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PERMANENT MISSION
OF THE REPUBLIC OF ARMENIA

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The Permanent Mission of the Republic of Armenia to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to transmit hereby the response by the Republic of Armenia to the joint letter AL ARM 1/2021, dated February 2, 2021 of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur in the field of cultural rights and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment and punishment.

The Permanent Mission of the Republic of Armenia to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Encl.: 13+8+2+16+4+20 pages



Geneva, 02 April, 2021

A.u.

OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS
Geneva

**Information provided by the Government of the Republic of Armenia
in response to the questions contained in the joint letter AL ARM 1/2021, dated
February 2, 2021 of the UN Special Rapporteur on extrajudicial, summary or arbitrary
executions, the Special Rapporteur in the field of cultural rights and the Special
Rapporteur on torture and other cruel, inhuman or degrading treatment and
punishment**

In addition to the information provided in response to the joint communication of the UN Special Procedures UA ARM 1/2020 of December 9, 2020, the Government of the Republic of Armenia would like to communicate the following:

Question 1: *Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.*

Question 3. *Please provide information on the steps throughout the period concerned taken to ensure respect for the principles of distinction, precaution and proportionality.*

Question 4. *In particular, please include information on the criteria for attacking with lethal force individuals or objects whose targeting is expected to result in deprivation of life, including the legal basis for specific attacks, the process of identification of military targets and combatants or persons taking a direct part in hostilities, the circumstances in which relevant means and methods of warfare have been used, and whether less harmful alternatives were considered. Please include information on whether cluster munitions were used and, if so, how this was compliant with your Excellency's Government's obligations.*

According to the information received from the authorities of the Republic of Artsakh (Nagorno-Karabakh), throughout the 44-day aggression unleashed by Azerbaijan against the Republic of Artsakh, the Azerbaijani armed forces attacked more than 130 cities, towns and villages in the Republic of Artsakh—including densely populated areas such as the capital city of Stepanakert; the towns of Shushi, Hadrut, Martuni, Martakert, Askeran, Karvajar, and Berdzor; and the villages of Taghaser, Vardashat, Spitakshen, Maghavus, Nerkin Horatagh, Alashan, Mataghis, and others.

Azerbaijan's attacks have inflicted massive damage on residential buildings, schools, kindergartens, hospitals, water and gas pipelines and electricity networks, causing a humanitarian crisis and putting in danger the lives of 150,000 people in Artsakh. Azerbaijan targeted the civilian areas with air strikes, artillery, missiles and tank fire on a daily basis. According to preliminary data, more than 7,800 objects of private property (residential buildings, apartments, shops, etc.); over 1,310 objects of infrastructure (public and industrial buildings, communications, electricity, gas and water supply, bridges, schools, kindergartens, cultural centers, factories, etc.); and more than 720 civilian vehicles were seriously damaged. As a result of Azerbaijan's aggression and its indiscriminate, targeted and systematic strikes

against civilian objects, approximately 60% of the entire population of the Republic of Artsakh, over 90,000 people, were forced to flee their homes and take refuge in safer places.¹

Azerbaijan also actively employed military aircraft to deliver strikes, including on inhabited civilian centers such as Martakert, Martuni, Hadrut, and their surrounding villages. Moreover, Azerbaijan used, not only its own military aircraft, but also Turkish F16 warplanes to deliver these strikes, the first batch of which was deployed in Azerbaijan during a joint military exercise in July 2020. After the exercise, the Turkish F-16 fighters remained in Azerbaijan and were deployed at the Ganja International Airport (see Fig. 1, Annex 2). On September 15, they made a demonstration flight over Ganja (see Fig. 2, Annex 2). For additional protection, Azerbaijan deployed a Buk missile system in the vicinity of the airport (see Fig. 3, Annex 2). In addition to the Ganja International Airport, Azerbaijan deployed various other military objects in Ganja (see Annex 2). Turkish F-16 fighters were also deployed at the Gabala civilian airport (see Fig. 4, Annex 2).

It should be highlighted that the authorities of the Republic of Artsakh undertook feasible measures to ensure compliance with its obligations under international treaties. The Defense Army of the Republic of Artsakh directed its military operations only against the military objects of Azerbaijan which, by their nature, location, purpose or use, made an effective contribution to its military actions. However, it should be regrettably noted that Azerbaijani authorities have intentionally located various military objects in and around civilian settlements, thus making the civilian population an involuntary human shield. The mentioned policy has been applied in and around major cities, including Ganja, Barda, Beylagan, Mingachevir, Kurdamir, Yevlakh, Tartar, and Gabala (see Annex 1). The legitimate military targets deliberately located in the mentioned settlements had been actively engaged in the offensive against the Republic of Artsakh.

The direct distance from the former line of contact to the military targets located in the above-mentioned settlements of Azerbaijan is approximately the same as the distance between the former line of contact and the areas of Artsakh and Armenia that were targeted during the war by Azerbaijan².

The Republic of Artsakh put every effort to guarantee the implementation of both international human rights and humanitarian law as far as they apply during the situation of international armed conflict. Hence, every military action attributable to the state agents of the Republic of Artsakh, including the representatives of the Defense Army, has been conducted in line with the norms and customary rules of international humanitarian law. Specifically, when planning its military operations, all the relevant principles, including principles of distinction, precaution and proportionality have been taken into account.

Given the abovementioned circumstances, the Defense Army of the Republic of Artsakh, before launching any military attack, has taken all the precaution measures prescribed by the customary rules of the international humanitarian law.

¹ The Updated Edition of the Second Interim Report on the Azerbaijani Atrocities against the Artsakh Population in September-October 2020 <https://www.artsakhombuds.am/en/document/735> (visited on 5 March, 2021).

² Including but not limited to shelling of Shushi and Karavachar towns, Lachin Corridor of Artsakh, Davit Bek village of the Syunik province of the Republic of Armenia, villages of Vardenis province of Armenia etc. One UAV of armed forces of Azerbaijan was shot down in close vicinity to capital Yerevan.

Firstly, the Defense Army of the Republic of Artsakh took all the required steps to ensure the implementation of the principle of distinction in military operations. Specifically, all the legitimate military targets of the mentioned civilian settlements have been identified and clearly distinct from the civilian objects.

Secondly, the authorities of the Republic of Artsakh issued a warning about the planned attack on military objects deliberately located in the Azerbaijani civilian settlements. In particular, the President of Artsakh has publicly made official statements in English, urging civilians to “avoid inevitable loss” by leaving “large cities” including Ganja, where numerous Azerbaijani military legitimate objects engaged in the operations against Artsakh were located. These warnings were widely reported in the media, however, Azerbaijan failed to take appropriate and adequate measures to remove civilians from the vicinity of military objects and, on the contrary, continued to undertake significant military activities in these areas. This was specifically documented by Human Rights Watch³.

The inaction of the Azerbaijani Government after the abovementioned precautions clearly demonstrates Azerbaijan’s initial intention to use its civilian population as a human shield for legitimate military targets. In such circumstances, some states take the position that the enemy’s violation of the prohibition against the use of “human shields” should be taken into consideration in the calculation of proportionality⁴. The Defense Army of the Republic of Artsakh took a similar position.

Nevertheless, with a view of ensuring the principle of proportionality to the most extent, the Defense Army of the Republic of Artsakh has chosen the most accurate military equipment under its possession⁵ and repeatedly considered less harmful options in conducting its defense, choosing single missiles rather than multiple launch rocket systems (MLRS) to destroy or neutralize specific military targets. For example, instead of using MLRS systems which have multiple launch tubes (e.g. BM-21 “Grad” has a bank of 40 launch tubes and can fire 40 missiles at the same time), for systematic firing at military objectives located in populated areas, the Artsakh Defense Army chose to fire single missiles. Volley fire from 40 launchers would have been more likely to hit the target; however, the risk of damage to civilians and civilian objectives would have been greater. Accordingly, by targeting single missiles at the specific military objectives being used by Azerbaijan during the aggression, the Artsakh Defense Army was discriminate and anticipated to gain a concrete and direct military advantage by the neutralization or destruction of such military objectives⁶.

³ <https://www.hrw.org/news/2020/12/11/armenia-unlawful-rocket-missile-strikes-azerbaijan>.

⁴ Any violation by the enemy of this rule [the prohibition of human shields] would not relieve the attacker of his responsibility to take precautions to protect the civilians affected, but the enemy’s unlawful activity may be taken into account in consideration whether the incidental loss or damage was proportionate to the military advantage expected. See: UK Manual of the Law of Armed Conflict, (UK Ministry of Defense, 2004) (para 5.22.1, page 68).

⁵ The military equipment in possession of Artsakh mostly consists of the remnants of the Soviet era, weaponry produced several decades ago and without the higher accuracy of more modern weaponry. Thus, the Republic of Artsakh was limited in its access to more sophisticated means and methods of warfare.

⁶ N. Melzer, “Targeted Killing in International Law”, p. 273, 2008. The anticipated military advantage “need not be substantial, but it must be concrete. That is to say, it must be particular, perceptive and real as opposed to general, vague and speculative.”)

As regards the use of cluster munitions, it has to be stressed that it was the civilian population of the Republic of Artsakh that has repeatedly come under deliberate attack by Azerbaijan, with women and children killed with explosive weapons and cluster bombs in the civilian areas. This fact was admitted by the Azerbaijani President Aliyev in his interview to the Spanish EFE agency⁷, as well as established by Human Rights Watch in its report, documenting specific incidents⁸.

Question 2. Please provide detailed information, and where available the results, of any investigation, judicial or other inquiries carried out in relation to the videos alleged to show the intentional extrajudicial killing of an Azerbaijani soldier, torture and/or cruel, inhuman or degrading treatment of persons and desecration of human remains. If no investigation has been initiated, please explain why and how this is compatible with the international human rights obligations of Armenia.

Throughout the military aggression against the Republic of Artsakh, videos of torture, cruel, inhuman and degrading treatment were disseminated on the Internet, demonstrating torture of allegedly Azerbaijani servicemen allegedly by Armenian servicemen.

The Investigative Committee of the Republic of Armenia initiated a criminal case N 69108320 on the commitment of serious violations of international humanitarian law, issuing a criminal order during the armed conflict, international terrorism and armed clashes unleashed by the military-political leadership of the Republic of Azerbaijan along the entire Line of Contact with the Republic of Artsakh. During the preliminary investigation a factual evidence has been obtained on the fact that a number of persons, not yet identified, wearing the uniforms of the Defense Army of the Republic of Artsakh, committed grave violations of international humanitarian law, particularly killings, torture and manifestations of inhuman treatment against persons, not yet identified, wearing the uniforms of the armed forces of the Republic of Azerbaijan, supposedly citizens and prisoners of war of the Republic of Azerbaijan, who were deprived of means for protection.

6 criminal cases have been initiated in the Criminal Investigation Department of the Investigation Committee of the Republic of Armenia on the facts of the aforementioned crimes under points 1 and 2 of part 1 of Article 390 (“Serious breach of international humanitarian law during armed conflicts”) of the Criminal Code of the Republic of Armenia.

Particularly, 2 criminal cases presented below relate to the videos mentioned in the joint communication:

- On December 30, 2020 the Criminal Investigation Department of the Investigative Committee of the Republic of Armenia received the attached letter of the Head of the International Committee of the Red Cross in Armenia, readdressed from the General Military Prosecutor's Office of the Republic of Armenia.

⁷ <https://en.president.az/articles/45475>

⁸ Human Rights Watch, “Azerbaijan: cluster munitions used in Nagorno-Karabakh” (23 October 2020), www.hrw.org/news/2020/10/23/azerbaijan-cluster-munitions-used-nagorno-karabakh#.

Examination of the laser disk attached to the materials was carried out, as a result of which it was clarified that after the person, not yet identified by investigation, expresses the “Cut off the neck, cut” phrase, another unidentified person committing a serious violation of international humanitarian law cuts off the throat of a person not directly involved in the hostilities during the armed conflict, deprived of means for protection, presumably a serviceman of the Armed Forces of the Republic of Azerbaijan, hits the latter on the head, after which the video ends.

A new criminal case was initiated on December 30, 2020 according to the features of Clause 1 of Part 1 of Article 390 of the Criminal Code of the Republic of Armenia, it has been proceeded in a separate proceeding and granted number 69111520/6.

- During the preliminary investigation, an examination of the Internet-disseminated video materials received from the Human Rights Defender's Office of the Republic of Armenia, was implemented, as a result of which it was clarified that a person, probably of Armenian nationality, not yet identified by investigation, speaking the Armenian language committed serious violations of international humanitarian law, verbally abusing and threatening the person lying motionless on the ground, not directly participating in the hostilities during armed conflicts, deprived of means of protection, presumably a serviceman of the Armed Forces of the Republic of Azerbaijan, cut off his ear, thus torturing him. In connection with the fact, on December 20, 2020, a criminal case was initiated according to the features of Part 1 of Clause 2 of Article 390 of the Criminal Code of the Republic of Armenia, it has been proceeded in a separate proceeding and granted number 69111520/1 case.

In addition to those 2 criminal cases, 4 criminal cases have also been initiated after the examination of 4 videos circulated online:

- During the preliminary investigation, an examination of the same video materials revealed that unidentified persons, speaking in the Armenian language, committed serious violations of international humanitarian law. Verbally abusing and threatening, they take some documents out of the pocket of the person lying on the ground, unarmed and deprived of means for protection, thus abusing the latter. In connection with the fact, on December 20, 2020, a criminal case was initiated according to the features of Part 1 of Clause 2 of Article 390 of the Criminal Code of the Republic of Armenia, it has been proceeded in a separate proceeding and granted number 69111520/2.

- The preliminary investigation of the same video materials revealed another instance when unidentified persons, speaking Armenian language, committed serious violations of the international humanitarian law verbally abusing, dragging on the ground, piling up the corpses of dead soldiers, thus torturing and inhumanely treating them. In connection with the fact, on December 20, 2020, a criminal case was initiated according to the features of Part 1 of Clause 2 of Article 390 of the Criminal Code of the Republic of Armenia, it has been proceeded in a separate proceeding and granted number 69111520/3.

- During the preliminary investigation of the same video materials it was found out that an unidentified person, speaking Armenian, committed serious violations of international humanitarian law in connection with the person's race, nationality, ethnicity and religion. Swearing he hits many times on the head of a person lying on the ground, not directly participating in hostilities during the armed conflict, deprived of means of protection, presumably a serviceman of the Azerbaijani Armed

Forces, with a weapon handle thus abusing and killing him. On December 20, 2020, a criminal case was initiated according to the features of Part 1, Clause 2 of Article 390 of the Criminal Code of the Republic of Armenia, it has been proceeded in a separate proceeding and granted number 69111520/4.

- During the preliminary investigation of the same video materials it was clarified that unidentified persons, speaking Armenian, committed serious violations of international humanitarian law. With the help of excavator equipment, they fill the pre-drilled hole with the corps of more than 8 people, as well as the body of a supposedly dead dog, thus inhumanely treating the corps of servicemen. On December 20, 2020 a new criminal case was initiated according to the features of Clause 2 of Part 1 of Article 390 of the Criminal Code of the Republic of Armenia, it has been proceeded in a separate proceeding and granted number 69111520/4.

Question 5. Please provide information on any investigations undertaken into suspected violations of article 6 in the context of the conflict.

Neither the Armed Forces of the Republic of Armenia nor Nagorno Karabakh Defense Army possess combat UAVs and incendiary weapons in their arsenals that could be used to hit civilian objects in the territory of Azerbaijan. At the same time, the facts of deliberate deployment of military units in the immediate vicinity of Azerbaijani settlements and using the civilian population as a human shield by Azerbaijan have to be recalled. Additionally, it has to be stressed that no objects have been targeted and attacked from the territory of the Republic of Armenia.

The leadership of Armenia and Artsakh have on numerous occasions reiterated their commitment to the exclusively peaceful settlement of the Nagorno-Karabakh conflict. Azerbaijan, on the contrary has continuously rejected the peace deals, including when the sides were reportedly closer to the resolution than ever at the summit in Kazan in June 2011. H.E. Sergey Lavrov, Minister of Foreign Affairs of Russia, who was among the mediators of the meeting, later confirmed that Azerbaijan rejected the deal⁹. During the war numerous calls of the Armenian side for the compromised solution, ceasefire and peace were reciprocated by the bellicose rhetoric of Azerbaijan¹⁰

Question 6. Please provide information on measures adopted by your Excellency's Government to ensure the right of persons to effective remedy for human rights violations, including torture and ill-treatment. If no such measures have been taken, please explain how this is compatible with the international human rights obligations of Armenia.

The Armenian side has already handed over to Azerbaijan all Azerbaijani prisoners of war and two convicted murderers of Armenian civilians. Meanwhile Azerbaijan, in a gross violation of the fundamental requirements of the international humanitarian law, particularly Geneva Conventions and

⁹ Foreign Minister Sergey Lavrov's statement and answers to media questions at a joint news conference following talks with Armenian Foreign Minister Edward Nalbandian, Yerevan, April 22, 2016: https://www.mid.ru/en/web/guest/foreign_policy/news/-/asset_publisher/cKNonkJE02Bw/content/id/2248246

¹⁰ <https://twitter.com/Armembuisse/status/1319193894433808386?s=20>

its Protocols, as well as Point 8 of the Trilateral Statement¹¹, is currently creating obstacles to hamper the repatriation of civilian captives and prisoners of war in a complete disregard of "all for all" principle.

Since the establishment of the ceasefire, Azerbaijan returned only 75 Armenian captives. According to the estimates of the Armenian side, there are still approximately 200 Armenian PoWs and civilian hostages in Azerbaijani captivity. Azerbaijan admits the captivity of only 68 Armenian PoWs and 4 civilians and has initiated fabricated criminal cases against the majority of them, accusing in terrorist activities.

Azerbaijan continues to conceal the real number of the Armenian prisoners of war and civilians still held in Azerbaijan, despite the existence of a large number of video, photo and other materials on the internet attesting the facts of the captivity of those persons.

We draw the attention of the UN Special Procedures to the fact that the deliberate manipulation of the issue of return of prisoners of war and captives by Azerbaijan pursues political objectives. Statements by the President of Azerbaijan qualifying the Armenian prisoners of war as terrorists constitute a clear manifestation of the politicization of a purely humanitarian issue, which puts at risk not only the repatriation of the Armenian prisoners of war, but also their lives.

Quite illustrative in this regard are the cases of enforced disappearances or executions of civilians held in captivity by the Azerbaijani authorities. In one of the recent cases, [REDACTED], a father of four, was found shot dead on January 18 in Nagorno-Karabakh's Hadrut district occupied by the Azerbaijani forces. He was registered as a prisoner of war based on a video circulated through social networks on January 7. The video was used as an evidence for the Armenian application to the European Court of Human Rights to issue an "interim measure" requiring Baku to provide information about [REDACTED] whereabouts and guarantee his safety. Instead, his slain body was repatriated. (for more information on the issue of the Armenian PoWs and civilian captives see Annex 4)

Thus, any attempt to link the issue of Armenian servicemen in captivity in Azerbaijan with any other issue has to be condemned and rejected as it constitutes a blatant violation of the post-war humanitarian processes and the international human rights standards. Given the human rights record of Azerbaijan it may use captives and hostages for the purposes of slavery, trafficking and other criminal offenses.

¹¹ Trilateral statement was signed on November 9, 2020 by the Prime Minister of the Republic of Armenia, the President of the Republic of Azerbaijan and the President of the Russian Federation aimed at the establishment of a ceasefire and the deployment of peacekeepers in Artsakh. Article 8 of the Trilateral statement stipulates the "exchange of prisoners of war, hostages, and other detained persons and dead bodies".

The trilateral statement should be considered without prejudice to the final political and durable settlement of the Nagorno-Karabakh conflict. It cannot be considered a comprehensive settlement of the Nagorno-Karabakh conflict. All issues concerning the Nagorno-Karabakh peace process are subject to discussion exclusively within the format of the OSCE Minsk Group Co-Chairmanship. The comprehensive resolution of the conflict aimed at achieving lasting and sustainable peace in the region include (but not limited to, the following list is non-exhaustive) the issues of:

- Status of Artsakh based on realization of the right to self-determination, security of its people;
- De-occupation by Azerbaijan of the territories of Nagorno-Karabakh;
- Safe and dignified return to their homes of the recently displaced population of Artsakh;
- Protection of Armenian cultural and religious heritage on the territories that fell under the control of Azerbaijan.

In this regard it has to be underlined that extrajudicial killings, beheadings, torture, humiliations, enforced disappearances as well as other war crimes and serious atrocities perpetrated by the Azerbaijani military personnel have been documented not only by the Human Rights Defenders of the Republic of Armenia and Artsakh (some reports have been submitted as Annexes to the Response of the Government of Armenia to the joint letter of the UN Special Procedures UA ARM 1/2020 of December 9, 2020; the latest report of the HRD of Armenia on the Treatment of Armenian prisoners of war and civilian captives in Azerbaijan is annexed to the current response, see Annex 5), but also by a number of human rights organizations and most recently by Human Rights Watch¹².

In addition statements by various international officials, including Secretary General of the Organization of American States¹³, UN human rights experts¹⁴, the European Parliament's Standing Rapporteurs for Armenia and Azerbaijan¹⁵, Spokesperson of the External Action Service of the EU¹⁶ and others have been made calling for the immediate release of all Armenian detainees.

In response to the violations of fundamental rights enshrined in the European Convention of Human Rights during the war the Republic of Armenia applied to the European Court of Human Rights against Azerbaijan for the application of interim measure under Rule 39 of the Rules of Court.

Granting the application submitted on September 29, 2020, the Court made a decision on applying Rule 39, stating in particular: "The Court urges Azerbaijan and Armenia to refrain from any measures, in particular hostilities, that could lead to violations of conventional rights of the civilian population, including endangering the lives and health of individuals, and to fulfill their obligations under the Convention, in particular Article 2 of the Convention (right to life) and Article 3 (prohibition of torture and inhuman or degrading treatment or punishment)."

At the same time, by the same decision, the ECHR invited the parties to provide sufficient information on the measures taken to meet the obligations as soon as possible.

In response to the ECHR's request, the Government of the Republic of Armenia provided sufficient information on the proper fulfillment of the international obligations undertaken by the Republic of Armenia under the Convention. Moreover, up today the ECHR has not ruled on any of the applications submitted by the Government of Azerbaijan for the protection of the rights of its citizens under Rule 39, as sufficient and convincing evidences on the guarantees of the rights of prisoners of war and freedom from torture were submitted to the ECHR on each application by Armenia.

Examining the complete information provided by the Republic of Armenia within the set timeframe, the ECHR considered that there was no immediate threat to the conventional rights of Azerbaijani prisoners of war held in the Republic of Armenia, in particular the right to life and freedom from

¹² The report presents the large-scale war crimes committed by the Azerbaijani armed forces against the Armenian prisoners of war and civilian captives.- <https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody>

¹³ <https://en.armradio.am/2021/02/22/luis-almagro-calls-for-release-of-armenian-pows/>

¹⁴ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26702&LangID=E>

¹⁵ https://www.europarl.europa.eu/cmsdata/231319/20210323_KALJURAND%20KOVATCHEV%20ZOVKO_Joint%20statement%20on%20Armenian%20detainees.pdf

¹⁶ <https://twitter.com/ExtSpoxEU/status/1355075592320901124?s=08>

torture and that Armenia conscientiously fulfils its international obligations, thus there is no necessity to decide on the application of Rule 39.

Meanwhile, in the legal processes of ECHR no proper fulfillment of obligations by Azerbaijan has yet been registered. In particular, Azerbaijan has refrained from providing information on Armenian prisoners of war and other civilians detained in Azerbaijan, as required by ECHR decisions. Therefore, on March 9, 2021 pursuant to Rule 39 § 2 of the Rules of Court, the European Court of Human Rights decided to notify the Committee of Ministers of the Council of Europe of the interim measures taken by it, having regard to the Azerbaijani Government's failure to respect the time-limits set by the Court for the submission of information on the individuals concerned and the rather general and limited information provided by them (the notification was sent on March 16¹⁷).

Question 7. Please explain the circumstances surrounding the destruction of and damage to all sites of religious, historical and cultural significance in the Nagorno Karabakh and surrounding regions, and whether and how such destruction and damage is compatible with the human rights and international humanitarian law standards mentioned in the Annex.

Question 8. Please indicate what steps were and are being taken by Armenia to protect cultural heritage in accordance with its international obligations during the conflict, and in the post-conflict situation.

Any allegations that the Artsakh Defense Army targeted the mosques mentioned in the letter of the mandate-holders are groundless. Armenia and Artsakh have always emphasized the importance of preservation of cultural heritage and have always demonstrated a respective and careful approach towards the cultural values of other peoples and religions.

All architectural monuments in the territory of Artsakh, including the aforementioned mosques, are under state protection. The Government of the Republic of Artsakh annually allocates funds for the preservation of historical monuments, regardless of their origin. For instance, the Kismaghinlu Mosque in Shushi was renovated in the late 1990s, the Lower Mosque was renovated in 2005, and the Upper Mosque with its madrasah was renovated in 2019.

It should be noted, however, that these mosques are located in the territories currently under the control of Azerbaijan, and the Republic of Artsakh does not have access to them to carry out any investigation as to their status. At least 1456 objects of Armenian historical and cultural property fell under the control of Azerbaijan, including 161 monasteries and churches, 591 khachkars (cross-stones), the ancient sites of Tigranakert, Azokh, Nor Karmiravan, Mirik, Keren and many fortresses, castles, sanctuaries and monuments.

Under the current situation, the timely intervention of the international community, particularly UNESCO, to save the monuments that have not yet been destroyed becomes urgent. In this regard, on

¹⁷<https://t.co/1t4h1ytTPp?amp=1>

20 November 2020, UNESCO reiterated the States' obligation to protect cultural heritage in terms of the 1954 Convention for the Protection of cultural property in the event of armed conflict, in particular its Article 23¹⁸, to which both Armenia and Azerbaijan are parties. UNESCO's Director-General proposed to carry out an independent mission of experts to draw a preliminary inventory of significant cultural properties as a first step towards the effective safeguarding of the region's heritage¹⁹.

In addition, the Intergovernmental Committee of The Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict and its Second Protocol (1999) in its Declaration adopted on 11 December 2020 welcomed this initiative stressing that an independent technical mission by UNESCO should be sent to Nagorno-Karabakh as soon as possible with the aim of assessing the status of the cultural property in all its forms as a prerequisite for the effective protection of heritage²⁰. It's also notable that the proposal received the full support of the Co-Chairs of the OSCE Minsk Group. However, Azerbaijan continues to reject the deployment of the mission, and as a public official communication of UNESCO revealed, "the authorities of Azerbaijan have been approached several times without success so far"²¹.

In this regard, it is essential to recall that objects of Armenian cultural heritage were deliberately targeted by Azerbaijan during its recent aggression (Annex 3). In particular, on October 8th, 2020, The Holy Saviour Ghazanchetsots Cathedral – a historic and religious symbol – in the cultural center of Artsakh, Shushi (Shushi was once home to 6 churches. All were damaged during the 1920 massacre when 20,000 Armenians were slaughtered by the Azerbaijani army and 7,000 buildings were destroyed), was struck twice within a few hours, partially destroying one of the two domes of the Cathedral²². The attacks were conducted by precise striking drones, emphasizing their intentional nature in blatant violation of the Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict; under Article 7 it requires, among others, to "do everything feasible to verify that the objectives to be attacked are not cultural property"²³.

The report by Human Rights Watch, published on December 16th, 2020²⁴, confirmed that the Cathedral was intentionally targeted with precise weaponry. It reads as follows:

Two separate attacks, hours apart, on the Ghazanchetsots Cathedral on October 8 in the town of Shushi, also known as Shusha, suggest that the church, a civilian object with cultural significance, was an intentional target despite the absence of evidence that it was used for military purposes. The

¹⁸ See the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, Article 23

¹⁹ <https://en.unesco.org/news/nagorno-karabakh-reaffirming-obligation-protect-cultural-goods-unesco-proposes-sending-mission>

²⁰ https://en.unesco.org/sites/default/files/en_15_com_declaration_haut-karabakh_final_1.pdf

²¹ <https://en.unesco.org/news/unesco-awaiting-azerbaijans-response-regarding-nagorno-karabakh-mission>

²² Ad Hoc Public Report on the Azerbaijani Targeted Attacks Against the St. Holy Savior Ghazanchetsots Cathedral of Shushi, Artsakh (Nagorno Karabakh) as a War Crime and Crime Against Humanity, see: <https://artsakhombuds.am/en/document/740>.

²³ Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, 26 March 1999, UNESCO Doc. HC/1999/7 (accession by Azerbaijan on 17 April 2001) Article 7.

²⁴ Human Rights Watch. (Dec. 16, 2020). Azerbaijan: Attack on church possible war crime. Available at: <https://www.hrw.org/news/2020/12/16/azerbaijan-attack-church-possible-war-crime>

remnants found to indicate that the weapons used were capable of being directed at a specific target. The two strikes struck the same part of the church roof, with no more than two meters' difference between the point of impact.

The Ghazanchetsots Cathedral was also vandalized a mere few days after the end of hostilities, in peacetime, and further evidence has emerged that the second dome of the Cathedral has been damaged recently, long after the ceasefire statement has been signed (Annex 3).

Additionally, concerns have been raised about damages to Tigranakert, a significant Hellenistic and Armenian archaeological site of an ancient city founded by Tigranes the Great in 95-55 BCE. It became an area of intensive war activity and was shelled several times, proving yet again the complete disdain of Azerbaijani authorities towards even the most remarkable cultural heritage sites which belong not only to Armenia but the whole world (Annex 3).

Moreover, there are images and a video circulated in the social media shortly after the occupation of Shushi by Azerbaijan, showing that the 19th-century church of Saint John the Baptist in Shushi (Kanach Zham) has been severely damaged; the dome and the bell tower of the church have been almost destroyed (Annex 3).

Furthermore, the constant fire by the Azerbaijani armed forces on civilian settlements made it impossible for museum and heritage professionals to care for the safety of the collections and ensure their protection. This includes 8 state museums and galleries (see Annex 3), as well as 2 private museums namely "Shushi Carpet Museum" and "Shushi Armenian Money Museum", which are located in the areas currently under the military control of Azerbaijan. Most of these museums were founded after the ceasefire in 1994, and showcase the history, religion, and creativity of the Armenians of Artsakh, promoting the moral, religious, and traditional values of Armenians. Unfortunately, Armenians have neither access to these museums, nor information about the fate of the museum collections.

The cultural and religious monuments of Artsakh – which are extraordinary examples of Christian Armenian architecture – provide material evidence for the long history of Armenians in the region and are integral to the contribution of Armenians to global cultural heritage. The valleys and mountains of Artsakh are dotted with more than 4000 monasteries, churches, distinctive Armenian cross-stones (khachkars).

The numerous cases of intentional destruction of Armenian cultural heritage sites by Azerbaijan during and aftermath of the war come to prove again that the Azerbaijani Government cannot be entrusted with the protection of those sites, which is partially due to the lack of robust international reaction with the aim to hold Azerbaijan accountable for its actions directed against the cultural heritage of the Armenian people. Azerbaijan simply erases to the ground those sites whose Armenian origin and identity cannot be altered. The BBC correspondent in the documentary released on March 25, 2021 under the title “Nagorno Karabakh: the mystery of the missing church” is about such a case of the Armenian Church of the Holy Mother of God in Mekhakavan (Jabrail). The footage of desecration and vandalism of the Church by an Azerbaijani soldier who was standing on the bell tower of that church and shouting “Allahu Akbar” was brought to the attention of the international community already in November, 2020. And today, the complete destruction of the church became

known from the investigation of the BBC correspondent who could not find any traces of the church, while knowing for sure that the church was standing when the Azerbaijani armed forces took control of Mekhakavan²⁵.

The concern about further practice of erasure and misappropriation of the Armenian heritage by Azerbaijan is well justified also given the multiple precedents of such actions both during peacetime and in the course of the recent war.

The Azerbaijani leadership has already resumed its policy of misappropriation and falsification by referring to the Armenian cultural heritage sites on the territory of Artsakh as “Caucasian Albanian”. On March 15, 2021, the Azerbaijani President visited the 17th-century Armenian church in the village of Tsakuri in the Hadrut region of Artsakh, currently under the occupation of the Azerbaijani Armed Forces, and openly declared it “Caucasian Albanian”. He also labeled the Armenian inscriptions on the walls of the church as “fake”, thus preparing the ground for yet another act of vandalism. It is noteworthy that in the released video, the above-mentioned church has already been vandalized, as the religious symbols had already been removed²⁶.

The distortion of the identity of the Armenian heritage is an attempt of cultural misappropriation and looting, which is also a gross violation of the relevant international legal instruments. The distortion of the identity of the Armenian cultural heritage is an attempt of misappropriation and looting, which is a gross violation of the relevant international legal instruments. In this regard, the UN Security Council resolution 2347 (2017) emphasizes “that the unlawful destruction of cultural heritage, and the looting and smuggling of cultural property in the event of armed conflicts, notably by terrorist groups, and the attempt to deny historical roots and cultural diversity in this context can fuel and exacerbate conflict and hamper post-conflict national reconciliation, thereby undermining the security, stability, governance, social, economic and cultural development of affected States.”²⁷

Thousands of Armenian religious and secular monuments were created long before the territory that is today referred to as the Republic of Azerbaijan was ever referred to as “Azerbaijan” and those monuments have no relation to the Azerbaijani identity whatsoever. The attempts to alienate these monuments from the Armenian people have no historical, religious, or moral grounds. Attempts to present the Christian heritage of Armenians of the region as so-called “Caucasian Albanian” has not been corroborated by any academicians other than in Azerbaijan or the ones directly funded from Azerbaijan.

The controversial restoration of the churches in the town of Nij in the Gabala region by the Azerbaijani authorities is highly illustrative in this regard. During the complete restoration of the church of Nij at the end of December 2004, the Armenian-language inscriptions on the church were erased, as a result of which foreign ambassadors declined to attend the re-opening of the church (see Annex 3). The Azerbaijani authorities were well aware of this vandalism but failed to bring anyone into account. The former ambassador of Norway to Azerbaijan has documented this intentional act of misappropriation and provided evidence that depicts the erasure of Armenian inscriptions from the church.

²⁵ <https://www.bbc.com/news/topics/c302m85qlz0t/azerbaijan>

²⁶ <https://m.minval.az/news/124099506>

²⁷ See UN Security Council Resolution [2347 \(2017\)](#)

Perhaps the most notorious act of destruction of the Armenian historical and cultural heritage conducted by Azerbaijan has been the demolition of several thousand engraved cross-stones (khachkars) and tombstones of the medieval Armenian cemetery of Old Jugha in Nakhijevan during 1997-2006. They were intentionally destroyed and bulldozed by the Azerbaijani army during peacetime and far from the conflict zone. In total 89 medieval churches, 5,840 ornate cross-stones, and 22,000 historical tombstones were demolished. There is sufficient evidence, including photos and videos²⁸, documenting this barbaric act²⁹ (Annex 3).

These heinous acts exemplify the disrespect of Azerbaijan toward sites of Armenian cultural heritage and highlight the threat of eradication that Armenian cultural heritage is facing. The international community has already witnessed many unfortunate incidents where cultural heritage was intentionally targeted, such as the destruction of the historical sites of Palmyra and Nimrud by ISIS. The threat of a similar fate befalling Armenian monuments is acute.

²⁸ Maghakian S. (2006). *The new tears of Araxes*. [Video]. Available at: https://www.youtube.com/watch?v=JZu2zqFE_gI

²⁹ Maghakian S., Pickman S. (2019). *A Regime Conceals its Erasure of Indigenous Armenian Culture*, available at: <https://hyperallergic.com/482353/a-regime-conceals-its-erasure-of-indigenous-armenian-culture/>