

**Генеральная Ассамблея**

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Совет по правам человека**Сорок четвертая сессия**

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Пункт 4 повестки дня

**Ситуации в области прав человека,
требующие внимания со стороны Совета****Вербальная нота Постоянного представительства Азербайджана
при Отделении Организации Объединенных Наций в Женеве
от 29 июля 2020 года в адрес Управления Верховного комиссара
Организации Объединенных Наций по правам человека**

Постоянное представительство Азербайджанской Республики при Отделении Организации Объединенных Наций и других международных организациях в Женеве свидетельствует свое уважение Управлению Верховного комиссара Организации Объединенных Наций по правам человека и имеет честь настоящим препроводить прилагаемый второй промежуточный доклад Уполномоченного по правам человека (Омбудсмена) Азербайджанской Республики о недавних провокациях Армении в направлении Товузского района Азербайджана.

Постоянное представительство просит Управление Верховного комиссара Организации Объединенных Наций по правам человека распространить настоящую вербальную ноту и приложение к ней* в качестве документа сорок четвертой сессии Совета по правам человека по пункту 4 повестки дня.

* Воспроизводится в том виде, в каком оно было получено, только на том языке, на котором оно было представлено.

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Просьба отправить на вторичную переработку



Annex to the note verbale dated 29 July 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

Second interim report of the Commissioner for Human Rights (Ombudsperson) of the Republic of Azerbaijan dated 12–24 July 2020 on recent Armenian provocations

Introduction

The Second Interim Report is based on the outcomes of the fact-finding investigation of the Ombudsperson of the Republic of Azerbaijan, Sabina Aliyeva, regarding the sudden provocations and attacks of the Armed Forces of Armenia in the direction of Tovuz district of Azerbaijan with the aim to seize the positions on the state border of Azerbaijan and Armenia on July 2020, as well as later attacks by the Armenian provocators on peaceful Azerbaijani protestors living abroad.

The fact-finding investigation took place in Agdam and Dondar Guschu villages of Tovuz district, as well as in Tovuz City Central Hospital from July 14 to 16, 2020, with the aim to find out the facts of human rights violation as result of attacks of the armed forces of Armenia.

Tovuz is a district of the Republic of Azerbaijan and located between Shamkir and Agstafa districts, is in 360 km from Baku (Azerbaijan) and 107 km from Tbilisi (Georgia) and borders Armenia near the village of Alibeyli.

Information about the sudden attack of the armed forces of Armenia in direction of Tovuz district of Azerbaijan

On July 12, 2020, starting from noon the armed forces of Armenia once again had flagrantly violated the ceasefire regime and displaying full disrespect for the international law, as well as the UN Secretary-General call to global ceasefire amid COVID-19 pandemic and used artillery mounts to fire on the positions of Azerbaijan's armed forces in the direction of Tovuz district, along the state border between Armenia and Azerbaijan.

The obvious provocative actions and attempts of attack by violating the ceasefire regime further aggravated the living conditions in the conflict zone.

This should be particularly stressed at the very beginning, that this time Armenia's provocations and attacks took place not alongside the line of contact with the occupied Nagorno-Karabakh and seven adjacent territories of Azerbaijan rather at international borders between Armenia and Azerbaijan. These attacks by Armenia undermining all peace-building activities once again prove its real intention of aggression¹ against Azerbaijan.

Undertaking by Armenia of such an attack, which is clearly a rash one, pursues a goal of drawing the military-political organizations to which it is a party to into the long-lasting Armenia-Azerbaijan conflict which still keeps the country at a poor economic, political, social environment and out of beneficiary significant regional projects Azerbaijan actively initiates and takes part in, and is targeted at evading the responsibility of occupation and aggression against our country. Ongoing provocations in Tovuz are in full contradiction with legal documents binding those military-political organizations which Armenia is a member to.

¹ According to the Resolution on Definition of Aggression adopted by the United Nations General Assembly on 14 December 1974, aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, and no consideration of whatever nature, whether political, economic, military or otherwise, may serve as a justification for aggression.

The Armed Forces of Armenia targeted mainly civil settlements and houses. These attacks caused material losses to civilians as well due to damage to livestock and households. (See the photos attached).

This is not the first time that the Armed Forces of Armenia has attacked Tovuz district. On August 7, 2017, the Armed Forces of Armenia shelled the Garalar village of Tovuz district targeting the civilians from the occupied territories of Azerbaijan, a resident of Garalar village – 13 years old boy from that village, Yusifov Ramin Sabir oglu, was hospitalized in a heavy condition by receiving multiple debris injuries.²

Historical background of conflict

After the collapse of the USSR, the international legal doctrine of *uti possidetis juris* secured the international, regional and national legitimacy of the boundaries of newly independent States. Under this legal doctrine, the former administrative borders of Azerbaijan SSR, which had included Nagorno-Karabakh Autonomous Oblast, were recognized by international law as the legitimate borders of the newly independent Republic of Azerbaijan. This was later reaffirmed in the UN Security Council resolutions 822, 853, 874 and 884 on the conflict in and around the Nagorno-Karabakh region of the Republic of Azerbaijan.³

The Armenia-Azerbaijan Nagorno-Karabakh conflict started with the Armenians' open territorial claims to Azerbaijan's historical lands and ethnic provocations in 1988. In the early 1980s, the Armenians in the Soviet Union leadership, leaders of Armenian SSR and the Armenian Diaspora abroad exploited the weakening of the central government of the USSR to embark on a campaign to annex the Nagorno-Karabakh Autonomous Oblast to Armenia.⁴

At present 20 percent of the territory of Azerbaijan – Nagorno-Karabakh and 7 adjacent districts are under the occupation of Armenia. One million people became Internally Displaced Persons or refugees as a result of this occupation.

These criminal actions of Armenia have shattered the basics of international humanitarian law and were aimed at creating a new spiral of social and humanitarian crisis by disrupting the normal life of the civilian population in areas close to the line of contact. The main aim of Armenia is to consolidate its occupation of this territory and maintain the status quo in own favor which is also unacceptable to the international community.

Legal assessment

The legal and political components for a settlement of the Armenia-Azerbaijan Nagorno-Karabakh conflict are based on the rules and principles of international law, namely the principles of territorial integrity, sovereignty and the inviolability of internationally recognized borders, as set out in United Nations Security Council resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993) and General Assembly resolution 62/243 (2008), together with the relevant documents and decisions of international organizations.

During its aggression against Azerbaijan, the Armenian side has committed gross violations of the rules of international humanitarian law; there have been numerous incidents of extrajudicial executions and mass shootings, torture and other cruel and inhuman treatment and punishment of peaceful Azerbaijani civilians, hostages and prisoners of war.

The European Court of Human Rights ruled that Armenia exercises an effective control over Nagorno-Karabakh and the surrounding territories, including the district of Lachin. The Court rendered a judgment that Armenia has been continuing to violate Article 1 (Protection of property) of the Protocol No. 1 to the European Convention on Human Rights, Article 8

² STATEMENT of Ombudsman of Azerbaijan with regard to targeting of civilians, in particular, of children by the Armenian army, issued 9 August 2017; <http://ombudsman.gov.az/en/view/pages/88>

³ <https://mfa.gov.az/en/content/110/legal-assessment>.

⁴ <https://cabmin.gov.az/en/page/69/undefined>.

(Right to respect for private and family life) and Article 13 (Right to an effective remedy) of the Convention.⁵

The fact-finding activities of the Ombudsperson

The Ombudsperson immediately reacted at the sudden attacks by condemning it through the social media accounts, Twitter and Facebook, as well as media. On July 13, 2020, the Ombudsperson issued a statement condemning the attack of Armed Forces of Armenia and calling relevant international organizations to join efforts to put an end to this aggression. The statement was sent to the UN Secretary-General, UN Security Council, UN Office of High Commissioner for Human Rights, UN Office of High Commissioner for Refugees, UN Human Rights Council, the United Nations Children’s Fund, the United Nations Educational, Scientific and Cultural Organization, European Union, European Council, Organization for Security and Co-operation in Europe, International and European Ombudsman Institutions, Asian Ombudsman Association, Organization of Islamic Cooperation and the Ombudsman Association of its member states, Independent Permanent Human Rights Commission of the Organization of Islamic Cooperation, European Network of Ombudspersons for Children, International Peace Bureau, different ombudsmen and national human rights institutions.

On July 14, the Ombudsperson paid an on-site visit to Tovuz district. First, she visited Agdam village of the district, which was shelled by the Armed Forces of Armenia using heavy artillery and got closely acquainted with the current situation there.

During the fact-finding investigation, it has been clearly witnessed that the Armed Forces of Armenia mainly targeted the houses and other dwellings of civilians. As a result of shelling several houses in the village were destroyed or seriously damaged.

Houses and other dwellings of the Azerbaijani civilians as targets of the Armenian Armed Forces.

The shelling the civil settlements by the Armed Forces of Armenia was sudden and provocative. The civilians found themselves under the attacks of heavy artillery unexpectedly. Thus, as a result of the artillery attacks, 76 year-old disabled resident of Agdam village was killed in his home.

A civilian habitant of Agdam village was preparing to have his dinner before the attack.

The next visit of the Ombudsperson was to a neighboring village Dondar Gushchu shortly after it was subjected to heavy artillery attacks by Armenian Armed Forces. In the course of the investigation, the Ombudsperson observed many houses were destroyed or damaged by recent attack and interviewed the civilians there and got information about the situation on site.

The house belonging to a village habitant Abdullayeva Roza and that was subjected to artillery shelling.

The recent attacks of the Armed Forces of Armenia once again showed that these attacks were made with purpose of provocation. It undermines all peace-building activities and triggers the anger among the population.

During the monitoring, the Ombudsperson observed that the armed forces of Armenia shelled very close to Tovuz city Central Hospital – just 50 meters to the Hospital. This is an obvious evidence of the fact that the Armenian Government ignores the international humanitarian law. As Article 18 of Geneva Convention IV states, civilian hospitals ‘may in no

⁵ *Refugees, United Nations High Commissioner for. “Refworld | Chiragov and Others v. Armenia”. Refworld. Retrieved 2017-12-14.*

circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict'.⁶

The Ombudsperson paid a visit to the Ministry of Defense Military Hospital, monitored the health status of soldiers and warrant officers of [Azerbaijani Armed Forces](#) wounded as a result of provocations and heavy [artillery](#) attacks by [Armenian](#) troops in the direction of [Tovuz](#) district.

Conclusion

During the fact-finding investigation in the Tovuz district, the Ombudsperson has revealed many facts of gross violation of human rights – right to life, right to safety, right to housing, etc. Drawing conclusions following from the abovementioned facts, this became clear that the recent attacks of the Armenian Armed Forces targeted particularly civil settlements are aimed at incitements and kindling hatred among the population and at undermining all the peace-building activities achieved so far.

Again, we would like to point out the fact that this time the armed forces of Armenia did not attack from the occupied territories of Azerbaijan, including Nagorno-Karabakh. These attacks were made in the state border between Azerbaijan and Armenia which displayed the real intention of the Government of Armenia to show more aggression towards and instill fear among the Azerbaijani population. This once again proves the Armenian nationalists' plan to undermine the prosperity in the region and harm all development activities.

All the world population goes through challenging time due to the outbreak of new COVID-19 infection. World Health Organization declared pandemic in the world and the world community in great solidarity takes necessary actions to prevent further spread of virus. The Government of Azerbaijan declared a special quarantine regime on March 24, 2020. Since then as the Ombudsman Institution, we fully support all the activities for fighting the virus. Unfortunately, the government of Armenia through overwhelming ignorance of the recommendations of World Health Organization held an illegal "elections" in the occupied region of Azerbaijan – Nagorno-Karabakh. The Ombudsperson of Azerbaijan immediately issued the Statement⁷ condemning this illegal "elections" that raises the tension in the region and undermines peaceful resolution of the conflict. The Statement was addressed to all relevant international organizations and human rights institutions calling them to condemn this act and support the acts of ending the occupation of the territories of Azerbaijan.

In this statement, the Ombudsperson also expressed her concern about living conditions of the people in the settlements in the areas of conflict. She stressed that *"In the special Statement on COVID-19 made by the UN Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damari, released on the official website of the OHCHR on April 1, 2020, it was highlighted that "Internally displaced persons are at heightened risk of exposure to COVID-19 due to limited access to healthcare, water, sanitation, food and adequate housing, and often face discrimination". Considering this fact, it should be noted that at present, the life conditions close to the conflict zone has been more worsened due to the pandemic. Thus, the access of persons, living in those areas to clean water, and therefore, to hygiene and sanitation services is at high risk."*

As the escalation raised, we witnessed new attempts by Armenia to use disinformation in order to distract the global media and hide the facts. They spread fake news as if Azerbaijan may launch missile attack on their Metsamor Nuclear Power Plant (MNPP). In fact, the Government of Azerbaijan many times attempted to draw the attention of international community to the reality that the MNPP itself creates real threats for the entire region. However, I consider that it would be helpful to look at the answer of the Vice-President, Federica Mogherini (served from November 2014 to November 2019) on 6 October 2017,

⁶ Geneva Convention (IV) on Civilians, 12 August 1949. Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict.

⁷ <http://www.ombudsman.gov.az/az/view/news/1826/azerbaycan-respublikasi-insan-huquqlari-uzre-muvekkilinin-ombudsman-azerbaycanin-ishgal-olunmush-dagliq-qarabag-bolgesinde-qanunsuz-sechkilerin-kechirilmesine-ve-pandemiya-dovrunde-ermenistan-terefind>.

on behalf of the EU Commission to the question on Metsamor NPP, where she says, “*The EU is fully aware of the risks posed by the Metzamor Nuclear Power Plant (MNPP). Therefore, a swift closure and decommissioning of the MNPP remains a key objective for the EU and the European Neighbourhood Policy Action Plan, as this power plant cannot be upgraded to meet internationally recognized nuclear safety standards.*”⁸ However, it seems that Armenia has no intention to close the plant and continues to use it for own manipulative aims. In fact, there are many internationally recognized scientific sources, which proves that MNPP is a great danger for the region and may cause humanitarian disaster.

We also witnessed that recently the Azerbaijanis living abroad enjoying their rights to the freedom of assembly and freedom of expression have organized peaceful meetings in order to protest the provocative military attacks by Armenia in the direction of Tovuz district of Azerbaijan that were mainly targeted the civilian population. Thus, a few of Azerbaijanis assembled in Los-Angeles, California to protest peacefully have been attacked by a large group of the Armenians. Our compatriots, who were subjected to assaults and injured, have been hospitalized. A number of their rights was grossly violated. The incident, accompanied with psychological and physical abuse of a few Azerbaijanis by hundreds of the Armenians, who used degrading language and made hate speech against Azerbaijan and its people either as a state or as a nation, took place in front of the Consulate-General of the Republic of Azerbaijan in Los-Angeles. Similar incidents also took place in Brussels, Belgium and our compatriots were seriously injured.

According to the international human rights treaties, every person has to the right to freedom of assembly and freedom of expression. These rights and freedoms are the key elements and main requirements of democracy. According to the international conventions, the states are obliged to ensure those rights and protect the peaceful protestors.

We express our deep concern about the provocative actions committed by the Armenians against the Azerbaijani peaceful protestors, living in France, United Kingdom, Sweden, Poland, the Netherlands and Australia, along with the US and Belgium within the week.

I would like to remind once again here the recent global appeal of the UN Secretary-General Antonio Guterres. He calls to “Pull back from hostilities. Put aside mistrust and animosity. Silence the guns, stop the artillery, end the airstrikes.”⁹

However, the recent acts of violation of the ceasefire by the Armed Forces of Armenia once again proves the real intention of the Government of Armenia based on aggression only.

Article 51 of the Charter of United Nations says “Noting in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.”¹⁰ By the aggression towards Azerbaijan, Armenia fully ignores international and humanitarian law.

As a result of fact-finding investigation the Ombudsperson once again revealed the facts which prove the gross human rights violations and breach of international and humanitarian law by Armenia when attacking civil settlements on its state border with Azerbaijan.

Issuing the Second Interim Report, as the Ombudsperson of Azerbaijan I want to show real facts that reflect human tragedy in the borders between Azerbaijan and Armenia. I call to put an end to this violation and aggression of Armenia towards Azerbaijan. I urge to the international community to take all necessary steps to end the occupation of the territories of Azerbaijan.

⁸ https://www.europarl.europa.eu/doceo/document/E-8-2017-005076-ASW_EN.html.

⁹ <https://www.unicef.org/mena/stories/appeal-global-cease-fire>.

¹⁰ <https://legal.un.org/repertory/art51.shtml>.

The information on the damages to civilian property as a result of artillery fire by the Armenian armed forces in the direction of Tovuz district

14.07.2020

As a result of shells fell on the territory of Dondar Gushchu village (name in origin: Dondar Quşçu) of Tovuz district, 7 private houses and 3 yards of land were damaged.

Residents, whose private houses were damaged:

1. Aliyeva Telara Ahmet gyzy (b.1948)
2. Abdiyev Shahin Ganbar ogly (b.1967)
3. Qurbanov Nureddin Islam ogly (b. 1963)
4. Houseynov Isa Shamshad ogly (b. 1937)
5. Houseynova Sevda Neriman gyzy (b.1950)
6. Sadigov Mahir Bahadur ogly (b.1957)
7. Safarov Dilman Safar ogly (b. 1951)

Residents, whose yards of land were damaged:

1. Aliyeva Samira Nouraddin gyzy (b. 1981)
2. Houseynov Aydin Mahammad ogly (b. 1973)
3. Roustamov Zeynal Ali ogly (b. 1986)

A private yard of land in Agdam village (name in origin – Ağdam) of Tovuz district has been damaged as a result of Armenian's shelling.

Resident, whose private house has been damaged:

1. Azizov Aziz Izzet ogly (b. 1944) (a 76 years-old civilian killed as a result of artillery attack of his house)

Other: A shell fell on an empty area 80 m away from the private house belonging to Houseynov Vahid Babakishi ogly (b.1972), a resident of Vahidly village of Tovuz district, did not explode.

16.07.2020

As a result of shells falling on the territory of Youkhari Oysouzlou village (name in origin: Yuxarı Öysüzlü) of Tovuz district, 2 yards of land were damaged.

Residents, whose yards of land were damaged:

1. Sadigov Arif Bakhtiyar ogly (b. 1965)
2. Mammadov Tofiq Musa ogly (b. 1969)

As a result of shelling of Dondar Goushchu village of Tovuz district, one private house was damaged.

Resident, whose private house has been damaged:

1. Abdullayeva Roza Asif gyzy (b. 2000)

16.07.2020

A shell fell on the private house in Alibeyli village (name in origin: Əlibəyli) of Tovuz district, as well as

1. The windows of the private house of Guliyev Aziz Ali ogly (b.1948) have been broken and 40 sq. m. ancillary building in the yard with 35 birds inside was destroyed.

16.07.2020

Shells fell on the territories of three private houses in Dondar Gushchu and Youkhari Oysouzlou villages of Tovuz district, as well as

1. 40 sq. m. ancillary building in the yard belonging to Abdullayeva Roza Asif gyzy (b. 2000), a resident of Dondar Gushchu village was destroyed;
 2. A shell fell on a yard of land of the private house belonging to Sadigov Arif Bakhtiyar ogly (b. 1965), a resident of Youkhari Oysouzlou village did not cause destruction;
 3. A shell fell on a yard of land of the private house belonging to Mammadov Tofiq Musa ogly (b. 1973), a resident of Youkhari Oysouzlou village did not cause destruction.
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