

AA09CR11ADD1

AS (2009) CR 11

Addendum 1

2009 ORDINARY SESSION

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(Second part)

**REPORT**

Eleventh sitting

Monday 27 April 2009 at 3 p.m.

**ADDENDUM 1**

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Mrs POSTANJYAN (*Armenia*). – I should first like to express my gratitude and respect to all delegations of all countries present at this high chamber of European values. I am proud that the three countries of the Southern Caucasus – Armenia, Georgia and Azerbaijan – are members of this responsible council. Through their membership and their work, these three neighbour nations should demonstrate a common commitment to the rights and dignity of all human beings, the hope of peace and meaningful progress in our region.

On 24 April, we marked the 94th anniversary of the Armenian genocide. Armenians throughout the world mourned and remembered the 1.5 million victims of that *metz yeghern* – the great catastrophe. At the same time, many Armenians voiced their frustration with the current Turkish authorities, which continue to deny the plain facts of history: that 94 years ago, the Armenian people were erased from their ancestral homeland of 3 000 years. On 24 April, we the Armenians also expressed our appreciation for the many European countries, all of them members of this council, which have recognised that great genocide and national dispossession.

Concerning the matter at hand, I would like to register a simple fact: the current state of Azerbaijan has declared itself to be a legal successor of the first ever Azerbaijani state, which was founded in 1918. This is relevant because, as you know, the Republic of Mountainous Karabakh did not in 1918 constitute part of the short-lived Republic of Azerbaijan. Artsakh, as it is known in Armenia, had always belonged to the Armenian people. You know also that such is the case with Nakhichevan, too, and that only the reshaping of national borders – planned and executed undemocratically by Stalin and other Bolshevik leaders – forced the Armenians from their native land. But, then again, you may not know this, because Azerbaijan has attempted to erase the footprints of the Armenian people from Nakhichevan. By commission or sanction of Azerbaijan's authorities, Armenian cross stones, monuments and graves have been destroyed at Jugha as recently as December 2005, during Azerbaijan's membership of the Council. My colleague Raffi Hovannisian, from Armenia's opposition Heritage party, and the republic's first Minister of Foreign Affairs, has, from this very platform, spoken to you about the cultural genocide in Nakhichevan.

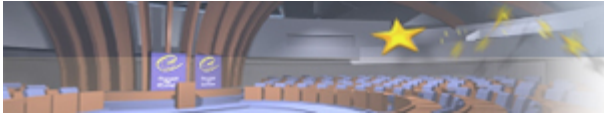
I feel that I should be clear: my statement today stems not from personal or ethnic offence, but is part of the healthy criticism that all democratic nations should make when a neighbour stumbles, as Azerbaijan has. I point to its errors – as I point to the errors of my own government – not to find fulfilment in condemnation, but to serve the ideals of democracy. Consider the facts. Consider the latest changes in that republic's constitution, which repealed that most basic democratic safeguard: presidential term limits. Consider that these changes were enacted to support the president of Azerbaijan, who is the son of the republic's past president. Colleagues, I cannot imagine that the concept of dynastic rule can be made to fit into an understanding of democracy that is contemporary and European.

As for the Republic of Mountainous Karabakh, I ask you to recall that it was according to the enshrined right of nations to self-determination, the Montevideo Convention, and controlling Soviet law, that this historically Armenian land gained its independence in 1991. Please recall also that the republic's various presidential and parliamentary elections have been monitored by international observers, and found to be satisfactory and encouraging. Most importantly, the population of Artsakh has adopted that most basic document of liberty, a democratic constitution. In law but also in spirit, the Armenians of Artsakh have been loyal practitioners of liberty and democracy.

I say all this not to force an impression, but to return several forgotten pieces to this international puzzle. I return the question of democratic standards. I return the destruction of Armenia's cultural heritage. I return the massacres of Armenians in Baku and Sumgait. I return the Armenian territories, now occupied, of Getashen, Martunashen, and the greater part of Shahumyan.

Dear colleagues of the Council of Europe, I join your ranks today not to press the views of my government – I certainly cannot recommend Armenian democracy to Azerbaijan – but to make it clear that democracy has standards. Neither fear nor false civility should forbid an open, honest, and bold discussion from taking place in this most special chamber – the lighthouse of European democracy.

<http://assembly.coe.int/Main.asp?link=/Documents/Records/2009/E/0904271500ADD1E.htm>



AA09CR11ADD2

AS (2009) CR 11

Addendum 2

2009 ORDINARY SESSION

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(Second part)

**REPORT**

Eleventh sitting

Monday 27 April 2009 at 3 p.m.

**ADDENDUM 2**

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**The protection of human rights in emergency situations**

The following texts were submitted for inclusion in the official report by members who were present in the Chamber but were prevented by lack of time from delivering them.

Mrs POSTANJYAN (*Armenia*). – The citizens of the Republic of Armenia have a clear notion of the rules of dictatorship ever since the Soviet period. Soviet citizens were distinctly aware that if they held a peaceful demonstration against the government they would be deprived not only of their freedom but also of their lives. Being citizens of a Council of Europe member country, we believed that we could make a complaint about the falsified results of the elections through holding peaceful demonstrations. And we were sure that it was possible to exercise that right, because it is about eight years since the provisions of the European Convention on Human Rights were introduced in national legislation, and they are superior to the laws of our country.

On 1 March 2008, Armenians who are members of the Council of Europe were subjected to illegal repression during the exercise of their constitutional rights, as a result of which 10 citizens were killed. Three of them were killed by special means such as KC carbine Cherlomukha 7 gas bullets. Some of the victims, among them one soldier, before being killed got bodily injuries, but the investigator did not take any measures to find out the place and circumstances in which such injuries were received. On 1 March there were also 200 wounded people, and more than 100 people were arrested; 56 of them are still in jail. The study of their cases and the process of trials show that almost everyone is being prosecuted for their political views. And the cases of the 10 killed victims are not being fairly investigated based on equal conditions, in reasonable time and in accordance with Article 6 of the European Convention on Human Rights. On the contrary, the Armenian Government does everything to hide the offenders.

The basis of arbitrary and self-contained government of the Armenian executive power was set up in the middle of the 1990s. This is the reason that dictatorship is rooted in our country during the past 10 years. In essence, power change in Armenia has not happened through elections since 1995. Armenian citizens held a peaceful demonstration on the

falsified results of presidential and parliamentary elections of 2003 and the demonstration was dispersed by law enforcement agencies in 2004 by use of violence. At that time as well, many peaceful demonstrators were imprisoned for some period of time. And although later the Council of Europe responded to those events and certain legislative changes were made, all these, unfortunately, were baring imitative nature and were not supposing the real solution to the existing issues and growing crisis.

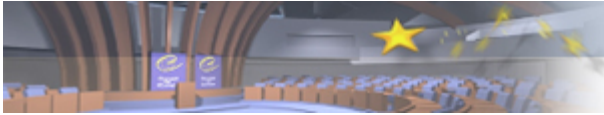
Why do I remember and speak about those past events? My opinion is that the well-known tragic events of 1 March 2008 have a deeper background which comes from the fact that we, as delegates from Council of Europe member countries, do not react adequately or on time to various human rights violation cases that take place in different countries. In my opinion, well-known international organisations should evaluate the fulfilment of tasks taken on by those who govern not by self-deceptive words, "It was a step forward", but the real content, which is to find out whether people who became victims of violations of Convention provisions could later restore their rights – or whether the state which has violated those provisions of the Convention took real and working measures to avoid repetition of such violations.

I would like to give a special emphasis to the fact that all that I have mentioned took place directly in front of the influential delegates and experts of the Council of Europe. The Venice Commission made comments on the Armenian Law on Conduct of Marches, Strikes and Demonstrations, and on Articles 225, 225.1, 300 and 301 of the Criminal Code. As a result changes were made in the above-mentioned laws, but in fact those people who should have derived positive benefits from those changes did not make any use of them. Demonstrations are prohibited. Those accusations by which the four deputies of the National Assembly were deprived of their immunities have no legal power any more. Consequently, on 3 March 2008, the petition presented by the Chief Prosecutor in illegal, groundless and Stalinist style to deprive the deputies of their immunities, and accepted by the deputies of the coalition power, should have also lost its power. However, at present they are illegally imprisoned.

I would like to mention as well that in spite of the decision made by the European Court of Human Rights on the violated rights of "A1+" TV company, in accordance with Article 10 of the European Convention on Human Rights, there is no progress in this matter either, and Armenian television watchers are deprived of an opportunity to watch a TV channel with an alternative point of view, because the National Assembly suspended the broadcasting frequencies, contests reasoning the digitisation of the TV companies broadcast.

On 1 March 2008, the second President of the Republic of Armenia, Robert Kocharyan, announced the state of emergency for 20 days, by illegally limiting the constitutional rights of our citizens, and access to alternative freedom of speech supposed by Article 15 of the European Convention on Human Rights. Kocharyan even used the military forces during the state of emergency. And if we, dear colleagues, do not make a proper evaluation of illegal activities carried out by the second Armenian President and the current authorities within a reasonable time, then in our country, which is a member of the Council of Europe, as well as in other countries, new events such as those of 1 March could not be prevented.

<http://assembly.coe.int/Main.asp?link=/Documents/Records/2009/E/0904271500ADD2E.htm>



AA09CR14ADD1

AS (2009) CR 14 Addendum 1

[Provisional edition](#)

2009 ORDINARY SESSION

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(Second part)

**REPORT**

Fourteenth sitting

Wednesday 29 April 2009 at 10 a.m.

**ADDENDUM 1**

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### **Follow-up given by Georgia and Russia to Resolution 1647 (2009)**

#### **The humanitarian consequences of the war between Georgia and Russia: follow-up given to Resolution 1648 (2009)**

Mrs POSTANJYAN (*Armenia*). – In our modern world, any conflict resolved by force is condemned to failure. The well-known resolution of the Georgian-Ossetian conflict partially restrained the regional militarists, among them the government of Azerbaijan, and persuaded them not to unleash a new war. The Council of Europe, which has already some 60 years of experience, has perfectly proven by its activities that the most efficient and effective way to prevent the occurrence of international conflicts and the establishment of dictatorships lies in the diligent meeting of commitments assumed by the states themselves in the respect and defence of human rights and fundamental freedoms.

The border of the countries of the South Caucasus region and the region's territorial autonomous administrative units were shaped by the self-imposed decisions of the Soviet leaders Lenin and Stalin. As a result, the South Caucasian multi-national population inherited a very difficult heritage. They should either adapt to those unfair decisions or struggle to regain their violated rights.

The heads of the states of the Caucasus can avoid the danger of further explosive outcomes of the changes to the above-mentioned borders in the South Caucasus only if they actually start respecting human rights and fundamental freedoms, as well establish mutually beneficial co-operation with the nations of those territories.

Unfortunately, a number of citizens were prosecuted for their political views within both Armenia and Georgia, as well as in Azerbaijan, and this trend is particularly dangerous for non-homogenous countries. In the young members countries of the Council of Europe such as Armenia, Georgia and Azerbaijan, numerous violations of human rights and the incomplete development of democratic institutions are mainly conditioned by systemic abuses and illegal actions of the authorities in those countries, which are accompanied by various violations of constitution and international norms and basic standards of rights and civil liberties.

It is obvious that, parallel to the tense internal political situation in Georgia, the national and individual citizens' rights, as well as their educational ones, such as being able to receive education in their mother tongue, and the socio-economic rights of the native Armenian population of Javakhq territory of Georgia are being violated.

The situation became more strained when one of the leaders of United Javakhq-Democratic Alliance organisation, Vahagn Chakhalyan, was unjustly sentenced to 10 years of prison accused of carrying illegal weapons. I appeal to Georgia to review the judicial case of Vahagn Chakhalyan in accordance with the requirements of Articles 5, 6, 10 and 14 of the European Convention on Human Rights. And in order to avoid new conflicts, it is necessary that the native nations of that territory, including the Armenians in Javakhq, are afforded their rights.

Dear colleagues, if we are truly concerned about the establishment of a civil society that will ensure the safe and harmonious living for the multinational population of the European family, then we should prioritise the real protection of human rights and not merely give an imitation of doing so.

And finally I would like to raise an alarm on Armenian churches and graves in Georgia. Making use of the fact that the Armenian churches in Georgia do not possess officially acknowledged status from the state until now, I must stress the fact that the Georgian Government promotes their dispossession from Armenians by not taking any measures to safeguard them. The destroyers of Armenian graves and cross-stones in Tbilisi disrespectfully continue their deeds without any appropriate response from the authorities in the Georgian capital. It seems that the encroachment and desecration of Armenian churches, cross-stones and graves reveals a systemic attempt to destroy them. The Georgian authorities should take very seriously their responsibilities as the leaders, particularly in regard to the preservation of the historical cultural heritage of the nations in their multinational country and protect and respect their human rights without any national, religion and territorial discrimination.

<http://assembly.coe.int/Main.asp?link=/Documents/Records/2009/E/0904291000ADDE.htm>



AA09CR16

AS (2009) CR 16

[Provisional edition](#)

2009 ORDINARY SESSION

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(Second part)

**REPORT**

Sixteenth Sitting

Thursday 30 April 2009 at 10 a.m.

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THE PRESIDENT. – The next question is from Mrs Postanjyan

Mrs POSTANJYAN (*Armenia*). – Honourable Commissioner, are you aware that Armenia's prosecutor general had dismissed the previous charges that he had laid after the 1 March tragedy, and that was the reason for the imprisonment of several Armenian MPs, but that the MPs were not released, and without any legal grounds and without the Armenian National Assembly's approval, the prosecutor general has laid new charges?

Did you know that three of the 10 victims of the 1 March tragedy were killed by the police? Even though more than one year has passed, no police officer has been held to account to date, and in fact, a fair trial, in compliance with Articles 2 and 6 of the European Convention on Human Rights, is not being held.

THE PRESIDENT. – Would you like to reply, Mr Hammarberg?

Mr HAMMARBERG. – After the events in connection with the demonstration of 1 March, we went to Yerevan to make the first assessment of the situation. Ten people were killed in the violence during that demonstration. Two were policemen and the eight others were civilians. There were violent elements in the demonstration, but the majority of demonstrators, who had been there for several days, were absolutely peaceful. Some 100 people were arrested and charges were being prepared.

I have been there three times since then, and have had discussions with the prosecutor general on each occasion. I voiced to him my scepticism about the nature of the evidence produced against seven of the more leading demonstrators, which I found not very strong. After that, there was an initiative within the parliament to change the law on these points, which was very sweeping and could be misunderstood or misused. Following that change in the law, the prosecutor general has also changed his indictment, and the trial against the seven people has been broken up into five parts, involving five different judges. I see that as progress, but I remain concerned about the fact that the seven opposition political leaders are still held in custody on what I regard as very thin grounds. This situation has been going on for more than a year, and I hope that a solution will be found rapidly. My recommendation was that an amnesty be declared, in order that these people can be released and that the focus in that country can be to build for the future in terms of the protection of human rights.

This has been a very sad period in the history of Armenia. We did contribute to one discussion there on how to investigate what happened. Some lessons from that discussion can perhaps be drawn in respect of Moldova, by the way. A parliamentary commission had been set up in order to make an inquiry, but the problem was that there was very minimal participation on the part of the opposition. It was seen broadly as a government commission, which meant that it had little credibility when it came to establishing facts. On our recommendation, the president decided to set up another body composed of five experts: two nominated by the government, two by the opposition and one by the ombudsman, who was to act as chair. This new fact-finding committee has started its work. There were some problems in the beginning, but I hear that the work is progressing and that the committee might be able to establish what actually happened, in order to avoid propaganda and undue politicisation, and to build the ground for the healing process.

The Council of Europe and its resolutions have played an important role in dealing with this issue, not least your own co-rapporteurs, through their reports and visits to the country. There was excellent co-operation between the two wings of the Council of Europe.

We remain concerned and we still cannot see good reasons for keeping those seven political leaders in detention, but we are hearing some positive signals about a solution to this problem. If that solution comes, the Council of Europe can look back at this period and see that we did contribute constructively to solving at least some of the difficulties in Armenia.

<http://assembly.coe.int/Main.asp?link=/Documents/Records/2009/E/0904301000E.htm>