



**Analysis of the situation of Azerbaijani and Turkish aggression of  
27 September 2020 against Artsakh and Armenia**

**Deutsch-Armenische Juristenvereinigung e.V.**

**14 October 2020**

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# INTRODUCTION

1. The current report is an analysis of the available information on the military offensive initiated by Azerbaijan with the support of Turkey on 27 September 2020 against Artsakh and Armenia. The armed hostilities continue at the time of the writing, despite the temporary humanitarian ceasefire agreement of 10 October.

2. The report elaborates on the background of the conflict, international legal aspects of the self-determination and statehood of Artsakh, preparation and execution of the aggression, war crimes, as well as the recruitment and use of mercenaries jointly by Azerbaijan and Turkey.

## BACKGROUND

### From ancient to Soviet periods

3. Ancient Greek geographer, historian and philosopher Strabo in his “Geographica” mentions Artsakh as one of the provinces of Armenia. Other antique authors Pliny The Elder and Dio Cassius mentioned in their works that the Eastern border of Armenia was going through the river Kur.

4. At the beginning of the 11th century, Turkic nomad people migrated to the Caucasus, quickly assimilated the local Caucasian and Iranian people, which, however, did not lead to the change of the population in Artsakh where Armenians remained majority. At that time the Turkic name “Karabakh” started to be used.

5. The situation changed in the late middle-ages when the Persian authorities decided to replace the non-loyal Armenian population with the more loyal Muslim-Turks.

6. In 1813 in conclusion of the Russian-Persian war (1803-1813), the Russian-Persian peace agreement placed Karabakh Khanate under the Russian rule and the reverse process started: many Muslim-Turks migrated to Persia, and Armenians returned to Artsakh.

7. At the beginning of the 20th century again the majority, about 90%, of the population of Artsakh was Armenian. In 1917 after the collapse of the Russian Empire, during the formulation of the three South Caucasian republics, Armenia, Azerbaijan and Georgia, the population of Artsakh consisting of 95% Armenians convened its first congress which declared Artsakh independent administrative-political entity, elected its national council and government. In 1918-1920s Artsakh had statehood attributes, including army, legitimate government. Before 1918, no state Azerbaijan existed anywhere.

8. Right after the establishment of the Soviet authority in Armenia, on 30 November 1920, the Revolutionary Committee of Azerbaijan, the principal organ of the Bolshevik authority, declared those territories to which Azerbaijan had had claims, Artsakh (Nagorno-Karabakh), Zangezur and Nakhijevan, as the integral part of Armenia. On this basis and the basis of the agreement between the governments of Armenia and Azerbaijan of June 1921 Armenia declared Artsakh as its integral part. Thus, the unification of Artsakh with Armenia was legally established. In the framework of international law this was the last legal act on the status of Artsakh during the communist regime.

9. On 4 July 2021 the Caucasian Bureau of the Communist party conveyed a plenary session in Tbilisi, Georgia, reaffirming Artsakh belonged to the Armenian SSR. However, upon the direct interference of Joseph Stalin and in violation of the decision-making procedure, at the night of 5 July, the decision taken the previous day was revised. A forceful decision was taken to include Artsakh, largely (about 90%) inhabited by Armenians, in the Azerbaijani SSR and form a region of Nagorno-Karabakh Autonomous Oblast (NKAO) as an enclave with narrowly defined borders on that territory. During the whole Soviet period the Armenians of Artsakh never accepted the illegal decision and throughout dozens of years have been fighting for the unification with Armenia.

## Modern period

10. The modern period of the problem started in 1988. The Armenian population of Artsakh through peaceful means (assemblies, requests) demanded the unification with Armenia exercising their right to self-determination under international law. As a response to these peaceful acts, Azerbaijani authorities organized pogroms and ethnic cleansing against the Armenians on the whole territory of Azerbaijan, including Baku, Sumgait, Kirovabad (Gandzak, Gyanja). The ethnic cleansing by killings, arrests were carried out by the Soviet Azerbaijani internal forces, criminal gangs, with the support of the Soviet internal forces in the name of passport control which became large-scale war against Artsakh.

11. On 2 September 1991 the joint session of the Artsakh and Shahumyan regional councils of the people's deputies adopted the decision on "Declaration of Nagorno-Karabakh Republic" forming the republic on the territories of NKAO and Shahumyan region. On 10 December 1991, the population of Artsakh confirmed in the referendum the independence of Artsakh, in the exercise of their right to self-determination<sup>1</sup>. Thus, two equally sovereign entities, Republic of Artsakh and Republic of Azerbaijan were formed in the areas of the former Azerbaijani SSR.

12. After the long war, in May 1994 Artsakh, Armenia and Azerbaijan concluded a trilateral ceasefire agreement. The issue was transferred from the military to the political process. From 1994 till 2016 the issue remained with regular border incidents between the armies of Artsakh and Azerbaijan.

13. In April 2016 Azerbaijan unleashed another aggression against the Republic of Artsakh resulting in territorial gains by Azerbaijan. During the armed hostilities of the 2016 April war a number of international crimes were committed by Azerbaijani armed forces, such as torture, beheadings, mutilation of bodies<sup>2</sup> with specific hate intents against the ethnic Armenians and also Armenian-Yezidis.

14. In July 2020 another escalation took place this time along the border between Armenia and Azerbaijan.

## Artsakh statehood and recognition

15. The legal concept of the state under international law is based on the "three-element doctrine" founded by Georg Jellinek in the beginning of the 20th century, that presupposes a people, a territory, and a state power for the existence of statehood. According to the Montevideo Convention, the fourth element is the ability to create relations to other states in addition to the permanent population, defined national territory and the government.<sup>3</sup>

16. The ability to enter into relations with other States, is generally not considered a prerequisite for the existence of a State, but *vice-versa*. When the entity becomes a state, it therefore, has the capacity to enter into relations with other States. The existence of border disputes is not an obstacle to attaining statehood in international law<sup>4</sup> (e.g. Israel was accepted to the UN in 1949 having disputes).

17. Since the time of the declaration of its independence as a state, the Republic of Artsakh has possessed the attributes of statehood, independent government (generally public power, including all state institutions), exercising effective control over its territory and a permanent population.<sup>5</sup> Currently the Republic of Artsakh consists of wider territories than the territory of the Nagorno-Karabakh autonomous oblast that was placed within the Azerbaijani rule by the illegal decision of the Caucasian Bureau of the Communist party. Azerbaijan, at the same time, controls several territories that belonged to Artsakh.<sup>6</sup> The executive and legislative bodies have been formed through the process of democratic elections.

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<sup>1</sup> in accordance with international law and Soviet laws. The Supreme Council enacted a law on the withdrawal order from the Union on April 3 of 1990 based on Article 72 of the USSR, "on the procedure for solving problems in connection with the withdrawal of the Union Republic from the USSR".

<sup>2</sup> Yezidi people are among the ethnic minorities that live in Armenia and Artsakh. Yezidi male citizens, like ethnic Armenian male citizens of the age of 18, exercise mandatory military service in the army.

<sup>3</sup> Article 1, Montevideo Convention on the Rights and Duties of States, 26 December 1933.

<sup>4</sup> ICJ, *North Seas Continental Shelf cases*, 1969, ICJ Reports 3, para. 3, p. 32.

<sup>5</sup> Article 1, Montevideo Convention on the Rights and Duties of States, 1933.

<sup>6</sup> See the map at the end of this document.

**18.** The Republic of Artsakh as an Armenian state, maintains close relations with the Republic of Armenia; provided humanitarian aid in Lebanon in August 2020 under its own flag; has permanent representations in multiple UN member states; is a member of parliamentary friendship groups in the parliaments of Lithuania, France and Cyprus, as well as in the European Parliament; has been recognized by ten US states, one Australian state, the autonomous community of the Basque Country and by the partially recognized republics of Abkhazia and South Ossetia; its defence army actively cooperates with international organizations, including the OSCE (monitoring of the ceasefire regime), the ICRC (martial law, human rights, raising of awareness for landmines, hostages), the HALO Trust (humanitarian mine clearance) and the IWG (working group for refugees, internally displaced persons and hostages).

**19.** Overall, the formal unrecognized status of Artsakh by also Armenia has been due to the reason to ensure the peaceful negotiations process and avoid possible escalation before a final agreement may have been reached. However, given the state hate policy of Azerbaijan against ethnic Armenians, Azerbaijani-Turkish well-prepared aggression with the purpose of putting to the end the Armenian presence in Artsakh it has now become imperative to recognize formally the Republic of Artsakh.

### **Negotiations process**

**20.** In May 1994 ministers of defence of Artsakh, Armenia and Azerbaijan concluded a trilateral ceasefire agreement for an indefinite period, imposing obligations on three sides. The negotiations on the final resolution of the conflict were taking place within the auspices of the Co-Chairs of the OSCE Minsk Group, France, Russia, United States. Later in the 2000s Artsakh was dropped from the negotiations. The details on the final resolution were to be discussed within the peaceful negotiations.

**21.** Within the OSCE Minsk Group peace process, the three principles were the basis of the negotiations, non-use or threat of force, self-determination and territorial integrity. The mediators have proposed throughout the process different mechanisms of the observation of the cease-fire violations which the two Armenian sides, Artsakh and Armenia, accepted but Azerbaijan didn't. Several plans/options were proposed by the negotiators on the sequence of the resolution of the issue, including on the control of the territories. The Armenian sides were willing to accept only those options that would ensure the safety, security and the connection of Artsakh and its population to Armenia. The Azerbaijani side was insisting on the Azerbaijani control over the whole of Artsakh without any guarantees, calling Armenia an occupying state by reference to the UN Security Council Resolutions of 1993.

**22.** *Clarification on the four UN SC Resolutions of 1993:* Azerbaijan, referring to the four UN Security Council resolutions of 1993,<sup>7</sup> claims that Armenia is an occupant state that has violated Azerbaijan's territorial integrity by placing its armed forces in the territory of Artsakh, and demands the withdrawal of those forces as a precondition for the negotiations process. In this regard the following clarifications are necessary:

- (1) *Cease of hostilities:* The four UN SC resolutions of 1993 were adopted during the active and tense hostilities with the view to immediately turn to the peaceful means of the resolution of the conflict and to improve the humanitarian situation affecting all sides. The resolutions, first of all, demanded to immediately cease the hostilities, then to make effective and permanent cease-fire. The last (fourth) resolution condemned the violations of the cease-fire established between the parties earlier undertaken undertaken with the assistance of the Government of the Russian Federation in support of the CSCE (later, OSCE) Minsk Group. The resolutions also urged the parties to negotiate peacefully within the CSCE (OSCE) Minsk Group for the resolution of the conflict.
- (2) *Territories:*<sup>8</sup> The four UN SC resolutions did not call for troops to be withdrawn from the whole territory of Artsakh. They concern exclusively the areas that came under the control of the Armenian forces of Artsakh after the completion of the independence process of the Republic of Artsakh during

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<sup>7</sup> UN SC Res 822 (1993) 30 April 1993; UN SC Res 853 (1993) 29 July 1993; UN SC Res 874 (1993) 14 October 1993; UN SC Res 884 (1993) 12 November 1993.

<sup>8</sup> See the map at the end of this document.

the war between 1992 and 1994. These areas were Kelbajar, Agdam, Fizuli, Jabrayil, Qubadli, Zangilan. This does not apply to the Lachin region, which, regardless of the aforementioned regions, is the only land connection between Artsakh and Armenia. The Lachin area is not mentioned, as the participating member states of the UN Security Council were aware of the serious humanitarian consequences of the geographical separation of Artsakh and Armenia. The resolutions failed to acknowledge the occupation by Azerbaijani forces of the Martakert and Shahumyan regions of the Republic of Artsakh. Thus, based on international law, there is no conflict between the territorial integrity of Azerbaijan and the right to self-determination of the Republic of Artsakh, since the territories of the Republic of Artsakh, which were already under its control at the time of its declaration of independence, are not part of the territory of today's Republic of Azerbaijan.

- (3) *Armenia's role:* Azerbaijan wrongly gives the impression that the resolutions concern the Republic of Armenia itself. The four UN SC resolutions of 1993 do not mention Armenia as a party to the conflict. They refer to the "local Armenian forces", "occupying forces" or "forces from occupied territories" and not to the Republic of Armenia. Rather, the government of Armenia is called upon to use its influence to achieve compliance of the Armenians in Artsakh with the resolutions.
- (4) *Resolutions' role:* After these resolutions of 1993, a trilateral ceasefire agreement was signed in 1994 by Artsakh, Armenia and Azerbaijan which stipulated to conclude a final agreement on the resolution of the conflict and its consequences. Since then this agreement became the basis for the further negotiation with the view to resolve the issue exclusively with peaceful means within the agreed mediation format of the Co-Chairs of the OSCE Minsk Group. All the further details on the final resolution were to be discussed by all parties concerned within the peaceful negotiations. Azerbaijan, by the continuous blockade of Artsakh since 1990s, demanding unilateral concessions with the threat to use force, boycotting the negotiations, the initiation of the wars of April 2016 and September / October 2020, numerous war crimes, has itself violated certain provisions of the resolutions, including the obligation to grant unhindered access to international humanitarian aid in the region. Thus, the constant reference by Azerbaijan to the resolutions has now lost credibility.

# **AZERBAIJAN AND TURKEY AGGRESSION AGAINST ARTSAKH AND ARMENIA (27 September 2020)**

## **Prohibition of the use of force and aggression in international law**

23. Since the 20th century war has been renounced as an instrument of national policy.<sup>9</sup> The 1928 Briand-Kellogg Pact forms the basis of the peaceful settlement of disputes.<sup>10</sup> Article 2(3) of the UN Charter requires states to settle international disputes exclusively by peaceful means, whether political or judicial, for as long as it is necessary. Use of force is impermissible. Even in case of not reaching an early solution, states shall refrain from any action which may impede the peaceful resolution.<sup>11</sup>

24. Use of armed force by one state against another is prohibited under the UN Charter and customary international law<sup>12</sup> and gives rise to international state responsibility. An exception is the inherent right of the state to self-defence in case of an unlawful use of force in the form of an armed attack.<sup>13</sup>

25. As defined in the United Nations General Assembly Resolution 3314 (XXIX) of 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.<sup>14</sup> The state in the definition is used without prejudice to questions of recognition or to whether a State is a member of the United Nations.<sup>15</sup> The acts of aggression include but are not limited to the attack, bombardment, the use of any weapons by the armed forces of a state against the territory of another state,<sup>16</sup> an attack by the armed forces of a state on the land, [...] air forces of another State;<sup>17</sup> the sending on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed forces against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.<sup>18</sup>

26. Aggression is an international crime and gives rise to individual criminal responsibility under customary international law of those individuals who plan, organize, prepare or participate in the first use of large-scale armed force by one state against another, for the purpose of subjugating the other state or with other aggressive aims.<sup>19</sup>

## **War as a political tool of Azerbaijan and Turkey against ethnic Armenian existence in Artsakh**

27. Azerbaijan views the conflict as a dispute between two countries, Armenia and Azerbaijan, over a territory, and that the only resolution is the transfer of that territory to Azerbaijan by any means, including military force, regardless the will of the people of Artsakh. Azerbaijan completely rejects the right of the people (ethnic Armenians) of Artsakh to self-determination, equating the Armenian presence in Artsakh to the presence of Armenian communities throughout the world.<sup>20</sup> This is coupled with the anti-Armenian state policy by Azerbaijan and Turkey, the latter's policy of Pan-Turkism and unconditional support to Azerbaijan's actions.

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<sup>9</sup> Nuremberg IMT, Judgment and Sentences, reprinted in (1947) 41 *American Journal of International Law* 172, p. 218.

<sup>10</sup> Article II, The General Treaty for the Renunciation of War, 27 August 1928.

<sup>11</sup> Article 2(3), UN Charter; see also: 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations; 1982 Manila Declaration on the Peaceful Settlement of International Disputes.

<sup>12</sup> Article 2(4) UN Charter; ICJ, *Nicaragua* case. (Merits), Judgment, 1986, ICJ Reports 14, para 176, p. 94.

<sup>13</sup> *Nicaragua* case (Merits), para 175; Article 51, UN Charter.

<sup>14</sup> Article 1, Annex, United Nations General Assembly Resolution 3314 (XXIX), 14 December 1974.

<sup>15</sup> *Ibid*, Article 1(a).

<sup>16</sup> *Ibid*, Article 3(a), Article 3(b).

<sup>17</sup> *Ibid*, Article 3(d).

<sup>18</sup> *Ibid*, Article 3(g); *Nicaragua* case (Merits), para. 195.

<sup>19</sup> *Ibid*, Article 5(2); *R. v. Jones et al.*, *House of Lords*, 29 March 2006, UK; Y. Dinstein, *War, Aggression and Self-Defence* (5th edn) 2011, p. 128; G. Werle, F. Jessberger, *Principles of International Criminal Law* (3rd edn) 2014, pp. 538-539.

<sup>20</sup> Al Jazeera, President of Azerbaijan Ilham Aliyev's Interview, 17:30 minute, 3 October 2020.



**28.** In his interview to “Al Jazeera” on 3 October 2020 the president of Azerbaijan Ilham Aliyev explained that since the territory of Artsakh is not given to Azerbaijan, the negotiations become ineffective and senseless. Therefore, Azerbaijan uses military force, as a “historical task”<sup>21</sup> in order to establish the Azerbaijani control over the territory. As he states, “[t]hey need to leave our territory. And then the war will stop.”<sup>22</sup> In another interview given to “Al-Arabiya” on 4 October president Aliyev stated: “Karabakh is Azerbaijan. [PM of Armenia] should give Karabakh to those, who own it, to us... Otherwise we will do it by force. We will restore our territorial integrity by force”.<sup>23</sup> He added: “I hear a lot about this, that there is no military solution to the conflict. First, I do not agree with that. If there is no military solution, give us not military solution. Give us diplomatic solution”. He also claims that by using force Azerbaijan is implementing the UN SC resolutions<sup>24</sup> because they were not implemented through negotiations.<sup>25</sup> Aliyev made the same statements in his interview of 19 September to the Azerbaijani media.<sup>26</sup>

**29.** While president Aliyev claims that “[w]e don’t have a problem with Armenian people and consider them [Armenians living in Artsakh] our citizens,”<sup>27</sup> the state policy and the actions and statements of the high-level officials, including president Aliyev, evidence the opposite. Here are a few examples of state-coordinated hate and elimination policy against Armenians. (1) In 2005 the Azerbaijani military methodically destroyed thousands of UNESCO-protected Armenian cross-stones, the last evidence of the indigenous Armenian presence in Julfa, Nakhijevan, under Azerbaijani control. International observers were banned from entering the area, but large reports and evidence are available.<sup>28</sup> (2) In 2004, an Azerbaijani serviceman, Ramil Safarov, murdered an Armenian serviceman with an axe while he was asleep in the course of the NATO training in Budapest. Safarov admitted he had committed the murder on account of his Armenian origin. He was convicted and later sent to Azerbaijan to serve his sentence. However, upon his arrival in 2012, Safarov received a presidential pardon and was released. He was promoted to the rank of major at a public ceremony, granted a flat and paid eight years of salary arrears. Thousands of people celebrated his release in the streets. The Azerbaijani authorities and public received the pardon as “triumph of justice”.<sup>29</sup> (3) The school textbooks in Azerbaijan teach children Armenophobia since early age. Armenians in the textbooks are portrayed as “Armenian aggressors”, “black clouds”, “grey wind” that occupied, destroyed Azerbaijani culture and land,<sup>30</sup> the Republic of Armenia is considered “Azerbaijani historical land”<sup>31</sup>.

**30.** Thus, the 27 September offensive by Azerbaijan against Artsakh is aimed in defeating the self-determination of the people of Artsakh, cleansing the region from ethnic Armenian presence, by the means of military force, coupled with the full land conditional support of Turkey that in turn continues officially denying the 1915 genocide against Armenians in Ottoman Empire.

## Unjustified use of force by Azerbaijan

**31.** As was mentioned before, an exception to the prohibition of the use of force is the inherent right of the state to self-defence in case of an unlawful use of force in the form of an armed attack.<sup>32</sup>

<sup>21</sup> Al Jazeera, President of Azerbaijan Ilham Aliyev’s Interview, 16:50 minute, 3 October 2020.

<sup>22</sup> Ibid, 08:56 minute.

<sup>23</sup> Al Arabiya, President of Azerbaijan Ilham Aliyev’s Interview, 10:35 minute, 4 October 2020.

<sup>24</sup> See more on the clarification on the UN SC Resolutions in the chapter above.

<sup>25</sup> Comply with the UN SC resolutions. [...] during these 28 years [of negotiations] have there been diplomatic solutions? [...] No! [...] How long Armenians will continue to sit on our land...? [...] If international community cannot provide implementation of international resolutions, Azerbaijan will do it itself. That’s what’s happening.”, Al Arabiya, President of Azerbaijan Ilham Aliyev’s Interview, 21:39 minute, 4 October 2020.

<sup>26</sup> Trend.az, Президент Ильхам Алиев: Если Армения игнорирует международное право, то почему мы должны его соблюдать?!, 20 September 2020; Turan, О месседжах в последнем выступлении Ильхама Алиева, 21 September 2020.

<sup>27</sup> Al Jazeera, President of Azerbaijan Ilham Aliyev’s Interview, 12:38 minute, 3 October 2020.

<sup>28</sup> More on the destruction of Armenian cultural heritage, A Regime Conceals Its Erasure of Indigenous Armenian Culture, 18 February 2019; more on the destruction of the cross-stones in Julfa, Nakhijevan, The Guardian, Monumental loss: Azerbaijan and the worst cultural genocide of the 21st century, 1 March 2019;

<sup>29</sup> More details, ECtHR, Makuchyan and Minasyan v. Azerbaijan and Hungary, Judgment (Application no. 17247/13) 26 May 2020.

<sup>30</sup> e.g., 9th grade textbook; 2nd grade textbook.

<sup>31</sup> e.g. 3rd grade textbook.

<sup>32</sup> Nicaragua case (Merits), para 175; Article 51, UN Charter.

Azerbaijan's use of military force against Artsakh could only be justified if carried out as a response to the prior, ongoing or imminent armed attack coming from Artsakh.

32. As it was demonstrated in the previous chapter, Azerbaijan's justification of the use of force was the ineffectiveness of the negotiations and the wish to solve the issue through military means by establishing a territorial control by Azerbaijan over Artsakh and rejecting the right to self-determination of the people of Artsakh.

33. There is no indication of any armed attack from the side of Artsakh or Armenia that would trigger the right of Azerbaijan to use force as a self-defence. As the president of France, Emmanuel Macron also stated, "I want to be clear. The attacks of last Sunday on the part of Azerbaijan to my knowledge did not have any justifications."<sup>33</sup>

### **Attack, bombardment, use of weapons by Azerbaijan's armed forces against the territory of Artsakh as acts of aggression<sup>34</sup>**

34. As noted above, Artsakh satisfies the criteria of statehood, despite its current *de facto* status. Besides, for the purposes of the prohibition of aggression against a state, "the state" is used without prejudice to questions of recognition or to whether a State is a member of the United Nations.<sup>35</sup>

35. On 27 September Artsakh Defence Army announced that, in the morning, at about 07:15, Azerbaijan's armed forces launched a large-scale armed attack, using artillery, military aviation, striking UAVs and armoured fighting vehicles along the whole line of contact between the Azerbaijan and Artsakh armed forces,<sup>36</sup> targeting also the deep-seated civilian settlements, including capital city Stepanakert.<sup>37</sup> The attack on Stepanakert resulted in the deaths of at least two civilians: a girl and a woman.<sup>38</sup> Then, the special forces, motor-rifle and armoured units of the Azerbaijani armed forces turned to the offensive in the northern, southern and south-eastern direction of Artsakh.<sup>39</sup>

36. As of 18:00 of 27 September the Defence Army reported, it had hit 3 helicopters, around 20 UAVs, including striking ones, 30 tanks and infantry fighting vehicles (IFV) of Azerbaijani armed forces. On the Artsakh side, 16 military personnel were killed and hundreds wounded.<sup>40</sup> The president of Artsakh, Arayik Harutyunyan, in his press conference of 27 September announced that Azerbaijan used all its military arsenal,<sup>41</sup> including "Smerch", "Kasirga", "Polonez" multiple rocket launchers,<sup>42</sup> artillery, armoured vehicles, including the "TOS 1A" heavy artillery system.<sup>43</sup> Already within four days of the commencement of the armed hostilities Artsakh army destroyed as much offensive military equipment of Azerbaijan as during the whole period of the 1990s war.<sup>44</sup> As of 11 October, the Armenian side reported the following military losses of Azerbaijan: 165 UAVs, 16 helicopters, 17 aircrafts, 510 armoured vehicles, 4 TOS multiple rocket launchers, 4719 personnel.<sup>45</sup>

### **Sending mercenaries by Azerbaijan as an act of aggression**

37. According to available information, Azerbaijan sent and continues sending different armed groups, mercenaries recruited and transferred from Syria with support of Turkey, to fight against the

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<sup>33</sup> Élysée – [Présidence de la République française, Emmanuel Macron Interview](#), Video, 02:22, 1 October, 2020.

<sup>34</sup> Article 3(a), Article 3(b), Annex, United Nations General Assembly Resolution 3314 (XXIX), 14 December 1974.

<sup>35</sup> Ibid, Article 1(a).

<sup>36</sup> Artsakh Defence Army, [Facebook, published at 11:10](#), 27 September 2020.

<sup>37</sup> Artsakh Defence Army, [Facebook](#), Photos, 09:59hh, 27 September 2020; [Facebook](#), Video 13:02hh, 27 September 2020.

<sup>38</sup> Forbes, [Tanks Ablaze As Azerbaijani Forces Attack Armenian Troops In Disputed Nagorno-Karabakh](#), Sebastien Roblin, 27 September 2020.

<sup>39</sup> Artsakh Defence Army, [Deputy Commander of Artsakh Defence Army Artur Sargsyan's Press Conference](#), 07:00 minute, 18:00hh, 27 September 2020.

<sup>40</sup> Ibid, 07:40 minute.

<sup>41</sup> President of Artsakh, Arayik Harutyunyan, [Press conference, Facebook, Video](#), 0:30 minute, 27 September 2020.

<sup>42</sup> Armenia MoD, [Facebook](#), 27 September, 17:32.

<sup>43</sup> Shushan Stepanyan, [Armenia MoD, Facebook](#), 08:34hh, 28 September 2020; TOS video, Shushan Stepanyan, [Armenia MoD, Facebook](#), 22:01hh, 28 September 2020.

<sup>44</sup> Artsrun Hovhannistan, [Armenia MoD, Facebook](#), 4 October 2020.

<sup>45</sup> Armenian Unified Infocenter, [Facebook](#), 11 October 2020.

armed forces of Artsakh. These persons are wearing uniforms of the Azerbaijani armed forces, armed with weapons<sup>46</sup> and are substantially involved in the armed hostilities.<sup>47</sup> Intercepted phone conversations and the reported numbers of the deaths indicate that they are participating in hostilities in the hotspots of the battlefield.<sup>48</sup> They were recruited and deployed in advance, before the actual hostilities which also indicates sent mercenaries and other armed groups on its behalf to start the offensive operation against Artsakh.

## Acts of aggression against Armenia

**38.** On 29 September, the Azerbaijani Ministry of Defence spread information that Armenia was attacking Dashkesan region of Azerbaijan from the eastern, Vardenis region of Armenia. Armenia officially rejected these claims stating that Azerbaijan was aiming to prepare grounds to widen the territory of the armed hostilities and commit aggression against the Republic of Armenia. About one hour later, Azerbaijani armed forces directed attacks against the military units, used air force against the Armenian military positions in Vardenis of Armenia, and used a UAV targeting and burning down a civilian bus.<sup>49</sup>

**39.** The Ministry of Defence of Armenia reported that on 29 September, from 10:30 an F-16 fighter aircraft belonging to the air forces of Turkey took off from “Gyanja” airport of Azerbaijan and were ensuring the attacks from Azerbaijani “Dalyar” airport on the civilian settlements and armed forces of Vardenis, Mets Masrik, Sotk regions of the Republic of Armenia. These attacks were carried out with SU-25 aircraft and “Bayraktar” UAV of Turkish production. According to the flight data recorder, the Turkish F-16 multifunctional fighter, was located at a depth of 60 km, at an altitude of 8200 meters.<sup>50</sup>

**40.** On 1 October, the Ministry of Defence of Armenia reported that the Azerbaijani armed forces shelled the Vardenis-Sotk highway of Armenia.<sup>51</sup> Hours later Azerbaijan was reported to have directed artillery attacks against Shatvan, UAV attacks on Mets Masrik villages of Gegharkunik region of Armenia, as a result of which one civilian was killed and two other civilians were injured.<sup>52</sup>

**41.** From 1 to 2 October, at night Azerbaijani 4 intelligence UAVs were destroyed by the Armenian armed forces in the air territory of Armenia, in Kotayk, Gegharkunik regions.<sup>53</sup>

**42.** On 2 October, at around 15:30, the Armenian MoD rejected Azerbaijani official statements, that the “Tochka-U” tactical missile complex was used from the territory of Armenia to target Azerbaijani territory. The Armenian MoD noted that although Armenia’s territory, Vardenis region, had been targeted with UAVs and artillery of various calibres for several days, no rocket was fired yet in the direction of Azerbaijan from the territory of the Republic of Armenia.<sup>54</sup>

**43.** On 4 October the Armenian MoD officially further denied Azerbaijani any claims that its territory was being attacked from the territory of Armenia,<sup>55</sup> especially in the direction of Mingechaur,<sup>56</sup> and later reported that it targeted Azerbaijani intelligence UAVs in Vardenis region of Armenia on 7 October<sup>57</sup> and 8 October.<sup>58</sup> On 10 October before the agreed time of the humanitarian ceasefire, Azerbaijan employed striking UAVs in Syunik region of Armenia.<sup>59</sup>

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<sup>46</sup> Middle East Monitor, *‘We were deceived’, says Syria mercenary fighting in Azerbaijan*, 1 October 2020.

<sup>47</sup> see more on mercenaries in the chapter below.

<sup>48</sup> Iin.am, *Ընդ մեկ զամբնուազերնմիսծ ձայնագրույթունն սիրիացի վարձկաններ*, 12 October 2020.

<sup>49</sup> Caucasian Knot, *Armenian MoD reports about shelling attacks on Vardenis* 29 September 2020; Artsrun Hovhannisyanyan, Armenia MoD, [Facebook](#), Photos, 29 September 2020.

<sup>50</sup> Artsrun Hovhannisyanyan, Armenia MoD, [Facebook](#), 29 September 2020; Artsrun Hovhannisyanyan, Armenia MoD, [Facebook](#), Video, 29 September 2020.

<sup>51</sup> Shushan Stepanyan, Armenia MoD, [Facebook](#), 18:46hh, 1 October 2020.

<sup>52</sup> Shushan Stepanyan, Armenia MoD, [Facebook](#), 22:42hh, 1 October 2020.

<sup>53</sup> Shushan Stepanyan, Armenia MoD, [Facebook](#), 2 October 2020.

<sup>54</sup> Shushan Stepanyan, Armenia MoD, [Facebook](#), 2 October 2020.

<sup>55</sup> Davit Tonoyan, Minister of Defence of Armenia, [Interview](#), 4 October 2020.

<sup>56</sup> Shushan Stepanyan, Armenia MoD, [Facebook](#), 4 October 2020.

<sup>57</sup> Artsrun Hovhannisyanyan, Armenia MoD, [Press Conference](#), Video, 20 minute, 7 October 2020.

<sup>58</sup> Shushan Stepanyan, Armenia MoD, [Facebook](#), 8 October 2020.

<sup>59</sup> Shushan Stepanyan, Armenia MoD, [Facebook](#), 10 October 2020; Map, [Syunik region](#).

# JOINT PREPARATION AND EXECUTION BY AZERBAIJAN AND TURKEY OF AGGRESSION AGAINST ARTSAKH AND ARMENIA

## Joint preparations by Azerbaijan and Turkey at information/ propaganda level

44. On 27 September the State Border Service of Azerbaijan published on its “YouTube” channel a music video about “Karabakh” singing the land is calling the Azerbaijani people to go and liberate it. As we can read in the description under the clip, the archives of Ministry of Defence and State Border Service of Azerbaijan were used in the preparation of the video. It is apparent that the music video could not be shot the same day of the commencement of the armed hostilities. The song is performed in an open field with no enemies in sight, next to the fleet of missiles launchers and tanks.<sup>60</sup>

45. Azerbaijan restricted international reporters to report on the situation on the ground. Turkish journalists were allowed to work and report the pre-planned scenario of the events. Turkish journalists were deployed in Azerbaijan already before the burst of armed hostilities and were rapidly reporting from the frontline minutes after the official announcement of the escalation on 27 September.<sup>61</sup> Azerbaijan has also restricted social media and communications platforms since the beginning of the hostilities.<sup>62</sup>

46. From the beginning on 27 September and throughout the period of the armed hostilities all Turkish media articles without exception called “Invader Armenia”. On 21 September Euronews Turkey published an article with the headline “A message from Turkey to Armenia – You’ve attacked Azerbaijan, stop playing with fire” by referring to the Ministry of National Defence of Turkey and mentioning an alleged death of an Azerbaijani soldier near Armenian-Azerbaijani border.<sup>63</sup> On 23 September the head of Turkey’s Great Unity Party Mustafa Destiji announced that they are taking the alleged murder of an Azerbaijani soldier as a threat to Turkey and to the Turkish nation.<sup>64</sup>

47. Already in August the Turkish newspapers also blamed Armenia for, as they state “having claims towards Azerbaijani Tovuz region and Georgian Akhalkalaki region.”<sup>65</sup> Other such groundless information was also actively published proceeding the armed hostilities, such as Kurdish mercenaries fighting on the Armenian side against Azerbaijan or Armenian mercenaries being sent to Syria to fight against Turkey, or Artsakh authorities preparing the population for evacuation, and on secret negotiations on behalf of the Armenian Prime Minister to give Azerbaijan Armenian territories in exchange for peace. This indicates the willingness of the Azerbaijani and Turkish authorities to predispose the international community’s attitude against the Armenians, to justify their own acts of recruitment and use of Syrian mercenaries, as well as to spread panic among the local Armenian population in Artsakh. Turkey had used the same excuse of neutralizing terrorist upon its invasion of Northern Iraq.<sup>66</sup>

## Turkey’s complete and unconditional support to Azerbaijan at high-political level

48. Turkey has been providing complete and unconditional support to Azerbaijan also at high-political level both before and throughout the whole period of the armed hostilities.

49. On 22 September Turkish newspaper “Cumhuriyet” published an article “A warning from Chavushoghlu to Armenia” where Turkish Foreign Minister Mevlut Chavushoghlu said Armenia had better gather its wits, adding that they are always by brotherly Azerbaijan’s side in their just cause.<sup>67</sup> The speaker of Turkey’s ruling AK Party Chelik added that there is no need to analyse too much, Turkey

<sup>60</sup> DÖVLƏT SƏRHƏD XİDMƏTİ, “Atəş” klipi. İfa edirlər: Nur qrupu, Nərin Kərimbəyova, Ceyhun Zeynalov (Cin), Video, 27 September 2020.

<sup>61</sup> Shushan Stepanyan, Armenia MoD, Facebook, 09:59hh, 27 September 2020.

<sup>62</sup> NetBlocks, MappingNetFreedom, 27 September 2020.

<sup>63</sup> Euronews Turkey, *Türkiye'den Ermenistan'a mesaj: “Azerbaycan'a saldırdın, ateşle oynamayı kes”*, 21 September 2020.

<sup>64</sup> Milliyet, *Mustafa Destici'den GSM operatörlerine çağrı*, 23 September 2020.

<sup>65</sup> Cumhuriyet, *Rusya, Ermenistan'ı silahlandırıyor*, 19 August 2020; Cumhuriyet, *Aliyev: Ermenistan'a silahlar ücretsiz veriliyor*, 25 September 2020.

<sup>66</sup> The Jerusalem Post, *Is Turkey planning to recruit Syrians to fight Armenia?*, 26 September 2020.

<sup>67</sup> Cumhuriyet, *Çavuşoğlu'ndan Ermenistan'a uyar*, 22 September 2020.

unconditionally stands next to brotherly Azerbaijan and they are once again sending their warnings to Armenia not to play with fire.<sup>68</sup>

50. Turkey's president Erdogan reaffirmed on 27 September that "the Turkish nation continues to stand by its Azerbaijani brothers and sisters with all its means, as it has always done".<sup>69</sup> Additionally, in July Turkey's defence minister "vowed to avenge" the Azerbaijani soldiers killed in clashes with Armenia.<sup>70</sup>

## **Turkey's support to Azerbaijani aggression as a political tool in resolution of the conflict**

51. Turkey has the same official position concerning the peace process as Azerbaijan, considering the negotiations ineffective, thus, justifying the use of force with the purpose of obtaining territories and without the presence of the Armenian population in Artsakh.

52. Turkish ambassador to Canada in an interview to the Canadian "CBC" reaffirmed Turkey's resort to the use of force on the Azerbaijani side as an alternative to the peaceful negotiations. As he put it, the OSCE Minsk Group "have been negotiating for 30 years. [...] We are not in favour of using force to solve issues. [...] We would love a peaceful resolution but it's not there and, everything, every avenue has been tried and it's not working".<sup>71</sup>

53. President Erdogan, leaders of Turkey's "Justice and Development party" and nationalist party "Nationalist movement" explicitly call for war.<sup>72</sup> Erdogan expressed his hopes that Azerbaijan would not stop until it "liberated its territories".<sup>73</sup>

## **Turkey's military involvement in the aggression**

54. According "Razminfo" referring to the Turkey's Export Council report, Turkey's defence and aviation export to Azerbaijan rapidly increased starting from August 2020. While the defence and aviation export in July constituted \$278 thousand, in August it increased to \$36 million, and in September \$77 million 167 thousand.<sup>74</sup>

55. Turkey's involvement in the armed conflict was also recognized by the European Court of Human Rights which in its decision on the interim measures called on "all States directly or indirectly involved in the conflict, including Turkey, to refrain from actions, that contribute to breaches of the Convention rights of civilians, and to respect their obligations under the Convention".<sup>75</sup>

## **Turkey placing its armed forces and military equipment in Azerbaijan**

56. In July – September Turkish-Azerbaijani large-scale joint military exercises of air and ground forces took place in different areas of Azerbaijan, including Nakhijevan region (between Armenia's and Turkey's borders). Air combat drills, involving jets and helicopters, continued in Baku, Nakhchivan, Ganja, Kurdamir, and Yevlakh, while ground operations were held in Baku and Nakhijevan.<sup>76</sup> After the official closure the Turkish military, including advisers and equipment, remained in the territory of

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<sup>68</sup> Milliyet, *Son dakika: AK Parti Sözcüsü Çelik: Biz müzakere, diplomasi devletivi*, 22 September 2020.

<sup>69</sup> President of Turkey, "The Turkish nation stands by its Azerbaijani brothers and sisters with all its means", 27 September 2020.

<sup>70</sup> The Jerusalem Post, *Is Turkey planning to recruit Syrians to fight Armenia?*, 26 September 2020.

<sup>71</sup> CBC News, Interview with Turkish ambassador to Canada, *Facebook*, Video, 8 October 2020.

<sup>72</sup> Civilnet, referring to Garo Paylan, an ethnic Armenian parliamentary in Turkey, *Թուրքիայի իշխանությունը բազմապիսի արտակարգի քայլերն է անում. Գարո Փայլան*, 3 October 2020.

<sup>73</sup> Lenta.ru, *Эрдоган поддержал наступление армии Азербайджана в Карабахе*, 2 October 2020.

<sup>74</sup> Razminfo, *Սեպտեմբերին Թուրքիան Արրբեջանին 77 մլն դոլարի ռազմարդյունաբերական արտադրանք է վաճառել*, 12 October 2020.

<sup>75</sup> ECtHR, Decision on Interim Measures, Armenia v. Turkey, (Application 43517/20) 6 October 2020.

<sup>76</sup> Anadolu, *Turkey, Azerbaijan preparing for joint military drill*, 28 July 2020.

Azerbaijan preparing for the upcoming armed hostilities of 27 September. Turkish land<sup>77</sup> and air forces were confirmed to be used against Artsakh and Armenia.

**57.** On 19 September Turkish newspaper “Akşam”, citing President of Azerbaijan, mentioned that Armenia had better think whether the joint Turkey-Azerbaijan military drills are a coincidence or not, underlining that the distance between Azerbaijani-Armenian border in Nakhichevan and Yerevan is only 80km. In the same interview Aliyev spoke about alleged Armenian claims towards Turkey, stating that any sensible politician or historian isn’t going to stand it, because this is going to be their end.<sup>78</sup>

**58. Presence of Turkey’s military personnel:** On 4 October Hikmet Hacıyev, Assistant to the president of Azerbaijan İlham Aliev tweeted photos from the city Gyanja, a permanent location of the Azerbaijani military facilities, from where military attacks are carried out against Artsakh and Armenia. In his post he blamed Armenians for “missile attacks” and “killing civilians” but deleted the post shortly after. The photos clearly demonstrated the military personnel of the Turkish armed forces wearing Turkish military uniform with the Turkish army emblem.<sup>79</sup> The same is seen in the background of the photo taken during the report of the “Al Jazeera” in Azerbaijan.<sup>80</sup>

**59. Turkish F-16:** on 27 September the president of Artsakh Arayik Harutyunyan announced at the press conference that Turkish F-16, registered in the balance of Turkish air forces, were not only used in the course of the hostilities but they had conducted intelligence flights for months before that.<sup>81</sup> Satellite images suggest that there are at least two F-16 fighter jets in Gyanja airport of Azerbaijan together with a Turkish cargo aircraft.<sup>82</sup> President Aliev admitted in the interview to the “CNN” the presence of the F-16s since the Azerbaijani-Turkish joint summer military drills, but he denied their use.<sup>83</sup> The Artsakh MoD further reported the use of F-16s by Azerbaijan in different directions against Artsakh. On 29 September Armenia’s MoD reported that an Armenian Su-25 aircraft was targeted and downed by the F-16 in the direction of the territory of Armenia.<sup>84</sup>

**60. Turkish UAVs, including TB2 “Bayraktar”:** Already on 27 September the president of Artsakh Arayik Harutyunyan mentioned the use of Turkish UAV “Bayraktar” and their control by Turkish armed forces against Artsakh.<sup>85</sup> These drones are used to target civilians and civilian objects in Artsakh and Armenia. Thus, Canada suspended the export to Turkey of its technologies that are used in production of “Bayraktar” UAVs.<sup>86</sup> Azerbaijan’s president Aliev admitted their use of Turkish UAVs in his interview to the Turkish TRT Haber TV: “due to the Turkish UAVs we avoided a lot of losses. Those UAVs demonstrate Turkey’s potential and strengthen us more... We are a very happy country to have a brother like Turkey”.<sup>87</sup>

## Turkey’s command and control of Azerbaijani armed forces

**61.** In addition to the presence of Turkish military personnel and equipment in the territory of Azerbaijan and their use against Artsakh and Armenia, Turkey’s armed forces have been reported to be

<sup>77</sup> e.g. a photo of a Turkish shell in Kut village of Vardenis of Armenia, Artsrun Hovhannisyán, Armenia MoD, [Facebook](#), 3 October 2020.

<sup>78</sup> Akşam, [Azerbaijan Cumhurbaşkanı Aliyev'den ortak tatbikat açıklaması: Eriven yönetimini korkutuyor!](#), 19 September 2020.

<sup>79</sup> Razminfo, [Facebook](#), Photos, 4 October 2020.

<sup>80</sup> Razminfo, [Facebook](#), Photos, 4 October 2020.

<sup>81</sup> President of Artsakh, Arayik Harutyunyan, [Press Conference](#), Video, 09:30 minute, 27 September 2020.

<sup>82</sup> Christoph Koettle, [Twitter](#), 7 October 2020; Christiaan Triebert, [Twitter](#), 7 October 2020; Hetq, [New York Times Reporter Uncovers Evidence of Turkish F-16s in Ganja](#), 9 October 2020.

<sup>83</sup> CNN, [التريكية لا تشارك في المعارك ضد أرمينيا F-16 رئيس أذربيجان: مقاتلات](#), Video, 8 October 2020.

<sup>84</sup> Artsakh Defence Army, [Facebook](#), 30 September 2020; Artsrun Hovhannisyán, Armenia MoD, [Facebook](#), 29 September, 17:59.

<sup>85</sup> President of Artsakh, Arayik Harutyunyan, [Press Conference](#), Video, 05:56 minute, 27 September 2020, Arayik Harutyunyan, 27 September 2020; more on the Turkish air force, Forbes, [Tanks Ablaze As Azerbaijani Forces Attack Armenian Troops In Disputed Nagorno-Karabakh](#), 27 September 2020; Manu Gomez, [Twitter](#), 27 September 2020.

<sup>86</sup> Government of Canada, [Statement from Minister Champagne on suspension of export permits to Turkey](#), 5 October 2020; Razminfo, [Կառավարանը դադարեցրեց ԷՏԲ-ը և ԷՏԲ-նրի ակտիվությունների մատակարարումը](#), 6 October 2020.

<sup>87</sup> TRT HABER, [Azerbaijan Cumhurbaşkanı Aliyev TRT Haber'e konuştu](#), 5 October 2020 (translated – author); see more: Mediamax, [Turkish Bayraktars striking Artsakh are Erdogan's family business](#), 30 September 2020.

carrying out the command and control of the Azerbaijani armed forces and the operation and direction of the F-16 aircrafts and “Bayraktar” UAVs.<sup>88</sup>

**62.** The Armenian MoD announced on 30 September that the air command of offensive operations of Azerbaijan against Artsakh was handed over the Turkish air forces. A video was released demonstrating two F-16 fighter jets of the Turkish Air Forces flying from Kurdamir, SU-25 aircrafts of the Azerbaijani Air Force, the “Bayraktar” drones carrying out bombing and missile attacks at high altitudes in the direction of settlements of Hadrut and Martuni regions of Artsakh. The Armenian MoD added that the air force operated under the remote command and control of the Turkish E7-T airborne C2 station from Erzurum- Kars area, the command and leadership of the Turkish Air Forces possibly being on the board. The Turkish UAV C2 station was reported to be located at a distance from the border with Hadrut region, which directly controls the fire of Azerbaijani attack planes. The above-mentioned information is being directly monitored and observed by the C2 of the joint air defence and aviation command.<sup>89</sup>

## Turkey’s recruitment and transfer of mercenaries to Azerbaijan

**63.** Turkey has been involved directly in the recruitment and transfer of the mercenaries from the territories under its control of the Northern Syria both in the course and before the armed hostilities as part of the joint advance preparations with Azerbaijan.<sup>90</sup> Already on 13 September some militants were summoned by the Turkish military in Afrin,<sup>91</sup> and signed contracts on 18 September.<sup>92</sup> There have been reports and affirmations by the fighters that the Turkish military has opened recruitment sites in Afrin,<sup>93</sup> Azaz, Jarablus, alBab, Mareh, alRaii for the purposes of their transfer to Azerbaijan.<sup>94</sup> There have also been calls in mosques across areas occupied by Turkey to fight “Crusaders and the enemies of Muslims”.<sup>95</sup> The transfer of the mercenaries,<sup>96</sup> as well as that of their corpses is carried out through the territory of Turkey<sup>97</sup>. As the president of France E. Macron stated on 1 October, “we have information that indicates with certainty that Syrian fighters from jihadist groups have transited through Gaziantep [a city in Turkey] to reach the theatre of operations in Nagorno-Karabakh”.<sup>98</sup>

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<sup>88</sup> President of Artsakh, Arayik Harutyunyan, [Press Conference](#), Video, 06:10 minute, 27 September 2020.

<sup>89</sup> Shushan Stepanyan, Armenia MoD, [Facebook](#), 30 September 2020; Shushan Stepanyan, Armenia MoD, [Facebook](#), Video, 30 September 2020.

<sup>90</sup> The Jerusalem Post, [Is Turkey planning to recruit Syrians to fight Armenia?](#), 26 September 2020.

<sup>91</sup> The Guardian, [Syrian rebel fighters prepare to deploy to Azerbaijan in sign of Turkey’s ambition: Volunteers in Syria’s last rebel stronghold claim Turkish firm signing up fighters](#), 28 September, 2020.

<sup>92</sup> The Guardian, [Syrian recruit describes role of foreign fighters in Nagorno-Karabakh](#), 2 October 2020.

<sup>93</sup> EurAsia Daily, [Afrin Post: Турция открыла в Сирии два пункта набора боевиков в Азербайджан](#), 28 September 2020.

<sup>94</sup> Human Rights Organisation -Afrin -Syria, [Facebook](#), 28 September 2020; EurAsia Daily, [Боевик «Ахрар аль-Шам»: «Не хочу в Азербайджан, но мне нужны деньги»](#), 29 September 2020.

<sup>95</sup> Human Rights Organisation -Afrin -Syria, [Facebook](#), 28 September 2020.

<sup>96</sup> The Guardian, [Syrian recruit describes role of foreign fighters in Nagorno-Karabakh](#), 2 October 2020 – Already on 22 September “Hamza Division”, consisting of Arab and Turkman militants, under the Turkish control were deployed to Azerbaijan. Turkish-backed Syrian National Army (SNA) in Afrin and SNA-affiliated Jaish al-Nukhba militia were supposed to be deployed on 25 September. Turkish-backed Sultan Murad, Suleiman Shah and Al Hamza divisions which left the Hawar Kilis border crossing with Turkey for a military base in Gaziantep on 23 September. The next day they flew to Istanbul and then on to Azerbaijan via Turkish military cargo planes. Data from the Flight Radar website, which tracks aircraft movements, as well as geo-located pictures and coordinates confirm this account.

<sup>97</sup> Syrian Observatory for Human Rights (SOHR), [Nagorno-Karabakh battles: 107 Syrian mercenaries killed so far, and Turkey prepares new batch to send to Azerbaijan](#), 9 October 2020.

<sup>98</sup> RFI, [France’s Macron says Syrian jihadists active in Armenia-Azerbaijan conflict](#), 1 October 2020.

## RECRUITMENT AND USE OF MERCENARIES BY AZERBAIJAN AND TURKEY

64. There has been large-amount of information indicating that Azerbaijan jointly with Turkey recruit finance, use and train mercenaries for the participation in the armed hostilities on behalf of Azerbaijan against Artsakh.

65. The process has started before the actual commencement of armed hostilities and continues. France,<sup>99</sup> Russia,<sup>100</sup> officially confirmed with certainty that Syrian fighters have been transferring to fight against Artsakh for monetary gains.

66. According to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries of 1989, to which Azerbaijan is a party,<sup>101</sup> any person who recruits, uses, finances or trains mercenaries, commits an offence.<sup>102</sup> A mercenary, who participates directly in hostilities or in a concerned act of violence, commits an offence.<sup>103</sup> The attempt or complicity to these offences is also an offence.<sup>104</sup> Azerbaijan, as a state party to the convention, is bound not to recruit, use, finance or train mercenaries and shall also take appropriate preventive measures, especially for the purpose of opposing the legitimate exercise of the inalienable right of peoples to self-determination.<sup>105</sup>

67. A mercenary is defined as any person who is specifically recruited locally or abroad in order to fight in an armed conflict, motivated to take part in hostilities by the desire for private gain and, in fact, is promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar rank and functions in the armed forces of that party, is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict, not a member of the armed forces of a party to the conflict, and has not been sent by a State which is not a party to the conflict on official duty as a member of its armed forces.<sup>106</sup>

### Advance and continuous recruitment and transfer

68. There is vast information that the preparations to deploy mercenaries from the Northern areas of Syria controlled by Turkey (Idlib,<sup>107</sup> Afrin, Tel Abyad) started already months before the actual hostilities of 27 September 2020. Some reports themselves came before the actual hostilities (e.g. by “Jerusalem Post”, on 26 September).<sup>108</sup>

69. “The Independent” first learnt about initial recruitment plans in July.<sup>109</sup> Some mercenaries in Idlib region informed that the recruitment process had started a month before the 27th of September.<sup>110</sup> Some were already summoned to a military camp in Afrin on 13 September and signed their contracts on 18 September.<sup>111</sup> Photos and videos were provided of buses with about 200 Syrian mercenaries recruited

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<sup>99</sup> France 24 English, “Mercenaries, not jihadis”: Wassim Nasr on Turkish-backed Syrian fighters in Azerbaijan, Video, 00:32 minute, 3 October 2020.

<sup>100</sup> Reuters, *Russia warns that Nagorno-Karabakh could become Islamist militant stronghold*, 6 October 2020.

<sup>101</sup> UN Treaty Collections, International Convention against the Recruitment, Use, Financing and Training of Mercenaries, 4 December 1989, [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XVIII-6&chapter=18&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-6&chapter=18&clang=en).

<sup>102</sup> Article 2, International Convention against the Recruitment, Use, Financing and Training of Mercenaries of 1989.

<sup>103</sup> Ibid, Article 3.

<sup>104</sup> Ibid, Article 4.

<sup>105</sup> Ibid, Article 5(2).

<sup>106</sup> Article 1, International Convention against the Recruitment, Use, Financing and Training of Mercenaries of 1989 to which Azerbaijan is a party, Armenia and Turkey are not; *see also* Article 47, AP I of 1977 to GC, to which Azerbaijan and Turkey, are not parties, Armenia is.

<sup>107</sup> The Guardian, *Syrian rebel fighters prepare to deploy to Azerbaijan in sign of Turkey’s ambition: Volunteers in Syria’s last rebel stronghold claim Turkish firm signing up fighters*, 28 September, 2020.

<sup>108</sup> The Jerusalem Post, *Is Turkey planning to recruit Syrians to fight Armenia?*, 26 September 2020.

<sup>109</sup> The Independent, *‘We don’t even know where Azerbaijan is’: The Syrian mercenaries driven by poverty to die in a distant war*, 10 October 2020.

<sup>110</sup> The Guardian, *Syrian rebel fighters prepare to deploy to Azerbaijan in sign of Turkey’s ambition: Volunteers in Syria’s last rebel stronghold claim Turkish firm signing up fighters*, 28 September, 2020.

<sup>111</sup> Ibid.



by Turkey being sent on 23 September “to a base near the border with Armenia”.<sup>112</sup> Some fighters agreed to be sent on 25 September.<sup>113</sup> Some mercenaries who had arrived in Azerbaijan a week before the hostilities were reported dead in the battlefield as of 29 September.<sup>114</sup> A video released on 25 September shows Turkish-backed Syrian National Army (NSA) mercenaries being trained at Hawar Kilis military crossing on the border to Turkey.<sup>115</sup>

**70.** *The numbers of the mercenaries are different according to different reports, and are changing since the recruitment and transfer is a continuous process.*<sup>116</sup> Some reports initially mentioned 4000 Syrian militants as of 27 September.<sup>117</sup> Some other reports indicated 1000 mercenaries planned to be deployed.<sup>118</sup> The Syrian Observatory for Human Rights (SOHR) reported on 1 October that about 900 mercenaries had been transported to Azerbaijan by Turkish security companies.<sup>119</sup> According to sources within the SNA, around 1500 Syrians have been deployed as of 5 October.<sup>120</sup> As of 9 October, the Turkish government was preparing over 400 fighters of “Sultan Murad”, “Al-Hamzat Division” and other factions to transport to Azerbaijan in the next hours and days.<sup>121</sup> Most of those fighters are Syrians of Turkmen descent.<sup>122</sup>

## Deployment to participate in hostilities and private gain

**71.** The mercenaries were recruited and deployed to fight in the battlefield. As the Russian Foreign Ministry stated, the “fighters of illegal armed groups including from Syria and Libya are being deployed to the Nagorny Karabakh conflict zone in order to directly take part in fighting”.<sup>123</sup> Some of them had been promised to just work as guards for borders or oil fields Azerbaijan. However, upon arrival they were sent to the battlefield.<sup>124</sup> As some fighters informed, they were told they would “not be fighting, just assisting in guarding some areas,” and they saw it as an opportunity to make money.<sup>125</sup> As soon as they were transferred to Turkey before Azerbaijan, they were “stripped from our money, phones and clothes, so that our identity is not recognised... They loaded us into troop carriers, we were wearing Azeri uniforms, and each of us was armed with a single Kalashnikov weapon.” Some wanted to return to Syria but were threatened with long prison terms if they refused to fight.<sup>126</sup>

**72.** The Syrian mercenaries were motivated by the financial compensation they would receive for fighting in the hostilities due to the long-lasting poverty in the region<sup>127</sup> as well as because of not having been paid the promised salaries for those who had previously participated in the fights in Libya.<sup>128</sup> Long

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<sup>112</sup> The Jerusalem Post, *Is Turkey planning to recruit Syrians to fight Armenia?*, 26 September 2020.

<sup>113</sup> Ibid; EurAsia Daily, *Боевик «Ахрар аль-Шам»: «Не хочу в Азербайджан, но мне нужны деньги»*, 29 September 2020.

<sup>114</sup> Twitter, *Hussein Akoush*, 29 September 2020.

<sup>115</sup> احتمالات نيوز, *Twitter*, Video, 25 September 2020.

<sup>116</sup> SOHR, *Nagorno-Karabakh battles: 107 Syrian mercenaries killed so far, and Turkey prepares new batch to send to Azerbaijan*, 9 October 2020.

<sup>117</sup> Human Rights Organisation -Afrin -Syria, *Facebook*, 27 September 2020; The Guardian, *Syrian rebel fighters prepare to deploy to Azerbaijan in sign of Turkey's ambition: Volunteers in Syria's last rebel stronghold claim Turkish firm signing up fighters*, 28 September, 2020; RFI, *France's Macron says Syrian jihadists active in Armenia-Azerbaijan conflict*, 1 October 2020; see also: President of Artsakh, Arayik Harutyunyan, *Press Conference*, Video, 03:45 minute, 27 September 2020.

<sup>118</sup> EurAsia Daily, *Боевик «Ахрар аль-Шам»: «Не хочу в Азербайджан, но мне нужны деньги»*, 29 September 2020.

<sup>119</sup> BBC, *Armenia-Azerbaijan: Both sides defy Nagorno-Karabakh ceasefire calls*, 1 October 2020.

<sup>120</sup> Foreign Policy, *Syrians Make Up Turkey's Proxy Army in Nagorno-Karabakh*, 5 October 2020.

<sup>121</sup> SOHR, *Nagorno-Karabakh battles: 107 Syrian mercenaries killed so far, and Turkey prepares new batch to send to Azerbaijan*, 9 October 2020; Human Rights Organisation -Afrin -Syria, *Facebook*, 12 October 2020.

<sup>122</sup> Ibid.

<sup>123</sup> The Moscow Times, *Russia Says Syria, Libya Fighters Deployed to Karabakh Conflict*, 1 October 2020.

<sup>124</sup> The Guardian, *Syrian rebel fighters prepare to deploy to Azerbaijan in sign of Turkey's ambition: Volunteers in Syria's last rebel stronghold claim Turkish firm signing up fighters*, 28 September, 2020; SOHR, *Nagorno-Karabakh battles: 107 Syrian mercenaries killed so far, and Turkey prepares new batch to send to Azerbaijan*, 9 October 2020.

<sup>125</sup> Al Bawada, *Erdogan is Using Syrian Mercenaries as a Foreign Policy Bludgeon*, 30 September 2020.

<sup>126</sup> Middle East Monitor, *'We were deceived', says Syria mercenary fighting in Azerbaijan*, 1 October 2020.

<sup>127</sup> The Guardian, *Syrian rebel fighters prepare to deploy to Azerbaijan in sign of Turkey's ambition: Volunteers in Syria's last rebel stronghold claim Turkish firm signing up fighters*, 28 September, 2020; EurAsia Daily, *Боевик «Ахрар аль-Шам»: «Не хочу в Азербайджан, но мне нужны деньги»*, 29 September 2020; Foreign Policy, *Syrians Make Up Turkey's Proxy Army in Nagorno-Karabakh*, 5 October 2020.

<sup>128</sup> The Jerusalem Post, *Is Turkey planning to recruit Syrians to fight Armenia?*, 26 September 2020.

queues of fighters were formed in front of the recruitment site of Turkey in Afrin.<sup>129</sup> As a friend of one of the fighters said, he had gone for fighting to Azerbaijan because “his family literally had no food in their fridge; his father is very old and they had started to borrow money... He did not know Azerbaijan or the conflict existed before he was reportedly posted there”.<sup>130</sup>

73. The promised salaries, according to different sources, ranged from \$500 to \$2000 a month, significantly more than they could earn at home.<sup>131</sup>

## Actual use of mercenaries and their presence in Azerbaijan

74. There has been information, including photos and videos, indicating the actual use of the Syrian mercenaries in the fight against Armenians and their presence in Azerbaijan.

75. Some videos were circulating online with Syrian rebels travelling along an Azerbaijani road by pick-up trucks chanting battle songs.<sup>132</sup>

76. Reports have also emerged on the deaths of mercenaries in the battlefield and the return of their corpses. A Hamza Division militant in Azerbaijan said that there has been constant bombardment, people have died on their side, many of the fighters wish to return but are forced to continue fighting.<sup>133</sup> As of 9 October SOHR published the number of the deaths of the Turkish-backed Syrian mercenaries to have reached 107.<sup>134</sup> Earlier on 5 October the number was reported to be 50,<sup>135</sup> and on 3 October 30.<sup>136</sup>

77. The mercenaries wearing Azerbaijani military, in particular, the State Border Service, uniforms have themselves published photos and videos from the battlefield of the fight against Armenians. According to “The Independence”, a video was shared showing Syrian fighters talking about being in Armenia. It was geolocated to an Azerbaijani base in Horadiz, a few kilometres from the front line.<sup>137</sup> They are saying in the video: “We're going to open a crossing to Armenia and to Libya”.<sup>138</sup>

78. Another video was released of a Syrian mercenary in the battlefield in Azerbaijan who is speaking about the heavy shelling carried out by Armenian forces. This person was identified as a fighter recruited by the Hamza Division, a Turkish-backed faction.<sup>139</sup> The video was geolocated to an Azeri ammunition depot south of Horadiz.<sup>140</sup>

79. In another video published on 10 October, a mercenary is videorecording the corpses of the Armenian soldiers saying in Arabic: “We managed to rout those Armenian dogs... There dead bodies are lying there... You can see everything clearly here”.<sup>141</sup> Videos have been released where a fighter says in

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<sup>129</sup> EurAsia Daily, *Afrin Post: Турция открыла в Сирии два пункта набора боевиков в Азербайджан*, 28 September 2020.

<sup>130</sup> The Independent, *‘We don’t even know where Azerbaijan is’: The Syrian mercenaries driven by poverty to die in a distant war*, 10 October 2020.

<sup>131</sup> Ibid; The Guardian, *Syrian rebel fighters prepare to deploy to Azerbaijan in sign of Turkey’s ambition: Volunteers in Syria’s last rebel stronghold claim Turkish firm signing up fighters*, 28 September, 2020; The Jerusalem Post, *Is Turkey planning to recruit Syrians to fight Armenia?*, 26 September 2020; EurAsia Daily, *Afrin Post: Турция открыла в Сирии два пункта набора боевиков в Азербайджан*, 28 September 2020; EurAsia Daily, *Боевик «Ахрар аль-Шам»: «Не хочу в Азербайджан, но мне нужны деньги»*, 29 September 2020.

<sup>132</sup> The Guardian, *Syrian rebel fighters prepare to deploy to Azerbaijan in sign of Turkey’s ambition: Volunteers in Syria’s last rebel stronghold claim Turkish firm signing up fighters*, 28 September, 2020.

; EurAsia Daily, *Afrin Post: Турция открыла в Сирии два пункта набора боевиков в Азербайджан*, 28 September 2020.

<sup>133</sup> The Investigative Journal, *Turkey’s Syrian Mercenaries in Azerbaijan “Feel Tricked” as Bodies Pile Up*, 30 September 2020.

<sup>134</sup> SOHR, *Nagorno-Karabakh battles: 107 Syrian mercenaries killed so far, and Turkey prepares new batch to send to Azerbaijan*, 9 October 2020.

<sup>135</sup> Foreign Policy, *Syrians Make Up Turkey’s Proxy Army in Nagorno-Karabakh*, 5 October 2020.

<sup>136</sup> France 24 English, *“Mercenaries, not jihadis”*: Wassim Nasr on Turkish-backed Syrian fighters in Azerbaijan, Video, 03:53 minute, 3 October 2020.

<sup>137</sup> The Independent, *‘We don’t even know where Azerbaijan is’: The Syrian mercenaries driven by poverty to die in a distant war*, 10 October 2020; Elizabeth Tsukov, Twitter, 3 October 2020; Razminfo, *Facebook*, 3 October.

<sup>138</sup> Elizabeth Tsukov, Twitter, 3 October 2020.

<sup>139</sup> Elizabeth Tsukov, Twitter, 3 October 2020.

<sup>140</sup> The Independent, *‘We don’t even know where Azerbaijan is’: The Syrian mercenaries driven by poverty to die in a distant war*, 10 October 2020.

<sup>141</sup> Armenian Unified Infocenter, *Facebook*, Video, 10 October 2020.

Arabic: “The pigs of the Armenian army” showing the corpses of the Armenian soldiers, and “These are weapons they left” showing the weapons.<sup>142</sup>

**80.** Photos have also been published where the fighters display a knife next to the Armenian military uniform sign and an ear of an Armenian soldier.<sup>143</sup>

**81.** The UK government published a terrorism alert stating that “terrorists are likely to try to carry out attacks in Azerbaijan”. The alert added that “attacks could be indiscriminate and against civilian targets, including places frequented by foreigners, [...] energy sector facilities”.<sup>144</sup>

**82.** Most recently, on 12 October, an intercepted phone conversation of two mercenaries located in Horadiz of Azerbaijan was released. We can hear in Arabic and read translated that “our squad is gone (killed) and they are forcing us to advance again.” One of them adds that they are wearing the Azerbaijani armed forces’ uniform but the Azerbaijani armed forces do not feed or care for wounded in order to leave them die and not pay the promised salary. The condition to receive their payment is to take pictures of dead Armenians. The mercenaries’ corpses are transferred to Turkey. They appear to not be aware that they are located near the Iranian border, or that Azerbaijanis are Shia Muslims.<sup>145</sup>

### Concrete groups that were recruited

**83.** The available information indicates that the Syrian fighters that are recruited by Turkey in the areas under its control are also linked to the crimes of rape, looting in the Northern Syrian by the “Sultan Murad” group.<sup>146</sup> According to the reports, already by the beginning of the hostilities, fighters from the “Sultan Murad” and “Al Hamza” divisions of the Syrian National Army (SNA) backed by Turkey had already arrived in Azerbaijan, including two senior commanders.<sup>147</sup>

**84.** “Sultan Murad” consists of Turkmen fighters who, according to reports, seek the return to the Turkish state, have no official cover and are not given any travel documents.<sup>148</sup> On 2 October, many of Turkmen mercenaries were reported dead, including those belonging to “Sultan Suleiman Shah” group.<sup>149</sup>

**85.** An ex-rebel fighter, from Maarat al-Nouman in Syria’s northwest Idlib province, was reported to be among the dead Syrians in Azerbaijan.<sup>150</sup> A video recorded by a Syrian mercenary in the battlefield shows the corpses of the Armenian soldiers. The fighter gives the names of several groups in Arabic: “The Al-Hamza group, Gen. Major Al-Farouk, The Mejmud group.”<sup>151</sup> Mercenaries were also reported as to be transported from Western Libya to Azerbaijan.<sup>152</sup>

**86.** The names of Amshat Division, Samarqand and Sultan Mohammad Fatih, The Levant Front, Faylaq al Sham, Jaish and Ahrar al Sharqiyya have all joined the fight in Azerbaijan were also reported to be among the groups providing militants to have been sent to Azerbaijan.<sup>153</sup>

**87.** A video released by mercenaries of “Grey wolves”, Turkish neo-fascist organization, being in the areas of Artsakh, showing the border warning in the Armenian, Russian, English languages.<sup>154</sup> We learn they belong to “Grey wolves” by their typical hand signs made in the video.

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<sup>142</sup> Two videos are available offline.

<sup>143</sup> refighe\_khoda, [Twitter](#), 7 October 2020.

<sup>144</sup> UK government, <https://www.gov.uk/foreign-travel-advice/azerbaijan/terrorism>.

<sup>145</sup> Iin.am, [Ելիս մեկ զանոնսագիրժված ձայնագրայթմև սրբիսցի վարձվուժեր](#), 12 October 2020.

<sup>146</sup> The Jerusalem Post, [Is Turkey planning to recruit Syrians to fight Armenia?](#), 26 September 2020.

<sup>147</sup> The Guardian, [Syrian rebel fighters prepare to deploy to Azerbaijan in sign of Turkey’s ambition: Volunteers in Syria’s last rebel stronghold claim Turkish firm signing up fighters](#), 28 September, 2020; Syrian Observatory for Human Rights (SOHR), [Nagorno-Karabakh battles: 107 Syrian mercenaries killed so far, and Turkey prepares new batch to send to Azerbaijan](#), 9 October 2020.

<sup>148</sup> Al Monitor, [Why Syrians are joining Turkey in Nagorno-Karabakh clash](#), 7 October 2020.

<sup>149</sup> Human Rights Organisation -Afrin -Syria, [Facebook](#), Photos, 2 October 2020; Human Rights Organisation -Afrin -Syria, [Facebook](#), Photo, 30 September 2020.

<sup>150</sup> The Independent, [‘We don’t even know where Azerbaijan is’: The Syrian mercenaries driven by poverty to die in a distant war](#), 10 October 2020.

<sup>151</sup> Armenian Unified Infocenter, [Facebook](#), 00:50 minute, 10 October 2020.

<sup>152</sup> Human Rights Organisation -Afrin -Syria, [Facebook](#), 29 September 2020.

<sup>153</sup> Human Rights Organisation -Afrin -Syria, [Facebook](#), 28 September 2020.

<sup>154</sup> Republic of Artsakh, [Twitter](#), Video, 11 October 2020.

## WAR CRIMES AND OTHER VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW

88. A number of violations of the international humanitarian law which also lead to war crimes under international law were reported to be committed in the course of the Azerbaijani military operation against Artsakh and Armenia.

89. Azerbaijan is not a party to the Additional Protocols I and II of 1977 to the Geneva Conventions, while Armenia is. The Republic of Artsakh has declared its commitment to the adherence to the international humanitarian law conventions and customary rules. Despite Azerbaijan's unwillingness to join the Additional Protocols it is bound by the customary international law of armed conflicts and the prohibition of war crimes under customary international law.

90. This report considers the armed conflict between Azerbaijan and Artsakh international due to the established nature of the Artsakh statehood.<sup>155</sup> In addition, the Additional Protocol I of 1977 to the Geneva Conventions regards the armed conflicts in the exercise of the people of their right to self-determination as international.<sup>156</sup>

### Attacks against civilian population, individual civilians and civilian objects in Artsakh

91. It is strictly prohibited under customary international law as a war crime directing attacks (targeting) the civilian population, individual civilians<sup>157</sup> and civilian objects.<sup>158</sup> Civilians become a legitimate target only when they take direct part participation in hostilities.<sup>159</sup> A civilian is anyone who is not a member of the armed forces or organized military group of the party to the conflict.<sup>160</sup> Civilian objects are those which are not military objectives.<sup>161</sup> Military objectives are defined as those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.<sup>162</sup>

92. According to the second interim report of the Ombudsperson of Artsakh, from 27 September to 10 October 25 civilians were killed,<sup>163</sup> more than 100 injured as a result of the Azerbaijani shelling and UAV, including Turkish "Bayraktar", attacks in different cities and villages of Artsakh, including capital Stepanakert, towns of Shushi, Hadrut, Martuni, Martakert, Askeran, Karvajar, Berdzor, villages of Taghaser, Vardashat, Spitakshen, Maghavirus, Nerkin Horatagh, Alashan, Mataghis.<sup>164</sup>

93. The targeting of the civilian population and the settlements took place since the beginning of the Azerbaijani offensive not only alongside the line of contact but also about 90-100 km further deep-seated towns and villages, using missiles and UAVs.

94. The employment of highly precise weapons against the civilians indicates the targeting nature of the attacks. For instance, a precise Israeli UAV "Harop" targeted a civilian person and a house in Hadrut on 27 September.<sup>165</sup> Similarly, missiles, including ballistic missile targeted the civilian population and houses in capital Stepanakert and other cities.<sup>166</sup>

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<sup>155</sup> See more on Artsakh statehood in the earlier chapter above.

<sup>156</sup> Article 1(4), AP I to GC, 1977.

<sup>157</sup> Article 51(2), Additional Protocol I of 1977 to Geneva Conventions (AP I); para. 49..

<sup>158</sup> Article 52, AP I; Henckaerts, Doswald-Beck, *Customary International Humanitarian Law*, Vol. I: Rules, 2005, pp. 25-26.

<sup>159</sup> ICTY, *Prosecutor v. Galic*, Trial Chamber, Judgment of 5 December 2003, para. 48.

<sup>160</sup> Article 51(2), Article 43, AP I; ICTY, *Prosecutor v. Galic*, Trial Chamber, Judgment of 5 December 2003, para. 47.

<sup>161</sup> Article 52(1), AP I.

<sup>162</sup> Article 52(1), AP I, 1977.

<sup>163</sup> Artsakh Ombudsman, [Press Conference](#) on Second Interim Report, 02:14 minute, Video 11 October 2020.

<sup>164</sup> Artsakh Ombudsman, [Second Interim Report](#) on the Azerbaijani atrocities against Artsakh population in September-October 2020, 10 October 2020, p. 4.

<sup>165</sup> Artsakh Ombudsman, [Press Conference](#) on Second Interim Report, 05:00 minute, Video 11 October 2020.

<sup>166</sup> Artsakh Ombudsman, [Press Conference](#) on Second Interim Report, 06:00 minute, Video 11 October 2020

95. From 27 September to 10 October non-stop aerial bombardment, intensive missile, artillery, UAV attacks were reported directed against different cities, including capital Stepanakert, Hadrut, Martuni, Martakert, Shushi.<sup>167</sup> “Smerch”, “Polonez”, “Kasirga”, “TOS 1A” multiple rocket launchers were used.

## Attacks against civilian population, individual civilians and civilian objects in Armenia

96. Attacks against the civilian settlements and population by the Azerbaijani armed forces on 27 September – 1 October were reported also in the territory of Armenia, in Gegharkunik province, around Vardenis city, specifically Vardenis-Sotk highway, Shatvan, Kut villages. Earlier Armenia had denied the Azerbaijani claim they had taken control of Vardenis-Sotk highway.<sup>168</sup> According to the *ad hoc* report of the ombudsman of Armenia, the artillery, UAV, including Turkish “Bayraktar”, attacks were directed against the civilian persons and objects as a result of which one civilian was killed. The targeting of the civilian population and objects was evidenced, among others, by the unexploded arcs about 20-50 meters away from the houses, schools and by the fact that no military objects were located in their vicinity.<sup>169</sup>

## Attacks against journalists

97. Journalists are specifically protected under international humanitarian law due to their vital role in bringing to the attention of the horrors and reality of conflict, and they are protected as civilians. The civilian journalists are protected against attacks as long as they are not taking a direct part in hostilities under customary international humanitarian law.<sup>170</sup>

98. A number of journalists from both Armenian and international media are present the civilian areas in the cities and villages of Artsakh. They and their vehicles have specific identification signs “PRESS”.

99. From 30 September to 2 October dozens of journalists from international (e.g. “Le Monde”, “Agence France-Presse”, “Dozhd”) and local (e.g. “24news”, “ArmeniaTV”) news agencies were injured as a result of artillery attack of the Azerbaijani forces directed against cities Martuni, Martakert, Hadrut.<sup>171</sup>

100. On 8 October, Azerbaijani armed forces attacked twice, allegedly with drones, Ghazanchetsots cathedral of Shushi. As a result of the second attack three journalists that were recording the consequences of the first attack were seriously injured.<sup>172</sup> Given the presence of UAVs in the area<sup>173</sup> the Azerbaijani armed forces had clear advance information on the presence of journalists in the cathedral.

101. In both cases the information indicates the attack was directed also against the journalists. None of them were taking direct part in hostilities, they all had distinctive signs, so did their vehicles, no military objectives were located in the areas of the attacks.

102. It is worth mentioning that Azerbaijan is strictly controlling the media, both domestic and international.<sup>174</sup> At the beginning of the armed hostilities only Turkish media representatives were allowed to report, moreover, they had been deployed to the frontline in advance and started reporting already

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<sup>167</sup> More details, official Facebook pages of Artsakh Ombudsman, Artsakh Defence Army, Armenia MoD.

<sup>168</sup> Shushan Stepanyan, Armenia MoD, [Facebook](#), 21:23hh, 27 September 2020.

<sup>169</sup> Ombudsman of Armenia, [Ad hoc report](#) on fact-finding activities in villages of Gegharkunik province of Armenia damaged by Azerbaijani military attacks, 30 September – 1 October 2020; Artsrun Hovhannisyanyan, Armenia MoD, [Facebook](#), Photos, 29 September 2020.

<sup>170</sup> Henckaerts, Doswald-Beck, *Customary International Humanitarian Law*, Vol. I: Rules, 2005, pp. 115-118. Article 79(2), AP I: “provided that they take no action adversely affecting their status” having the same meaning as “direct participation in hostilities”.

<sup>171</sup> Artsakh Ombudsman, [Second Interim Report](#) on the Azerbaijani atrocities against Artsakh population in September-October 2020, 10 October 2020, p. 15.

<sup>172</sup> Paul Ronzheimer, [Twitter](#), 8 October 2020; Rob Lee, [Twitter](#), 8 October 2020; Armenian Unified Infocenter, [Facebook](#), 8 October 2020; Военный обозреватель, [Telegram](#), Video, 8 October 2020; ArmNews. [ԱրմՆյուզի նկարահանող խումբը՝ քիմիկոմիտայի էպիկենտրոնում](#), Video, 8 October 2020.

<sup>173</sup> Artsakh Ombudsman, [Second Interim Report](#) on the Azerbaijani atrocities against Artsakh population in September-October 2020, 10 October 2020, p. 15.

<sup>174</sup> e.g. France 24, [Facebook](#), Video, 12 October 2020.

minutes after the official announcement of the escalation.<sup>175</sup> Social media and communications platforms were restricted by the Azerbaijani government since the beginning of the hostilities.<sup>176</sup>

**103.** It is also worth reminding that Azerbaijan targets those journalists who visit or write about Artsakh also during the peacetime. An example is the case of the persecution, arrest and attempt to kill blogger Aleksander Lapshin, citizen of Russia, Ukraine, Israel.<sup>177</sup>

## Attacks against humanitarian assistance

**104.** Humanitarian assistance personnel and objects are also specifically protected under international humanitarian law due to their vital role in protection and assistance to the civilian population in the times of war.

**105.** On 27 September when Azerbaijan commenced its attack against the civilian population and the civilian objects of the cities of the Republic of Artsakh, such attacks were also affected the vehicles and buildings of the humanitarian organisations located in the capital city Stepanakert. As a result of the Azerbaijani shelling of the building of the State Rescue Service of Artsakh, ten rescue personnel were wounded and their materials damaged.<sup>178</sup> There have also been reports on the attacks on hospitals and ambulance vehicles in capital Stepanakert.<sup>179</sup>

## Indiscriminate attacks

**106.** The prohibition against targeting the civilian population does not exclude the legitimate civilian casualties incidental to an attack aimed at military targets.<sup>180</sup> However, the indiscriminate attacks, that is those, which employ a method or means of combat which cannot be directed at a specific military objective, are prohibited under customary international law.<sup>181</sup>

**107.** As already mentioned above, the information indicates the targeted nature of the Azerbaijani attacks on the civilians and civilian objects. In addition to that, heavy artillery, missiles and explosive weapons were used as a result of which infrastructures vital to the civilian population were damaged, such as electricity, gas, communication stations and means, main roads connecting Stepanakert with neighboring villages, interregional and intercommunity roads, factories, hydroelectric power plants, electrical networks of Stepanakert living the civilian population without electricity and heat.<sup>182</sup>

## Cluster munitions

**108.** The use of weapons that are indiscriminate by nature is prohibited.<sup>183</sup> Cluster munitions have been recognized under customary international humanitarian law as an indiscriminate weapon since it has indiscriminate effects, cannot distinguish between military objectives and civilians, thus strikes both indiscriminately.<sup>184</sup> Moreover, the unexploded duds lying around form a life-threatening hazard and inflict suffering for civilians long after the conflict.<sup>185</sup>

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<sup>175</sup> Shushan Stepanyan, Armenia MoD, [Facebook](#), 09:59hh, 27 September 2020.

<sup>176</sup> NetBlocks, [MappingNetFreedom](#), 27 September 2020.

<sup>177</sup> Jameston Foundation: global research and analysis, *The Lapshin Case: A Red Line in Azerbaijan's Foreign Policy*, 13 February 2017; Alexander Lapshin, [Facebook](#).

<sup>178</sup> Azatutyun, *Ստեփանակերտի հրթիռակոծության ժամանակ տուժել է Արտակարգ հրամիճակների ծառայության շինքը*, 2 October 2020.

<sup>179</sup> ArmenPress, Minisetr of Health of Armenia, *Արդրեջանի թիրախավորել է վիրավոր տեղափոխող շտապօգնության մեքենան*, 11 October 2020.

<sup>180</sup> ICTY, *Martic case*, Trial Judgment, 2007, para. 69.

<sup>181</sup> *Nuclear Weapons case*, para 243; ICTY, *Tadic case*, Interlocutory Appeal, para 134.

<sup>182</sup> Artsakh Ombudsman, [Second Interim Report](#) on the Azerbaijani atrocities against Artsakh population in September-October 2020, 10 October 2020, p. 17.

<sup>183</sup> ICJ, Legality of the threat or use of nuclear weapons, Advisory Opinion of 8 July 1996, para 78.

<sup>184</sup> Article 51(4) AP I.

<sup>185</sup> UN Office for Disarmament Affairs, [Cluster Munitions](#).

**109.** There is large evidence on the use of cluster munitions by Azerbaijan against the civilians of Artsakh. A video demonstrating the attack and its impact on the surrounding civilian residential area was released.<sup>186</sup> The ombudsman of Artsakh reported the use of LAR-160,<sup>187</sup> as well as “Smerch” cluster-warhead missiles against the capital Stepanakert, towns of Shushi and Hadrut and the village of Shosh near Stepanakert.<sup>188</sup> Cluster bombs were found in homes and streets, according to the HALO Trust, one of the very few international humanitarian organizations present in Artsakh.<sup>189</sup> Amnesty International identified Israeli-made M095 DPICM cluster munitions fired by Azerbaijan against Stepanakert.<sup>190</sup>

## Attacks against cultural objects

**110.** Attacks against cultural objects in the course of a military operation in armed conflict are prohibited as an offence under customary international law regardless of adherence to a particular treaty.<sup>191</sup> Cultural objects may lose their protection from an attack only when being used at the time for military purposes.<sup>192</sup>

**111.** On 8 October, Azerbaijani armed forces carried out two attacks against St. Ghazanchechots cathedral in Shushi city, using UAVs (as alleged by military experts). The first attack already targeted and damaged the cathedral. The second attack was carried out at the time when journalists were recording the damages made to the cathedral by the first attack. As a result of the second attack, the cathedral was further damaged and three journalists were reported to be wounded.<sup>193</sup>

**112.** St. Ghazanchechots cathedral is located in an open area without being used for any military purposes. Due to the precise character of the striking UAV (allegedly Turkish “Bayraktar”) it can be concluded that the attacks were directed against the cathedral.

## Ill-treatment of *hors de combat*

**113.** There is some information and taking into account the heavy fights, blockades, hiding in the forests, it is possible that a number of servicepersons from Artsakh defence army have appeared in the power of the Azerbaijani armed forces in the course of the current armed hostilities.<sup>194</sup>

**114.** While the international law obliges to treat such persons humanely in all circumstances,<sup>195</sup> there is a high risk, due to the previous experience of 2016 April war, of torture and other ill-treatment, mutilation of dead bodies by the Azerbaijani forces.

**115.** Photos have been released online where the Syrian display a knife next to the Armenian military uniform sign and an ear of an Armenian soldier.<sup>196</sup> Other photos and videos were circulated online showing Armenian soldiers and their documents.

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<sup>186</sup> Arman Tatoyan, Ombudsman of Armenia, [Facebook](#), 5 October 2020.

<sup>187</sup> Razminfo, [Facebook](#), Photos, 3 October 2020.

<sup>188</sup> Artsakh Ombudsman, [Second Interim Report](#) on the Azerbaijani atrocities against Artsakh population in September-October 2020, 10 October 2020, p. 25.

<sup>189</sup> HALO Trust, [Update: Crisis in the Caucasus, HALO’s humanitarian response in Nagorno Karabakh](#): HALO’s emergency operations: immediate relief, risk reduction and cluster bomb tracking.

<sup>190</sup> Amnesty International, [Armenia/Azerbaijan: Civilians must be protected from use of banned cluster bombs](#), 5 October 2020.

<sup>191</sup> Articles 27, 56, Hague Regulations annexed to the 1907 IV Hague Convention Respecting the Laws and Customs of War.

<sup>192</sup> Article 27, Hague Convention of 1907.

<sup>193</sup> Armenian Unified Infocenter, [Facebook](#), Photos, 8 October 2020; ArmNews, [ԱրմՆյուզի նկարահանող խումբը՝ մի քանի օրվա ընթացքում էլիվիզորներում](#), Video, 8 October 2020; Военный обозреватель, [Telegram](#), 8 October 2020; Paul Ronzheimer, [Twitter](#), 8 October 2020; Rob Lee, [Twitter](#), 8 October 2020; Artsrun Hovhannsyian, Armenia MoD, [Facebook](#), Photo 8 October 2020; Artsrun Hovhannsyian, Armenia MoD, [Facebook](#), Video, 9 October 2020.

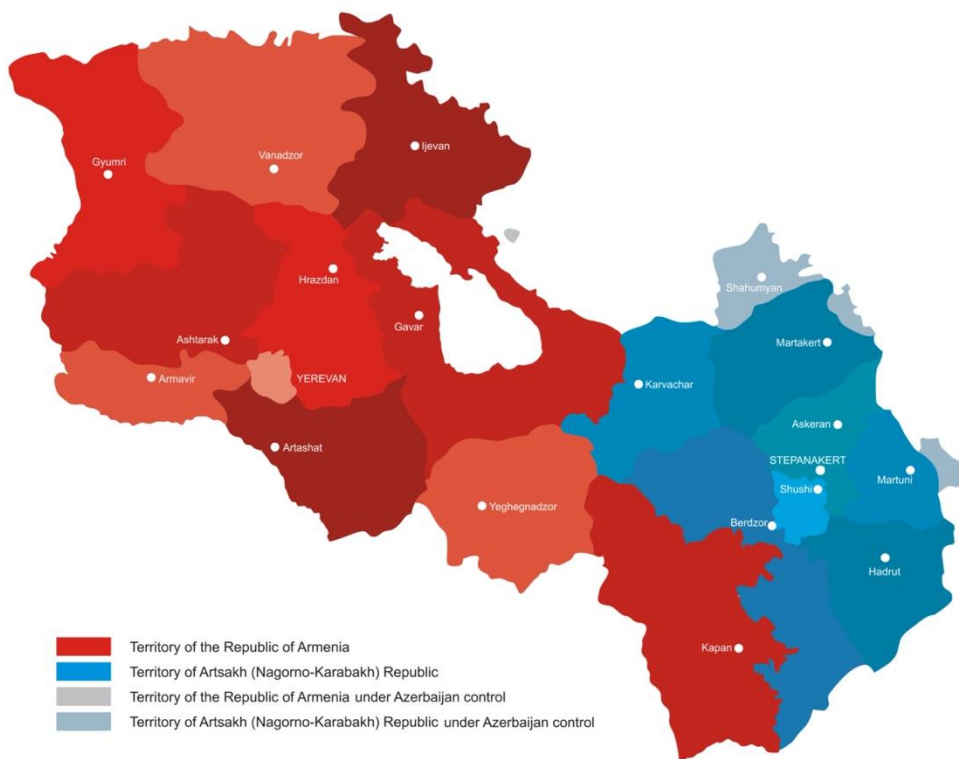
<sup>194</sup> Artsakh Ombudsman, [Second Interim Report](#) on the Azerbaijani atrocities against Artsakh population in September-October 2020, 10 October 2020, p. 17; Grigor Atanesian, [Twitter](#), 9 October 2020; Artsrun Hovhannsyian, Armenia MoD.

<sup>195</sup> Article 3 common to GCs of 1949; Article 41(2) AP I of 1977; Article 4, AP II of 1977.

<sup>196</sup> [refighe\\_khoda](#), [Twitter](#), 7 October 2020.

# MAP of Armenia and Artsakh

Republic of Armenia and  
Artsakh (Nagorno-Karabakh) Republic



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