



THE REPUBLIC OF ARTSAKH
HUMAN RIGHTS OMBUDSMAN



SECOND INTERIM REPORT

ON THE AZERBAIJANI ATROCITIES AGAINST ARTSAKH
POPULATION IN SEPTEMBER-OCTOBER 2020

STEPANAKERT | OCTOBER 10, 2020

Contents

- INTRODUCTION 3
- 1. TARGETED OR INDISCRIMINATE ATTACKS AND FAILURE TO RESPECT THE PRINCIPLE OF DISTINCTION 4
 - A. TARGETED ATTACKS ON CIVILIANS AND CIVILIAN OBJECTS..... 4
 - B. ATTACKS ON JOURNALISTS..... 15
 - C. THE RISK OF VIOLATIONS AGAINST THE SERVICEMEN..... 17
 - D. TARGETED ATTACKS ON CIVILIAN VITAL INFRASTRUCTURE AND PUBLIC INSTITUTIONS..... 17
 - E. USE OF BANNED AND OTHER TERROR INSPIRING MEANS AND METHODS..... 25
 - F. E. LEGAL PERSPECTIVE..... 29
- 2. DEPLOYMENT OF MERCENARIES AND THREAT TO REGIONAL SECURITY 30
- 3. MASSIVE HATE SPEECH TOWARDS ETHNIC ARMENIANS AND ETHNIC CLEANSING 33
- Annotation..... 35

INTRODUCTION

Starting from the early morning of 27 September, 2020, Azerbaijan began launching indiscriminate airstrikes (including UAV strikes) and artillery assaults against the Republic of Artsakh (Republic of Nagorno-Karabakh) along the entire line of the border.

Villages, towns and the capital Stepanakert have been intensively attacked, which caused numerous casualties and injuries among civilians. Large-scale damages have been caused to civilian objects, such as residential buildings, schools, etc, as well as, infrastructure vital to the survival of the civilian population. Life and health of children, women and the entire population of Artsakh are still under an imminent and real threat.

The current second interim report follows the first interim report¹, published by the Human Rights Ombudsman of the Republic of Artsakh on 2 October 2020 and presents the facts of targeted attacks on civilian settlements and casualties derived thereof also the deployment of mercenaries and the use of multiple rocket launching systems and cluster munitions from 27 September to 9 October. The threatening situation on dissemination of massive hate speech towards ethnic Armenians by Azerbaijan and its results are also analyzed.

For the purpose of preparation of the report, fact-finding missions were commissioned, conducted interviews and applications submitted to the Human Rights Ombudsman of Artsakh, inquiries to public authorities, as well as, media and social media publications have been analyzed.

The Azerbaijani aggression also included indiscriminate attacks in villages of Vardenis Region, Gegharkunik Province of Armenia, which are presented in the *ad hoc* report of the Human Rights Defender of Armenia.²

On 10 October a cease-fire agreement was reached in Moscow, effective from noon. But according to Ministry of Defense of Artsakh and our verified sources (as of 11:00PM), Azerbaijan continued offensive military actions and even struck capital Stepanakert and other populated areas with heavy missiles.

The military aggression against the Republic of Artsakh and the Republic of Armenia by Azerbaijan are even more condemnable, since it was launched during the new Coronavirus (COVID-19) global pandemic. On March 23, the Secretary-General of the United Nations called for an immediate global ceasefire in all corners of the world due to the threat of coronavirus.

¹Artsakh Ombudsman, "INTERIM REPORT ON THE AZERBAIJANI ATROCITIES AGAINST ARTSAKH POPULATION IN SEPTEMBER 2020," October 2, 2020, https://artsakhombuds.am/en/document/722?fbclid=IwAR2sGPtWWisSe61tVQeHOVZ27Ngd4sSt6sHrigYNrZm4bs_GPXWYctOWcE

²Armenia Ombudsman, "Ad-hoc report on fact-finding activities in villages of Gegharkunik province of Armenia damaged by Azerbaijani military attacks (30 September-1 October)," Yerevan, 2020, https://ombuds.am/images/files/dc1b379419a1a9aaeec5191128277502.pdf?fbclid=IwAR0RTdx9q8m8qdOOO_Ccwfykv0VHZDBY7TsciCFamuDjUIRcjo-Cx2XfWQO

1. TARGETED OR INDISCRIMINATE ATTACKS AND FAILURE TO RESPECT THE PRINCIPLE OF DISTINCTION

A. TARGETED ATTACKS ON CIVILIANS AND CIVILIAN OBJECTS

The Azerbaijani armed forces attacked more than 120 civilian settlements, including densely populated ones (capital Stepanakert, towns of Shushi, Hadrut, Martuni, Martakert, Askeran, Karvajar, Berdzor, villages of Taghaser, Vardashat, Spitakshen, Maghavus, Nerkin Horatagh, Alashan, Mataghis, etc) with aerial, artillery, rocket and tank firestrikes, most of which were indiscriminate, killing and injuring civilians. In doing so, Azerbaijani armed forces failed to abide by the obligation to distinguish between military targets and civilians, who may not be targeted for attack. Nor do they take feasible precautions to minimize harm to civilians. In many cases, attacking the civilians was targeted and intentional, since military targets were located very far from civilian objects, and the Azerbaijani forces used accurate armament like missiles and striking drones. The absence of military targets in the vicinity of attacks further confirms their deliberate nature, which amounts to a war crime.

Figure 1. A Civilian Killed by Azerbaijan in Martuni Town



Figure 2. A Child Injured by Azerbaijan in Martuni Town



Figure 3. A Child Injured by Azerbaijan in Maghavuz Village



Figure 4. A Pregnant Woman Injured by Azerbaijan in Mataghis Village



Figure 5. A Woman Injured by Azerbaijan in Martakert Town



As of 9 October 2020, 20 civilians (8 females and 12 males, 1 child and 19 adults) have been killed.³ 60% of them were killed at the places of their residence. The casualties occurred on October 10 are not fully included in the report, but while publishing the document the Ombudsman staff got verified information that on the same day an Azerbaijani subversive group killed at least two civilians at their home in Hadrut town – a lady and her disabled son. The verified casualties by October 9 are presented at the infographic 1.

Infographic 1

KILLED CIVILIANS BY THE AZERBAIJANI AGGRESSION

KILLED CIVILIANS BY GENDER

12 MALE



8 FEMALE



KILLED CIVILIANS BY THE LOCATIONS

12 IN THE PLACE OF RESIDENCE



1 WORKPLACE



7 OTHER PUBLIC PLACES



20
OVERALL
CASUALTIES

SEP 27 - OCT 9



³ Artsakh Ombudsman, “19 civilians killed, 80 wounded, over 2700 property and infrastructure damaged in Artsakh from Azerbaijani war crimes,” 5 October, 2020, <https://artsakhombuds.am/en/news/463>

More than 100 civilians were wounded, of which 81 received serious injuries. The injuries mostly involve upper and lower limbs and facial fractures, in the form of shrapnel wounds. About half of the serious injuries among civilians occurred in their places of residence, about one-third – in public places, 11 civilians received serious injuries at their workplaces, and 6 civilians - while moving to a safer place. See infographic 2.

Infographic 2

WOUNDED CIVILIANS BY THE AZERBAIJANI AGGRESSION

♂ SERIOUSLY WOUNDED CIVILIANS BY THE GENDER



📍 SERIOUSLY WOUNDED CIVILIANS BY THE LOCATIONS

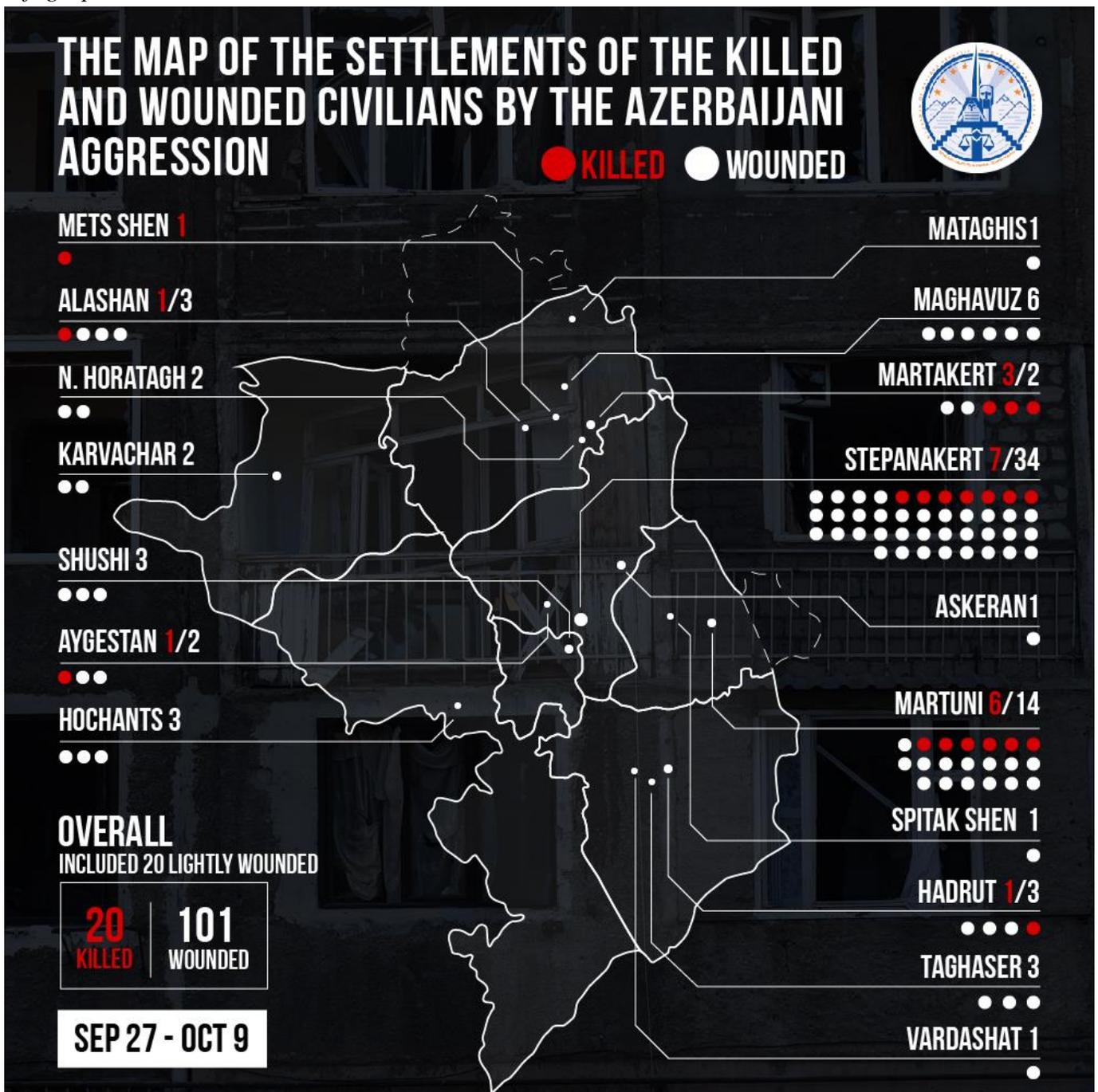


101 OVERALL WOUNDED CIVILIANS
 FROM WHICH **20** WITH LIGHT
 SEP 27 - OCT 9



The civilians were mostly affected by the Azerbaijani armed forces attacks at the capital Stepanakert (7 killed and 34 injured) and the town of Martuni (6 killed and 14 injured). See infographic 3.

Infographic 3



As part of a widespread and systematic attack directed against civilian population, wanton destruction of homes and other property was carried out with discriminatory intent against ethnic Armenians. Besides, large-scale damages have been caused to civilian objects, such as residential buildings, kindergartens,

schools, vital infrastructure⁴. Based on preliminary data, more than 5,800 privately owned immovable property (residential houses, apartments, shops, etc), more than 960 infrastructure, public and industrial buildings (electricity, gas, telecommunication, water supplies, bridges, schools, kindergartens, cultural centers, factories etc) and more than 520 cars have been seriously damaged. See infographic 4.

Infographic 4

MATERIAL DAMAGE TO CIVILIAN OBJECTS BY THE AZERBAIJANI AGGRESSION IN MORE THAN 120 SETTLEMENTS



5800

**PRIVATE IMMOVABLE
PROPERTY**



520

**PRIVATE MOVABLE
PROPERTY**



960

**INFRASTRUCTURE, PUBLIC
AND INDUSTRIAL OBJECTS**

SEP 27 - OCT 9



⁴ Armenian Public TV, “Քաղաքացիական բնակչությունը՝ Ադրբեջանի թիրախում,” 5 October, 2020, https://www.youtube.com/watch?v=bVDKVYQp8Fo&feature=emb_logo

Figure 4. Struck Residential Building in Stepanakert City



Figure 5. Shelled House in Hadrut Town



Figure 6. Residential Area in Stepanakert City After Shelling by Azerbaijan



Figure 9. Damage to Property as a Result of Shelling by Azerbaijan



Figure 10. Damage to Property as a Result of Shelling by Azerbaijan



As a result of the Azerbaijani hostilities and indiscriminate, targeted and systematic strikes against civilian objects, approximately 50% (over 75,000) of the entire population of the Republic of Artsakh have fled their homes to shelter at safer places. Some of them have moved to other settlements of the country and others moved to the Republic of Armenia. The overwhelming majority of the current population has to live at shelters to avoid Azerbaijani indiscriminate and targeted strikes. For that reason, tens of thousands of children, women, elderly, persons with disabilities and other vulnerable groups live not only with constant security threats and psychological terror, but also with certain deprivations of basic rights and conditions, such as food, healthcare, education etc.

Figure 11. One of the Shelters for Civilians in Stepanakert City



Figure 12. Persons with Disabilities Staying at a Shelter in Stepanakert



B. ATTACKS ON JOURNALISTS

The work of media representatives is important to report accurate, objective, comprehensive and evidence-based information from conflict zone and safeguard to inflame further tensions, protect human rights. This in mind, the Azerbaijani armed forces conducted targeted attacks on civilian journalists engaged in covering the areas of armed conflict. Those attacks resulted in 7 injuries and a death of the person accompanying the journalists' group.⁵

Particularly, on 1 October 2020, a group of journalists were subjected to a targeted shelling in the downtown of Martuni. As a result, two journalists of the French "Le Monde" newspaper, a journalist of Armenian media "24News.am" and the cameraman of "Armenia" TV were injured, while the local resident accompanying the group was killed.⁶ The injuries of the reporter of "Le Monde" were serious and his life was saved through a hard surgery. A deputy chief editor of the Russian television network "Dozhd" among other foreign and Armenian journalists, was also under the shelling but could hide in a bomb shelter and avoided injuries⁷. On the same day the Azerbaijani armed forces also targeted a car transporting journalists of the Agence France-Presse international news agency⁸.

On 2 October, Azerbaijan again targeted a minibus with Armenian and foreign journalists in the town of Martakert⁹.

On 8 October, three Russian journalists were injured (the injuries of one journalist were critical and the others - heavy) while they were reporting from the area of the struck Holy Savior Ghazanchetsots Cathedral of Shushi. 4 hours after the first hitting the Azerbaijani armed forces struck the Cathedral again, knowing that some journalists must have been there to cover the breaking event. Moreover, there are reports on the use of drones in the area at the time of the second strike, which means that Azerbaijan possessed verified information about the presence of journalist in the scene.¹⁰

5Armenian Unified Center, "Reporters of 24news.am and Armenia TVwounded from Azerbaijani bombardment," 1 October, 2020, <https://www.facebook.com/ArmenianUnifiedInfoCenter/posts/798135994355663>

Dozhd TV, "Обстрел города Мартуни в непризнанном Нагорном Карабахе. Репортаж корреспондента Дождя," 1 October, 2020, <https://www.youtube.com/watch?v=SDqfIvkSf-8>

6 Armenian Unified Info Center on the targeting of the French journalists, 1 October, 2020, <https://twitter.com/ArmenianUnified/status/1311717564742021120?s=20>

Artsakh Information Center on the same incident and medical operation results, 1 October, 2020, <https://twitter.com/ArtsakhCenter/status/1311718300913676289?s=20>

7Tass, "Замглавреда телеканала "Дождь" Дмитрий Еловский попал под обстрел в Нагорном Карабахе", 1 October, 2020, https://tass.ru/mezhdunarodnaya-panorama/9601327?fbclid=IwAR1o59E8m9_IdWCuUR7DuYtOkOSn8XOAFEqm7xkYFvHZL6B13nwiz4GPA98

8Armenian Unified Info Center on the same incident, 1 October, 2020, <https://twitter.com/ArmenianUnified/status/1311631007452405760?s=20>

9Factor TV, "ՀԲԱՏԱՊՊ. Կրակահերթ լրագրողների մեքենայի վրա Մարտակերտում", 2 October, 2020, https://www.youtube.com/watch?v=3sAef__znJM&fbclid=IwAR1UQznp0FAa1OzxJfU6YFckbnTkb_uoRANK3PrYM0JYUai g19dsfKYs5p8

¹⁰ 168.am, "The Russian journalist stressed that I should reiterate that he had seen with his own eyes how the targeted blow was inflicted on the Mother Cathedral at a time when there were only children, women and elderly present. Arman Tatoyan," 10 October, 2020,

https://en.168.am/2020/10/10/40074.html?fbclid=IwAR1nxJDCXJDQrpPPPFm0Lnsa_KZCjswV1VqU5HdbGM7WnkhR5FHN mPdjwm0

It is worth-mentioning that (1) all journalists of the described episodes wore special uniforms with distinctive sign “PRESS” (their car also had the “PRESS” sign), (2) the journalists were attacked while were carrying out their professional activities in civilian settlements, but not in the hot-spots of hostilities and not even close to any kind of military object.

The continuous nature of the attacks against journalists engaged in media activities in civilian settlements and having distinctive signs, demonstrates that these actions are aimed at preventing the coverage of hostilities and dissemination of objective information to the international community.

Figure 13. A Reporter of "Le Monde" French Newspaper Injured by Azerbaijan in Martuni Town



Figure 14. A Screenshot from ArmNews TV Broadcast: an Injured Reporter is Evacuated from the Holy Savior Cathedral in Shushi After Being Struck by Azerbaijan



C. THE RISK OF VIOLATIONS AGAINST THE SERVICEMEN

There is clear information from both open and closed sources that a certain number of servicemen of the Republic of Artsakh or the bodies thereof are under the control of the Azerbaijani armed forces. Taking into account that during the April war of 2016 about 90% of soldiers and/or their bodies that were under Azerbaijani control underwent war crimes and the perpetrators were decorated and encouraged by the authorities of Azerbaijan¹¹, the likelihood is very high that the soldiers and/or their bodies might be abused by Azerbaijan again. The representatives of the Human Rights Ombudsman also visited the morgue of Artsakh and check whether the bodies of the Azerbaijani military servicemen keeping there have any signs of mutilation. They recorded no mutilations made on the bodies.

Welcoming the establishment of humanitarian ceasefire on October 10, the Ombudsman emphasizes the need of exchange of information on possible war prisoners and bodies, ensuring favorable conditions for their transfers according to the norms of international humanitarian law.

D. TARGETED ATTACKS ON CIVILIAN VITAL INFRASTRUCTURE AND PUBLIC INSTITUTIONS

Since 3 October, the Azerbaijani armed forces have deliberately and regularly targeted the key civilian infrastructures (electricity, communications, gas and water supply systems, bridges, foodstuffs, etc), around the whole country but mostly the capital Stepanakert, aiming at depriving tens of thousands of peaceful population of basic living conditions and means for further survival. In attacking these objects Azerbaijan also resorted to long range accurate missiles and striking drones. The preliminary data is presented in the infographic 4 above.

More than 25 crucial energy infrastructure objects and equipment have been totally destroyed and a large number of networks have been damaged throughout the entire country. Particularly, Azerbaijani armed forces hit the central electricity station and local stations in Stepanakert, local electricity stations in other towns and villages, as well as, a big number of electricity networks. As a result, more than 10 stations have been destroyed or seriously damaged. The whole population of Artsakh has been regularly deprived of electricity for a few days.

The Azerbaijani armed forces have intentionally struck also several hydro-power stations in the depth of the country aiming at destructing the electricity production system, too.

¹¹ Artsakh Ombudsman, "Report on Atrocities Committed by Azerbaijan During the 2016 April War," December 9, 2016, <https://artsakhombuds.am/en/document/568>

Figure 15. The Head Office of “Artsakh Energy” Company after Being Struck by Azerbaijan



Figure 16. The Central Electricity Station in Stepanakert after Being Struck by Azerbaijan



Figure 77. A Hydropower Station in Martakert Region after Being Struck by Azerbaijan



Another intentional target was the phone and internet communication network since 27 September. Firstly, the Azerbaijani hackers made extensive problems in the system for a few days, for tens of thousands of civilians hindering the communication possibilities for a long time. Since October 3, Azerbaijani armed forces have systematically and intentionally targeted the communication stations and networks again with accurate missiles and striking drones. As a result of those strikes, tens of key communication infrastructure (stations, towers, hubs etc) have been destroyed or seriously damaged.

Figure 88. The Head Office of the Telecommunication Company Struck by Azerbaijan



For a few times the central and much more times local gas pipelines have been also targeted intentionally, as a result of which all the gas clients have been deprived of gas supplies, heating and hot water.

Figure 99. The Main Gas Pipeline in Stepanakert City Struck by Azerbaijan



There are certain proofs demonstrating that Azerbaijan also targeted particular water stations and pipelines, all of these intentional strikes to vital infrastructure and supply networks have posed an existential threat to the lives and health of women, children, elderly and the entire population of Artsakh. The Azerbaijani armed forces have systematically and deliberately targeted also the road network throughout the entire country, including those of interstate ones. In addition to striking different parts of the roads and highways, Azerbaijan targeted some key bridges in order to paralyze the transportation internally and with the Republic of Armenia.

Figure 20. A Bridge in Berdzor after Being Struck by Azerbaijan



The Azerbaijani armed forces have deliberately targeted also industrial objects (factories, hydropower stations, agricultural objects, services etc). They directly destroyed hundreds of such business activities, negatively affecting their productions, supplies and services.

Figure 21. A Stone Factory After Shelling by Azerbaijan

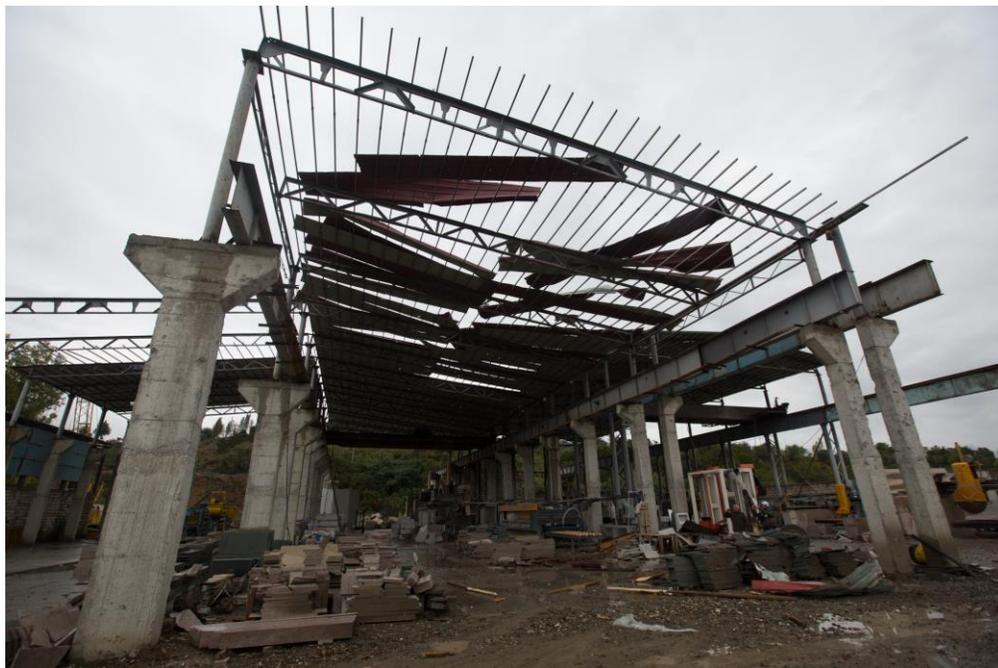


Figure 22. A Market in Stepanakert After Being Struck by Azerbaijan

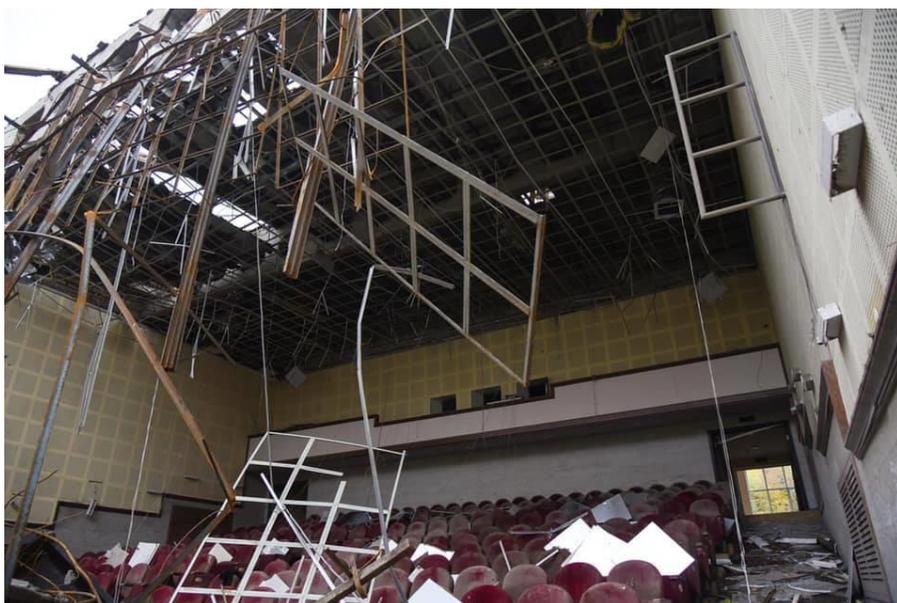


Azerbaijan has indiscriminately and intentionally struck a large number of public and religious institutions, too, such as schools, kindergartens, cultural centers, cathedrals etc. The geography of such destructions includes from the North to the South, from the bordering to deep communities.

Figure 23. Public School no. 10 in Stepanakert After being Struck by Azerbaijan



Figure 24. The Cultural Center in Shushi After Being Struck by Azerbaijan



On 8 October 2020, Azerbaijani armed forces launched two intentional assaults on Holy Savior Cathedral in the town of Shushi, which is the recognizable cultural and religious symbol of Artsakh. The analysis of that war crime demonstrates that it was fully intentional and targeted, because the Azerbaijani forces struck

the cathedral for two times within a few hours with use of striking and manageable drones. This act of Azerbaijan is in line with its continuous practice of destroying Armenian cultural heritage of Artsakh. It also demonstrates radical disrespect towards Christian element of Armenian identity.

Figure 25. The Holy Saviour Cathedral of Shushi After the First Strike by Azerbaijan



Figure 26. The Holy Saviour Cathedral of Shushi After the Second Strike by Azerbaijan



Figure 27. The Holy Saviour Cathedral of Shushi After the Strike by Azerbaijan (interior)



Figure 28. The Holy Saviour Cathedral of Shushi After the Strike by Azerbaijan (exterior)



E. USE OF BANNED AND OTHER TERROR INSPIRING MEANS AND METHODS

Since the launch of the large-scale aggression against Artsakh, Azerbaijan has been repeatedly using multiple rocket launching systems and cluster munitions in areas where civilian population and civilian objects are located.

The use of multiple rocket launching systems effects broad areas and precludes sufficient precision in targeting, meanwhile cluster munitions release dozens or hundreds of bomblets, or submunitions, and spread them over a large area. Cluster munitions cannot be directed at specific fighters or weapons and their use in populated areas guarantees civilian casualties. Cluster munitions also threaten civilians after conflict: by leaving behind unstable “minefields” of unexploded bomblets, they put more civilians, especially children, at risk.

On September 27-28, October 2-8 Azerbaijan deployed LAR-160 and SMERCH cluster-warhead missiles against the capital Stepanakert, towns of Shushi and Hadrut and the village of Shosh near Stepanakert.¹² There are many other reports on usage of cluster weaponries in other settlements and days, too. The Emergency State Service of the Republic of Artsakh stated that since September 27 by October 10 the Service found over 180 cluster munitions only in Stepanakert.¹³

Azerbaijan, while targeting the civilian settlements and peaceful population of Artsakh, also used **military drones** (unmanned aerial vehicles, UAVs) as means of aggressive, indiscriminate and deliberate attacks.¹⁴ Azerbaijan has used the following types of drones to target peaceful population in Artsakh:

- intelligence drones, Orbiter -2, Orbiter – 3, Aerostat, among others;
- striking drones, including Harop, Zaoba-1K, Sky Striker;
- intelligence-striking drones, Bayraktar TB-2, AN-2, etc.

These attacks have caused casualties and destruction of private and public properties. Almost all civilian settlements in Artsakh, including densely populate cities and towns, have been under targeted attacks of above-mentioned drones.

¹²Armenpress, “Azerbaijani forces fire internationally prohibited munitions at Artsakh’s civilian population,” 4 October, 2020 <https://armenpress.am/eng/news/1030241.html?fbclid=IwAR2jiDqQP28JLqXwgrRW4Ef1k6Ly9VJ1cZJXJDGO3nARnijw1Mooq66JfOw>

A1plus, “Արցախի մայրաքաղաք Ստեփանակերտը հրետակոծությունից հետո”, 3 October, 2020,

https://www.youtube.com/watch?v=JM28Q96gqh4&feature=emb_logo

Hetq, “Oct. 4 – Stepanakert: After the Shelling,” 4 October, 2020,

<https://hetq.am/en/article/122543?fbclid=IwAR21Vrav5u9M7yu5AgUBEXjnot6k85Xy0GtWrSp2JvfErvhW5pXvmeyiY2A>

¹³ Armenpress, “Ստեփանակերտում սեպտեմբերի 27-ից սկսած գտնվել է մոտ 180 կասետային ռումբ”, 10 October, 2020,

<https://armenpress.am/arm/news/1031170.html?fbclid=IwAR27rZ7X-NPf0UwHdSIMOBIG0aN4z3dbRFE9IPc3F-vKf7zyN2XAsVTx9o>

¹⁴News.am, “Ադրբեջանական ԱԹ-Ս-ի մասնիկները Հադրութում”, 29 September, 2020,

<https://www.youtube.com/watch?v=LKktBBYQqtU>

News.am, “Իսրայիլյան ադրբեջանական ԱԹ-Ս-ն Վարդենիսի տարածքում”, 28 September, 2020,

<https://www.youtube.com/watch?v=GmN13XfU3Eo>

Figure 29. A Part of “Smerch” Missile in Residential Area of Stepanakert City



Figure 30. Unexploded Cluster Munition in Stepanakert



Figure 31. A Part of Azerbaijani Missile on a Residential building of Stepanakert City



Figure 32. An Azerbaijany "Harrop" Suicide UAV Downed in Askeran Town



Figure 33. A Part of an Azerbaijani Rocket Launched at a Residential Area



F. E. LEGAL PERSPECTIVE

Customary international humanitarian law requires that the parties to the conflict at all times distinguish, on one hand, between civilians and combatants, and on the other hand between civilian and military objects. Attacks may only be directed against combatants and military objects. Attacks must not be directed against civilians and civilian objects.

Under international humanitarian law, journalists engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians and thereby benefit from all the protection conferred by international humanitarian law on civilians.

According to the general rules of protection of the civilian population, the latter as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.

The concept of indiscriminate attacks represents an implementation of the principle of distinction. The latter requires that states must never use weapons that are incapable of distinguishing between civilian and military targets. In the advisory opinion in the Nuclear Weapons case, the International Court of Justice stated that the prohibition of weapons that are incapable of distinguishing between civilian and military targets constitutes an “intransgressible” principle of customary international law. The Court observed that, in conformity with this principle, humanitarian law, prohibits certain types of weapons “because of their indiscriminate effect on combatants and civilians”. In its review of the indictment in the Martić case in 1996, the International Criminal Tribunal for the Former Yugoslavia examined the legality of the use of cluster bombs according to customary international law, including the prohibition of indiscriminate attacks involving a means or method of warfare which cannot be directed at a specific military objective.

The Geneva Conventions and the UN Convention on Cluster munitions (Azerbaijan is not a party) limits the right to choose the methods and means of warfare, prohibiting the use of such dangerous weapons. International legal instruments and customary international law prohibits the use of cluster munitions, considering them lethal and inhumane. These types of munitions have an indiscriminate effect, and endanger the lives and health of the civilian population, causing additional damage and suffering.

Thus, international law forbids to attack civilians, including journalists, and civilian objects, as well as use cluster munitions in any case, when the distinction between military targets cannot be ensured.

2. DEPLOYMENT OF MERCENARIES AND THREAT TO REGIONAL SECURITY

There is multiple strong evidence that confirms the deployment of mercenaries to fight in the side of Azerbaijan against Artsakh and Armenia. Moreover, the same evidence discloses the key role of Turkey in this matter.

Turkey has deployed mercenaries from northern part of Syria, Libya to Azerbaijan to use them against Artsakh (Nagorno-Karabakh) and Armenia. About 3,000-4,000 mercenaries were hired to participate in the ongoing war activities against Artsakh and Armenia for 1,500-2,000 USD, as reported by multiple media sources and investigations. The deployment of mercenaries and their involvement in the Nagorno-Karabakh conflict by Turkey has been regularly confirmed also by international media, some foreign human rights organizations, Governments (e.g. USA, France, Russia, Iran) and more.¹⁵

The Ministry of Foreign Affairs of Armenia also confirmed in its statement of September 28th that the Ministry has information about mercenaries' recruitment by Turkish authorities in the Middle East to be deployed in the conflict zone in Nagorno-Karabakh. According to the statement, "Turkey is recruiting terrorists and mercenaries in some of the Middle Eastern countries and is sending them to Azerbaijan".¹⁶

The Foreign Minister of Armenia and his Russian counterpart considered the steps undertaken by extra-regional countries towards undermining regional peace and security.¹⁷

Moreover, the National Security Service of Armenia presented facts on participation of the Turkish side in hostilities, presence of mercenary terrorists and panic among them.¹⁸

The French President, for example, declared that they 'have information that indicates with certainty that the Syrian combatants left the theater of operation of the combatants of the jihadists by going through Gaziantep (Turkey) to join the theater of operation of Nagorno-Karabakh'.¹⁹

¹⁵The Guardian, "Syrian rebel fighters prepare to deploy to Azerbaijan in sign of Turkey's ambition," 28 September, 2020, <https://www.theguardian.com/world/2020/sep/28/syrian-rebel-fighters-prepare-to-deploy-to-azerbaijan-in-sign-of-turkeys-ambition>

Human Rights Organisation -Afrin -Syria, "Turkey is sending more convoys of Syrian mercenaries from northern Syria to Azerbaijan," 28 September, 2020,

https://www.facebook.com/permalink.php?story_fbid=366061181444110&id=114977619885802

BBC Arabic Service, "البلدين بين النار خط على سوريا مقاتلا تحاور عربي سي بي بي: وأذربيجان أرمينيا," 30 September, 2020,

[https://www.bbc.com/arabic/middleeast-](https://www.bbc.com/arabic/middleeast-54346711?fbclid=IwAR3c0dJgE8veTgg54FArDq2AFYLh_5vP3eousEuIR9dnyd3_7rsbImHuVo4)

54346711?fbclid=IwAR3c0dJgE8veTgg54FArDq2AFYLh_5vP3eousEuIR9dnyd3_7rsbImHuVo4

Tass, "Armenian Foreign Ministry says Turkey sending mercenaries from Middle East to Karabakh," 28 September, 2020,

<https://tass.com/world/1205995>

16Ibit

¹⁷Armenian MFA, "Regarding the phone conversation of the Foreign Ministers of Armenia and Russia," 30 September, 2020,

https://www.mfa.am/en/press-releases/2020/09/30/fm_armenia_russia_/10478

¹⁸Armenian National Security Service, "National Security Service presents facts on participation of the Turkish side in hostilities, presence of mercenary terrorists and panic among them," 03 October, 2020, [https://www.sns.am/en/press-](https://www.sns.am/en/press-releases/2020/10/03/national-security-service-presents-facts-on-participation-of-the-turkish-side-in-hostilities-presen/471/)

releases/2020/10/03/national-security-service-presents-facts-on-participation-of-the-turkish-side-in-hostilities-presen/471/

Days after the outbreak, a high-ranking official in the US Defense Department confirmed the validity of the information that spoke about sending hundreds of Syrian mercenaries from Turkey to support Azerbaijan.²⁰

The spokesman for the Iranian Ministry of Foreign Affairs commented “Islamic Republic of Iran will by no means allow the terrorist organizations to transform the regions adjacent to our northern borders into a threat to our national security. A transfer of clashes to the Caucasus will bring a much larger catastrophe than the Karabakh conflict,”²¹

The deployment of the mercenaries and their existence in the Azerbaijan is proofed based on the video published by them. The location of the mercenaries was identified by the respective experts.²²

Meanwhile, it is also essential to underline that Turkey and Azerbaijan exercise direction and control at every level of the mercenary army's activities, from the minutest details of the behavior and performance of individual mercenaries, to the broadest issues of deciding what goals to achieve and how to achieve them.

The gathered information and evidence allows to identify the foreign fighters recruited and deployed by Turkey on the borders between Artsakh and Azerbaijan as mercenaries within the meaning of international legal documents such as the International Convention against the Recruitment, Use, Financing and Training of Mercenaries of 1989, and the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977.

Azerbaijan is a state party to the Convention of 1989; Turkey is a party to none. However, the prohibition of using mercenaries in hostilities is of customary nature and is binding upon any state. The United Nations Human Rights Council, by the Resolution 42/9 resolution of 26 September 2019 has strongly condemned use of mercenaries to impede the exercise of the right of peoples to self-determination, considering it a complex crime in which criminal responsibility falls upon those who have recruited,

19Élysee – Présidence de la République française, “EN DIRECT | Déclaration du Président Emmanuel Macron à son arrivée au Conseil européen,” 01 October, 2020, https://www.facebook.com/watch/live/?v=2683576861957360&ref=watch_permalink
20Frontnews International, “Pentagon confirmed information about transferring Syrian mercenaries to Nagorno-Karabakh by Turkey,” 1 October, 2020, http://frontnews.eu/news/en/71955/?fbclid=IwAR0aXoUMjbjq_XPccAl2IDSYK6j7JeCQib-TnSRIGwTLU4Dos5EZ--Yf2okE

21Khabar Online, “دهدمنی را خود شمالی مرزهای همجوار مناطق در هاتروریست استقرار اجازه ایران: زادمخطیب,” 03 October, 2020, <https://www.khabaronline.ir/news/1438346/%D8%AE%D8%B7%DB%8C%D8%A8-%D8%B2%D8%A7%D8%AF%D9%87-%D8%A7%DB%8C%D8%B1%D8%A7%D9%86-%D8%A7%D8%AC%D8%A7%D8%B2%D9%87-%D8%A7%D8%B3%D8%AA%D9%82%D8%B1%D8%A7%D8%B1-%D8%AA%D8%B1%D9%88%D8%B1%DB%8C%D8%B3%D8%AA-%D9%87%D8%A7-%D8%AF%D8%B1-%D9%85%D9%86%D8%A7%D8%B7%D9%82-%D9%87%D9%85%D8%AC%D9%88%D8%A7%D8%B1-%D9%85%D8%B1%D8%B2%D9%87%D8%A7%DB%8C?fbclid=IwAR3mGS2g6eDJ9mmkikH3MpAihwUHB3jw9BZBQiL6ryOTQmrJ3kF400zFqBM>

22Razminfo, “Ադրբեյջանում արաբախոս վարձկանների գտնվելու առաջին տեսասլացույցը”, 03 October, 2020, <https://razm.info/146655>

employed, trained and financed the mercenaries. The Resolution considers the activities of the mercenaries as a threat to peace, security and human rights.²³

Deployment and use of these militants not only goes against the obligations of Turkey and Azerbaijan under public international law but create major threats for the violation of human rights and the very essence of relevant humanitarian principles.

The situation raises major legal questions with respect to compliance of Turkey with its international legal obligations. Thus, the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations lays down the basic principle according to which “[e]very State has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands including mercenaries, for incursion into the territory of another State”.

Furthermore, both Azerbaijan and Turkey are parties to the Convention for the Suppression of the Financing of Terrorism. The latter provides for the obligation of the states to prevent, prosecute and punish direct or indirect, unlawful and willful, provision or collection of funds with the intention that those are used or in the knowledge that they are to be used, in full or in part, in order to carry out, *inter alia*, any act “intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act” (Article 2(1)(b)).

Despite the fact that the Convention is an instrument aimed at struggling against individuals committing certain crimes and not talking (at least directly) about negative obligations (commitment of prohibited acts on their own) of the States parties, it must be noted that according to the ruling of the International Court of Justice in *Bosnia and Herzegovina v. Serbia and Montenegro* case “it would be paradoxical if States were thus under an obligation to prevent, so far as within their power, commission of [prohibited acts] by persons over whom they have a certain influence, but were not forbidden to commit such acts through their own organs, or persons over whom they have such firm control that their conduct is attributable to the State concerned under international law” (*Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, 2007 I.C.J. Reports 43, p. 113, ¶166).

It is worth-mentioning that on 6 October the European Court of Human Rights received a request for an interim measure lodged by Armenia against Turkey due to the latter’s involvement in Nagorno-Karabakh conflict through direct military presence and deployment of mercenaries. The European Court granted the request and called on Turkey to refrain from actions that contribute to breaches of the Convention rights of civilians, and to respect its obligations under the Convention.

²³UN Resolution 42/9 “The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination,” 4 October, 2019, <https://undocs.org/en/A/HRC/RES/42/9>

3. MASSIVE HATE SPEECH TOWARDS ETHNIC ARMENIANS AND ETHNIC CLEANSING

Aggressive military air and artillery shelling against peaceful population of Artsakh launched by Azerbaijan on 27 September is accompanied with massive hate speech towards ethnic Armenians (Armenophobia) that enjoys state support.

Monitoring of mass media and especially social networks has revealed hatred and incitement to hatred and calls for violence, including calls for killings, spread from Turkish and Azerbaijani sources. At the same time, extensive number of social network individual and group pages spread videos and texts containing hatred towards Armenians; scenes of violence and calls for killing and destruction. Significant number of fake profiles is with Armenian names and surnames, which also send messages to real Armenian accounts with threats and intimidation.

The mentioned materials are disseminated through Facebook, Twitter, TikTok, and other social media networks. They target Armenian social media users, including minors. At the same time, more aggressive materials are spread through TikTok with purpose to spread fear and alarms in the peaceful population. Consultations of the Human Rights Ombudsman with experts show that this specific social network is more dangerous than others, since in many cases it is impossible to have control over them.

The Armenophobia and massive hate speech against ethnic Armenians coordinated by Azerbaijani authorities had been thoroughly analyzed and documented by independent experts and published by the Ombudsman of Artsakh.²⁴

The results of Azerbaijani state lead hate speech against ethnic Armenians were revealed also during the outbreak of Nagorno-Karabakh conflict on April 2016. Within his *ad hoc* reports the Ombudsman of Artsakh addressed a wide range of human rights issues stemming from the Azerbaijani aggression, including beheading, torture, and mutilation of combatants' and civilians' dead bodies, as well as indiscriminate shelling of civilian objects, etc.²⁵

This is a continuation of long-lasting Armenophobia which has been confirmed also by the European Court of Human Rights case of "Makuchyan and Minasyan v. Azerbaijan and Hungary" (paras. 213-221). It is related to the release and glorification of Ramil Safarov by Azerbaijani authorities, who brutally killed

²⁴Artsakh Ombudsman, "ARTSAKH OMBUDSMAN INTERIM PUBLIC REPORT ARMENOPHOBIA IN AZERBAIJAN ORGANIZED HATE SPEECH ANIMOSITY TOWARDS ARMENIANS," 25 September, 2018, <https://artsakhombuds.am/hy/document/570>

²⁵Artsakh Ombudsman, "ARTSAKH OMBUDSMAN INTERIM PUBLIC REPORT LEGAL ASSESSMENT FACTS ON HUMAN SHIELDING AND USE OF INDISCRIMINATE ATTACKS AGAINST THE CIVILIAN POPULATION OF NAGORNO KARABAKH BY AZERBAIJANI MILITARY FORCES," 21 April, 2016, <https://artsakhombuds.am/hy/document/566>

Artsakh Ombudsman, "ARTSAKH OMBUDSMANS SECOND INTERIM REPORT ON ATROCITIES COMMITTED BY AZERBAIJAN DURING THE 2016 APRIL WAR," 9 December, 2016, <https://artsakhombuds.am/hy/document/568>

Armenian officer Guren Margaryan. This ECtHR judgment is a ruling against Azerbaijan's policy of Armenophobia. It not only recognizes, but also adjudicates on the inadmissibility of the promotion on the state level of hate crimes committed against the Armenians by Azerbaijan.

The Strasbourg Court condemned for the release and glorification of a person who committed murder as a result of ethnic hatred, which is a dangerous impetus for creating an atmosphere of impunity. The European Court, in this case, found a violation of right to life guaranteed by the European Convention on Human Rights (Article 2), as well as the right to prohibit discrimination (Article 14), in conjunction with the Article 2. The above mentioned is only one example of the result of the armenophobic propaganda of the Azerbaijan.

The hate speech is being disseminated also by the Turkish government. According to Garo Paylan, member of the Turkish Parliament, the Turkish government engages in war propaganda by openly supporting the military conflict and is publicly resorting to belligerent rhetoric against the Armenia. Moreover, Turkey's Armenian community has also been intimidated in this climate of hate speech. Provocateurs gathered at the Armenian patriarchate with Azerbaijani flags and Turkey's Armenian community and citizens of Armenia who live and work in Turkey no longer feel safe.²⁶

All these factors clearly demonstrate a policy by Azerbaijan and Turkey of ethnic cleansing and terror-inspiring means against the Armenian civilian population.

²⁶Garo Paylan - Շարք Փայլան, "Press Statement," 3 October, 2020, <https://www.facebook.com/792138110876107/posts/3362613830495176/>

Annotation

The institution of the Human Rights Ombudsman of the Republic of Artsakh is an independent national human rights institution functioning with Paris principles. It was established in 2008, according to the Constitution and the Law on Human Rights Ombudsman.

The first Human Rights Ombudsman was Yuri Hayrapetyan, who served in 2008-2016.

The second Human Rights Ombudsman was Ruben Melikyan, who served in 2016-2018.

The incumbent Ombudsman is Artak Beglaryan, who has been elected on October 31, 2018.

Postal address: 1 Knunyantsneri street, Stepanakert 375000, Artsakh

Telephone: +374 (0)-47-979045, (0)-47-979046.

E-mail: info@artsakhombuds.am

Website: <https://www.artsakhombuds.am>

Twitter: <https://twitter.com/ArtsakhOmbuds>

Facebook: <https://www.facebook.com/ArtsakhOmbuds>