



## EURASIAN TRANSITION GROUP

Michael Laubsch, President

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### **European Court for Human Rights Hearing is dealing with Nagorno-Karabakh conflict**

Strasbourg, February 6, 2014: Nagorno-Karabakh is a so-called "frozen conflict", meaning that large-scale fighting has not occurred for years, but no progress has been made towards any resolution of the always tense and often violent situation. All eight areas are internationally recognized parts of Azerbaijan.

This highly militarized and uncertain status means that the conflict zone serves as a haven for a number of transnational threats that directly affects the European Union, especially with respect to the wider Neighborhood Policy of the EU and its Eastern Partnership Program. International bodies like the United Nations, the Organization for Security and Cooperation in Europe (OSCE) or the Council of Europe try to find a diplomatic solution for this meanwhile frozen conflict for decades now, without any major success. The two major conflict parties, Azerbaijan and Armenia are both members of the Council of Europe and the OSCE, therefore Europe is clearly affected directly in this conflict.

But beside the broader security threat and the geopolitical implications for the whole region of the South Caucasus and the broader European stability, the personal suffering of the people, who lost their lives, their homeland, property or family is still the most dreadful situation for the individuals, who were born and raised in the region of Nagorno-Karabakh.

Since 2010, the Grand Chamber of the European Court of Human Rights in Strasbourg, France discusses two individual cases that are directly related to the conflict, based on the 1950 European Convention on Human Rights, signed by all members of the Council of Europe, in this respect also ratified by the Council of Europe members Azerbaijan and Armenia. Both cases were brought to the European Court of Hu-

man Rights in 2005 and 2006, its Grand Chamber decided in late 2011 that both complaints were admissible.

The first case concerns the complaints by refugees from Azerbaijan, who were forced to flee from their homes during the conflict over Nagorno-Karabakh in 1992 and are unable to return to their properties. The second case covers similar complaints, brought to court by an Armenian refugee.

In two hearings earlier this year, the Grand Chamber of the European Court of Human Rights carried out examinations of the merits as well as preliminary objections that were joined to the merits in the admissibility decision. In both hearings the applicants together with their counsels took the floor, as well as representatives of the Azerbaijani and Armenian government.

At the hearing on February 5, 2014, the case of Sargsyan v. Azerbaijan (application no. 40167/06) was discussed. It concerns Mr. Sargsyan's complaint that he was forced to flee from his home in 1992 during the Nagorno-Karabakh conflict. His family and lawyers state that he lived in a two-floor house with premises in the village of Gulistan and complained about his forced displacement from the village and continuing refusal by the Azerbaijani government to allow him and his family access to his property and home.

Based on the Convention on Human Rights, the applicants focused on the following violations of the law:

- Article 1: The right to protect property
- Article 8: The right to respect for private and family life
- Article 13: Right to an effective remedy
- Article 14: Prohibition of discrimination

The representatives of the third party replied in their statements that the complaints of Mr. Sargsyan would not reflect the reality of the conflict zone in and around Gulistan. Contrary to the applicant's complaints brought before court, the region of Gulistan was totally destroyed during the conflict, there is no possibility that houses and property still can be used, especially with regard to the fact that the whole region is crowded with minefields. Still, Gulistan and the surroundings of it is still in the centre of two front lines, where a normal civil life is impossible. Counsels Prof. Shaw and Dr. Lansky showed satellite photos of the village and the surrounded area and proved, that houses are all ruined now and there is no way for a return of refugees because of the severe danger. The

claim of the Sargsyan family that the region of Gulistan and the village itself would be under full control of the Azerbaijani army was refuted by Shaw and Lansky by showing photos of the surrounding hill sides of Gulistan, proving that Armenian forces would have better strategic positions than the Azerbaijani side.

Concerning the claims of refused compensation the Azerbaijani law would allow compensation for any citizen and even foreigner, who owned land and property in the country. In the case of the applicant, there is no proof whatsoever, that he and his family really owned property and land in Gulistan.

In both cases that were brought to the European Court of Human Rights, the Grand Chamber begins its deliberations after the hearing and a ruling will be made at a later stage.