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30 de junio a 17 de julio de 2020

Tema 4 de la agenda

Situaciones de derechos humanos que requieren la atención del Consejo

Nota verbal de fecha 22 de julio de 2020 dirigida a la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos por la Misión Permanente de Azerbaiyán ante la Oficina de las Naciones Unidas en Ginebra

La Misión Permanente de la República de Azerbaiyán ante la Oficina de las Naciones Unidas y otras organizaciones internacionales en Ginebra saluda atentamente a la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos y tiene el honor de presentar adjunto el informe provisional del Comisionado para los Derechos Humanos (Defensor del Pueblo) de la República de Azerbaiyán sobre las provocaciones y ataques repentinos de las Fuerzas Armadas de Armenia para tomar posiciones en dirección al distrito de Tovuz de Azerbaiyán.

La Misión Permanente pide a la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos que tenga a bien hacer distribuir la presente nota verbal y su anexo* como documento del 44º período de sesiones del Consejo de Derechos Humanos, en relación con el tema 4 de la agenda.

* Se reproduce como se recibió, en el idioma en que se presentó únicamente.

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Annex to the note verbale dated 22 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

Interim report of the Commissioner for Human Rights (Ombudsperson) of the Republic of Azerbaijan dated 14–16 July 2020 on sudden provocations and attacks of the Armed Forces of Armenia to seize positions in the direction of the Tovuz District of Azerbaijan

Introduction

This report is based on the outcomes of fact-finding investigation of the Commissioner for Human Rights (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. The investigation took place in Agdam village and Dondar Guschu village of Tovuz district, as well as in Tovuz City Central Hospital from 14 to 16 July 2020. The investigation is targeted at finding out the facts of human rights violation as result of attacks of the armed forces of Armenia.

Short overview

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). Tovuz also borders Armenia near the village of Alibeyli village.

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

On 12 July 2020, starting from noon the armed forces of Armenia once again had flagrantly violated the ceasefire regime and displaying full disrespect to 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 aggravate 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 border 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, houses. These attacks caused material losses to civilians as well due to damage to livestock and households. Numerous evidences of the above-mentioned have been included in the present Report.

Also it should be noted that it is not the first time that the Armed Forces of Armenia has attacked Tovuz district. On 7 August 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 of Internally Displaced Persons and refugees fled their homes to save their lives and settled in different parts of Azerbaijan.

These criminal actions of Armenia have shattered the foundations 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, which is 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

² STATEMENT of Ombudsperson 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>.

Rights, Article 8 (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

At first, this should be noted that the Ombudsperson immediately reacted at the sudden attack by condemning it through the social media accounts, Twitter⁶ and Facebook, as well as media.

On 13 July 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 14 July 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. The Ombudsperson 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 dwelling of civilians. As a result of shelling several houses in the village were destroyed or seriously damaged. In below photos you can see the some of them.

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. The 76 years old resident of Agdam village was killed in his home as a result of artillery attack. He was a person with disability. In the below photo you can see that he was preparing to have his dinner before the attack.

The next visit of the Ombudsperson was to neighboring to Agdam village Dondar Gushchu village shortly after subjecting it 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. As such in the below shown photos you can see the seriousness of the damages. The Ombudsperson interviewed the civil people there and got information about the situation on site.

In the below photos you can see another house belonging to 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 humanitarian law. As Article 18 of Geneva Convention IV states, civilian hospitals “may in no circumstances

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

⁶ https://twitter.com/az_ombudsman/status/1282707131804848132.

be the object of attack, but shall at all times be respected and protected by the Parties to the conflict”⁷.

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 above-mentioned 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. This attack was 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 instil 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 novel COVID-19 infection. World Health Organization declared pandemic in the world and the world community in great solidarity take necessary actions to prevent further spread of virus. The government of Azerbaijan declared a special quarantine regime on 24 March 2020. Since then as the Ombudsman Institution, we have fully support all the activities for fighting the virus. Unfortunately, the government of Armenia through overwhelming ignorance of the recommendations of the World Health Organization held an illegal “elections” in the occupied region of Azerbaijan – Nagorno-Karabakh. The Ombudsperson of Azerbaijan immediately issued the Statement⁸ condemning this illegal “elections” that increases 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 to conflicted zone. 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 1 April, 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 pandemic. Thus, the access of persons, living in those areas to clean water, and therefore, to hygiene and sanitation services is at high risk.”*

I would like to remind here the appeal of the United Nations Secretary-General António Guterres to the world, made some time ago. He says that “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.

⁷ 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.

⁸ <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>.

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

Article 51 of the Charter of United Nations says “Noting in the present Charter shall impair the inherent right of individual or collective self-defence 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.”¹⁰By 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 settlement on its state border with Azerbaijan.

By issuing this report, as a Commissioner for Human Rights (Ombudsperson) of the Republic 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.

Information on the damages to civilian property as a result of artillery fire by the Armenian armed forces in the direction of Tovuz district n 14.07.2020 Time: 18.30 p.m.

As a result of shells falling on the territory of Dondar Gushchu village of Tovuz district, 7 private houses and 3 yards of land were damaged.

Residents, whose private houses were damaged:

1. Aliyeva Telara Ahmetgyzy (b. 1948)
2. Abdiyev Shahin Ganbarogly (b. 1967)
3. Qurbanov Nureddin Islam ogly (b. 1963)
4. Houseynov Isa Shamshadogly (b. 1937)
5. Houseynova Sevda Nerimangyzy (b. 1950)
6. Sadigov Mahir Bahadurogly (b. 1957)
7. Safarov Dilman Safar ogly (b. 1951)

Residents, whose yards of land were damaged:

1. Aliyeva Samira Nuraddingyzy (b. 1981)
2. Houseynov Aydin Mahammadogly (b. 1973)
3. Roustamov Zeynal Ali ogly (b. 1986)

A private yard of land in Agdam village 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)

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.

Information on the damages to civilian property as a result of artillery fire by the Armenian armed forces in the direction of Tovuz on 16.07.2020 Time: 08.15

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

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

Residents, whose yards of land were damaged:

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

As a result of shelling of Dondar Goushchu (name in origin: Dondar Quşçu) village of Tovuz district, one private house was damaged.

Resident, whose private house has been damaged:

1. Abdullayeva Roza Asif gyzy (b. 2000)

Information on the damages to civilian property as a result of artillery fire by the Armenian armed forces in the direction of Tovuz on 16.07.2020

A shell fell on the private house in Alibayli village 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.

Information on the damages to civilian property as a result of artillery fire by the Armenian armed forces in the direction of Tovuz on 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 Bakhtiyarogly (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.
