

**COURT OF GENERAL JURISDICTION OF
KENTRON AND NORK-MARASH COMMUNITIES**

PLAINTIFF

**"Ararat Center for Strategic Research" Non-
Governmental Organization**

AUTHORIZED PERSON

Armen Ayvazyan

DEFENDANT

"Caucasus Institute" Foundation

*September 17, 2009
Yerevan, Armenia*

STATEMENT OF CLAIM

*(Claim to Compel Refutation of Publication Questioning Veracity of the Genocide, Prohibiting
the Use of the Word Genocide in Quotation Marks and Compensation for Damage)*

In 2008, the "Caucasus Institute" Foundation (hereinafter referred to as "*Foundation*") published a Book in Yerevan titled "*Caucasus Neighborhood: Turkey and The South Caucasus*", ISBN 978-99941-2-220-2, Russian version "Кавказское соседство: Турция и Южный Кавказ", ISBN 978-99941-2-180-9] (hereinafter "*Book*"). Pursuant to the Civil Code of the Republic of Armenia, as well as the copyright notice in the Book, the Foundation holds the exclusive copyright to these publications. The editor of the Book is Aleksandr Iskandaryan - Director of "Caucasus Institute" Foundation - and the editorial board includes Nina Iskandaryan, Sergey Minasyan and Vitali Kisin. Their legal status with respect to the book is regulated by national legislation on intellectual property and international treaties ratified by the Republic of Armenia.

Particularly, according to Article 1119(2) of the Civil Code of the Republic of Armenia:

"Publishers of encyclopedias, encyclopedic glossaries, periodical or continuing collections of scholarly works, newspapers, magazines, and other periodical publications shall have the exclusive rights to the use of such publications".

Article 1120 of the same Code states:

The holder of exclusive property rights may, for notification of his rights, use the copyright sign which shall be placed on the original or each copy of the work and consists of the following:

- 1) the Latin letter "C" in a circle;*
- 2) the name (or title) of the holder of the exclusive copyright;*

3) *the year of the first publication of the work.*

2. *The rightholder shall be deemed the person indicated in the copyright sign, unless otherwise is proven.*”

The book, *inter alia*, includes also an article entitled “*Turkey-Armenia relations: an eternal deadlock?*” authored by Aybars Görgülü – a member of the Turkish Economic and Social Studies Foundation of Istanbul (“Article”), in which the author, speaking about the Armenian Genocide committed in the Ottoman Empire and Western Armenia in 1893-1923, disputes and puts in doubt this historical fact both in his explicit statements, and by repeatedly (34 times) using the legally significant term genocide in quotation marks.

Furthermore, in the English and Russian languages quotation marks are put before and after the word, which is customarily used when the author wishes to convey an ironical meaning or cast or express doubt on meaning or use of the given word (e.g. see <http://www.answers.com/topic/quotation-mark>, <http://www.gramota.ru>): Such use of quotation marks is a recognized and widely used practice both in Armenia and abroad.

The book also contains Görgülü’s explicit denial of the Armenian Genocide (page 127 of the English original):

*“Turkey felt aggrieved that Armenia accused Ottoman Turkey of having committed a **’genocide’** about which serious doubts remain and intense discussion is still going on.”*

(page 133 of the English original)

*“However, it should not be forgotten that once a specific parliament identifies the terrible events of 1915 as **’genocide’**, the issue becomes a fact in that particular country.” (Görgülü himself put the word “fact” in italic.)*

On the same page 133 Görgülü once more denies the fact of the Armenian Genocide:

*“However, once the parliament recognized it, the French press started almost unanimously to consider 1915 events as **’genocide’**.”*

On the same page 133 Görgülü places doubt even on the legality and legitimacy of the work carried out by the Armenian Diaspora for the international recognition of the Armenian Genocide:

*“**Another dimension of the problem is deeply related with the legitimacy of the Armenian Diaspora’s activities.** The fact that the Armenian government officially insists that Turkey acknowledge the events of 1915 gives an additional legitimacy to the Diaspora organizations. The Armenian Government does not have direct and full control over the process of the international recognition of the **’genocide’ issue.**”*

On page 137 of the English original Görgülü writes:

*“Since recognizing the ‘Armenian genocide’ is not one of the Copenhagen criteria, **these allegations** did not pose a problem while starting negotiations with Turkey.”*

On page 137 Görgülü decries the recognitions of the Armenian Genocide in the international arena, by calling those adoption of unfounded allegations of “genocide”:

*“On the other hand, even the EP, let alone the parliaments of leading EU member countries such as Germany, France, Belgium, Greece, Italy and Netherlands, **adopted the ‘genocide’ allegations.**”*

On page 142 of the English original Görgülü writes:

*“Neither Turkey will recognize the **‘genocide’** officially, nor will Armenia compromise **these allegations** and it's target of achieving international recognition of **‘genocide’.**”*

In this article by Görgülü the author uses the expressions “‘genocide’ claims” and “‘genocide’ allegations” numerous times (refer to pages 124, 125, 127, 132, 134, 137, 142, 143 of the English original).

According to both the English and Russian versions of the Book, *“The volume is composed of analytical papers based on presentations made at a conference in Istanbul on August 1-4, 2008, organized by CI [‘Caucasus Institute’]. The contributors are scholars from Turkey, Armenia, Azerbaijan, Georgia, Abkhazia, Nagorno-Karabakh and South Ossetia.”*

In other words, the Book comprises articles that were presented to a large audience at the international conference, during which Görgülü Aybars, as a participant, has also presented his “analysis” containing the above-mentioned claims.

In selecting the conference participants and the articles for the Book, the Foundation has not taken into consideration that the fact that the articles are in contravention of the security and public interests of the Republic of Armenia, are in conflict with the policy adopted by Armenia, violate the rights, dignity and honor of the victims of the Genocide, their legal successors and the whole Armenian nation and insult the memory of those victims.

The selection of the participants for such conferences is generally made based on the Abstracts of the materials to be presented by the participants. It means that the Foundation approved the disputed article, including anti-Armenian allegations contained therein and the use of the word Genocide in quotation marks. The Foundation knew or should have known that the disputed information violates the rights of the Republic of Armenia. Nevertheless, it did not taken any measures to preclude, avoid or rectify these violations. The Foundation also has provided favorable conditions for such manipulation of the Armenian Question and dissemination of disinformation in a manner unfavorable for Armenia.

Thus, the Foundation committed numerous violations of norms and principles of national and international law, as well as case legal precedents and customary law.

I. VIOLATION OF A NUMBER OF PRINCIPLES OF NATIONAL LEGISLATION, INTERNATIONAL LAW AND PUBLIC ORDER

The Foundation has not considered the fact that such a publication on the Armenian Genocide, as well as the use of the word Genocide in quotation marks directly violates the rights and interests of the Republic of Armenia, degrades the honor and dignity citizens of the Republic of Armenia, as well as the whole Armenian nation. The use of the word Genocide in quotation marks, i.e. disputing and casting doubt on the occurrence of the Armenian genocide, violates a number of principles of the legislation of the Republic of Armenia, public order and international legal norms. Such a violation contradicts also the international commitments constituting an integral part of the national legislation of the Republic of Armenia, the obligation of the fulfillment of which lies with the state authorities of the Republic of Armenia.

According to Point 11 of the Declaration of Independence of Armenia adopted on 23 August 1990:

“The Republic of Armenia stands in support of the task of achieving international recognition of the 1915 Genocide in Ottoman Turkey and Western Armenia.” Provisions enshrined in a number of normative legal acts are aimed at the fulfillment of this commitment.

Particularly, the Constitution of the Republic of Armenia makes a reference to the Declaration of Independence of Armenia adopted on 23 August 1990 (hereinafter referred to as the Declaration), the preamble of which proclaims:

“The Armenian People, recognizing as a basis the fundamental principles of Armenian statehood and the national aspirations engraved in the Declaration of Independence of Armenia, having fulfilled the sacred pledge of its freedom loving ancestors to the restored sovereign state, committed to the strengthening and prosperity of the motherland, in order to ensure the freedom, general well being and civic harmony of future generations, declaring their faithfulness to universal values, hereby adopts the Constitution of the Republic of Armenia.”

Thus, the Constitution rests on fundamental principles and national aspirations engraved in the Declaration, which is based on the provision obliging the Republic of Armenia to stand in support of the task of achieving international recognition of the Armenian Genocide in Ottoman Turkey and Western Armenia.

Point 2.1 of the National Security Strategy of the Republic of Armenia approved by the President’s Decree on *Approving the National Security Strategy of the Republic of Armenia* on 7 February 2007 is aimed at the fulfillment of this obligation engraved in the Declaration, which states:

“Armenia aspires for the universal recognition and condemnation of the Armenian Genocide, especially by Turkey, and sees it both as a restoration of an historical justice and as a means to improve the overall situation of mutual trust in the region, while also preventing similar crimes in the future”

According to Point 3 of the given normative legal act defining and coordinating the principal issues of state security:

“The wide range of issues concerning the Armenian Diaspora presents an important characteristic of the National Security Strategy of the Republic of Armenia. The Armenian Diaspora exceeds the overall population of Armenia; it is dispersed all over the world and is largely the result of the Genocide and forced deportations”.

Thus, the recognition and condemnation of the Armenian Genocide are an integral part of the policy and national security strategy of the Republic of Armenia. Consequently, its denial, assuaging, expression of any doubt of its occurrence, including the use of the word Genocide in quotation marks, are violations against the national security, public interests, values of the Armenian public, constitutional order of the Republic of Armenia, as well as the rights and legitimate interests of the persons interested in the recognition and condemnation of the Armenian Genocide, including the citizens of the Republic of Armenia.

The Genocide as an international crime towards humankind is condemned by the international community and all civilized states and nations. Moreover, it should be mentioned that the Armenian Genocide has been already recognized by a number of countries, such as Argentina (05.05.1993), Belgium (26.03.1998), Canada (21.04.2004), Chile (05.06.2007), Cyprus (29.04.1982), France (29.01.2001), Greece (25.04.1996), Italy (16.11.2000), Lithuania (15.12.2005), Lebanon (03.04.1997), Kingdom of Netherlands (21.12.2004), Poland (19.04.2006), Russia (14.04.1995), Slovakia (30.11.2004), Switzerland (16.12.2003), Uruguay (20.04.1965), Vatican (10.11.2000), Venezuela (14.07.2005), etc.

The Armenian Genocide has also been recognized by 43 States of the United States of America. The European Parliament has adopted resolutions (18.06.1987/A2-33/87/ and 28.01.2002 /A5-0028/), and the Council of Europe has adopted a declaration (24.04.2001/Doc. 9056/) on the recognition of the Armenian Genocide. Moreover, Uruguay and Argentina have adopted laws, which criminalize the denial of the Armenian Genocide. Under the given circumstances the Foundation should have taken into account that any speech or publication of any material that might put in doubt the occurrence of the Armenian Genocide or otherwise deny or refute it is impermissible. Recognition, condemnation and prevention of the genocide, including the Armenian Genocide, by states and international organizations, in fact, establish international practice, which should have also been taken into account.

Furthermore, while the Armenian issue was being discussed by the European Parliament, its Rapporteur Jan-Batist Rassin stated:

“The events, of which the Armenians of Turkey were victims during the war years of 1915-1917, must be considered a genocide according to the UN Convention against repression and on the prevention of the crime of genocide.’ On June 18, 1987, the European Parliament adopted a resolution recognizing the genocide of the Armenians...”

[“Les événements dont les Arméniens de Turquie ont été victimes durant les années de guerre 1915-1917, doivent être considérés comme un génocide au sens de la Convention des Nations Unies contre la répression et la prévention du crime contre le génocide”. Le 18 juin 1987, le Parlement européen a finalement adopté une résolution reconnaissant le génocide des Arméniens...”]

II. VIOLATION OF INTERNATIONAL LEGAL PRECEDENTS AND CUSTOMARY LAW, DISREGARD OF JUDICIAL PRACTICE

The Foundation has also disregarded international judicial practice, applying various sanctions and damages against persons for Armenian Genocide denial.

For example, on 9 March 2007, the Court of Lausanne of Switzerland sentenced the leader of the Party of Turkish Workers Dogu Perincek to 90 days of provisional imprisonment and sentenced him to pay 3000 Swiss francs. Perincek has been found guilty of racial discrimination for his public statements denying the Armenian Genocide. Similarly, on 7 May 2005, later 18 September, Dogu Perincek has announced publicly that the Armenian Genocide is an "*international lie*" [*French: "mensonge international" (citation by the court)*], and on 22 July of the same year, he has said the "Armenian question has never existed" and that "that [the genocide] has never existed":

"He confirmed, in all three times, that the genocide of the Armenians never existed, that we are dealing with an international lie."

["il a affirmé, en tout cas par trois fois, que le génocide des Arméniens n'avait jamais existé; qu'il s'agissait d'un mensonge international"].

"Dogu Perincek admitted that there were massacres, but they were justified by the law of war."

[ibid. "Dogu PERINCEK admet qu'il y a eu des massacres, mais les justifie au nom du droit de la guerre".]

Perincek has also noted that "deportations did occur, however, these were not accompanied by genocide."

"He also admitted that the Turkish Ottoman Empire displaced thousands of Armenians... but absolutely contests the genocidal character of these deportations."

["Il admet aussi que l'Empire turc ottoman a fait déplacer des milliers l'Arméniens....., mais conteste absolument le caractère génocidaire de ces deportations."]

Moreover, on the same grounds in 2008 the Swiss court ruled that three representatives of the Party of Turkish Workers were guilty of racial discrimination after having claimed that the Armenian Genocide was an "international lie." They were ordered to pay penalties.

The genocide has been recognized as a crime on December 9, 1948, by the adoption of the UN Convention on "Prevention and Punishment of the Crime of Genocide", the Preamble and Article 1 of which proclaim:

"The Contracting Parties, having considered the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world, recognizing that at all periods of history genocide has inflicted great losses on humanity, and being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required, hereby agree as hereinafter provided:

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.”

The above-mentioned publications of the Foundation also contradict the principles of international customary law. Article 21(2) and (3) of the Law on Legal Acts provides for:

§2. The principles and norms of international law that have obtained universal recognition, as well as the international treaties of the Republic of Armenia, shall be considered the constituent part of the legal system of the Republic of Armenia. The laws and other legal acts of the Republic of Armenia shall comply with the universal norms and principles of international law.

§3. The norms and principles of international law, which are equally binding upon all states, including the Republic of Armenia, shall be considered to have obtained universal recognition”.

Thus, a number of provisions of international law explicitly proscribe the denying or otherwise refuting genocide, impose liability not only for perpetration, but also for the denial of genocide, compel the states to take timely and effective measures to criminalize the committing of genocide and its denial, as well as to prevent it.

Since the second half of the previous century the analysis of the negative consequences of denial of the genocide became a special issue of discussion in the international law. As the December 2, 1998, press release of the UN General Assembly (GA/9523) states:

“...many thousands of innocent human beings continue to be victims of genocide...”,

*“Regretfully, **denial, which had become an integral part of genocide**, often reinforced the sense of insecurity, abandonment, and betrayal”.*

In discussing the prevention of genocide, “Genocide Watch,” a well-respected international organization focusing on the problem of genocide, states:

*“**DENIAL** is the eighth stage that always follows a genocide. It is among the surest indicators of further genocidal massacres. The response to denial is punishment by an international tribunal or national courts.”*

The Article 2 of the above-mentioned UN Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter referred to as the Convention) defines the concept of genocide. It is worth noting that the definition of the term genocide was given by Rafayel Lemkin, Doctor of Jurisprudence, who has defined it by basing it also on the fact of the Armenian Genocide. What’s more, Rafayel Lemkin is also the author of the draft Convention, in the Preparatory Report (an inseparable part of the Convention) of which he makes a direct reference to the Armenian Genocide.

Consequently, while interpreting the concept of genocide in respect to the case of Dogu Perinçek, the Court of Lausanne with ample justification has indicated that Article 261 of the

Criminal Code of Switzerland applies the word genocide generally and not only with respect to the Holocaust of the Jews. Moreover, the Court refers to the drafting of the mentioned article, in particular the official communication of the National Council (Conseil National (fr.)), where the legislator has made a direct reference to the Convention and cited the Armenian and Kurdish Genocides as examples (BOCN 1993, p. 1076). Based on foregoing, the Court reached the conclusion that the Armenian Genocide served as an example for the drafting of the above-mentioned article [Rapport Combi]. The Court also affirmed that there is no need for the recognition of the Armenian Genocide by the Court of International Justice, since the Convention makes a direct reference to the Armenian Genocide. According to the Court, the said fact shows that the Armenian Genocide is no longer subject to dispute, since it has been implicitly, if not explicitly, and internationally recognized by having formed the basis of a fundamental international legal act.

[(Citation from the Court Act) "Ainsi, si l'on se réfère au Bulletin officiel du Conseil national, on constate que le législateur s'est explicitement référé à la Convention internationale pour la répression du crime et du génocide du 9 décembre 1948 en citant, à titre d'exemple, le génocide des Kurdes et des Arméniens (BOCN 1993, p. 1076). On peut donc retenir qu'historiquement, le génocide des Arméniens a servi d'exemple au législateur lors de ses travaux visant à l'élaboration de l'art. 261 bis CP (rapport Combi)", "En se référant expressément au génocide des Arméniens et des Kurdes, le législateur a aussi voulu montrer qu'il n'était pas nécessaire que le génocide soit reconnu par une Cour internationale de justice", "On peut déduire de cette phrase qu'il faut et il suffit que le génocide soit Reconnu."]

According to Article 2 of the Convention:

"In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- *(a) Killing members of the group;*
- *(b) Causing serious bodily or mental harm to members of the group;*
- *(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;*
- *(d) Imposing measures intended to prevent births within the group;*
- *(e) Forcibly transferring children of the group to another group."*

This definition of genocide gained its application and interpretation in the international customary law. The denial of genocide is recognized as an inseparable part of genocide, which is also criminalized in a number of countries. Thus, genocide is also prohibited by international customary law, which imposes additional obligations on both states and individuals. In reality, the definition of genocide has wider interpretation in international customary law, which differentiates it from the normative definition. For example, the International Criminal Tribunal of Yugoslavia, in defining the concept of genocide, made reference to international customary law, the meaning and content of the Convention, established legal precedents, as well as *opinio juris* doctrinal interpretations (see "*International Law*", A. Cassese, Oxford, 2005, p. 444).

Specialists in international relations and lawyers involved in the studies of genocide unanimously acknowledge that the denial of genocide is the ultimate form of degrading the self-esteem of any racial, gender or ethnic group, propagating hatred, as well as the final stage of carrying out genocide.

Holocaust survivor and Nobel Prize-winner Elie Wiesel has repeatedly called Turkey's campaign to cover up the Armenian genocide a *double killing, since it strives to kill the memory of the original atrocities*". The internationally renowned theorist and philosopher Bernard-Henry Levi states:

"... Deniers are not merely expressing an opinion; they are perpetrating a crime."

The International Association of Genocide Scholars (IAGS) underscores that *"the denial is a continuation of the genocide, because consistent efforts are being directed at the destruction of the victim group psychologically and culturally, attempting to deny its members even the memory of their murdered relatives."*

President of the International Association of Genocide Scholars Gregory Stanton writes:

"Denial is the final stage of genocide. It is a continuing attempt to destroy the victim group psychologically and culturally, to deny its members even the memory of the murders of their relatives. That is what the Turkish government today is doing to Armenians around the world."

These doctrinal interpretations and established international practices have been legally enacted in the laws of a number of states. Particularly starting in the 21st century, a number of states have criminalized not only the perpetration, but also the denial of genocide. The denial of genocide has been also recognized in legal acts of the European Union. For example, on November 28th, 2008, the Council of Justice and Internal Affairs of the European Union has adopted a Framework Decision on *certain forms and expressions of racism and xenophobia*, according to which the Member States should bring their national legislations into compliance with the requirements of that decision. The provisions of the legal act stipulate that the denier of genocide should bear criminal liability.

Thus, the criminalization of the denial of the genocide has been enacted in European law as a norm and has become international customary law, i.e. a constituent part of international law.

Taking into account this fact, it is necessary to touch upon the issue of responsibility of the state. Points 138, 139, 140 of the 2005 World Summit Concluding Act adopted by the UN General Assembly on 15 September 2005 stipulate:

(([A/60/L.1] 2005 World Summit Outcome) "Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means.")

The Armenian Genocide is distinguished from other genocides committed in the 20th century by the fact that it continues to be denied unjustifiably and with gross violations of the

mentioned international norms, which is, of course, the result of the Turkish propaganda machine. Armenian and foreign scholars involved in the study of this dark page of human history have concluded that Turkey's denial is a continuation of the act of genocide, which directly affects the national security of the Republic of Armenia.

Particularly the denial of the Armenian Genocide (including through putting it in doubt) damages the vital interests of the national security of the Republic of Armenia as follows:

- The denial of the Armenian Genocide is the continuation and integral part of the genocidal policy adopted by Turkey against the Armenians; i.e. it is implemented within the framework of a long-term general plan to ultimately destroy the Republic of Armenia and the Armenian nation and is an explicit and dangerous hostile act against vital interests of Armenia.
- By denying the Armenian Genocide, Turkey is trying to kill the historical memory of Armenians, deprive them from political experience achieved through an ineffable and immense price and exclude the adoption of correct strategic decisions by the authorities of the Republic of Armenia in the field of foreign policy and, in particular, in building relations with Turkey.
- The denial of the Armenian Genocide is aimed at ratification and legalization of the consequences of the Genocide, particularly, expropriation and deportation of Armenians from their homes, as well as acquisition and distortion of the cultural heritage of the Armenian people by the Turks. All these create very unfavorable conditions for the existence of the Armenian nation politically, economically and ethno-psychologically; weaken the collective immunity and endurance of Armenians; deprive Armenians of the opportunity to properly evaluate their national values.
- By denying the Armenian Genocide, Turkey maligns the Republic of Armenia and the whole Armenian nation, impertinently accusing them of propagating lies, racial enmity and hatred. Thus, Turkey and its servants compromise the Republic of Armenia at the international level, insult the honor and the national dignity of the whole Armenian nation.

Consequently, legal norms safeguarding the right of honor and dignity are applicable also in this case, which are enshrined in the European Convention on the Protection of Human Rights and Fundamental Freedoms adopted on 4 November 1950, the UN Universal Declaration of Human Rights adopted on 10 December 1948, the International Covenant on Civil and Political Rights adopted on 16 December 1966, as well as the legal precedence of the European Court of Human Rights.

Thus, Article 3 of the Constitution of the Republic of Armenia states: "The human being, his/her dignity and the fundamental human rights and freedoms are an ultimate value":

Article 14 of the Constitution of the Republic of Armenia states: "Human dignity shall be respected and protected by the state as an inviolable foundation of human rights and freedoms".

Article 47 of the Constitution of the Republic of Armenia states: "Everyone shall be obliged to honor the Constitutions and laws, to respect the rights, freedoms and dignity of others":

With respect to international treaties, Article 1 of the UN Universal Declaration of Human Rights adopted on 10 December 1948 proclaims: “All human beings are born free and equal in dignity and rights”:

And the preamble of the UN Convention for the Protection of Human Rights and Fundamental Freedoms adopted on 4 November 1950 proclaims:

“The governments signatory hereto, Considering the Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations on 10th December 1948; Considering that this Declaration aims at securing the universal and effective recognition and observance of the Rights therein declared....Have agreed as follows:”

This stipulates that the Convention for the Protection of Human Rights and Fundamental Freedoms is based on the Universal Declaration of Human Rights, including the first Article thereof, which is also binding upon the Member States.

The preamble of the International Covenant on Civil and Political Rights (hereinafter referred to as the Covenant) proclaims:

“The States Parties to the present Covenant, Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Recognizing that these rights derive from the inherent dignity of the human person, Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights, Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms, Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant, Agree upon the following articles”.

This Covenant stipulates that the recognition of human dignity is the foundation of freedom, justice and universal peace in the world, the securing of which is also binding upon states.

With respect to the legal precedence of the European Court of Human Rights, according to the judgment of the European Court of Human Rights in *Christine Goodwin v. the United Kingdom*, (11.07.2002) “... the very essence of the Convention is respect for human dignity (...), which is guaranteed particularly by Article 8 of the Convention.”

Publishing the above-referenced Article, the Foundation violated and shows disregard for the rights to human dignity of Armenian victims of Genocide. In its role as organizer and disseminator of such harmful disinformation, the Foundation contributed to the implementation of anti-Armenian strategy as an intermediary. For this reason, with a view to preventing and condemning the phenomenon of genocide, any denial of the Armenian Genocide must be prevented, including referring to the genocide in quotation marks. Condemnation of the

Foundation's wrongdoing in this case will serve as a precedent for remedying this harm and preventing future violations.

In addition to the general harm caused by the Foundation's wrongdoing, its actions also directly violate the legitimate interests and rights of the Plaintiff; i.e. "Ararat Center for Strategic Research", as provided under Republic of Armenian law and Plaintiff's Charter. Under its Charter, the objectives of Ararat Centre for Strategic Research include:

- 1. Neutralization of Azerbaijan-Turkish large scale propaganda at the international level, consistently and continuously propagate the positions of the Republics of Armenia and Artsakh.*
- 2. Seeking solutions contributing to the strengthening of Armenia-Diaspora cooperation and development of pan-national unified doctrines.*

The Foundation's wrongful actions injury the honor and dignity of every Armenian.

Under Article 19 of the Civil Code of the Republic of Armenia "A citizen shall have the right to demand in court the retraction of communications impugning on his honor, dignity, or business reputation, unless the person who disseminated such communications proves that they correspond to reality." "If the aforementioned communications are contained in a document emanating from an organization, such a document shall be subject to correction or retraction. The procedure for retraction in other cases shall be established by the court".

According to point 4 of the same Article, "A citizen with respect to whom communications have been disseminated impugning his honor, dignity, or business reputation, has the right together with the retraction of such information also to demand compensation for the damages caused by their dissemination".

Pursuant to Article 17(1) of the Civil Code of the Republic of Armenia, "A person whose right has been violated may demand full compensation for the losses caused to it unless law or contract provides for compensation of losses in lesser amount. Losses mean the expenses that the person whose right was violated made or must make to reinstate the right that was violated. If the person who has violated a right has received income as thereby, the person whose right has been violated has the right to demand compensation along with other losses for forgone benefit in a measure not less than such income".

Here, "the information that does not correspond to reality" is the above-mentioned allegations that deny or cast doubt on the occurrence of the Genocide, and/or are fabrications or distortions of reality.

The moral damage caused by the Foundation has a number of components, as set forth below, and for which commensurate compensation is demanded and due:

1. Nature of the Information

The publication disseminated by the Foundation immediately relates to the national security of the Republic of Armenia, Armenia-Diaspora relations, international ranking of

Armenia, memory of the victims of the Armenian Genocide, the rights of their legal successors, the whole Armenian nation, every Armenian, including the rights of the citizens of the Republic of Armenia, their honor and dignity, and implementation of statutory objectives and rights of the Plaintiff. Thus, the publication is information which is a patent violation of the interests and rights of the Republic of Armenia and the whole Armenian nation.

2. Scope of Dissemination of Disinformation at International Conference and in Print

The aforementioned disinformation was disseminated not only in the published books of the Foundation, but also during the international conference organized by the Foundation. The Armenian Genocide was explicitly disputed and denied before the multinational audience from different countries. Then, the same allegations appeared in the books published by the Foundation in English and Russian and were disseminated abroad. The conference and its publications were made available also on the website of the Foundation. Such anti-Armenian propaganda was disseminated in expert, political, student and general public circles.

In short, the Foundation's wrongful actions had world-wide impact. Consequently, the remedy must be commensurate in scope and scale to the inflicted harm.

3. Social Consequences of the Person whose Rights are Violated

Dissemination of the above referenced publications containing misinformation caused materially injured and impeded the statutory objectives and operation of the Plaintiff, since the statutory objectives of the Plaintiff include neutralization of Azerbaijan-Turkish large-scale propaganda at the international level. To counteracting the harmful effects of dissemination of the allegations denying the Armenian Genocide, in fact, the Plaintiff will spend even more effort and resources as the Foundation spent for their dissemination. Dissemination of those allegations caused damage also to the vital and public interests of the Republic of Armenia, causing injury to every citizen of Armenia and the whole Armenian nation.

4. The Measure of Damages should be commensurate with the Foundation's failure to prevent or mitigate the harm it has caused.

To date, the Foundation has not taken any actions to prevent further dissemination of the disinformation. Moreover, the Foundation contributed to their dissemination, which means that no actions were taken for the protection of rights, i.e. no actions were taken for retraction of the publication. Consequently, taking into account the harm caused by its failure to prevent or mitigate the harm, the compensation of damages should be reasonable and proportional to the harm cause.

5. Extent of Liability of the Person Inflicting the Damage

The Foundation is registered and operates in the Republic of Armenia. Thus, it not only enjoys the rights and privileges under the legislation of the Republic of Armenia, but also has duties and responsibilities, among which are compliance with Republic of Armenia law. The Foundation, by dissemination of disinformation related to the vital interests of the Republic of

Armenia and the whole Armenian nation, has failed in its duties as a foundation to promote the public welfare and violated Republic of Armenian law.

6. *Acceptance of the Level of Reinstatement of Violated Rights By the Offender*

To date, the Foundation has not taken any measures to remedy or mitigate the injury caused by its tortuous actions. On the contrary, it persists in its wrongdoing, perpetuating and exacerbating the harm.

7. *The Actions Taken by the Offender for the Refutation and Response Before the Start of Judicial Proceedings*

To date, the Foundation has not publicly retracted disinformation it has disseminated.

8. *Bona Fide Fulfillment of Obligations by the Offender*

The Foundation has not in good faith fulfilled its obligations under Republic of Armenia and international law, thus, the Foundation is obliged to make commensurate compensation for the moral damage it caused. Thus, taking into account these criteria, the Foundation inflicted moral damage in the amount of 20,000,000 (twenty million) AMD. Not intending to profit from the judicial defense of rights, reduced compensation in the amount of a symbolic 1(one) AMD will be deemed acceptable.

III. JUDICIAL PRACTICE FOR DAMAGE COMPENSATION

It is worth mentioning that a similar case was reviewed by the French Court. Thus, the Court in respect with the case of *Forum of Armenian Association in France, International League against Racism and Anti-Semitism vs Bernard Lewis* adopted a judgment ordering Bernard Lewis to pay one franc as moral damages and publish a retraction of his statements regarding the Armenian Genocide in the “Le Monde” newspaper, which he had made in an interview with the same newspaper.

“...by such remarks, Bernard Lewis has disputed the existence of the Armenian genocide... and that, by doing so, he committed the tort for which compensation could be claimed, because of the very serious injury he inflicted on the memory and respect owed to the survivors and their families”.

The Paris Court of First Instance passed a judgment stating:

“...the truth of that event was accepted by the United Nations on August 29, 1985 and by the European Parliament on June 18, 1987.”

Thus, based on the foregoing and pursuant to the provisions of the National Security Strategy of the Republic of Armenia, requirements of international law and Articles 82 and 87 of the Code of Civil Procedure of the Republic of Armenia:

The Plaintiff Respectfully Requests that the Court:

1. Compel the Defendant to publicly retract the false information reflected in the Book “*Caucasus Neighborhood: Turkey and The South Caucasus*” published by the “Caucasus Institute” Foundation in 2008 and disseminate retraction in “Hayastani Hanrapetutyun” and “Azg” daily newspapers, “Golos Armenii” Russian-language newspaper and the main news broadcastings of “H1”, “Shant” and “Armenia” broadcasting companies, which broadcast also on satellite, by determining the order of the public retraction by the court decision
2. Prohibit any further use of the word genocide in quotation marks and further *dissemination of all copies of the same Book under disposition* of the Defendant.
3. Order payment of symbolic damages of one dram for the moral damage caused.

Find Enclosed:

1. A copy of the Statement of Claim,
2. Receipts of state fees,
3. A copy of the state registration certificate (1 page, 1 copy),
4. A copy of the passport (1 page, 1 copy),
5. Copies of relevant pages of the books (...pages, 1 copy),
6. A copy of relevant pages of the Charter (...pages, 1 copy).

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STATEMENT by the ARARAT Center for Strategic Research Regarding the April 28, 2010 Ruling by the Court of Cassation of the Republic of Armenia

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On May 21, 2010 the ARARAT Center for Strategic Research, represented by “G & I” Law Firm, received the decision of the Court of Cassation dated April 28, 2010 rejecting its appeal to prevent denial of the Armenian Genocide by the Caucasus Institute Fund. The Court of Cassation, chaired by Judge E. Hayriyan and participated by Judges A. Barseghyan, S. Antonyan, V. Avanesyan, E. Khundaryan, M. Drmeyan, T. Petrosyan and E. Soghomonian, without dealing with the substance of the claims, issued a conclusory ruling that the complaint is not subject to judicial review. As a result, a situation has been created, whereby the judicial system of the Republic of Armenia has denied the ARARAT Center for Strategic Research its right to argue in court both its original case and the subsequent appeals, which is a gross violation of due process and Armenian law, as well as a series of international obligations undertaken by the Republic of Armenia.

The ARARAT Center for Strategic Research has stated that it plans to pursue all avenues to rectify this damaging precedent. As legal remedies have been exhausted in Armenia, an appeal is being prepared for submission to international tribunals in the near future.