

مجلس حقوق الإنسان

الدورة الثالثة والأربعون

24 شباط/فبراير - 20 آذار/مارس 2020

البند 6 من جدول الأعمال

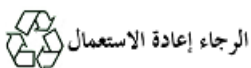
الاستعراض الدوري الشامل

مذكرة شفوية مؤرخة 23 كانون الثاني/يناير 2020 موجهة من البعثة
الدائمة لأذربيجان لدى مكتب الأمم المتحدة في جنيف إلى مفوضية
الأمم المتحدة السامية لحقوق الإنسان

تهدّي البعثة الدائمة لجمهورية أذربيجان لدى مكتب الأمم المتحدة والمنظمات الدولية الأخرى في جنيف تحياتها إلى مفوضية الأمم المتحدة السامية لحقوق الإنسان، وتشرف بأن تقدم طيه موقف جمهورية أذربيجان بشأن التقرير الوطني لجمهورية أرمينيا المقدم للدورة الثالثة للاستعراض الدوري الشامل (A/HRC/WG.6/35/ARM/1) (انظر المرفق).

وترجو البعثة الدائمة لجمهورية أذربيجان لدى مكتب الأمم المتحدة والمنظمات الدولية الأخرى في جنيف من المفوضية تعميم هذه المذكرة الشفوية ومرفقها* باعتبارها وثيقة من وثائق الدورة الثالثة والأربعين لمجلس حقوق الإنسان، في إطار البند 6 من جدول الأعمال.

* استُنسخ المرفق كما ورد، وباللغة التي قُدم بها فقط.



GE.20-01599(A)



* 2 0 0 1 5 9 9 *

Annex to the note verbale dated 23 January 2020 from the Permanent Mission of Azerbaijan to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

Position of the Republic of Azerbaijan on national report of the Republic of Armenia submitted under the third cycle of the Universal Periodic Review (UPR) (A/HRC/WG.6/35/ARM/1)

The national report submitted by Armenia for consideration at the 35th session of the Working Group on Universal Periodic Review (UPR) contains biased and falsified information, as well as baseless accusations against Azerbaijan and persistent attempts to use the UPR Process for spreading its political propaganda aimed at distracting the international community's attention from its continuous aggression and use of force against the territorial integrity of Azerbaijan. The aggression of Armenia resulted with the occupation of 20% of the internationally recognized territories of Azerbaijan. In parallel with occupation, Armenia carried out ethnic cleansing both in Armenia and in the occupied territories of Azerbaijan, expelling approximately 350 000 and 700 000 Azerbaijanis respectively from their native lands in blatant violation of international law.

In particular, the above-mentioned report contains groundless and irresponsible references to the Nagorno-Karabakh region of Azerbaijan, in total contradiction with the Human Rights Council (HRC) Resolution 5/1 according to which, UPR should assess the human rights situation in the state under review, which in this case, is Armenia. The reason behind such provocative actions is the intention of Armenia to use the "fait accompli" resulting from the use of force and strengthen the occupation it pursued for almost 30 years.

It is a well-known fact that, in 1991, Armenia unleashed a war against Azerbaijan and occupied the Nagorno-Karabakh region and seven surrounding districts of Azerbaijan (Table on the results of the occupation of the territories of Azerbaijan is attached).

During the course of the war, in an act of genocide, on 26 February 1992, Armenia's military completely destroyed the Azerbaijani town of Khojaly and with particular brutality implemented carnage over its peaceful population. As a result, 613 civilians were killed, including 106 women, 63 children and 70 elderly. Another 1 000 people were wounded and 1 275 taken hostage. To this day, 150 people from Khojaly remain missing. The intentional slaughter of the civilians in Khojaly was directed at their mass extermination only because they were Azerbaijanis.

The mass killing, scalping, beheading, bayoneting of pregnant women and mutilation of bodies by the military of Armenia in Khojaly are fundamentally well documented by the law enforcement agencies of Azerbaijan, numerous independent sources, including Armenian ones, local and international media and eyewitnesses of this tragedy.

In its judgment of 22 April 2010, the European Court of Human Rights arrived at an important conclusion with respect to the crime committed in Khojaly, qualifying the behaviour of those carrying out the incursion as "acts of particular gravity which may amount to war crimes or crimes against humanity".

In its resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993), the United Nations Security Council reaffirmed the inviolability of international borders, inadmissibility of the use of force for the acquisition of territory, and the territorial integrity of Azerbaijan. The Security Council also demanded the immediate, complete, and unconditional withdrawal of the occupying forces from all the occupied territories. The United Nations General Assembly in its turn reaffirmed continued respect and support for the sovereignty and territorial integrity of Azerbaijan within its internationally recognized borders in resolutions 48/114 of 20 December 1993, 60/285 of 7 September 2006 and 62/243 of 14 March 2008.

The documents of international organizations also make explicit reference to serious violations of international humanitarian and human rights law committed during the conflict. Thus, in its aforementioned resolutions, the UN Security Council specifically

condemned the attacks on civilians and bombardments of inhabited areas within Azerbaijan and expressed grave concern at the displacement of a large number of civilians in Azerbaijan. In its resolution 48/114 of 20 December 1993, the UN General Assembly noted with alarm “that the number of refugees and displaced persons in Azerbaijan has ... exceeded one million”. In its resolution 1416 (2005) of 25 January 2005, the Parliamentary Assembly of the Council of Europe, of which both Armenia and Azerbaijan are members, noted particularly that large-scale ethnic expulsion of the Azerbaijani civilian population and the creation of mono-ethnic areas resemble the terrible concept of ethnic cleansing.

In this regard, all the references made to the Nagorno-Karabakh region of Azerbaijan in the national report of Armenia should read as “the Nagorno-Karabakh region of the Republic of Azerbaijan” in accordance with UN General Assembly resolution 62/243, entitled “The situation in the occupied territories of Azerbaijan”.

On Paragraph 94

Since the end of the 1980s, Armenia has resorted to violence, terror, provocations on ethnic grounds and the use of military force in an attempt to realize its baseless and illegal territorial claims against Azerbaijan. Those actions started with the attacks on the Azerbaijani population both in the Nagorno-Karabakh region of Azerbaijan and in Armenia itself, continued with Armenia’s direct military aggression against Azerbaijan since 1991 and culminated in the brutal killing of thousands of Azerbaijani civilians, the ethnic cleansing of more than 1 000 000 indigenous Azerbaijanis from their homes in both Armenia and the occupied territories of Azerbaijan and the extensive destruction and pillaging of the seized areas.

The Armenian leadership, chauvinist Armenian ideologists and extremist organizations have planned and carried out inter-ethnic disturbances in other parts of Azerbaijan as well, which were necessary to them as a means of launching an extensive anti-Azerbaijani campaign to cover up the mass expulsion of the indigenous Azerbaijani population from Armenia, the separation of Nagorno-Karabakh from Azerbaijan and Armenia’s unlawful annexationist intentions and the violent methods for their achievement.

At that time, the peak of inter-ethnic unrest was masterminded in Sumgayit in February 1988 and it was one of such deliberate provocations.

By 1988, Sumgayit, which is located about 30 km away from capital Baku, was a multinational city, since the local population was made up of 15 different nationalities. No ethnic tensions were recorded in Sumgayit until February 1988. Nowadays, Sumgayit continues to preserve its multinational and multi-confessional features, like other cities of Azerbaijan.

On 26 February 1988, the central square of Sumgayit was captured by protestors who objected to the killing of two Azerbaijanis who had been shot by Armenians in the Nagorno-Karabakh region of Azerbaijan on 22 February. A crowd of peaceful protestors were infiltrated by well-prepared Armenian extremists and agent-provocateurs and driven to violent and destructive behaviour towards the Armenian residents of Sumgayit. Unrest ensued in the city and lasted for three days without any intervention from Soviet authorities. In the course of three days unrest 32 people (26 Armenian, 6 Azerbaijanis) were killed.

Local and international response to these deadly riots ranged from shock to disbelief due to Sumgayit’s longstanding reputation of being a home to different ethnicities coexisting in harmony. Of the overall population of 258,200 residents, about 18,000 were ethnic Armenians that had been living in peace with their Azerbaijani neighbours. No one could fathom the idea that such an act could occur in a city where even minor ethnic tensions were unheard of.

Even though local and international reporters were denied access to the city by Soviet law enforcement authorities during the riots and news stations refrained from reporting the news from the ground, foreign media ran reports based on materials presented to them solely by Armenian sources. In these reports the unrest was blamed strictly on the Azerbaijani side.

In the immediate aftermath, the Sumgayit events were grossly exaggerated by Armenian diaspora all over the world and at the same time underestimated and dismissed as a simple act of hooliganism by the Soviet leadership. A more detailed look into the unrest reveals many loopholes that exist in both Armenian and Soviet accounts of the riots. The premeditated nature of the riots, active involvement of non-resident agent provocateurs before and during the riots and the unfolding of carefully planned scenario are indications that the Sumgayit unrest was wilfully misrepresented by its masterminds.

Upon findings of a special investigative group of 231 investigators, including Armenian and Azerbaijani lawyers, several people were sentenced to lengthy imprisonment.

The assessments and analysis of evidence collected by this investigation group confirm that the Sumgayit unrest was a provocation against Azerbaijan by the intelligence services of Armenia and the State Security Committee of the USSR. Armenian ideologists and their supporters in the high political leadership of the USSR, understanding the illegality of the separation of Nagorno-Karabakh from Azerbaijan based on the Soviet Constitution, resorted to such provocation with the aim of justifying the idea of impossibility of further coexistence of Armenians together with Azerbaijanis, providing the complete ethnic cleansing of the Azerbaijani population in Armenia and discrediting Azerbaijan.

The principle figure of the Sumgayit unrest was a man of Armenian origin, namely Eduard Robertovich Grigoryan, who was born in Sumgayit and had been recruited to incite the Azerbaijani protesters and to assemble the group of criminals. Although he was sentenced to twelve years of imprisonment by the USSR court, he was later (1991) transferred to Yerevan by Soviet authorities to serve out the remainder of his sentence and shortly after, pardoned by Armenian authorities. After his release, he spent a brief period in Armenia before moving to a third country. Grigoryan's speedy acquittal clearly demonstrates to which extent the masterminds of the Sumgayit unrest backed him.

The Sumgayit events marked a transient moment from the ideological phase of the Armenian occupation of Azerbaijani lands into the active politico-military phase.

On Paragraphs 95, 96 and 97

It is not Armenia but Azerbaijan that deals with the problems of Internally Displaced People (IDP) and refugees. As a result of the ethnic cleansing carried out by Armenia, more than 1 000 000 Azerbaijanis were subjected to ethnic cleansing, forcefully expelled from their native lands and became IDPs and refugees.

Over the past years, the transfer of Armenian settlers from Armenia and from elsewhere into the occupied territories of Azerbaijan, including the districts surrounding the occupied Nagorno-Karabakh region of Azerbaijan, in particular the occupied districts of Lachyn, Kalbajar, Gubadly, Zangilan and Jabrayil, has continued with accelerated pace. The settlement activities in the occupied territories are carried out in a pre-planned and organized manner.

This is yet another evidence of Armenia's unwillingness to engage in good faith in the conflict settlement process and its attempts to consolidate the current *status-quo* of occupation. Following the OSCE-led fact-finding and field assessment missions in the occupied territories of Azerbaijan in 2005 and 2010, the Co-chairs of the OSCE Minsk Group urged the Armenian side to refrain from actions that would change the demographic, social, or cultural character of those territories and would make it impossible to reverse the *status quo* and achieve a peaceful settlement. However, the missions' recommendations remained on paper.

Armenia uses each opportunity to strengthen its policy of occupation. Ethnic Armenians fleeing the conflict zone in Syria and Iraq are settled in the occupied territories of Azerbaijan by Armenia.

Under the pretext of rescuing the people living in the mentioned conflict zones, Armenia misuses the financial resources received from international organisations and states, by

pursuing illegal settlement activities in the occupied territories of Azerbaijan for strengthening its occupation at the expense of benefiting from the suffering of those people.

As a result of the settlement activities that have been carried out by Armenia after the occupation and ethnic cleansing of the territories of Azerbaijan, economic, social and cultural rights of the expelled Azerbaijani population continues to be violated.

A scheme of subsidies and incentives has been put in place by Armenia to encourage Armenian settlers to move to the occupied territories of Azerbaijan.

The Armenian sources state that the number of settlers in the occupied territories of Azerbaijan has increased progressively as a result of the settlement activities carried out by Armenia.

Armenia violates its obligations under international law by conducting a policy and developing practices to establish settlements in the occupied territories of Azerbaijan. Over the period since the beginning of the conflict, significant numbers of Armenian settlers have been encouraged to move to the occupied areas depopulated of their Azerbaijani inhabitants.

Plainly, settlements established in the occupied territories of Azerbaijan are illegal, because of designation to expand the economic and political penetration of the Republic of Armenia into those territories, prevent the expelled Azerbaijani population from returning to their homes and thus impose the results of the unlawful use of force.

The human rights of Azerbaijani IDPs, including their civil, political, economic, social and cultural rights continue to be violated by Armenia until today. In its landmark judgement dated 16 June 2015, the European Court of Human Rights in the case *Chiragov and others v. Armenia* ruled in favour of Azerbaijani nationals who were forcibly displaced from the occupied Lachyn district of Azerbaijan, recognizing continuing violations by Armenia of a number of their rights under the Convention for the Protection of Human Rights and Fundamental Freedoms, namely, those relating to the protection of property, the right to respect for private and family life and the right to an effective remedy.

On Paragraphs 102 and 104

The portrayal of Armenia itself as a state that protects and preserves the historical and cultural heritage is in total contradiction with its unlawful actions in the occupied territories of Azerbaijan.

During the course of the aggression and the on-going occupation of the Nagorno-Karabakh and seven adjacent districts of Azerbaijan by Armenia, the historical and cultural heritage of Azerbaijan has been being destroyed.

Among them, 1 891 cultural resources, comprising 738 monuments, 28 museums with more than 83 500 exhibits, 4 picture galleries, 14 memorial complexes and 1 107 cultural establishments were destroyed which led to a great cultural loss for Azerbaijan.

The on-going policy of deliberate destruction of this legacy following the occupation has been and continues to be an irreparable blow both to Azerbaijani culture and world civilization. As has clearly been demonstrated in the deliberate change of the cultural sight of towns and settlements in the occupied territories of Azerbaijan, by destroying the monuments, changing architectural features and making “archaeological” excavations, Armenia pursues far-reaching targets of removing any signs heralding their Azerbaijani origins. Analysis of the period since the establishment of a ceasefire in 1994 demonstrates that armed hostilities have not destroyed the Azerbaijani monuments to the extent to which have been subsequently done by Armenia.

Armenia tries to create an image of a state that pays attention to the representation of minorities in its National Assembly while ignoring the forceful expulsion of Azerbaijanis that historically lived in Armenia, being the largest ethnic minority therein.

Starting from 1988, more than 350 000 Azerbaijanis were forcefully expelled from Armenia which was accompanied by numerous killings of them, especially elderly, women and children.

On Paragraph 130

Accusing Azerbaijan for imposing “unilateral coercive measures on Armenia” for closure of border is ridiculous and groundless aimed at distorting the situation on the ground. Armenia should be reminded that it is the continuous act and policy of aggression of Armenia against Azerbaijan that has naturally resulted in closure of borders between the two countries. With its policy of territorial claims against almost all of its neighbors, territorial expansion and acquisition of territory by force, Armenia bears the sole responsibility for the current dire economic conditions it finds itself in. Self-imposed isolation from the regional economic projects and interruption of economic ties are direct results of Armenia’s aggressive policy and occupation of the territories of Azerbaijan.

The term “unilateral coercive measures” is not relevant in the context presented by the Armenian side. The relevant UN Security Council resolutions on the Armenia-Azerbaijan conflict do not qualify as unilateral coercive measure the physical interruption of transport and communications in the region, which occurred as a result of the aggression by Armenia. UN Security Council Resolutions 853 (1993) and 874 (1993) established a direct linkage and the relationship of reciprocity between the restoration of economic, transport and energy links in the region and the immediate, complete and unconditional withdrawal of the Armenian occupying forces from the occupied territories of Azerbaijan, a condition that has not been yet fulfilled. In fact, the Armenian side also accepted that the settlement of the conflict is the first step for enabling economic cooperation. The Joint Declaration signed by the Presidents of Armenia, Azerbaijan and the Russian Federation on 2 November 2008, in Meindorf Castle, the Russian Federation, *inter alia*, states that signatories will work towards “a political settlement of the Nagorno-Karabakh conflict on the basis of principles and norms of international law and resolutions and documents adopted in this framework, that will create favorable conditions for economic development and all-encompassing cooperation in the region”. In this regard, only complete and unconditional withdrawal of the armed forces of Armenia from the occupied Nagorno-Karabakh region and surrounding districts of Azerbaijan and the return of the Azerbaijani IDPs to their homelands would provide necessary conditions for the establishment of normal relations and restoration of lasting peace, security and prosperity in the region.

On Paragraphs 131, 132 and 133

In order to deceive the international community and create the false “vulnerable image”, Armenia pursues the policy of alleged existence of hatred towards Armenia in Azerbaijan. It should be noted that Armenia occupied the territories of Azerbaijan and carried out ethnic cleansing forcefully expelling 1 000 000 Azerbaijanis from their native lands. The attitude towards Armenia – occupying force in the 20% of the internationally recognized territories of Azerbaijan, is a natural sentiment rather than the result of hatred.

The leadership of Armenia has repeatedly demonstrated its state level policy of pursuing ethnic hatred against Azerbaijan and ethnic Azerbaijanis. The ideas related to ethnic incompatibility between the Armenians and Azerbaijanis, revealing the hatred policy of Armenia has been expressed at the presidential level in Armenia.

Instead of its baseless claims, Armenia should review its state policy of anti-Semitism, glorification of Nazism, and state sponsored terrorism along with anti-Azerbaijanism where streets, squares, educational institutions are being named to honour Nazi “heroes”, while glorification of Nazi collaborators has consistently been condemned by the international community.

The most notorious of them is Garegin Nzhde (Garegin Ter-Arutyan) whose crimes resulted in execution of thousands of innocent civilians of numerous nationalities, including Slavs and Jews. Moreover, Garegin Nzhdeh headed Armenian nationalist paramilitary groups in 1918-1920, that committed mass murders of civilian Azerbaijanis residing in Azerbaijani-populated Zangazur region, in the territory of modern-day Armenia. As a result, more than 10 000 Azerbaijani civilians were brutally killed, 115 Azerbaijani villages

were razed to the ground. Armenian Government erected a monument for Garegin Nzhde in the centre of capital of Armenia in 2016.

Unlike Armenia, which has established itself as a mono-ethnic society at the expense of expelling all non-Armenians, particularly Azerbaijanis, Azerbaijan preserves its ethnic, cultural and religious diversity. While thousands of Armenians continue to live in Azerbaijan, according to the official statistics provided by the authorities of Armenia there is not any single Azerbaijani living in Armenia presently.

It has been more than 5 years that the military of Armenia brutally killed an Azerbaijani civilian, Hassan Hassanov, and captured Dilgam Asgarov and Shahbaz Guliyev on 11 July 2014, who were attempting to visit the graves of their parents in the Kalbajar district of Azerbaijan. Contrary to the provisions of the Geneva Conventions of 1949 and the Additional Protocols thereto, which prohibit the hostage taking of civilians and require humane treatment of civilians during military conflicts, the Armenian side continues to violate flagrantly these commitments taken at the international level. Armenia does not consider the calls of the Azerbaijani side and international organisations to respect international humanitarian law and release the detained civilians. Keeping Dilgam Asgarov and Shahbaz Guliyev in captivity is yet further proof of Armenia's policy of hatred.

When it comes to the alleged "war mongering", it should be stated that as a party to the Charter of the United Nations, Azerbaijan is committed to its obligations specified therein. At the same time, Azerbaijan retains its inalienable right under the Charter of the United Nations – regulating the relations between the member states of the UN – to exercise its right of self-defence with a view of restoring its territorial integrity and sovereignty within its internationally recognized borders.

On Paragraph 137

By distributing "documents" in the United Nations Human Rights Council on behalf of the illegal separatist regime established in the occupied territories of Azerbaijan, Armenia propagates this regime and tries to deny the irrefutable facts and escape responsibility for the continued blatant violations of international law. Through such actions, Armenia abuses its membership in the United Nations and misleads the international community by means of outrageous falsification and disregard for the generally accepted norms and principles of international law. The above-mentioned "documents" are null and void ab initio.

On Paragraph 138

Attempts to portray the Armenian community of the Nagorno-Karabakh region of Azerbaijan as "the people of Nagorno-Karabakh" deny the very existence of the indigenous Azerbaijani community ("Position of the Azerbaijani community of the Nagorno-Karabakh region of Azerbaijan" is attached). Such a position aims at legitimizing the results of the ethnic cleansing carried out by Armenia, and openly contradicts the philosophy of international human rights law that all human rights are universal, indivisible, interrelated and interdependent and no one can claim for an individual or collective right at the expense of rights and freedoms of others.

The ethnic cleansing of the Azerbaijani community of the Nagorno-Karabakh region of Azerbaijan does not mean that they are deprived of their fundamental human rights. The Azerbaijani community of the Nagorno-Karabakh region of Azerbaijan enjoys equally human rights as the Armenian community.

The decision of the First Additional Meeting of the CSCE Council of 24 March 1992 unequivocally established that Azerbaijani and Armenian communities of the Nagorno-Karabakh are the two "interested parties".

On 2 April 2016, targeting civilians densely residing in the territories adjacent to the frontline area, Armenian armed forces opened intensive heavy weapons fire at the positions of Azerbaijan's armed forces along the line of contact. Because of artillery attacks of Armenian armed forces, a number of civilians including children were killed and seriously

wounded. Substantial damages were also inflicted upon the private and public properties including schools and hospitals.

The armed forces of Azerbaijan took the necessary counter measures within its internationally recognized borders to ensure the safety of civilian population, to stop the provocations of Armenia and to deter it from further acts of aggression. Over the years, such violations and armed provocations of Armenia by attacking and killing Azerbaijani military personnel as well as civilians with the use of mortars and large-calibre machine guns and artillery have become more frequent and violent. Armenia's desperate attempts to blame Azerbaijan for the escalation of the situation in the frontline aimed at misleading its own people and the wider international community.

On Paragraph 139

The Republic of Azerbaijan remains committed to the resolution of the conflict by political means within the format of the Minsk Group of the OSCE. The legal and political frameworks for the conflict settlement are laid down in U.N. Security Council resolutions 822 (1993), 853 (1993), 874 (1993), and 884 (1993), as well as in the relevant documents and decisions of the OSCE. The resolution of the conflict is possible only on the basis of the norms and principles of international law, as enshrined in the Helsinki Final Act, in full respect for the sovereignty and territorial integrity of the Republic of Azerbaijan within its internationally recognized borders ("Memorandum on the position of Azerbaijan" is attached). The political settlement of the conflict would create favourable conditions for comprehensive economic development and mutually beneficial cooperation.
