

THE ANNOUNCEMENT OF THE CHAMBER OF ADVOCATES OF THE REPUBLIC OF ARMENIA ON THE CASE OF ALEKSANDR LAPSHIN

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On the 7-th of February 2017 the Republic of Belarus passed Aleksandr Lapshin to the Republic of Azerbaijan.

The chronological examination of facts points that this process was aiming only political purposes: bypassing intrastate and international legal regulations.

Thus:

1. On the 15-th of December 2016 Aleksandr Lapshin was arrested in Minsk on the demand of the government of Azerbaijan. As it came out to be no international investigation was announced regarding to Aleksandr Lapshin.
2. On the 16-th of December 2016 the government of Belarus took a decision about Aleksandr Lapshin's arrest.
3. On the 17-th of January 2017 the deputy chief prosecutor of the Belarus Republic A. Stuk took a decision about passing Aleksandr Lapshin to the government of Azerbaijan. This decision was handed in to Lapshin only on the 21-st of January 2017.
4. On the 24-th of January 2017 Aleksandr Lapshin appealed against the decision of the deputy chief prosecutor to the Civil Court of Minsk. On the 26-th of January 2017 the Civil Court of Minsk denied Lapshin's claim. This decision could be appealed during 10 days.
5. On the 3-rd of February 2017 the president of Belarus Aleksandr Lukashenko publicly announced his position, noticing in particular: "is he still here...*he should have been sent were it was necessary... I've assigned you: pass him according to the law*".
6. On the 6-th of February 2017 Aleksandr Lapshin appealed against the decision of the Civil Court of Minsk to the Supreme Court.
7. On the 7-th of February 2017, at 10.00 a.m. the Supreme Court of the Belarus Republic during a closed hearing took the decision of denying Lapshin's claim.
8. On the 7-th of February 2017 Aleksandr Lapshin was handed over to the government of Azerbaijan.

On handing over Aleksandr Lapshin, the Republic of Belarus violated the 2-nd part of the 66-th article and the "e" point of the 1-st part of the 89-th article of the convention "About legal help on civil, family and criminal cases and legal relations" (that had been sealed in Kishinev city on the 07.10.2002; **henceforth: the Convention**).

According to the mentioned norms:

- For involving into criminal responsibility *the handing over is realized for those actions, which are considered by the interstate legislation of the contracting parties that are the claiming party and the party that is being claimed as criminally liable and implies at least one year of incarceration.*

- the handing over isn't realized if there are strong reasons to assume *that the claim on handing over is based on the pursuit of this very person in connection with his race, gender, belief, ethnic belonging or political believes.*

In connection with the 2-nd part of the 66-th article of the Convention

The Azerbaijan party imputes to Aleksandr Lapshin two acts:

(1) made public calls towards the violation of territorial integrity of Azerbaijan, by which according to Azerbaijan has violated the 281.2 article of its criminal code.

(2) Illegally visited the territory of Nagorno-Karabakh Republic by which according to Azerbaijan has violated the 318.2 article of its criminal code.

Let us pay attention to the fact that the one of the two acts ascribed to Aleksandr Lapshin isn't even considered by the criminal code of Azerbaijan as a crime as the 281.2 article of the criminal code is about crossing **the state protected borders of Azerbaijan**. The regulation directly affirms that the territory is to be under the supervision of the government of Azerbaijan. Whilst, it is an undeniable fact that the territory of the Nagorno-Karabakh Republic isn't under the supervision or protection of the government of Azerbaijan Republic, consequently, Aleksandr Lapshin could by no means violate the claim of the over mentioned norm.

The second act prescribed to Aleksandr Lapshin isn't considered to be a crime by the Criminal Code of the Belarus Republic. So, according to the 281.2 article of the criminal code of Azerbaijan crimes are considered to be: " public calls directed towards forcible assumption of power, forcible power detention or the forcible changing of the constitution or **the violation of territorial integrity of Azerbaijan**. Based on the purport of Aleksandr Lapshin's public calls for the independence of the Nagorno-Karabakh Republic, it can be indistinctly asserted that the government of Azerbaijan considers the claims of Lapshin to be a crime against the territorial integrity of Azerbaijan. Whilst, the criminal code of Belarus doesn't consider the calls against the territorial integrity of Belarus to be a crime.

In connection with the "e" point of the 1-st part of the 89-th article of the Convention

The norms of the Convention exclude the handing over of the claimed person if there are strong reasons to consider, that the claim for the handing over is based on the pursuit of the person in connection with his race, gender, belief, ethnic belonging, or political believes. In this case the fact is undeniable that the state organs of Azerbaijan Republic realize the pursuit of the person in connection with his political believes or professional activity.

Lapshin's pursuit realized by the government of Azerbaijan also contradicts to the Universal declaration of human rights of the UN, according to which each person has the freedom of believes and the untrammled right of expressing them; this right includes the right of remaining faithful to one's believes without hindrance, the right for searching and getting information and ideas, and the right of distribution by any media regardless state borders (**article 19**).

Taking into account the aforementioned basis the government of the Belarus Republic couldn't hand over Aleksandr Lapshin to Azerbaijan.

In fact, Aleksandr Lapshin has become a victim of this process for the only reason that he publicly announced his position and conviction.

Aleksandr Lapshin's handing over to the government of Azerbaijan bears in itself negative outcomes for him. Particularly, it refers to tortures, inhuman treatment and other deeds of such kind (the UN Convention "About tortures and other cruel, inhuman or degrading kinds of treatment or punishes").

The aforementioned has been affirmed by numerous cases of treatment of such kind, which were applied to persons having Armenian ancestry, or other persons who had other kind of relation with Armenia or Nagorno-Karabakh Republic. Furthermore, Azerbaijan encourages those who display inhuman treatment towards people having Armenian ancestry or other persons having other kind of relation with Armenia or Nagorno-Karabakh Republic.

For further confirmation of the abovementioned let us remind that on the night of the 19-th of February 2004 in Budapest Ramil Safarov killed with an axe the sleeping Armenian officer Gurgen Margaryan. Both officers were taking courses of English language in the capital of Hungary. The Court of Hungary condemned Safarov to life imprisonment, to 30 years without the right of amnesty, nevertheless on the 31-st of August 2012 Safarov was handed over to Azerbaijan for bearing further punishment there. That very day the president of Azerbaijan Ilham Aliev condones his offence and the minister of defence of Azerbaijan gives him the title of a major and an apartment.

It is necessary to note that Azerbaijan has announced 180 journalists to be personae non grata for visiting the Nagorno-Karabakh Republic, banning them to enter the territory of Azerbaijan.

This new process, connected to Aleksandr LAPshin directly aims by means of terror to isolate the population of Nagorno-Karabakh Republic thus endangering the citizens of the Republic of Armenia and other persons who visited Nagorno-Karabakh Republic.

Based on the foregoing, we call advocates, the assets of the civil society and journalists to assist in the formation of an international public opinion on Aleksandr Lapshin's issue, especially, by giving public publicity to the matter and by sounding legal assessments.

P.S. We express confidence, that the pressure of the international society will hold back Azerbaijan.

The Chairman of the Chamber of Advocates

of the Republic of Armenia

Ara Zohrabyan

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