



**Permanent Mission
of the Republic of Azerbaijan
to the UN Office and other
International Organizations**

GENEVA

Ref: 0085/12/23/27

The Permanent Mission of the Republic of Azerbaijan 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 herewith the reply by the Republic of Azerbaijan to the joint communication by the Special Procedures mandate holders of 28 November 2022 (Ref: AL AZE 1/2022).

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



Geneva 21 February 2023

Enclosure: 7 pages

Office of the United Nations High Commissioner
for Human Rights
Geneva

Dr. Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

Dr. Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Dr. Alice Jill Edwards
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Ms. Reem Alsalem
Special Rapporteur on violence against women and girls, its causes and consequences

Dr. Dorothy Estrada-Tanck
Chair-Rapporteur of the Working Group on discrimination against women and girls

Ref: AL AZE 1/2022

Dear Special Procedures Mandate Holders,

The Republic of Azerbaijan (“*Azerbaijan*”) acknowledges receipt of your Joint Communication dated 28 November 2022 (“*November 2022 Joint Communication*”) concerning alleged extrajudicial killings, torture and ill treatment, and the desecration of corpses committed in the context of the armed hostilities between Armenia and Azerbaijan that took place during the week of 12 September 2022. As you note, Azerbaijan provided information in response to an earlier communication dated 11 December 2020, which raised allegations of extrajudicial killings, torture, and ill-treatment of Armenian detainees by Azerbaijani forces during the armed hostilities between Azerbaijan and Armenia in the fall of 2020 (the “*Second Garabagh War*”). This response should therefore be read with reference to Azerbaijan’s response of 30 December 2020 (the “*December 2020 Response*”).

As a preliminary matter, Azerbaijan affirms its commitment to upholding its international obligations, including under international humanitarian and human rights law. With respect to the allegations of abuses against Armenian servicemen and women, Azerbaijan in no way condones or excuses the horrific conduct in the anonymous and unverified videos described in the Joint Communication. These acts, if they took place as alleged, constitute a violation of both international law and Azerbaijan’s domestic law. Unlike Armenia—which has taken no meaningful steps to investigate or prosecute credible allegations of criminal conduct by its own officials and service members arising out of its

armed aggressions and unlawful occupation of the sovereign territory of Azerbaijan¹—Azerbaijan takes such accusations seriously. All allegations of unlawful conduct that are accompanied by sufficient evidence to allow for an investigation are in fact investigated in accordance with Azerbaijan’s international obligations. Where supported by evidence, and as described in further detail below, Azerbaijan has initiated criminal cases against its servicemen.²

At the same time, Azerbaijan cautions that misinformation can spread rapidly on social media channels. Videos and still images are often manipulated or misrepresented as to time, place, and circumstances. Accordingly, anonymous social media posts must not be accepted as fact without careful review.

Azerbaijan also takes seriously its commitment to treat any individuals detained in the context of armed conflict humanely and without discrimination, in accordance with its obligations under international and domestic law. It has, for example, continued to facilitate monthly visits by the International Committee of the Red Cross (“*ICRC*”) to detention centers and prisons where Armenians detained in relation to the hostilities have been held. Most recently, between 22 December 2022 and 27 January 2023, ICRC representatives met with all 33 Armenians who are continuing to serve criminal sentences in Azerbaijan for various offenses committed during or after the Second Garabagh War. Four Armenian detainees detained in 2020 were repatriated to Armenia following two decisions of the Supreme Court of Azerbaijan on 8 September 2022, pursuant to which the sentences of those detainees were commuted and the detainees were immediately released. A fifth Armenian detainee, detained in November 2021, was also repatriated the same day. These decisions further demonstrate that Armenian detainees continue to be afforded due process and are treated equally before the courts, in accordance with international standards.

¹ *Case Concerning the Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Azerbaijan v. Armenia)*, ICJ CR 2021/24, pp. 51–58, paras. 3–22; compare with Permanent Mission of the Republic of Armenia to the United Nations Office and other International Organizations in 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* (2 April 2021), <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36114>.

² See, e.g., Committee on the Elimination of Racial Discrimination, 2904th Meeting, 107th Session (16 August 2022) at 1:44:20, <https://media.un.org/en/asset/k1z/k1zd1zmmn8> (confirming Azerbaijan’s initiation of eleven criminal cases against Azerbaijani servicemen for violations of international human rights and humanitarian law norms as well as Articles 115.2, 115.4, and 245 of Azerbaijan’s Criminal Code).

Azerbaijan is strongly committed to upholding the principles of distinction, precaution, and proportionality when engaging in armed hostilities. The Joint Communication references allegations of civilians killed in villages on the border between Armenia and Azerbaijan during active hostilities. Any loss of life is deeply regrettable, but Azerbaijan complied with all principles of international humanitarian law in the conduct of hostilities. What was avoidable and unacceptable, however, is the killing of approximately 100 Azerbaijani civilians living in cities far outside the conflict zone, which were targeted by the Republic of Armenia during the Second Garabagh War with no justification under international humanitarian law.³

Responses to specific questions

I. Investigations and prosecutions of alleged criminal conduct

In response to **Requests 2, 3, and 7 in the November 2022 Joint Communication**, just days after active hostilities broke out during the week of 12 September 2022, Azerbaijan's Prosecutor General's Office issued a statement on 17 September acknowledging "videos of allegedly illegal actions of Azerbaijani servicemen against the corpses of servicemen of the Armenian armed forces, as well as footage of inhuman treatment of detained provocateurs" and committing to undertake a "full and comprehensive investigation" as to the authenticity of the videos, the time and place where they were filmed, the identity of the individuals involved, and all other relevant circumstances.⁴

In connection with that investigation, Azerbaijan's Military Prosecution Office has reviewed several videos and photographs, including all the videos referenced in the Joint Communication. As a result of this review, the Prosecutor General's Office has already opened two criminal cases in relation to the referenced videos.

Investigations into the other videos remain ongoing, and entail additional investigative steps, such as the collection of physical and electronic evidence, identification and

³ See, e.g., Independent Permanent Human Rights Commission (IPHRC) of The Organisation of Islamic Cooperation (OIC), *Report of the OIC-IPHRC Fact Finding Visit to the Territories Previously Occupied by Armenia to Assess Human Rights & Humanitarian Situation, 22-26 September 2021* (14 November 2021), <https://oic-iphrc.org/pdf/rebort/Azerbaijan%20Visit%20Report%20EV.pdf>, pp. 5, 11, 12; Human Rights Watch, *Armenia: Unlawful Rocket, Missile Strikes on Azerbaijan* (11 December 2020), <https://www.hrw.org/news/2020/12/11/armenia-unlawful-rocket-missile-strikes-azerbaijan>.

⁴ Prosecutor General's Office of the Republic of Azerbaijan, Information of the Press Service (17 September 2022), <https://genprosecutor.gov.az/az/post/5634>.

examination of the crime scene, questioning of witnesses, and forensic examinations for voice and facial identification.

Additionally, Azerbaijan has initiated eleven criminal cases against Azerbaijani servicemen for misconduct against Armenians in relation to the Second Garabagh War. In two of these criminal cases, the four servicemen were charged for their alleged desecration of corpses and destruction of gravestones,⁵ and subsequently referred to military courts for prosecution in late September 2021. In January 2022, military courts found all four servicemen guilty under Article 245 of Azerbaijan's Criminal Code. Each was sentenced according to Azerbaijani law.

The remaining nine investigations into allegations of cruel and inhuman treatment and unlawful killings are ongoing, and the investigative steps taken by Azerbaijan to date include interrogating witnesses, seizing and inspecting mobile devices, and examining forensic evidence and video footage.

II. Other affirmative steps to comply with and promote adherence to international law obligations

In response to **Request 4 in the November 2022 Joint Communication**, in addition to deterring future misconduct through prosecutions, Azerbaijan also has taken other affirmative steps to prevent violations of international law by its armed forces. Azerbaijan ensures that its armed forces receive regular training on international humanitarian law. For instance, in cooperation with the ICRC, the Ministry of Defense prepared special brochures with instructions on compliance with rules of armed conflict, and distributed them among Azerbaijan's forces.⁶ In July, September, and December 2021, the Ministry of Defense and the ICRC held a number of seminars to further update the training of Azerbaijan's forces on international humanitarian law.⁷ The seminars

⁵ Prosecutor General of Azerbaijan, "Detained four servicemen accused of insulting bodies of Armenian servicemen and tombstones belonging to Armenians," 14 December 2020, available at <https://genprosecutor.gov.az/az/post/3272>.

⁶ See Statement by the Delegation of the Republic of Azerbaijan, 1287th Meeting of the OSCE Permanent Council (29 October 2020), https://vienna.mfa.gov.az/files/PC1287_current%20issue%20AZE%20on%20humanitarian%20compliance.pdf; "ICRC prepares special brochures for Azerbaijani army," *Defence.az* (7 October 2020), <https://defence.az/en/news/146430/icrc-prepares-special-brochures-for-azerbaijani-army>.

⁷ Ministry of Defense of the Republic of Azerbaijan, *The seminars on international humanitarian law were held for the servicemen* (12 July 2021), <https://mod.gov.az/en/news/the-seminars-on-international-humanitarian-law-were-held-for-the-servicemen-36765.html>; Ministry of Defense of the Republic of Azerbaijan, *The Azerbaijan Army conducts seminars for the military servicemen* (4 September 2021), <https://mod.gov.az/en/news/the-azerbaijan-army-conducts-seminars-for-the-military-servicemen-37502.html>; Ministry of Defense of the Republic of Azerbaijan, *A seminar on international humanitarian law was held with servicemen* (11 December 2021),

included discussions on ensuring the safety of the civilian population in the areas of combat operations and the rules regarding the treatment of prisoners of war. During the first six months of 2022, more than 1,000 Azerbaijani cadets and officers participated in international humanitarian law trainings organized by the ICRC in collaboration with the Azerbaijan Red Crescent Society.⁸ Azerbaijan will continue to take such active preventive measures to ensure respect for its international obligations in the context of any armed conflict.

In response to **Request 6** in the November 2022 Joint Communication, Azerbaijan places great importance on adherence to its international humanitarian law and human rights obligations in the context of any and all military engagements, including with respect to the treatment of detainees and fallen members of the armed forces. During the hostilities of the week of 12 September 2022, a total of 17 members of Armenia's armed forces were taken into custody by Azerbaijan. Of these, 11 detainees were taken to the Penitentiary Service's detention center, and 6 detainees were taken to the General Military Medical Department hospital to receive medical treatment for wounds sustained during combat. All 17 detainees were treated in accordance with Azerbaijan's international and domestic legal obligations. For example, representatives of the ICRC visited the detainees on 23 September 2022 to assess the conditions of their detention and all the detainees received the necessary care and treatment for injuries suffered during fighting. Azerbaijan actively engaged with Armenia to arrange for the repatriation of all 17 detainees at the soonest possible time, and all 17 were repatriated to Armenia on 4 October 2022.

Azerbaijan's Military Prosecution Office is also investigating the video purportedly showing an Armenian serviceman being treated for his injuries by Azerbaijan's medical team on the battlefield. Currently available information indicates that the individual depicted in the video is an Armenian serviceman who was gravely injured during active hostilities during the week of 12 September 2022 and died from internal bleeding as a result of those injuries, despite receiving medical care from Azerbaijani military personnel at the scene.

In response to **Request 7** in the November 2022 Joint Communication, as Azerbaijan's criminal investigations and prosecutions indicate, Azerbaijan recognizes the right of *all* individuals to an effective remedy. This right is enshrined in domestic law. Article 60 of Azerbaijan's Constitution guarantees to everyone "the protection of [their] rights and

<https://mod.gov.az/en/news/a-seminar-on-international-humanitarian-law-was-held-with-servicemen-38692.html>.

⁸ See International Committee of the Red Cross, "Azerbaijan: Activity highlights for the first half of 2022" (18 August 2022), available at: <https://www.icrc.org/en/document/azerbaijan-activity-highlights-first-half-2022>.

freedoms in . . . court,”⁹ and Azerbaijan’s Criminal Procedure Code further guarantees that any “victim of a criminal act shall have the right to demand criminal prosecution,”¹⁰ emphasizing the “equality of all persons before the law and the courts.”¹¹

Azerbaijan’s actions stand in marked contrast to the supposed investigations conducted by Armenia against its own servicemen for crimes committed against Azerbaijanis.¹² Armenia’s public statements make clear that its failure to pursue investigations involving Azerbaijani victims is a deliberate choice: since the end of the Second Garabagh War, Armenia has actively pursued more than 2,000 criminal cases against its servicemen for crimes *against the State*, including treason, avoiding conscription, and theft of military equipment.¹³ For those cases, Armenia has taken pains to publicize its “proper investigative and procedural actions,” including interrogations of military personnel and government officials, as well as searches and seizures of evidence.¹⁴ No such information is forthcoming about any specific steps supposedly taken in the investigations Armenia claims it has opened with regard to crimes by its servicemen against Azerbaijanis.¹⁵ Azerbaijan expects the Mandate Holders will seek to hold Armenia accountable for its failures in this regard, which run contrary to its obligations under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial

⁹ Constitution of the Republic of Azerbaijan, Art. 60(I).

¹⁰ Code of Criminal Procedure of the Republic of Azerbaijan, Art. 12.2.

¹¹ Code of Criminal Procedure of the Republic of Azerbaijan, Art. 11. 1.

¹² Permanent Mission of the Republic of Armenia to the United Nations Office and other International Organizations in 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* (2 April 2021), <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36114>. See also *Azerbaijan v. Armenia*, CR 2021/26, p. 28, paras. 11-12.

¹³ Prosecutor General’s Office of Armenia, “28.09.2021. More than 800 accused, 55 people sued in the result of crimes committed during the war 2020 in the Armed Forces of the Republic of Armenia and Republic of Artsakh” (28 Sept. 2021), <https://www.prosecutor.am/en/mo/8289/>. See also *Azerbaijan v. Armenia*, CR 2021/26, p. 29, para. 14.

¹⁴ *Id.*, para. 15.

¹⁵ Permanent Mission of the Republic of Armenia to the United Nations Office and other International Organizations in 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* (2 April 2021), <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36114>. See also *Azerbaijan v. Armenia*, CR 2021/26, p. 28, para. 11.

Discrimination, the Geneva Conventions of 12 August 1949, and other applicable international human rights and humanitarian law.

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Azerbaijan notes that it is compelled to reiterate its objections to the use of geographical names that are inconsistent with the official names used by Azerbaijan and in international documents, including those of the United Nations, in referring to Azerbaijan's sovereign territory.¹⁶ Azerbaijan trusts that, going forward, the Mandate Holders will refer to the official geographical names of the territorial units.

Azerbaijan trusts the information provided in this reply will assist the Mandate Holders to engage constructively with Armenia as well as Azerbaijan going forward, and urge Armenia to comply with its international legal obligations, including as noted above.

¹⁶ See Letter dated 27 January 2022 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, UN doc. A/76/666-S/2022/61 (28 January 2022), p. 2 (explaining that official list is contained in the report submitted to the United Nations Group of Experts on Geographical Names). Compare, e.g., 2 February 2021 Joint Communication (referring to "Nagorno-Karabakh" and "Stepanakert") with Report by the Republic of Azerbaijan submitted to the United Nations Group of Experts on Geographical Names, UN doc. GEGN.2/2021 (22 April 2021) https://unstats.un.org/unsd/ungegn/sessions/2nd_session_2021/documents/GEGN.2_2021_CRP134_AZE_national_report_final.pdf, Annex 1, at 2, 6 (listing the correct official names of "Garabagh" and "Khankendi").