available at <http://www.nationalencyclopedia.com/Asia-and-Oceania/Azerbaijan-JUDICIAL-SYSTEM.html>; available at <http://www.travel-images.com/az-gove.html>.

<sup>173</sup> Amnesty International, *supra* note 164.

<sup>174</sup> Azerbaijan Foundation of Democracy Development and Human Rights Protection Report, *supra* note 6. *See also* U.S. Department of Justice 2004, *supra* note 164.

<sup>175</sup> U.S. Department of Justice 2004, *supra* note 164.

convict a defendant, especially in serious cases.<sup>176</sup> Prosecutors and judges work in close collaboration. Judges frequently have sent cases back to the prosecutor for “additional investigation” when there was not enough evidence to convict a defendant—in effect, giving the prosecution a “second chance” for conviction.<sup>177</sup> This practice was confirmed in *Mammadov (Jalaloglu) v. Azerbaijan*, wherein the Court stated that “domestic courts, which reviewed the result of the criminal investigation, simply endorsed the investigator’s opinion that the Applicant’s claim was unsubstantiated without attempting to independently assess the facts of the case and, in essence, committed exactly the same flaws and omissions as those committed by the investigator during the criminal investigation.”<sup>178</sup>

217. Respondent Government may cite *Asadov and Others v. Azerbaijan* and *Ramazanova and Others v. Azerbaijan* in an attempt to show that the Court has already determined that Azerbaijan’s judicial system is sufficiently impartial. However, what was presented to the Court in those cases are the laws and rules regarding the selection of judges and the role played in that process by the Minister of Justice.<sup>179</sup> In those cases, this Court did not consider the actual practices conducted in the courts when cases are brought before them. More importantly, the rule set forth by the Court in *Asadov* specifies a subjective test and an objective test to determine impartiality.<sup>180</sup> Under the objective test, “it must be determined whether there are ascertainable facts which may raise doubts as to the judges’ impartiality. In this respect appearances may be of a certain

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<sup>176</sup> *Id.*

<sup>177</sup> *Id.*

<sup>178</sup> *Mammadov (Jalaloglu) v. Azerbaijan*, 11 January 2007.

<sup>179</sup> *Ramazanova and Others v. Azerbaijan*, 1 February 2007.

*Asadov and Others v. Azerbaijan*, 12 January 2006.

<sup>180</sup> *Id.*

importance.”<sup>181</sup> Given the facts presented above, especially in light of the particular context of ethnic tension, there are serious doubts as to the judges’ impartiality in this case.

**g. Conclusion**

218. The Applicants have no alternative but to seek justice outside of Azerbaijan and to seek it from this Court because of special circumstances that exist in this case which would make the Applicants’ domestic remedies futile. Aside from the lack of impartiality and independence in the local judicial system, the respondent Government’s participation in the ethnic persecutions of the Armenians, its failure to investigate the persecutions, and its failure even to offer assistance and protection to Armenians—a failure which continues today in the form of discrimination against Armenians and their cultural legacy—lead only to the conclusion that ethnic Armenians have no avenue to justice within Azerbaijan.

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<sup>181</sup> *Id.*

219. **V. EXPOSÉ DE L'OBJET DE LA REQUÊTE*****STATEMENT OF THE OBJECT OF THE APPLICATION***

19.

**Pecuniary and Non-Pecuniary Damages Sought**

220. Applicants ask the Court to find the Azerbaijani government liable of violating Article 8, Article 3, Article 1 of Protocol No. 1, and Article 14. In finding Azerbaijan liable of violating these articles, we ask the Court to officially recognize the horrific events that occurred in the 1990 Baku pogroms. One of the most important remedies sought by Applicants is official recognition by the international community.

221. Along with official recognition by the Court as to the events that occurred, we ask the Court to grant Applicants both pecuniary and non-pecuniary damages.

222. In the case of Mr. Ayrapetov, we ask the Court to award US\$100,000 for non-pecuniary damages (mental and physical damages) suffered by Mr. Ayrapetov due to the actions and inactions of the Azerbaijani government. Moreover, we ask the Court to grant pecuniary damages in favor of Mr. Ayrapetov to compensate him for his property interests lost in the 1990 pogroms, which have never been returned to him. This amount includes US\$120,000 for the bakery business; US\$4,000 for his grandmother's golden ring; 100,000 Russian RUB for his flat; US\$5,000 for the furniture left at his fully-furnished flat left in Baku; US\$9,000 for his car (purchasing price); US\$2,000 US for his China set; US\$3,000 for crystal dishes; 15,000 Russian RUB he had to leave at his flat; and 10,000 Russian RUB he was unable to recover from the national bank. The total amount sought in pecuniary and non-pecuniary damages, on behalf of Mr. Ayrapetov, is **US\$243,000 and 125,000 Russian RUB**, plus an appropriate amount of interest.

223. In the case of Mr. Kocharov, we ask the Court to award non-pecuniary damages for the mental and physical anguish suffered during the 1990 Baku pogroms in the amount of US\$100,000. Along with the non-pecuniary damages sought by Mr. Kocharov, we ask the Court to grant him pecuniary damages for the numerous property interests he lost due to the actions and inactions of the Azerbaijani government. We ask the Court to grant compensation of 100,000 Russian RUB for his flat left behind; 25,000 Russian RUB for personal property in the flat; 150,000 Russian RUB for the picture frame business he was forced to give up; 20,000 Russian RUB for the handcrafted Narde board game passed down in his family (which was made by the creator of the game for Mr. Stalin's 60th birthday); 5,000 Russian RUB for family vases; and 54,000 Russian RUB for money he could not retrieve from the national bank. The total amount sought in pecuniary and non-pecuniary damages, on behalf of Mr. Kocharov, is **\$100,000 US Dollars and 354,000 Russian RUB**, plus an appropriate amount of interest.

224. It is important to note that nearly all evidence to substantiate damages is unavailable to the Applicants due to the ethnic-cleansing they experienced, and much of the evidence is in the control of the respondent governments. If the Court does not believe there is enough evidence to substantiate the damages, then we ask the Court to order the governments to do an accounting of these losses, and an official investigation into the current market value of the above stated property interests lost by Applicants.

225. In addition to seeking pecuniary and non-pecuniary damages for Applicants, we also respectfully request the Court to award reasonable attorney's fees and costs in the amount of U.S. \$60,000 for the work done by the Ronald A. Peterson Law Clinic.

226. We respectfully request the Court to properly grant compensatory damages and reasonable attorney's fees and costs for both Applicants as indicated above or in an amount the Court feels is just and proper.

**VI. AUTRES INSTANCES INTERNATIONALES TRAITANT OU AYANT  
TRAITÉ L'AFFAIRE**  
***STATEMENT CONCERNING OTHER INTERNATIONAL PROCEEDINGS***

20. Avez-vous soumis à une autre instance internationale d'enquête ou de règlement les griefs énoncés dans la présente requête? Si oui, fournir des indications détaillées à ce sujet.

*Have you submitted the above complaints to any other procedure of international investigation or settlement? If so, give full details.*

No.

**VII. PIÈCES ANNEXÉES**  
***LIST OF DOCUMENTS***

21.

- a) Mr. Aleksandr Kocharov's Affidavit
- b) Mr. Val Ayrapetov's Affidavit
- c) Mr. T.A.'s Affidavit
- d) Mr. Mikhael Artsakhtsi's Affidavit
- e) Farhad Mirzayev, 2 March 2007 email
- f) Amnesty International Press Release USSR: Pogrom in Azerbaizhan, EUR 46/04/90, UA 22/90, 16 January 1990. See attached. See also Amnesty International Report: 1991.

**VIII. DÉCLARATION ET SIGNATURE**  
***DECLARATION AND SIGNATURE***

Je déclare en toute conscience et loyauté que les renseignements qui figurent sur la présente formule de requête sont exacts.

*I hereby declare that, to the best of my knowledge and belief, the information I have given in the present application form is correct.*

Lieu/*Place*

Date/*Date*

(Signature du/de la requérant(e) ou du/de la représentant(e))  
(*Signature of the applicant or of the representative*)