

Complaint to the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

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To: Jelena Aparac, Lilian Bobeia, Chris Kwaja, Saeed Mokbil, Sorcha MacLeod, Members of the Working Group on Mercenaries, Human Rights Office of the High Commissioner

Summary

Victims: The People of Artsakh (region formerly known as Nagorno-Karabakh)

Perpetrators: Republics of Azerbaijan and Turkey

Authors: The undersigned civil society organizations and independent experts

Factual Circumstances: As of 27 September 2020 and continuing through today, Azerbaijan launches military attacks, which target civilian populations and civilian infrastructure in Artsakh (aka Nagorno-Karabakh), for the purpose of impeding the exercise of the right to self-determination of the Armenian people of Artsakh. Azerbaijan is supported by Turkey, who has recruited for pay and transported to the conflicting zone mercenaries from Syria.

Discussion

The undersigned civil society organizations and individual experts, referring to International Convention Against the Recruitment, Use, Financing and Training of Mercenaries, invoke the international standards which support the mandate of the the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, and request that the Working Group engage with the governments of Azerbaijan and Turkey as regards their use of mercenaries from Syria against the people of Artsakh.

On September 27 of 2020, Azerbaijan violated the ceasefire agreement of 1994 with Armenia and Artsakh (formerly Nagorno-Karabagh), using heavy weaponry, including internationally sanctioned ones (such as cluster munitions), shelling communities and targeting civilians to force the indigenous people of Artsakh to surrender their right to self-determination under the pressure of grave threats to life.

In preparation and execution of this offensive, Azerbaijan received direct support from Turkey in a form of military arsenal and personnel, but also in a form of organized deployment of mercenaries from Syria to fight against Artsakh, which was reported in the international media,¹

¹ France 24, <https://www.fr24news.com/a/2020/10/france-accuses-turkey-of-sending-syrian-mercenaries-to-nagorno-karabakh-2.html>; The Moscow Times, <https://www.themoscowtimes.com/2020/09/30/russia-says-syria-libya-fighters-deployed-to-karabakh-conflict-a71610>; Reuters, <https://www.reuters.com/article/us-armenia-azerbaijan-putin-macron/france-accuses-turkey-of-sending-syrian-mercenaries-to-nagorno-karabakh-idUSKBN26L3SB>; <https://www.reuters.com/article/armenia-azerbaijan-int/assad-blames-turkey-for-nagorno-karabakh-fighting-russia-sees-terrorism-risk-idUSKBN26R1DZ>; The Jerusalem Post, <https://www.jpost.com/breaking-news/mercenaries-from-syria-being-deployed-in-nagorno-karabakh-assad-644705>; Foreign Policy, <https://foreignpolicy.com/2020/10/05/nagorno-karabakh-syrians-turkey-armenia-azerbaijan/>; Radio France Internationale, <https://www.rfi.fr/en/international/20201001-macron-claims-syrian-jihadists-active-in-conflict-between-armenia-and-azerbaijan-nagorno-karabakh>; BBC, <https://www.bbc.com/news/world-europe-54366616>; Middle East Monitor, <https://www.middleeastmonitor.com/20201001-we-were-deceived-says-syria-mercenary-fighting-in-azerbaijan>; Independent, <https://www.independent.co.uk/news/france-fears-turkey-sending-mercenaries-caucasus-turkey-emmanuel-macron-nagornokarabakh-vladimir-putin-azerbaijan-b738440.html>; The Australian, <https://www.theaustralian.com.au/world/erdogan-sends-mercenaries-to-tinderbox-conflict-in-caucasus/news-story/c7e4972257b2a9afc251b2ecb8b26f1b>; Gulf News, <https://gulfnews.com/opinion/editorials/erdogans-use-of-mercenaries-under-the-spotlight-again-1.74315976>; Al Bawaba, <https://www.albawaba.com/news/erdogan-using-syrian-mercenaries-foreign-policy-bludgeon%C2%A0-1383945>

and indicated in the official statements of several states, including France,² Russia,³ Iran,⁴ Syria,⁵ as well as statements of MPs from USA,⁶ European Parliament⁷ and UK.⁸

Several independent media sources have interviewed Syrians now in Azerbaijan as well as in Syria, and these interviews reveal that since August 2020 Syrians were recruited, many from the Syrian National Army, “the umbrella organization of all Syrian opposition factions backed by Turkey,”⁹ to serve as security forces at military installations in Azerbaijan, but once the conflict began they were forced into front line battle under the threat of imprisonment if they refused.¹⁰ The mercenaries were transported to Azerbaijan from Syria through Turkey.¹¹

Turkey has a history of recruiting mercenaries, and besides Syria it has also deployed mercenaries in Libya. Its military operations in these countries have led to uncontrollable armed clashes, exacerbated by gross violations of human rights, involving paramilitary groups and ISIS militants.¹²

Turkey and Azerbaijan use mercenaries as a means of violating human rights of people of Artsakh, in addition to creating a heavy multinational layer to the conflict and shaking the regional stability. According to intelligence data of Artsakh authorities, Turkish President has reached an agreement with the leader of the Islamic Party of Afghanistan, a terrorist included in the UN black list, to involve new terrorist groups.¹³

As to Artsakh’s history in regard to self-determination, Artsakh has been the home of Armenians for centuries. It was included in Soviet Azerbaijan territory by Stalin in 1921 as an enclave called Nagorno-Karabagh Autonomous Oblast (NKAO). Following series of petitions to the Communist Party leadership in Moscow in 1945, 1965, 1967 and 1977, people of Artsakh sought to exercise their self-determination in late 1980s, given some liberated environment created by Soviet “perestroika”. In 1988, the representative body of NKAO voted to separate from Soviet Azerbaijan SSR and unite with Armenian SSR. The leadership in Moscow prevented this legal and constitutional process from taking place. In retaliation, the Azerbaijani authorities instigated pogroms against ethnic Armenians who were historic residents of cities

² E. Macron, https://www.youtube.com/watch?v=OCQqW1A5kuM&feature=emb_logo; <https://www.reuters.com/article/us-armenia-azerbaijan-putin-macron/france-accuses-turkey-of-sending-syrian-mercenaries-to-nagorno-karabakh-idUSKBN26L3SB>

³ S. Lavrov, <https://www.reuters.com/article/us-armenia-azerbaijan-putin-macron/france-accuses-turkey-of-sending-syrian-mercenaries-to-nagorno-karabakh-idUSKBN26L3SB>; S. Narishkin <http://www.svr.gov.ru/smi/2020/10/o-situatsii-vokrug-nagornogo-karabakha.htm>

⁴ H. Rouhani, <http://www.president.ir/en/117707>; S. Khatibzadeh, <https://bit.ly/2I1CQca>

⁵ B. Assad, <https://www.youtube.com/watch?v=LgwonSjMlpw>; <https://www.reuters.com/article/armenia-azerbaijan-syria-assad-int-idUSKBN26R0V6>

⁶ USA Congressmen A. Schiff, <https://www.facebook.com/watch/?ref=external&v=831208917617724>; D. Titus, <https://twitter.com/repdinatitus/status/1310636287918067716>; B. Sherman, <https://twitter.com/BradSherman/status/1310335797799813122>; J. Chu, https://anca.org/press-release/members-of-congress-blast-azerbaijan-and-turkey-as-attack-on-artsakh-expands-to-armenia/?fbclid=IwAR2DrUCNcNWlc38HNr1yYDRDcIK8ivhj7x1rPRZ94GcFmelc00Gr13_5-l

⁷ European Parliament Plenary Session, <https://hetq.am/en/article/122709?fbclid=IwAR06a1e1mq9PQj4MWcfRc1aDqWK3ePwOqvY9YpG1nZnouGzDnhA8aPXgg>

⁸ UK Members of All-Party Parliamentary Group for Armenia, <https://en.armradio.am/2020/10/06/uk-mps-condemn-azerbaijani-attack-against-artsakh-and-armenia/>

⁹ The Investigative Journal, <https://investigativejournal.org/turkeys-syrian-mercenaries-in-azerbaijan-feel-tricked-as-bodies-pile-up/?fbclid=IwAR1Oxlb8VpeLENwUj0qXIIIjrfGoAGfCqWXyak7ihKBapRigimLa8GGQIfY>

¹⁰ Id., and The Guardian, https://www.theguardian.com/world/2020/sep/28/syrian-rebel-fighters-prepare-to-deploy-to-azerbaijan-in-sign-of-turkeys-ambition?fbclid=IwAR1VIR_1YfNjEtRy5MkEiSQnb-vMARVbK5mbAhJc1JtWFSNirL7fJiSDqIA

¹¹ France 24, <https://youtu.be/e9k1d1CPf6g>

¹² OHCHR, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26258&LangID=E>, <https://www.ohchr.org/en/newsevents/pages/DisplayNews.aspx?NewsID=25970&LangID=E>

¹³ <https://www.panorama.am/en/news/2020/10/07/Artsakh-Vahram-Poghosyan/2376724>

in Azerbaijan, as well as violence against Armenians in Nagorno-Karabakh.¹⁴ Hence, the so-called Nagorno-Karabagh conflict began.

It should be noted that the internal borders of the USSR, including the one between Artsakh and Armenia were arbitrary - *de facto* violating the right to self-determination.

In 1989, renowned Soviet dissident Andrei Sakharov spoke in the Congress of People's Deputies and explained what everyone knew:

*"We have inherited from Stalinism a constitutional structure that bears the stamp of imperial thinking and the imperial policy of "divide and rule". The smaller Union Republics and the autonomous national subdivisions, which are administratively subordinated to the Union Republics, are victims of this legacy. For decades they have been subjected to national oppression. Now these problems have come to the surface in dramatic fashion. But to an equal extent the larger ethnic groups have also been victims, and that includes the Russian people, who have had to bear the main burden of imperial ambitions and the consequences of adventurism and dogmatism in foreign and domestic policy."*¹⁵

The increasing instability and conflict led to the people of Artsakh declaring their independence on September 2 1991.¹⁶ This was more than one month before Azerbaijan SSR would declare its independence from the USSR and reconstitute itself as a state on October 18 1991. Thus, an independent Azerbaijan has never held a valid international legal claim, nor ever exercised authority over the Armenian population of Artsakh. Despite this legal and *de facto* reality, Azerbaijan was internationally recognized as per the USSR internal and imperialistic borders of divide and rule, and based on this, it has continually sought to militarily occupy Artsakh. But such military occupation has continually been prevented by the people of Artsakh, with support from the Republic of Armenia.

In addition to an invalid Azerbaijani territorial claim to Artsakh, it must be clear that any claim and exercise of self-determination is necessarily superior to any state's territorial claim because the very rationale for the existence of any state is founded in self-determination. In other words, a state, which can only act based on a foundation of self-determination as per international law, cannot assert that its territorial claim is superior to the principle of self-determination, for otherwise it would deny the foundations of its own claim to statehood. Therefore, international reciprocity as per human rights treaty and international customary law thus dictate that self-determination is supreme as a principle, and considering Artsakh's long exercise of self-rule as per this principle, the international community is bound to recognize Artsakh as an international state and to take action against Azerbaijani aggression.

The action of the Working Group on Mercenaries is imperative at this time because the last days' attacks from Azerbaijan have consistently targeted civilian populations in Artsakh, resulting in civilian deaths and injuries. The Artsakh Ombudsman reports that in addition to the heavy bombardment of Stepanakert, the capital, at least 5 other cities and villages have been targeted resulting in civilian deaths, and that schools and public infrastructure like electricity and water systems are targeted and damaged.¹⁷ The targeting of civilians and

¹⁴ EVN Report, <https://www.evnreport.com/politics/karabakh-movement-88-a-chronology-of-events-on-the-road-to-independence>

¹⁵ Sakharov Speech, 1989г Выступление академика А. Д. Сахарова на Первом съезде, minutes 11:57 - 12:57, <https://youtu.be/LGnqZ8HPv0g>

¹⁶ Radio Liberty, <https://www.rferl.org/a/1065626.html>

¹⁷ EVN Report, <https://www.evnreport.com/spotlight-karabakh/updates-from-artsakh-an-unfolding-humanitarian-crisis>; Artak Beglaryan calls upon the international community <https://youtu.be/OIn3KmTpM8o>

civilian infrastructure is confirmed by the International Committee of the Red Cross (ICRC).¹⁸ The illegal use of cluster bombs against Stepanakert is confirmed by Amnesty International.¹⁹

For all of these reasons, the undersigned civil society organizations and individual experts request that the Working Group engage with the governments of the Republics of Azerbaijan and Turkey as soon as possible to hold them accountable for the use of mercenaries in a war against the people of Artsakh exercising their right to self-determination and for targeting civilians, civilian populations, and civilian infrastructure in violation of international humanitarian law.

Civil Society Authors:

1. Transparency International Anticorruption Center
2. Helsinki Citizens Assembly Vanadzor Office
3. Human Rights Research Center
4. “Democracy Today” NGO
5. “PINK” human rights NGO
6. “Womens’ Rights House” NGO
7. Public Journalism Club
8. Law Development and Protection Foundation
9. “Protection of Rights without Borders” NGO
10. Open Society Foundations Armenia
11. Journalists Club “Asparez” NGO
12. Gyulnara Shahinian, former UN Special Rapporteur on Contemporary Forms of Slavery
13. Ani Harutyunyan, independent expert on international criminal law
14. Vahan Bournazian, Professor of Human Rights, Center for European Studies, Yerevan State University
15. Helsinki Association
16. Peace Dialogue
17. Aliq Media Armenia

¹⁸ ICRC, <https://www.icrc.org/en/document/nagorno-karabakh-conflict-icrc-condemns-attacks-causing-civilian-deaths-and-injuries>

¹⁹ Amnesty International, <https://www.amnesty.org/en/latest/news/2020/10/armenia-azerbaijan-civilians-must-be-protected-from-use-of-banned-cluster-bombs/>