

INTERNATIONAL COURT OF JUSTICE

APPLICATION INSTITUTING PROCEEDINGS
AND
REQUEST FOR PROVISIONAL MEASURES

REPUBLIC OF ARMENIA

v.

REPUBLIC OF AZERBAIJAN



VOLUME I

16 September 2021

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To the Registrar of the International Court of Justice, the undersigned, being duly authorised by the Government of the Republic of Armenia (“Armenia”), states as follows:

1. In accordance with Articles 36(1) and 40 of the Statute of the Court and Article 38 of the Rules of Court, I have the honour to submit this Application instituting proceedings in the name of Armenia against the Republic of Azerbaijan (“Azerbaijan”). Pursuant to Article 41 of the Statute, the Application includes a request that the Court indicate provisional measures to protect the rights invoked herein from imminent and irreparable prejudice.

INTRODUCTION

2. This Application concerns a legal dispute between Armenia and Azerbaijan regarding Azerbaijan’s violations of the International Convention on the Elimination of All Forms of Racial Discrimination (“CERD” or “Convention”). These violations are directed at individuals of Armenian ethnic or national origin (“Armenians”), regardless of their actual nationality. The obligations under the CERD being of an *erga omnes partes* character, Armenia is entitled, under the Convention, to invoke Azerbaijan’s responsibility, both as an injured and as a non-injured State.

3. For decades, Azerbaijan has subjected Armenians to racial discrimination. Anti-Armenian hate is formal State policy, taught in schools and regularly espoused at the highest levels of government, with Azerbaijan’s President Ilham Aliyev himself leading the way.

4. As a result of this State-sponsored policy of Armenian hatred, Armenians have been subjected to systemic discrimination, mass killings, torture and other abuse. Hundreds of thousands of Armenians have already fled Azerbaijan, and those who remain must hide their ethnic identity. Indeed, prejudice against Armenians “is so ingrained that describing someone as an Armenian in the media” is considered to be “an insult that justifies initiating judicial proceedings against the persons making such statements.”¹ Given also the Government’s own “condon[ing] [of] racial hatred and hate crimes,”² impunity for offenses against

¹ European Commission against Racism and Intolerance, *ECRI Report on Azerbaijan (fourth monitoring cycle)* (31 May 2011), available at <https://rm.coe.int/third-report-on-azerbaijan/16808b557e>, para. 99.

² CERD Committee, *Concluding observations on the combined seventh to ninth periodic reports of Azerbaijan*, UN Doc. CERD/C/AZE/CO/7-9 (10 June 2016), p. 3.

Armenians prevails. Armenian cultural heritage has also been systematically destroyed, erased and falsified.

5. These practices once again came to the fore in September 2020, after Azerbaijan's aggression against the Republic of Artsakh and Armenia.³ Armed hostilities ended on 10 November 2020 with the signing of the Trilateral Statement.⁴

6. During that armed conflict, Azerbaijan committed grave violations of the CERD. A stamp issued by Azerbaijan's State-owned postage stamp company in the wake of the armed conflict sought to commemorate those violations by depicting the chemical "disinfecting" of Nagorno-Karabakh. As one observer put it, "[n]ot since Nazi Germany has such a blatant example of genocidal symbolism been deployed so brazenly by a state actor."⁵ Thousands of Armenians were forced to flee the Nagorno-Karabakh conflict zone, and those who fled areas now under Azerbaijan's control have no prospect of return.⁶

7. Even after the end of hostilities, Azerbaijan has continued to engage in the murder, torture and other abuse of Armenian prisoners of war, hostages and other detained persons. It has sowed the seeds of a future catastrophe, by erecting an abominable park that shocks the conscience with its depictions of racial hatred. And it has continued to systematically destroy, erase and falsify Armenian cultural heritage in the region.

8. Under the CERD, Azerbaijan has undertaken, *inter alia*, to "engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national

³ Armenia will be referring to the Republic of Artsakh and Nagorno-Karabakh interchangeably in this Application and Request for Provisional Measures. Armenia's references to Nagorno-Karabakh are without prejudice to its position on the status of the Republic of Artsakh under international law.

⁴ See Prime Minister of the Republic of Armenia, *Statement by the Prime Minister of the Republic of Armenia, the President of the Republic of Azerbaijan and the President of the Russian Federation* (10 November 2020), available at <https://www.primeminister.am/en/press-release/item/2020/11/10/Announcement>.

⁵ Alexander Galitsky, "Azerbaijan's Dehumanization of Armenians Echoes Horrors of Holocaust," *The Times of Israel* (30 January 2021), available at <https://blogs.timesofisrael.com/azerbaijans-dehumanization-of-armenians-echoes-horrors-of-holocaust/>.

⁶ See "Thousands of Armenian civilians flee their homes in wake of Nagorno-Karabakh truce," *france24* (12 November 2020), available at <https://www.france24.com/en/europe/20201112-thousands-of-armenian-civilians-flee-their-homes-in-wake-of-nagorno-karabakh-truce>.

and local, shall act in conformity with this obligation.”⁷ Azerbaijan is similarly obligated to “pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms.”⁸ Armenia has a right to seek Azerbaijan’s compliance with those obligations and the victims of its breaches deserve protection. All good-faith efforts by Armenia to put an end to Azerbaijan’s violations of the CERD through other means having failed, Armenia respectfully comes before the Court to ask it to hold Azerbaijan responsible for its violations of the CERD, to prevent future harm, and to redress the harm that has already been caused.

I. JURISDICTION OF THE COURT

9. The Court has jurisdiction over the present dispute pursuant to Article 36(1) of the Statute of the Court and Article 22 of the CERD.

10. Article 22 of the CERD provides:

“Any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.”⁹

11. For the Court to have jurisdiction under Article 22, there must therefore be (a) a dispute between two or more State Parties to the Convention, (b) with respect to the interpretation or application of the CERD, (c) which the Parties have been unable to settle through negotiations or by the procedures expressly provided for in the CERD. All these requirements are met in the present case.

12. Armenia and Azerbaijan are both Parties to the CERD, having acceded to it on 23 June 1993 and 16 August 1996, respectively. Neither has made any reservations to Article 22 or to any other provision of the Convention.

⁷ International Convention on the Elimination of All Forms of Racial Discrimination (opened for signature 7 March 1966, entered into force 4 January 1969), 660 UNTS 195, Art. 2(1).

⁸ *Ibid.*

⁹ *Ibid.*, Art. 22.

13. There is plainly a dispute between the Parties with respect to the interpretation and application of the Convention, as evidenced by the exchange of letters between the two Parties' Ministers of Foreign Affairs.

14. Specifically, on 11 November 2020, the Minister of Foreign Affairs of Armenia sent a letter to his counterpart in Azerbaijan expressly referring to the CERD and noting that "Azerbaijan has violated and is currently violating its obligations under multiple provisions of the Convention, including under Articles 2, 3, 4, 5, 6 and 7."¹⁰ The Foreign Minister also listed actions by which Azerbaijan was committing those violations, and called on Azerbaijan to "immediately cease this conduct," to "refrain from any and all further conduct that results or could result, directly or indirectly, in violations of the Convention," and to "comply with its obligations under the Convention."¹¹ By the same letter, Armenia invited Azerbaijan to negotiate in order to try to reach an amicable settlement.¹²

15. On 8 December 2020, the Minister of Foreign Affairs of Azerbaijan responded with a letter stating that Azerbaijan "rejects Armenia's allegations as set forth in its 11 November Letter."¹³

16. Armenia's maintenance of its claims, and Azerbaijan's rejection of them, was further confirmed in subsequent letters.

17. The Parties have been unable to settle this dispute through negotiations or by the procedures expressly provided for in the CERD. The Court has held that the language of Article 22 "imposes alternative preconditions to the Court's jurisdiction," such that a State seeking to refer a dispute under the CERD to the Court need only satisfy one of the two preconditions.¹⁴ In the present case, the negotiation precondition has been satisfied.

18. The Court has further stated that the negotiation precondition "requires—at the very least—a genuine attempt by one of the disputing parties to

¹⁰ *Letter from the Minister of Foreign Affairs of the Republic of Armenia to the Minister of Foreign Affairs of the Republic of Azerbaijan* (11 November 2020) (**Annex 10**).

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Letter from the Minister of Foreign Affairs of the Republic of Azerbaijan to the Minister of Foreign Affairs of the Republic of Armenia* (8 December 2020) (**Annex 14**).

¹⁴ *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), Preliminary Objections, Judgment, I.C.J. Reports 2019*, paras. 34, 113.

engage in discussions with the other disputing party, with a view to resolving the dispute.”¹⁵ The negotiation precondition is met “when the parties’ ‘basic positions has not ... evolved’ after several exchanges of diplomatic correspondence and/or meetings.”¹⁶

19. That is exactly the case here. Over the past ten months, Armenia has exchanged more than 40 pieces of correspondence with Azerbaijan,¹⁷ and

¹⁵ *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), Preliminary Objections, Judgment, I.C.J. Reports 2011*, p. 132, para. 157.

¹⁶ *Appeal Relating to the Jurisdiction of the ICAO Council under Article 84 of the Convention on International Civil Aviation (Bahrain, Egypt, Saudi Arabia and United Arab Emirates v. Qatar), Judgment of 14 July 2020*, p. 30, para. 93 (quoting *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal), Judgment, I.C.J. Reports 2012 (II)*, p. 446, para. 59, citing *Immunities and Criminal Proceedings (Equatorial Guinea v. France), Preliminary Objections, Judgment, I.C.J. Reports 2018 (I)*, p. 317, para. 76).

¹⁷ *Letter from the Minister of Foreign Affairs of the Republic of Armenia to the Minister of Foreign Affairs of the Republic of Azerbaijan* (11 November 2020) (**Annex 10**); *Letter from the Minister of Foreign Affairs of the Republic of Azerbaijan to the Minister of Foreign Affairs of the Republic of Armenia* (8 December 2020) (**Annex 14**); *Letter from the Minister of Foreign Affairs of the Republic of Armenia to the Minister of Foreign Affairs of the Republic of Azerbaijan* (22 December 2020) (**Annex 15**); *Letter from the Minister of Foreign Affairs of the Republic of Azerbaijan to the Minister of Foreign Affairs of the Republic of Armenia* (15 January 2021) (**Annex 18**); *Letter from the Minister of Foreign Affairs of the Republic of Armenia to the Minister of Foreign Affairs of the Republic of Azerbaijan* (22 January 2021) (**Annex 19**); *Letter from the Minister of Foreign Affairs of the Republic of Azerbaijan to the Minister of Foreign Affairs of the Republic of Armenia* (17 February 2021) (**Annex 20**); *Letter from the Minister of Foreign Affairs of the Republic of Armenia to the Minister of Foreign Affairs of the Republic of Azerbaijan* (24 February 2021) (**Annex 21**); *Letter from the Minister of Foreign Affairs of the Republic of Azerbaijan to the Minister of Foreign Affairs of the Republic of Armenia* (1 March 2021) (**Annex 22**); Delegation of the Republic of Azerbaijan, *Negotiations between Armenia and Azerbaijan on the International Convention on the Elimination of all Forms of Racial Discrimination: Virtual Meeting, 2 March 2021* (3 March 2021) (**Annex 23**); Delegation of the Republic of Armenia, *Minutes of the Meeting between the Delegations of Armenia and Azerbaijan* (3 March 2021) (**Annex 24**); Delegation of the Republic of Armenia, *Position of the Delegation of the Republic of Armenia Concerning the Issues Discussed during the Meetings of 2-3 of March 2021* (3 March 2021) (**Annex 25**); Delegation of the Republic of Azerbaijan, *Response of the Delegation of the Republic of Azerbaijan Concerning the Issues Discussed during the Meetings of 2-3 March 2021* (23 March 2021) (**Annex 26**); Delegation of the Republic of Armenia, *Reply of the Delegation of the Republic of Armenia Concerning the Issues Discussed during the Meetings of 2-3 March 2021* (30 March 2021) (**Annex 27**); Delegation of the Republic of Armenia, *Proposed Draft Agenda for 6-7 April 2021 Meeting* (2 April 2021) (**Annex 29**); Delegation of the Republic of Azerbaijan, *Response of the Delegation of the Republic of Azerbaijan Concerning the Issues Discussed during the Meetings of 2-3 March 2021* (2 April 2021) (**Annex 28**); Delegation of the Republic of Armenia, *Reply of the Delegation of the Republic of Armenia Concerning the 6-7 April Meeting and the Issues Discussed during the Meetings of 2-3 March 2021* (5 April 2021) (**Annex 30**); Delegation of the Republic of Azerbaijan, *Proposed Draft Agenda for 6-7 April 2021 Meeting* (5 April 2021) (**Annex 31**); Delegation of the Republic of

Azerbaijan, *Draft Procedural Modalities* (6 April 2021) (**Annex 32**); Delegation of the Republic of Armenia, *Reply of the Delegation of Armenia Concerning the Procedural Modalities and Upcoming Meetings* (7 April 2021) (**Annex 33**); Delegation of the Republic of Armenia, *Reply of the Delegation of Armenia Concerning the Procedural Modalities and Upcoming Meetings* (9 April 2021) (**Annex 34**); Delegation of the Republic of Azerbaijan, *Response of the Delegation of the Republic of Azerbaijan Concerning the Procedural Modalities* (15 April 2021) (**Annex 36**); Delegation of the Republic of Armenia, *Reply of the Delegation of the Republic of Armenia to the Republic of Azerbaijan's Response Concerning Procedural Modalities* (16 April 2021) (**Annex 37**); Delegation of the Republic of Azerbaijan, *Response of the Delegation of the Republic of Azerbaijan to the Republic of Armenia's 16 April 2021 Reply Concerning Procedural Modalities* (19 April 2021) (**Annex 38**); Delegation of the Republic of Armenia, *Reply of the Delegation of the Republic of Armenia Concerning Azerbaijan's Proposal on Procedural Modalities of 19 April 2021* (20 April 2021) (**Annex 39**); Delegation of the Republic of Azerbaijan, *Response of the Delegation of the Republic of Azerbaijan to the Republic of Armenia's 20 April 2021 Reply Concerning Procedural Modalities* (23 April 2021) (**Annex 40**); Delegation of the Republic of Armenia, *Reply of the Republic of Armenia Concerning the Republic of Azerbaijan's Proposal on Procedural Modalities of 23 April 2021* (26 April 2021) (**Annex 41**); Delegation of the Republic of Azerbaijan, *Response of the Delegation of the Republic of Azerbaijan Concerning the Republic of Armenia's Reply of 26 April 2021* (29 April 2021) (**Annex 42**); Delegation of the Republic of Armenia, *Reply of the Republic of Armenia to the Republic of Azerbaijan's Letter of 29 April 2021* (30 April 2021) (**Annex 43**); *Note Verbale from the Permanent Mission of the Republic of Armenia to the United Nations Office and other International Organizations in Geneva to the Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva*, No. 2203/0732/2020 (3 May 2021) (**Annex 44**); *Note Verbale from the Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva to the Permanent Mission of the Republic of Armenia to the United Nations Office and other International Organizations in Geneva*, No. 0181/27/21/25 (3 May 2021) (**Annex 45**); Delegation of the Republic of Azerbaijan, *Response of the Delegation of the Republic of Azerbaijan to the Republic of Armenia's Reply Dated 30 April 2021* (7 May 2021) (**Annex 46**); Delegation of the Republic of Armenia, *Reply of the Republic of Armenia to the Republic of Azerbaijan's Letter of 7 May 2021* (22 May 2021) (**Annex 48**); Delegation of the Republic of Azerbaijan, *Response of the Delegation of the Republic of Azerbaijan to the Republic of Armenia's Reply Dated 22 May 2021* (28 May 2021) (**Annex 49**); Delegation of the Republic of Armenia, *Presentation of the Delegation of the Republic of Armenia on the Scope of the Negotiations* (31 May 2021) (**Annex 50**); Delegation of the Republic of Armenia, *Reply of the Delegation of Armenia Concerning the General Observations of Deputy Minister E. Mammadov and the Parties' Meetings of 31 May and 1 June 2021* (3 June 2021) (**Annex 52**); Delegation of the Republic of Azerbaijan, *Response of the Delegation of the Republic of Azerbaijan to the Republic of Armenia's Reply Dated 3 June 2021* (11 June 2021) (**Annex 53**); Delegation of the Republic of Armenia, *Reply of the Delegation of the Republic of Armenia to the Response of the Delegation of the Republic of Azerbaijan Dated 11 June 2021* (22 June 2021) (**Annex 54**); Delegation of the Republic of Azerbaijan, *Response of the Delegation of the Republic of Azerbaijan to the Republic of Armenia's Reply Dated 22 June 2021* (2 July 2021) (**Annex 55**); Delegation of the Republic of Armenia, *Reply of the Delegation of the Republic of Armenia to the Response of the Delegation of the Republic of Azerbaijan Dated 2 July 2021* (9 July 2021) (**Annex 57**); Delegation of the Republic of Azerbaijan, *Response of the Delegation of the Republic of Azerbaijan to the Republic of Armenia's Reply Dated 9 July 2021* (13 July 2021) (**Annex 58**); Delegation of the Republic of Armenia, *Reply of the Delegation of the Republic of Armenia to the Response of the Delegation of the Republic of Azerbaijan Dated 13 July 2021* (14 July 2021) (**Annex 59**); *Note Verbale from the Permanent Mission of the Republic of*

participated in seven rounds of meetings¹⁸ in an effort to settle this dispute amicably, notwithstanding Azerbaijan's continuing violations of the CERD. Azerbaijan has steadfastly refused to acknowledge any merit to Armenia's claims and requested remedies, and the Parties' basic positions today remain exactly the same as they were in the Foreign Ministers' letters of 11 November and 8 December 2020. There is no reasonable prospect that they will change. Accordingly, negotiations have failed, such that the Court has jurisdiction over the dispute.

II. THE FACTS

A. Historical Background

20. Armenia is situated in the South Caucasus region, and is bordered by Turkey to the west, Georgia to the north, Azerbaijan to the east, and Iran to the south.

21. Nagorno-Karabakh is also located in the South Caucasus, situated east of Armenia and north of Iran.

22. Azerbaijan is bounded by the Caspian Sea to the east, the Russian Federation ("Russia") to the north, Georgia to the northwest, Armenia and Turkey to the west, and Iran to the south.

23. Throughout its history, Azerbaijan has engaged in persecution and massacres of Armenians in the region, including Nagorno-Karabakh.

24. The Armenian genocide in the early 20th century, which Azerbaijan denies to this day,¹⁹ saw mass killings, deportations and persecution of the

Azerbaijan to the United Nations Office and other International Organizations in Geneva to the Permanent Mission of the Republic of Armenia to the United Nations Office and other International Organizations in Geneva, No. 0432/27/21/25 (2 September 2021) (**Annex 60**); *Note Verbale from the Permanent Mission of the Republic of Armenia to the United Nations Office and other International Organizations in Geneva to the Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva*, No. 2203/1415/2021 (10 September 2021) (**Annex 61**).

¹⁸ These rounds of meetings were held on 2-3 March 2021, 6-7 April 2021, 19-20 April 2021, 31 May-1 June 2021, 15-16 July 2021, 30-31 August 2021, and 14-15 September 2021.

¹⁹ See, e.g., President of the Republic of Azerbaijan, Ilham Aliyev, *Speech by Ilham Aliyev at the opening of Defense Ministry's military unit* (25 June 2020), available at <https://en.president.az/articles/39853>.

Armenian population in the Ottoman Empire and the South Caucasus.²⁰ In September 1918, the so-called “Army of Islam” led by Enver Pasha—one of the main perpetrators of the Armenian genocide—captured Baku from the allied Russian, Armenian, and British forces, triggering a massacre of the Armenian population that resulted in over 20,000 deaths.²¹ Fewer than two years later, in March of 1920, troops of the then-Azerbaijan Democratic Republic²² began a systematic massacre of Armenians living in Shushi,²³ one of the largest cities in Nagorno-Karabakh.

25. A few months after that, the Azerbaijan Democratic Republic was incorporated into the Soviet Union as the Azerbaijan Soviet Socialist Republic (“Azerbaijan SSR”).²⁴ Between the 1920s and the late 1980s, the Azerbaijan SSR actively sought to erase Armenian influence in the region. In the province of Nakhichevan, for example, the population of Armenians fell from 50,000 in 1917 to only 3,400 in 1979.²⁵ By 1987, only two Armenian villages remained in that province, and many of the Armenian cultural, religious, and historical monuments were destroyed.²⁶

26. A similar policy caused an exodus of Armenians from Nagorno-Karabakh.²⁷ Heydar Aliyev, Azerbaijan’s former President who at the time served as the First Secretary of the Communist Party of Azerbaijan and father of Azerbaijan’s current President, admitted that he tried to change local demographics by “increas[ing] the number of Azeris there, and reduc[ing] the number of the

²⁰ See “Genocide,” *Ministry of Foreign Affairs of the Republic of Armenia*, available at <https://www.mfa.am/en/genocide>.

²¹ Christopher J. Walker, *Armenia: The Survival of a Nation* (St. Martin’s Press, Inc. 1980), pp. 260-261.

²² The Azerbaijan Democratic Republic proclaimed its independence from the Russian Empire in 1918.

²³ Richard G. Hovannisian, *The Republic of Armenia, Vol. III: From London to Sèvres, February–August, 1920* (University of California Press, 1996), p. 152.

²⁴ Claude Mutafian, “Securing Armenian Karabagh: 1918-1920” in *Armenia and Karabagh: The Struggle for Unity* (Christopher J. Walker (ed.), Minority Rights Publications 1991), p. 99.

²⁵ Claude Mutafian, “The years of suppression: 1923-1987” in *Armenia and Karabagh: The Struggle for Unity* (Christopher J. Walker (ed.), Minority Rights Publications 1991), p. 113.

²⁶ *Ibid.*

²⁷ *Ibid.*, p. 116.

Armenians.”²⁸ At the same time, Armenian cultural, religious, and historical monuments were either destroyed or left to rot.²⁹

27. Throughout the Soviet period, Armenians in Nagorno-Karabakh protested Azerbaijan’s control and oppression. In 1960, for example, 2,500 Armenians submitted a petition to the then-First Secretary of the Communist Party of the Soviet Union and Chairman of the USSR’s Council of Ministers, Nikita Khrushchev, denouncing the “chauvinist policy” of Azerbaijan, which they argued was designed to “ruin the economy of the Armenian population and, eventually, to force the Armenians to leave [Nagorno-Karabakh].”³⁰ Azerbaijani officials responded with illegal imprisonments, murders committed with impunity, and official threats, forcing many Armenians to go into exile.³¹

28. At the beginning of 1988, Nagorno-Karabakh demanded unification with Armenia. As the Soviet Union collapsed in the ensuing years, what began as a peaceful demand was met with violent resistance that eventually escalated into armed conflict, lasting from 1988 until 1994.

29. During that period, Azerbaijan engaged in or permitted violent massacres of Armenians in Nagorno-Karabakh and parts of Azerbaijan.³² In February 1988, Azerbaijani mobs indiscriminately killed, raped, maimed, and even burned alive ethnic Armenians in Sumgait, currently the second-largest city in Azerbaijan.³³ In November 1988, Azerbaijan again engaged in massacres of

²⁸ “Aliyev admits Azerbaijan worked to boost number of Azeris in Artsakh,” *Horizon Weekly* (22 November 2019), available at <https://horizonweekly.ca/en/aliyev-admits-azerbaijan-worked-to-boost-number-of-azeris-in-artsakh/>.

²⁹ Claude Mutafian, “The Years of Suppression: 1923-1987” in *Armenia and Karabagh: The Struggle for Unity* (Christopher J. Walker (ed.), Minority Rights Publications 1991), p. 116.

³⁰ *Ibid.*, p. 118.

³¹ *Ibid.*, pp. 118-119.

³² *Ibid.*, pp. 123-132. See also UN CEDAW, *Consideration of reports submitted by states parties under article 18 of the convention on the elimination of all forms of discrimination against women, Armenia*, UN Doc. CEDAW/C/ARM/1/corr.1 (11 February 1997), paras. 61-62; European Parliament, *Baku pogroms: Written declaration No. 708*, Doc. 15064 (31 January 2020), available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=28589&lang=en>.

³³ Claude Mutafian, “The Struggle for Unification: 1988 Onwards” in *Armenia and Karabagh: The Struggle for Unity* (Christopher J. Walker (ed.), Minority Rights Publications 1991), p. 124. See also “IN RECOGNITION OF THE VICTIMS OF THE BAKU AND SUMGAIT POGROMS” (Extension of Remarks), *Congressional Record Vol. 166, No. 20* (30 January 2020), available at <https://www.congress.gov/congressional-record/2020/01/30/extensions-of-remarks-section/article/E112-3>; Jacques Derrida et al., “An Open Letter on Anti-Armenian Pogroms in the Soviet Union,” *The New York Review* (27 September 1990), available at

Armenians, this time in the town of Kirovabad (also known as Ganja), currently the third-largest city in Azerbaijan.³⁴

30. Massacres continued when violence against Armenians erupted in Baku.³⁵ As noted by the UN Committee on the Elimination of Discrimination against Women, “[f]or five days in January of 1990, the Armenian community of Baku, the capital of Azerbaijan, were killed, tortured, robbed and humiliated.”³⁶

31. In the spring and summer of 1991, the Azerbaijani military conducted a purported passport and arms check in the Khanlar and Shahumyan regions and in the South of Nagorno-Karabakh. The operation, which became notorious by its code name “Operation Ring,” was carried out with an unprecedented degree of violence and a systematic violation of human rights and destruction of property.³⁷

32. Throughout this period, Azerbaijan again destroyed Armenian heritage, including dozens of settlements, cemeteries, memorials, khachkars, and inscriptions, on a wide scale.³⁸

33. The modern Republic of Azerbaijan proclaimed its independence on 30 August 1991.³⁹ When the Armenian majority of Nagorno-Karabakh declared

<https://www.nybooks.com/articles/1990/09/27/an-open-letter-on-anti-armenian-pogroms-in-the-sov/>.

³⁴ Claude Mutafian, “The Struggle for Unification: 1988 Onwards” in *Armenia and Karabagh: The Struggle for Unity* (Christopher J. Walker (ed.), Minority Rights Publications 1991), p. 128.

³⁵ See, e.g., “Map of January 1990 Armenian Pogroms in Baku, Azerbaijan,” USC Dornsife Institute of Armenian Studies (13 January 2020), available at <https://armenian.usc.edu/a-map-of-1990-armenian-pogroms-in-baku-azerbaijan/>; Katherine Clark, *Clark Statement on the 30th Anniversary of Anti-Armenian Pogroms in Baku, Azerbaijan* (27 February 2020), available at <https://katherineclark.house.gov/2020/2/clark-statement-on-the-30th-anniversary-of-anti-armenian-pogroms-in-baku-azerbaijan>.

³⁶ UN CEDAW, *Consideration of Reports Submitted by States Parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Armenia*, UN Doc. CEDAW/C/ARM/1/Corr.1 (11 February 1997), para. 61.

³⁷ Svante E. Cornell, “The Nagorno-Karabakh Conflict,” Report No. 46, Uppsala University, Department of East European Studies (1999), p. 26 (**Annex 1**).

³⁸ See Dale Berning Sawa, “Monumental loss: Azerbaijan and ‘the worst cultural genocide of the 21st century,’” *The Guardian* (1 March 2019), available at <https://www.theguardian.com/artanddesign/2019/mar/01/monumental-loss-azerbaijan-cultural-genocide-khachkars>.

³⁹ “Azerbaijan,” *Britannica*, available at <https://www.britannica.com/place/Azerbaijan>.

its own independence on 2 September 1991,⁴⁰ the Azerbaijani army once again carried out massacres of Armenians.⁴¹ The next few years also saw heavy fighting between Armenia, the Republic of Artsakh and Azerbaijan that resulted in substantial casualties on all sides and the displacement of a significant number of people from their homes in Nagorno-Karabakh and the surrounding region.⁴²

34. The Conference for Security and Co-operation in Europe (“CSCE”) (now Organization for Security and Co-operation in Europe (“OSCE”)) attempted to bring an end to the fighting, but it was ultimately a Russia-brokered ceasefire concluded among the Republic of Artsakh, Azerbaijan and Armenia in May 1994 that ended armed hostilities.⁴³ In 1994, the OSCE Budapest Summit established the so-called “Minsk Group,” comprised of representatives of Russia, the French Republic, and the United States of America, which has since provided a forum for negotiations towards peaceful settlement.

35. The period between the end of the Nagorno-Karabakh conflict in 1994 and the re-commencement of Azerbaijan’s aggression in September 2020 was marked by an incessant stream of anti-Armenian propaganda emanating from Azerbaijan’s leadership.⁴⁴ Azerbaijan’s hateful rhetoric contributed to and was accompanied by, *inter alia*, systemic discrimination against Armenians in

⁴⁰ See President of the Artsakh Republic, *Declaration on Proclamation of the Nagorno Karabagh Republic* (2 September 1991), available at <http://www.president.nkr.am/en/nkr/nkr1>.

⁴¹ Caroline Cox, “Survivors of the Maraghar Massacre,” *Christianity Today*, Vol. 42(5) (27 April 1998), available at <https://www.christianitytoday.com/ct/1998/april27/8t5092.html?ctredirect=true>.

⁴² Daniel Sneider, “Call to Avert a Second Yugoslavia,” *The Christian Science Monitor* (18 February 1993), available at <https://www.csmonitor.com/1993/0218/18031.html>.

⁴³ “From the Archives: The May 1994 Cease-Fire and How it Came About,” *USC Dornsife Institute of Armenian Studies* (9 May 2019), available at <https://armenian.usc.edu/from-the-archives-the-may-1994-cease-fire-and-how-it-came-about/>.

⁴⁴ See, e.g., President of the Republic of Azerbaijan, Ilham Aliyev, *Speech by Ilham Aliyev at the opening of a new block for 1440 IDP families in Mushfigabad* (27 December 2012), available at <https://en.president.az/articles/7026>; President of the Republic of Azerbaijan Ilham Aliyev, *Closing Speech by Ilham Aliyev at the conference on the results of the third year into the “State Program on the socioeconomic development of districts for 2009-2013”* (28 February 2012), available at <https://en.president.az/articles/4423>.

Azerbaijan, the destruction of Armenian cultural heritage⁴⁵ and numerous violations of the ceasefire agreements in place.⁴⁶

36. For example, in the early morning of 2 April 2016, despite the ceasefire, Azerbaijan launched a large-scale military offensive against the Republic of Artsakh.⁴⁷ During the four-day war that followed, Azerbaijan deliberately targeted the civilian population and infrastructure of the Republic of Artsakh, murdered and tortured servicemen and civilians,⁴⁸ and mutilated the bodies of victims.⁴⁹

37. On 12 July 2020, violence erupted once again, when Azerbaijan launched a military offensive against civilian and military targets in the Tavush

⁴⁵ See, e.g., International Council on Monuments and Sites, *Resolutions of the General Assembly* (October 2008), available at https://www.icomos.org/quebec2008/resolutions/pdf/GA16_Resolutions_final_EN.pdf, Part A(5); European Parliament, *Resolution on the destruction of cultural heritage in Azerbaijan*, No. B6-0126-06 (13 February 2006), available at https://www.europarl.europa.eu/doceo/document/B-6-2006-0126_EN.html; Dale Berning Sawa, “Monumental loss: Azerbaijan and ‘the worst cultural genocide of the 21st century,’” *The Guardian* (1 March 2019), available at <https://www.theguardian.com/artanddesign/2019/mar/01/monumental-loss-azerbaijan-cultural-genocide-khachkars>.

⁴⁶ See, e.g., “Azerbaijan Violated Artsakh Ceasefire 9,000 Times in 2019,” *Hetq* (28 December 2019), available at <https://hetq.am/en/article/111661>. See also, e.g., “Azerbaijan Blocks OSCE Monitors in Karabakh,” *Asbarez* (10 March 2017), available at <https://asbarez.com/azerbaijan-blocks-osce-monitors-in-karabakh/>; “Azerbaijan is not ready to accept OSCE Minsk Group’s proposal – Australian MP on Artsakh issue,” *ArmenPress* (19 October 2017), available at <https://armenpress.am/eng/news/909467/adrbejany-patrast-che-yndunel-eahk-minski-khmbi-arajarkutyunnery.html>.

⁴⁷ “Statement by the Foreign Ministry of Armenia upon the 5th anniversary of the Azerbaijani aggression against Artsakh unleashed in April, 2016,” *Ministry of Foreign Affairs of the Republic of Armenia* (2 April 2021), available at https://www.mfa.am/en/interviews-articles-and-comments/2021/04/02/fm_statement_april_2/10880. See also Aleksandra Jarosiewicz & Maciej Falkowski, “The four-day war in Nagorno-Karabakh,” *Center for Eastern Studies* (6 April 2016), available at <https://www.osw.waw.pl/en/publikacje/analyses/2016-04-06/four-day-war-nagorno-karabakh>.

⁴⁸ See, e.g., Human Rights Defender (Ombudsman), *Interim Report, Atrocities Committed by Azerbaijani Military Forces Against the Civilian Population of the Nagorno-Karabakh Republic and Servicemen of the Nagorno Karabakh Defence Army* (April 2016), available at <https://artsakhombuds.am/en/document/560>.

⁴⁹ Ministry of Foreign Affairs of the Republic of Armenia, *Statement by the Foreign Ministry of Armenia upon the 5th anniversary of the Azerbaijani aggression against Artsakh unleashed in April, 2016* (2 April 2021), available at https://www.mfa.am/en/interviews-articles-and-comments/2021/04/02/fm_statement_april_2/10880.

province of Armenia.⁵⁰ The attack came less than a week after President Aliyev publicly threatened to use force against the Republic of Artsakh and Armenia,⁵¹ publicly criticizing the Minsk Group co-chairs' efforts to negotiate a peaceful resolution of the dispute.⁵²

38. Just over two months later, on 27 September 2020, Azerbaijan started—in President Aliyev's words—"the War of Salvation."⁵³ With Russia's mediation, after 44 days of war, Armenia and Azerbaijan (alongside Russia) concluded a ceasefire agreement known as the Trilateral Statement.⁵⁴ The Trilateral Statement provided, *inter alia*, that "[i]nternally displaced persons and refugees shall return to Nagorno-Karabakh and adjacent areas under the control of the Office of the UN High Commissioner for Refugees,"⁵⁵ and that "[a]n exchange of prisoners of war, hostages and other detained persons and bodies of the dead is to be carried out."⁵⁶

39. As described below, both during and after Azerbaijan's aggression, Armenians have been subjected to mass killings, torture and other abuse. Azerbaijan also continues to propagate hatred of Armenians on an ongoing basis, and Armenian cultural heritage is being systematically destroyed and falsified.

⁵⁰ See "Press Release," *Ministry of Defense of the Republic of Armenia* (13 July 2020), available at <https://mil.am/en/news/8066>. See also "At least 16 killed in Armenia-Azerbaijan border clashes," *The Guardian* (14 July 2020), available at <https://www.theguardian.com/world/2020/jul/14/soldiers-killed-armenia-and-azerbaijan-border-clashes>; "Azerbaijan Attacks Armenia Under the Cover of the Global Pandemic," *Global News Wire* (15 July 2020), available at <https://www.globenewswire.com/news-release/2020/07/15/2062845/0/en/Azerbaijan-Attacks-Armenia-Under-the-Cover-of-the-Global-Pandemic.html>.

⁵¹ President of the Republic of Azerbaijan, Ilham Aliyev, *Ilham Aliyev attended the inauguration of modular hospital for treatment of coronavirus patients opened in Khatai district of Baku* (6 July 2020), available at <https://en.president.az/articles/39491>.

⁵² *Ibid.*

⁵³ "President Ilham Aliyev was interviewed by CNN Turk TV channel," *MENA FN* (14 August 2021), available at <https://menafn.com/1102624347/President-Ilham-Aliyev-was-interviewed-by-CNN-Turk-TV-channel-PHOTO&source=21>.

⁵⁴ See Prime Minister of the Republic of Armenia, *Statement by the Prime Minister of the Republic of Armenia, the President of the Republic of Azerbaijan and the President of the Russian Federation* (10 November 2020), available at <https://www.primeminister.am/en/press-release/item/2020/11/10/Announcement>.

⁵⁵ *Ibid.*, point 7.

⁵⁶ *Ibid.*, point 8.

B. Azerbaijan’s Persecution of and Discrimination Against Armenians

40. Armenia briefly describes below various ways in which Azerbaijan has flagrantly racially discriminated against Armenians in furtherance of its policy of cleansing Azerbaijan and Nagorno-Karabakh of Armenians and Armenian influence.

1. Hate speech

41. Azerbaijan’s use and toleration of racist hate speech towards Armenians is notorious. The European Commission against Racism and Intolerance (“ECRI”), for example, has observed that “Azerbaijan’s leadership, education system and media are very prolific in their denigration of Armenians,” and that “an entire generation of Azerbaijanis has now grown up listening to this hateful rhetoric.”⁵⁷ The Council of Europe’s Advisory Committee on the Framework Convention for the Protection of National Minorities has likewise noted “widespread discriminatory behaviour against persons of Armenian origin” in Azerbaijan, and observed that the term “Armenian” in fact “appears to be used and understood as an insult.”⁵⁸

42. Similarly, the Committee on the Elimination of Racial Discrimination (“CERD Committee”) has noted with concern “the repeated and unpunished use of inflammatory language by [Azerbaijani] politicians speaking about the Nagorno-Karabakh conflict and at its adverse impact on the public’s view of ethnic Armenians.”⁵⁹

43. Azerbaijan’s President Aliyev actively leads this practice. He routinely uses derogatory terms to collectively describe Armenians, referring to

⁵⁷ European Commission against Racism and Intolerance, *ECRI Report on Azerbaijan (fifth monitoring cycle)* (7 June 2016), available at <https://rm.coe.int/fourth-report-on-azerbaijan/16808b5581>, pp. 9, 17. See also United States Department of State, *2019 Country Reports on Human Rights Practices: Azerbaijan* (11 March 2020), available at <https://www.state.gov/wp-content/uploads/2020/02/AZERBAIJAN-2019-HUMAN-RIGHTS-REPORT.pdf>, p. 38.

⁵⁸ Council of Europe, Advisory Committee on the Framework Convention for the protection of national minorities, *Third Opinion on Azerbaijan – adopted on 10 October 2012*, No. ACFC/OP/III(2012)005 (3 September 2013), available at <https://www.refworld.org/docid/5229cf374.html>, paras. 49-50.

⁵⁹ CERD Committee, *Concluding observations on the combined seventh to ninth periodic reports of Azerbaijan*, UN Doc. CERD/C/AZE/CO/7-9 (10 June 2016), para. 27.

them as “bandits,” “vandals,” “fascists,”⁶⁰ and “barbarians,”⁶¹ and as having a “cowardly nature.”⁶² He also consistently denies the occurrence of the Armenian genocide,⁶³ and called the statement recognizing the genocide by the United States of America in April 2021 “unacceptable” and a “historic mistake.”⁶⁴

44. During the September-November 2020 armed conflict, President Aliyev referred to Armenians as animals.⁶⁵ He also claimed that the Azerbaijani military was driving them out like “dogs,”⁶⁶ an insult which subsequently became a rallying cry for Azerbaijanis, “showing the degree of hostility and hate speech within Azeri society.”⁶⁷

⁶⁰ President of the Republic of Azerbaijan, Ilham Aliyev, *Speech by Ilham Aliyev at the opening of a new block for 1440 IDP families in Mushfigabad* (27 December 2012), available at <https://en.president.az/articles/7026>.

⁶¹ President of the Republic of Azerbaijan Ilham Aliyev, *Speech by Ilham Aliyev at the opening of the Fuzuli Hydroelectric Power Station* (15 December 2012), available at <https://en.president.az/articles/6854>. See also “President of Azerbaijan fires provocative tweets during conflict,” *Al Jazeera* (7 August 2014), available at <https://www.aljazeera.com/program/the-stream/2014/8/7/president-of-azerbaijan-fires-provocative-tweets-during-conflict>.

⁶² President of the Republic of Azerbaijan, Ilham Aliyev, *Speech by Ilham Aliyev at the opening of Balakan regional “ASAN xidmət” center* (29 July 2020), available at <https://en.president.az/articles/40267>.

⁶³ President of the Republic of Azerbaijan, Ilham Aliyev, *Speech by Ilham Aliyev at the opening of Defense Ministry’s military unit* (25 June 2020), available at <https://en.president.az/articles/39853>.

⁶⁴ President of the Republic of Azerbaijan, Ilham Aliyev, *Ilham Aliyev has held a phone conversation with President of the Republic of Turkey Recep Tayyip Erdogan* (24 April 2021), available at <https://en.president.az/articles/51284>. See also “Full text of Shusha Declaration between Azerbaijan, Turkey published,” *news.az* (17 June 2021), available at <https://www.news.az/news/full-text-of-shusha-declaration-between-azerbaijan-turkey-published>.

⁶⁵ See, e.g., “President Ilham Aliyev addresses the nation,” *Trend* (17 October 2020), available at <https://en.trend.az/azerbaijan/politics/3318553.html>; “Azerbaijan’s war crimes in Nagorno-Karabakh,” *T-online* (3 December 2020), available at https://www.t-online.de/nachrichten/ausland/krisen/id_89055086/videos-show-azerbaijan-s-war-crimes-in-nagorno-karabakh.html.

⁶⁶ “Azerbaijan’s war crimes in Nagorno-Karabakh,” *T-online* (3 December 2020), available at https://www.t-online.de/nachrichten/ausland/krisen/id_89055086/videos-show-azerbaijan-s-war-crimes-in-nagorno-karabakh.html.

⁶⁷ Bahruz Samadov, “Azerbaijan update: From COVID-19 to the New War in Nagorno-Karabakh,” *The Heinrich Böll Stiftung* (10 December 2020), available at <https://www.boell.de/en/2020/12/10/azerbaijan-update-covid-19-new-war-nagorno-karabakh>. See also, e.g., The Human Rights Defender of Armenia & The Human Rights Ombudsman of Artsakh, *Ad Hoc Public Report Organized Hate Speech and Animosity Towards Ethnic Armenians in Azerbaijan as Root Causes of Ethnically-Based Torture and Inhuman Treatment by Azerbaijani*

45. President Aliyev has continued to espouse hatred of Armenians in the wake of the September-November 2020 armed conflict.⁶⁸

46. Government institutions and high-ranking officials have followed President Aliyev's racist lead. Among many examples, Azerbaijan's Ministry of Defence has announced the production of military drones formally emblazoned with the words "Iti Qovan," or "dog chaser" in Azerbaijani,⁶⁹ and Azerbaijani General Huseynov Camal directly addressed Armenians as "dogs."⁷⁰

47. This rhetoric is the manifestation of an ingrained hatred of Armenians that finds expression also in State media and the education system.⁷¹ A widely disseminated video shows a group of kindergarteners who are asked "who

Armed Forces (September-November 2020) (7 December 2020), available at <https://artsakhombuds.am/en/document/780>, pp. 5, 52-53.

⁶⁸ See, e.g., President of the Republic of Azerbaijan, Ilham Aliyev, *Opening speech by Ilham Aliyev at the 7th Congress of New Azerbaijan Party* (5 March 2021), available at <https://en.president.az/articles/50805>; President of the Republic of Azerbaijan, Ilham Aliyev, *Ilham Aliyev attended opening of Military Trophy Park in Baku* (12 April 2021), available at <https://en.president.az/articles/51067>; State Committee for Affairs of Refugees and Internally Displaced Persons of the Republic of Azerbaijan, *President Ilham Aliyev attended ceremony to lay foundation stone for restoration of Aghdam city, met with members of general public* (28 May 2021), available at <http://idp.gov.az/en/news/1205>; "President Aliyev gives interview to Azerbaijan Television," *MENA FN* (24 July 2021), available at <https://menafn.com/1102500513/President-Aliyev-gives-interview-to-Azerbaijan-Television&source=26>; President of the Republic of Azerbaijan, Ilham Aliyev, *Ilham Aliyev and First Lady Mehriban Aliyeva attended opening of Vagif Poetry Days in Shusha* (30 August 2021), available at <https://en.president.az/articles/52881>.

⁶⁹ See Ministry of Defense of the Republic of Azerbaijan, *Azerbaijan starts production of "Iti qovan" UAVs* (22 October 2020), available at https://defence.az/en/news/147499/azerbaijan-starts-production-of-%E2%80%9Citi-qovan%E2%80%9D-uavs-photos?__cf_chl_jschl_tk__=pmd_Mg2Vf1zmQDNKqhw6edW7KcVkYXV.wFP7p.3IEeYFCi4-1629830372-0-gqNtZGzNAnujcnBszQh9.

⁷⁰ Nail Kemerlinin Kanali, "Bilsəydilər erməni dilini bilirəm dərimi soyardılar - General Camal (ALL SUBTITLES AVAILABLE) [If they knew I spoke Armenian, they would have peeled my skin - General Camal]," *YouTube* (13 November 2020), at 13:21, available at <https://youtu.be/YworvILKGYQ?t=800> (translation from Azerbaijani).

⁷¹ International Crisis Group, *Nagorno-Karabakh: Viewing the Conflict from the Ground*, Europe Report No. 166 (14 September 2005), available at <https://www.crisisgroup.org/europe-central-asia/caucasus/nagorno-karabakh-azerbaijan/nagorno-karabakh-viewing-conflict-ground>, p. 27. See also Council of Europe, Advisory Committee on the Framework Convention for the protection of national minorities, *Fourth Opinion on Azerbaijan – adopted on 8 November 2017*, No. ACFC/OP/IV(2017)006 (2017), available at <https://rm.coe.int/4th-acfc-opinion-on-azerbaijan-english-language-version/1680923201>, para. 40.

is our enemy?,” and together they shout: “Armenians.”⁷² Referring to “infidels in black clothes,” a fifth-grade textbook speaks of Armenians as the source of most of the calamities that have befallen Azeris throughout history.⁷³ Similarly, a tenth-grade history textbook refers to Armenians as “wily and corrupt,” and states that they pursued “dirty goals.”⁷⁴

48. Consistent with what they have been taught and grown up listening to, large numbers of ordinary Azerbaijani citizens regularly espouse hate speech against Armenians. The consequences of the State’s policy were on clear display in the summer of 2020, when at a mass gathering in Baku, thousands of Azeris called for war with Armenia and chanted: “Death to Armenians.”⁷⁵ Similar demonstrations took place in different European cities after the start of Azerbaijan’s aggression in September 2020.⁷⁶ At the same time, there was a significant increase in hate speech disseminated over social media platforms.⁷⁷

49. The CERD Committee has recognized that racist hate speech plays an important role “in processes leading to mass violations of human rights and

⁷² Transparency International Anticorruption Center, *Report on Xenophobia in Azerbaijan* (28 February 2021), available at <https://transparency.am/files/publications/1614692840-0-341815.pdf?v=4>, pp. 14-15.

⁷³ International Crisis Group, *Nagorno-Karabakh: Viewing the Conflict from the Ground*, Europe Report No. 166 (14 September 2005), available at <https://www.crisisgroup.org/europe-central-asia/caucasus/nagorno-karabakh-azerbaijan/nagorno-karabakh-viewing-conflict-ground>, p. 27.

⁷⁴ Tofik Veliyev et al., *History of Azerbaijan, 10* (Casioglu 2009) (certified translation from Russian), pp. 177, 178 (**Annex 3**). See also generally “Armenophobia in the Textbooks Used in Azerbaijan,” *AzeriChild*, available at <http://azerichild.education/en>.

⁷⁵ Matthew Barrett, “Conflict in the Caucasus: The escalation of the Armenian and Azerbaijani conflict,” *Cherwell* (2 November 2020), available at <https://cherwell.org/2020/11/02/conflict-in-the-caucasus-the-escalation-of-the-armenian-and-azerbaijani-conflict>.

⁷⁶ See, e.g., Clea Skopeliti, “Video shows Turkish and Azeri nationals ‘looking for Armenians’ in France,” *The Independent* (29 October 2020), available at <https://www.independent.co.uk/news/world/europe/turks-azeris-lyon-france-armenians-vienne-video-b1422175.html>.

⁷⁷ See Republic of Artsakh, Human Rights Ombudsman, *Second Interim Report (Updated Edition) on the Azerbaijani Atrocities against Artsakh Population in September-October 2020* (18 October 2020), available at <https://artsakhombuds.am/en/document/735>. See also The Human Rights Defender of Armenia & The Human Rights Ombudsman of Artsakh, *Ad Hoc Public Report Organized Hate Speech and Animosity Towards Ethnic Armenians in Azerbaijan as Root Causes of Ethnically-Based Torture and Inhuman Treatment by Azerbaijani Armed Forces (September-November 2020)* (7 December 2020), available at <https://artsakhombuds.am/en/document/780>.

genocide, and in conflict situations.”⁷⁸ The atrocities that have followed have therefore been as predictable as they were planned.

2. Azerbaijan’s atrocities and policy of ethnic cleansing

50. Azerbaijan’s use and toleration of racist hate speech both reflect and facilitate its broader policy of ethnically cleansing Azerbaijan and Nagorno-Karabakh of Armenians and Armenian heritage. Numerous government officials and entities have made this policy of ethnic cleansing unmistakably clear. For example:

- Hajibala Abutalybov, former Deputy Prime Minister of Azerbaijan, explicitly acknowledged, while serving as Mayor of Baku, that Azerbaijan’s goal is “the complete elimination of Armenians.”⁷⁹
- Hafiz Hajiyev, former presidential candidate and Modern Musavat Party leader, called for the annihilation of all Armenians, stating that “[t]here should be no Armenian left in Azerbaijan.”⁸⁰
- Safar Abiyev, former Minister of Defense, stated through his spokesperson that Armenians “have no right to live in this region.”⁸¹
- Elman Mammadov, an Azerbaijani Member of Parliament, openly called on Turkey in an interview with the largest Turkish newspaper to “exile” Armenians from its territory so that it could “be a country

⁷⁸ CERD Committee, *General Recommendation No. 35: Combating racist hate speech*, UN Doc. CERD/C/GC/35 (26 September 2013), para. 3. *See also, e.g.*, “On International Day, UN warns about link between racism and conflict,” *UN News* (21 March 2012), available at <https://news.un.org/en/story/2012/03/406882-international-day-un-warns-about-link-between-racism-and-conflict>.

⁷⁹ Committee on Foreign Affairs, House of Representatives, 110th Congress, Second Session, *The Caucasus: Frozen Conflicts and Closed Borders*, Serial No. 110-200 (18 June 2008), p. 50 (**Annex 2**). The comment was made to a visiting German delegation in shockingly explicit terms: “*Our goal is the complete elimination of Armenians. You, Nazis, already eliminated the Jews in the 1930s and 40s, right? You should be able to understand us.*” *Ibid.* (emphasis in original).

⁸⁰ “Azerbaijani former presidential candidate: We will blow up nuclear power plant and slaughter all Armenians,” *Panorama* (10 May 2016), available at <https://www.panorama.am/en/news/2016/05/10/presidential-candidate/1576832>.

⁸¹ Committee on Foreign Affairs, House of Representatives, 110th Congress, Second Session, *The Caucasus: Frozen Conflicts and Closed Borders*, Serial No. 110-200 (18 June 2008), p. 50 (**Annex 2**) (emphasis omitted).

without Armenians,” as if this would be a laudable outcome and an example to follow.⁸²

- As stated, in December of 2020, Azerbaijan began producing a commemorative stamp proudly depicting Nagorno-Karabakh being chemically “disinfected.”⁸³ The stamp’s reference to ethnic cleansing was so blatant and egregious that the Universal Postal Union declined to register it, noting that it contradicted the provisions of the Union Convention and Code of Conduct.⁸⁴

51. Consistent with this policy of ethnic cleansing and rhetoric of hate, as noted above, Azerbaijan has historically committed countless violations of international law, the majority of which were plainly racially motivated.

52. During and in the wake of the September-November 2020 conflict alone, numerous graphic videos widely circulated on the internet show Azerbaijani forces murdering, torturing, and subjecting Armenian civilians and prisoners of war to cruel and inhumane treatment.⁸⁵ Among other things, the videos depict

⁸² “Azerbaijani MP urges Turkish Government to expel all Armenians,” *Panorama.am* (28 April 2015), available at <https://www.panorama.am/en/news/2015/04/28/azerbaijan-mamedov/63511>.

⁸³ “Azerbaijani ‘Karabakh cleansing’ stamp condemned in Armenia,” *JAM News* (21 January 2021), available at <https://jam-news.net/postage-stamp-karabakh-war-armenia-azerbaijan-news>.

⁸⁴ *Letter from* Ricardo Guilherme Filho, Director of Legal Affairs, Universal Postal Union, *to* Hakob Arshakyan, Minister of High-Tech Industry, Republic of Armenia, No. 4700(DL.PHIL)01.21 (1 June 2021) (**Annex 51**).

⁸⁵ *See, e.g.*, Ulkar Natiqzizi & Joshua Kucera “Evidence of widespread atrocities emerges following Karabakh war,” *Eurasianet* (9 December 2020), available at <https://eurasianet.org/evidence-of-widespread-atrocities-emerges-following-karabakh-war>; Andrew Roth, “Two men beheaded in videos from Nagorno-Karabakh war identified,” *The Guardian* (15 December 2020), available at <https://www.theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified>; Liz Cookman, “Videos from Nagorno-Karabakh conflict prompt accusations of war crimes,” *Washington Post* (25 December 2020), available at https://www.washingtonpost.com/world/armenia-nagornokarabakh-war-crimes/2020/12/24/f8b28900-4165-11eb-b58b-1623f6267960_story.html; Nick Waters, “An Execution in Hadrut,” *Bellingcat* (15 October 2020), available at <https://www.bellingcat.com/news/rest-of-world/2020/10/15/an-execution-in-hadrut-karabakh/?fbclid=IwAR0rtIchQzDgSDSC7lkvLMxEiIUzRSgG5F-Fv0pxEd68s4GPFS1v7z7wD6Q>; Cristina Maza, “‘They Chained Me to a Radiator and Beat Me’: Armenian POWs Speak Out,” *Vice* (26 April 2021), available at <https://www.vice.com/en/article/akgdgk/armenia-azerbaijan-prisoners-of-war-nagorno-karabakh>; Tanya Lokshina, “Survivors of unlawful detention in Nagorno-Karabakh speak out about war crimes,” *Human Rights Watch* (12 March 2021), available at <https://www.hrw.org/news/2021/03/12/survivors-unlawful-detention-nagorno-karabakh-speak-out-about-war-crimes>; Naira Bulghadaryan, “According to preliminary conclusions, the death of

executions, including beheadings, and a variety of torture, humiliations, and mutilations.⁸⁶ As one Syrian mercenary confessed, he was ordered to “kill and

the elderly captive was caused by brain trauma: Investigative Committee,” *Radio Liberty* (5 November 2020) (certified translation from Armenian) (**Annex 9**); Human Rights Watch, *Azerbaijan: Armenian Prisoners of War Badly Mistreated* (2 December 2020), available at <https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated>; Atlantic Council’s Digital Forensic Laboratory, “Evidence emerges of Azeri soldiers executing Armenian POWs,” *DRF Lab* (15 October 2020), available at <https://medium.com/dfrlab/evidence-emerges-of-azeri-soldiers-executing-armenian-pows-bf7b28a95f16>; The Human Rights Defender of the Republic of Armenia, *Ad Hoc Public Report Responsibility of Azerbaijan for Torture and Inhuman Treatment of Armenian Captives: Evidence-Based Analysis (The 2020 Nagorno Karabakh War)* (September 2021), available at https://ombuds.am/images/files/5c7485fdc225adfd8a35d583830dcd17.pdf?fbclid=IwAR2OAjo6BxmRFaBSrtbXFqvSyXeM3M-5vZRFgpgCRCo4urVPVE2NPL_VO4g; The Human Rights Defender of the Republic of Armenia, *Ad Hoc Report on Fact-Finding Activities in Villages of Gegharkunik Province of Armenia Damaged by Azerbaijani Military Attacks 30 September-1 October* (October 2020), available at https://www.mfa.am/filemanager/NKR_war_2020/ra_hr/2_s.pdf; Republic of Artsakh, Human Rights Ombudsman, *Second Interim Report (Updated Edition) on the Azerbaijani Atrocities against Artsakh Population in September-October 2020* (18 October 2020), available at <https://artsakhombuds.am/en/document/735>; The Human Rights Ombudsman of Artsakh, *Ad Hoc Report on the Children Rights Affected by the Azerbaijani Attacks against the Republic of Artsakh* (9 November 2020), available at <https://artsakhombuds.am/en/document/766>; The Human Rights Defender of the Republic of Armenia, *Ad Hoc Public Report: The Treatment of Armenian Prisoners of War and Civilian Captives in Azerbaijan (with Focus on their Questioning)* (2021), available at <https://ombuds.am/images/files/1138b156720bec6ae0fd88dc709eb62c.pdf>.

⁸⁶ See Ulkar Natiqzizi & Joshua Kucera “Evidence of widespread atrocities emerges following Karabakh war,” *Eurasianet* (9 December 2020), available at <https://eurasianet.org/evidence-of-widespread-atrocities-emerges-following-karabakh-war>; Grigor Atanesian & Benjamin Strick, “Nagorno-Karabakh conflict: ‘Execution’ video prompts war crime probe,” *BBC* (24 October 2020), available at <https://www.bbc.com/news/world-europe-54645254>; The Human Rights Ombudsman of the Republic of Artsakh, *Second Interim Report (Updated Edition) on the Azerbaijani Atrocities against the Artsakh Population in September-October 2020* (18 October 2020), available at <https://artsakhombuds.am/en/document/735>, p. 27 (Figure 29); Kanal 1, Transcript of video “URGENT. Lots of enemies have been captured. Watch what they were forced to say. The latest news from the frontline,” *YouTube* (22 October 2020), available at <https://www.youtube.com/watch?v=ftHHS7gUSu0> (certified translation from Azerbaijani) (**Annex 8**); The Human Rights Defender of Armenia & The Human Rights Ombudsman of Artsakh, *Fourth Ad Hoc Report on Torture and Inhuman Treatment of Members of Artsakh Defense Army and Captured Armenians by Azerbaijani Armed Forces (from November 4-18, 2020)* (November 2020), pp. 11-14 (**Annex 13**). The Republic of Armenia will provide videos of atrocities committed against Armenians upon the Court’s request.

slaughter each and every Armenian,” and was promised an additional hundred dollars “for beheading an Armenian.”⁸⁷

53. Two particularly horrific videos show men in Azerbaijani uniforms decapitating two elderly Armenian civilians.⁸⁸ Another video depicts the Azerbaijani military abusing eight Armenian soldiers.⁸⁹ As described by Human Rights Watch, the victims can be seen “on the ground, blindfolded and restrained, as their captors kicked, dragged, and stepped on them, and prodded them with a sharp metal rod.”⁹⁰

54. As a result of Azerbaijan’s actions, tens of thousands of Armenians fled from areas of the Republic of Artsakh that came under Azerbaijan’s control.⁹¹ Genocide Watch, a non-profit organization and the Coordinator of the Alliance Against Genocide, issued a Genocide Emergency Alert finding Azerbaijan to be at the penultimate stage of Genocide Watch’s Ten Stages of the genocidal process, “Stage 9: Extermination.”⁹²

55. Not even the signing of the Trilateral Statement, ending large-scale armed hostilities, curbed Azerbaijan’s violations of the CERD. Azerbaijan has prevented the return of Armenians to areas it now controls solely on account of

⁸⁷ Maryam Ishaya, “Syrian Mercenaries and Their Caucasus Deployment,” *Persecution, International Christian Concern* (17 May 2021), available at <https://www.persecution.org/2021/05/17/syrian-mercenaries-caucasus-deployment>.

⁸⁸ Andrew Roth, “Two men beheaded in videos from Nagorno-Karabakh war identified,” *The Guardian* (15 December 2020), available at <https://www.theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified>.

⁸⁹ “Azerbaijan: Armenian Prisoners of War Badly Mistreated,” *Human Rights Watch* (2 December 2020), available at <https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated#>.

⁹⁰ *Ibid.*

⁹¹ Siranush Ghazanchyan, “The rights of the Armenians of Artsakh have not yet been restored: MFA issues statement on World Refugee Day,” *Public Radio of Armenia* (20 June 2021), available at <https://en.armradio.am/2021/06/20/the-rights-of-the-armenians-of-artsakh-have-not-yet-been-restored-mfa-issues-statement-on-world-refugee-day>.

⁹² “Genocide Emergency Alert: Azerbaijan’s Invasion of Nagorno-Karabakh (Artsakh) October 2020,” *Genocide Watch* (October 2020), available at https://d0dbb2cb-698c-4513-aa47-eba3a335e06f.filesusr.com/ugd/df1038_7ff879b2434c4307a5b68e29e0049e5e.pdf.

their ethnic origin.⁹³ As detailed in the Request for Provisional Measures below,⁹⁴ Azerbaijan has also tortured, abused and mistreated Armenian prisoners of war, hostages and other detained persons, openly displaying their plight in the so-called Military Trophies Park (discussed below).⁹⁵

56. These actions were enabled by and indeed reflect the environment of hate against Armenians that the Azerbaijani establishment has openly cultivated over many years. Perpetrators of racial crimes against Armenians are rewarded and held up as role models, not investigated and prosecuted; any trace of Armenian presence in the region is concealed or eradicated; and whoever speaks of reconciliation with Armenia is silenced, all as explained below.

3. Condoning and rewarding of atrocities against Armenians

57. Azerbaijan's propagation of hate against Armenians has manifested itself in the condoning, rewarding, and even glorifying of crimes against Armenians.⁹⁶

58. The example of Lieutenant Ramil Safarov is illustrative. In 2004, Lieutenant Safarov, an Azeri national, was attending a NATO English language

⁹³ See "First of all displaced persons from Hadrut, Shushi of latest war must return – MFA on Aliyev remarks," *ArmenPress* (27 February 2021), available at <https://armenpress.am/eng/news/1044727.html>. See also UN General Assembly & Security Council, *Letter dated 5 May 2021 from the Minister of Foreign Affairs of the Republic of Artsakh addressed to the Secretary-General*, UN Doc. A/75/877-S/2021/440 (7 May 2021).

⁹⁴ See *infra*, paras. 105-113.

⁹⁵ See, e.g., Olga Prosvirova, "‘They beat me, they humiliate me, but I’m fine.’ Reports from Armenian servicemen returning from Azerbaijani prisons," *BBC* (7 July 2021) (certified translation from Russian) (**Annex 56**); Tanya Lokshina, "Survivors of unlawful detention in Nagorno-Karabakh speak out about war crimes," *Human Rights Watch* (12 March 2021), available at <https://www.hrw.org/news/2021/03/12/survivors-unlawful-detention-nagorno-karabakh-speak-out-about-war-crimes>; Cristina Maza, "‘They Chained Me to a Radiator and Beat me’: Armenian POWs Speak Out," *Vice* (26 April 2021), available at <https://www.vice.com/en/article/akgdgk/armenia-azerbaijan-prisoners-of-war-nagorno-karabakh-photo-of-mannequins-from-president-aliyev-inaugurates-military-trophy-park-in-baku> [UPDATE], *AzerNews* (12 April 2021) (**Annex 35**).

⁹⁶ See "Aliyev Awards Officer who Decapitated Artsakh Soldier," *Asbarez* (2 May 2016), available at <https://asbarez.com/149796/aliyev-awards-officer-who-decapitated-artsakh-soldier/>; "‘Just murder sleeping Armenian and you become hero in Azerbaijan,’ says expert 16 years after Gurchen Margaryan’s brutal murder," *Panorama* (19 February 2020), available at <https://www.panorama.am/en/news/2020/02/19/axe-murdered-Armenian-officer/2241953>.

course in Hungary with an Armenian soldier, Lieutenant Gurgen Margaryan.⁹⁷ At night, Safarov broke into Margaryan's dormitory and attacked him with an axe as he slept, killing him with 16 blows to the head and neck. Safarov then tried to break down the door of another Armenian staying in the dormitory, Captain Hayk Makuchyan, yelling: "Open the door, you Armenian! We will cut the throats of all of you!"⁹⁸

59. In April 2006, Safarov was sentenced to life in prison by a Hungarian court.⁹⁹ In August 2012, the Hungarian government agreed to extradite Safarov to Azerbaijan with Azerbaijan's assurance that he would continue to be imprisoned and would only be eligible for parole after serving a minimum of 25 years.¹⁰⁰ On his arrival in Baku, however, Azerbaijani authorities immediately pardoned Safarov. They also praised him as a hero, patriot, and role model, promoted him to Major, and gave him back pay for the eight years he had spent in prison.¹⁰¹ They even provided him with housing.¹⁰²

⁹⁷ *Case of Makuchyan and Minasyan v. Azerbaijan and Hungary*, ECtHR, App. No. 17247/13, Judgment (26 May 2020), paras. 8-24; "Prisoner without conscience pardoned and promoted," *Amnesty USA* (7 September 2012), available at <https://www.amnestyusa.org/prisoner-without-conscience-pardoned-and-promoted/>; "Row Erupts After Azerbaijan Pardons Armenian Officer's Repatriated Killer," *Radio Free Europe/Radio Liberty* (31 August 2012), available at <https://www.rferl.org/a/azerbaijani-officer-who-killed-armenian-officer-pardoned/24694081.html>; "Azeri killer Ramil Safarov: Concern over Armenian anger," *BBC* (3 September 2012), available at <https://www.bbc.com/news/world-europe-19463968>.

⁹⁸ *Case of Makuchyan and Minasyan v. Azerbaijan and Hungary*, ECtHR, App. No. 17247/13, Judgment (26 May 2020), paras. 8-24; European Parliament, *Resolution of 13 September 2012 on Azerbaijan: the Ramil Safarov case*, No. 2012/2785(RSP) (13 September 2012), available at https://www.europarl.europa.eu/doceo/document/TA-7-2012-0356_EN.html; "Prisoner without conscience pardoned and promoted," *Amnesty USA* (7 September 2012), available at <https://www.amnestyusa.org/prisoner-without-conscience-pardoned-and-promoted/>; "Row Erupts After Azerbaijan Pardons Armenian Officer's Repatriated Killer," *Radio Free Europe/Radio Liberty* (31 August 2012), available at <https://www.rferl.org/a/azerbaijani-officer-who-killed-armenian-officer-pardoned/24694081.html>; "Azeri killer Ramil Safarov: Concern over Armenian anger," *BBC* (3 September 2012), available at <https://www.bbc.com/news/world-europe-19463968>.

⁹⁹ *Case of Makuchyan and Minasyan v. Azerbaijan and Hungary*, ECtHR, App. No. 17247/13, Judgment (26 May 2020), para. 15.

¹⁰⁰ *Ibid.*, para. 19.

¹⁰¹ *Ibid.*, para. 25.

¹⁰² *Ibid.*, paras. 8-24; European Parliament, *Resolution of 13 September 2012 on Azerbaijan: the Ramil Safarov case*, No. 2012/2785(RSP) (13 September 2012), available at https://www.europarl.europa.eu/doceo/document/TA-7-2012-0356_EN.html; "Prisoner without conscience pardoned and promoted," *Amnesty USA* (7 September 2012), available at <https://www.amnestyusa.org/prisoner-without-conscience-pardoned-and-promoted/>; "Row Erupts

60. Azerbaijan's actions prompted the CERD Committee to express its concern that "by welcoming a citizen of the State party convicted of murdering an Armenian as a national hero and by pardoning and releasing that person upon transfer, [Azerbaijan] condones racial hatred and hate crimes and denies redress to victims."¹⁰³

61. Similarly, the European Court of Human Rights ("ECtHR") held that there was an "overwhelming body of evidence ... indicating that the various measures leading to [Safarov's] virtual impunity, coupled with the glorification of his extremely cruel hate crime, had a causal link to the Armenian ethnicity of his victims."¹⁰⁴

62. To this day, Safarov walks freely in Azerbaijan and is still treated as a hero.

4. Denial of other individual rights and daily discrimination against Armenians

63. Over the last four decades, according to Azerbaijan's own census data, the population of ethnic Armenians in Azerbaijan has declined drastically.¹⁰⁵ And those Armenians who remain in Azerbaijan face racial discrimination in virtually every aspect of their social life.

64. For example, Azerbaijan has directed or otherwise facilitated the illegal displacement of Armenians from their own homes. The United Nations Committee on Economic, Social and Cultural Rights has noted with concern "the illegal occupation by refugees and internally displaced persons of properties belonging to Armenians."¹⁰⁶ The ECRI has similarly noted that, "according to several reports, some refugees and IDPs are illegally occupying private properties

After Azerbaijan Pardons Armenian Officer's Repatriated Killer," *Radio Free Europe/Radio Liberty* (31 August 2012), available at <https://www.rferl.org/a/azerbaijani-officer-who-killed-armenian-officer-pardoned/24694081.html>; "Azeri killer Ramil Safarov: Concern over Armenian anger," *BBC* (3 September 2012), available at <https://www.bbc.com/news/world-europe-19463968>.

¹⁰³ CERD Committee, *Concluding observations on the combined seventh to ninth periodic reports of Azerbaijan*, UN Doc. CERD/C/AZE/CO/7-9 (10 June 2016), p. 3.

¹⁰⁴ *Case of Makuchyan and Minasyan v. Azerbaijan and Hungary*, ECtHR, App. No. 17247/13, Judgment (26 May 2020), para. 220.

¹⁰⁵ The State Statistical Committee of the Republic of Azerbaijan, *Population of Azerbaijan* (2021) (certified translation from Azerbaijani), p. 21 (**Annex 62**).

¹⁰⁶ Committee on Economic, Social and Cultural Rights (CESCR), *Report on the Thirty-Second and Thirty-Third Sessions*, E/2005/22, E/C.12/2004/9 (2005), para. 493.

belonging to ethnic Armenians,” and that “no measures have been taken to ensure that financial or material compensation [is] awarded to the victims of such illegal occupations.”¹⁰⁷

65. Armenians also face discrimination in employment, housing, health, and education.¹⁰⁸ The ECRI, for example, has noted that “persons of Armenian origin apparently tend to conceal their identity when applying for jobs and in the workplace as they fear that they will be denied access to employment or suffer discrimination or harassment if they reveal it.”¹⁰⁹ The United States Department of State has likewise noted that “[c]itizens of Armenian descent reported discrimination in employment.”¹¹⁰

66. Armenians in Azerbaijan are also unable to participate in political life. Siyavush Novruzov, the Deputy Executive Secretary of the New Azerbaijan Party (“YAP”), President Aliyev’s ruling party, stated unequivocally: “[W]e do not accept Armenians among the ranks of our party. There were presented such application in the district and city branches of the party, but they were refused. Today, there are no Armenians among YAP members.”¹¹¹

67. Azerbaijan has also suppressed the speaking of the Armenian language. According to Azerbaijan, there are as many Armenians living in Azerbaijan as ethnic Russians, slightly more Armenians than ethnic Talysh, and more than ten times as many Armenians than there are ethnic Georgians.¹¹² Yet

¹⁰⁷ European Commission against Racism and Intolerance, *Second report on Azerbaijan* (24 May 2007), available at <https://rm.coe.int/second-report-on-azerbaijan/16808b557b>, para. 78. See also European Commission against Racism and Intolerance, *Report on Azerbaijan* (15 April 2003), available at <https://rm.coe.int/first-report-on-azerbaijan/16808b5579>, para. 53.

¹⁰⁸ See UN Committee on Economic, Social and Cultural Rights (CESCR), *Concluding observations on the 3rd periodic report of Azerbaijan, adopted by the Committee at its fiftieth session*, UN Doc. E/C.12/AZE/CO/3 (5 June 2013), para. 8.

¹⁰⁹ European Commission against Racism and Intolerance, *ECRI Report on Azerbaijan (fourth monitoring cycle)* (31 May 2011), available at <https://rm.coe.int/third-report-on-azerbaijan/16808b557e>, para. 123. See also European Commission against Racism and Intolerance, *ECRI Report on Azerbaijan (fifth monitoring cycle)* (7 June 2016), available at <https://rm.coe.int/fourth-report-on-azerbaijan/16808b5581>, para. 25.

¹¹⁰ United States Department of State, *Azerbaijan 2016 Human Rights Report* (2016), available at <https://www.state.gov/wp-content/uploads/2019/01/Azerbaijan-1.pdf>, p. 38.

¹¹¹ “Armenians are not accepted among us. Azerbaijani ruling party,” *ArmenPress* (19 February 2013), available at <https://armenpress.am/eng/news/708914.html>.

¹¹² The State Statistical Committee of the Republic of Azerbaijan, *Population of Azerbaijan* (2021) (certified translation from Azerbaijani), p. 21 (**Annex 62**).

while nine minority languages are used in schools—including Russian, Georgian, and Talysh—Armenian is not among them.¹¹³

68. The prevailing attitude towards Armenians is so negative that the Baku-based newspaper *Gundelik* openly called upon the Azerbaijani Government to create a separate department within the Ministry of National Security to “investigate the population for the presence of Armenian blood,” so that, for example, the “parents who want to marry off their daughters or sons could contact that agency to find out whether there are blood ties to the Armenians among the future relatives.”¹¹⁴ According to the newspaper, this would ultimately help “clear [Azeri] blood from mixing with dirty Armenian blood.”¹¹⁵ As a result of such discrimination, “[c]ertain people born of mixed Armenian-Azerbaijani marriages choose to use the name of their Azerbaijani parent so as to avoid problems in their contacts with officialdom.”¹¹⁶

69. Not even foreign nationals are immune. Any indication of Armenian ethnic origin is sufficient reason to deny entry into Azerbaijan.¹¹⁷ The United

¹¹³ See Council of Europe, Advisory Committee on the Framework Convention for the protection of national minorities, *Fourth Opinion on Azerbaijan – adopted on 8 November 2017*, No. ACFC/OP/IV(2017)006 (2017), available at <https://rm.coe.int/4th-acfc-opinion-on-azerbaijan-english-language-version/1680923201>, paras. 16, 77, 78. See also CERD Committee, *Combined tenth to twelfth periodic reports submitted by Azerbaijan under article 9 of the Convention, due in 2019*, UN Doc. CERD/C/AZE/10-12 (10 October 2019), paras. 116-126; CERD Committee, *Concluding observations of the Committee on the Elimination of Racial Discrimination, Azerbaijan*, UN Doc. CERD/C/AZE/CO/6 (7 September 2009), para. 17.

¹¹⁴ “Female passionarity and desire to participate in the ‘fight against the Armenians’ has risen dramatically in Azerbaijan,” *Panorama* (27 March 2014) (certified translation from Russian) (**Annex 5**).

¹¹⁵ *Ibid.*

¹¹⁶ European Commission against Racism and Intolerance, *ECRI Report on Azerbaijan (fourth monitoring cycle)* (31 May 2011), available at <https://rm.coe.int/third-report-on-azerbaijan/16808b557e>, para. 98.

¹¹⁷ United States Department of State, *Azerbaijan Travel Advisory*, available at <https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/Azerbaijan.html>; “Moscow demands that Baku stop discriminating against Russians with Armenian last names,” *Tass* (5 July 2017) (certified translation from Russian) (**Annex 7**). See also “Genocide Emergency Alert: Azerbaijan’s Invasion of Nagorno-Karabakh (Artsakh) October 2020,” *Genocide Watch* (October 2020), available at https://d0dbb2cb-698c-4513-aa47-eba3a335e06f.filesusr.com/ugd/df1038_7ff879b2434c4307a5b68e29e0049e5e.pdf; “Azerbaijani authorities deny Richard Kirakosyan a visa, declaring him a persona non grata,” *Panorama* (19 March 2012) (certified translation from Russian) (**Annex 4**); “EU citizen denied entry to Azerbaijan due to Armenian roots,” *PanArmenian* (28 March 2018), available at https://www.panarmenian.net/eng/news/253595/EU_citizen_denied_entry_to_Azerbaijan_due_to_Armenian_roots; “Estonian citizen barred from entering Baku in airport because of Armenian

Nations Human Rights Committee has scrutinized this practice, noting with concern reports that “foreigners with Armenian surnames have been prevented from entering the State party regardless of their nationality.”¹¹⁸ The Committee urged Azerbaijan to “take all measures necessary to prevent and combat the harassment of and discrimination against members of the Armenian minority and to ensure that foreigners with Armenian surnames are not denied access to the country on arbitrary and discriminatory bases.”¹¹⁹

5. Destruction of Armenian cultural heritage

70. In keeping with its long-standing policy of ethnic cleansing, Azerbaijan has also systematically sought to destroy, erase and falsify Armenian cultural heritage in the region.

71. Among many other well-documented examples is the destruction of the Old Jugha/Djulfa cemetery in the exclave of Nakhichevan, which once boasted the world’s largest collection of Khachkars (distinctive Armenian cross-stones) from the 15th and 16th centuries.¹²⁰ The destruction has been acknowledged and

ethnicity,” *ArmenPress* (28 March 2018), available at <https://armenpress.am/eng/news/927884/estonian-citizen-barred-from-entering-baku-in-airport-because-of-armenian-ethnicity.html>.

¹¹⁸ UN Human Rights Committee, *Concluding observations on the fourth periodic report of Azerbaijan*, UN Doc. CCPR/C/AZE/CO/4 (16 November 2016), para. 44. See also United States Department of State, *2020 Country Reports on Human Rights Practices: Azerbaijan* (30 March 2021), available at <https://www.state.gov/wp-content/uploads/2021/03/AZERBAIJAN-2020-HUMAN-RIGHTS-REPORT.pdf>, p. 43.

¹¹⁹ UN Human Rights Committee, *Concluding observations on the fourth periodic report of Azerbaijan*, UN Doc. CCPR/C/AZE/CO/4 (16 November 2016), para. 45.

¹²⁰ Simon Maghakyan & Sarah Pickman, “A Regime Conceals Its Erasure of Indigenous Armenian Culture,” *Hyperallergic* (18 February 2019), available at <https://hyperallergic.com/482353/a-regime-conceals-its-erasure-of-indigenous-armenian-culture/>; “Azerbaijan must be held accountable for the destruction of Armenian cultural heritage,” *Horizon Weekly* (8 December 2018), available at <https://horizonweekly.ca/en/azerbaijan-must-be-held-accountable-for-the-destruction-of-armenian-cultural-heritage/>; Armen Haghazarian & Dieter Wickmann, “Azerbaijan, destruction of the Armenian Cemetery at Djulfa – Continued,” *Heritage at Risk* 37 (June 2007), available at https://www.icomos.org/risk/world_report/2006-2007/pdf/H@R_2006-2007_09_National_Report_Azerbaijan.pdf; Kat Zambon, “Satellite Images Show Disappearance of Armenian Artifacts in Azerbaijan,” *American Association for the Advancement of Science* (7 December 2010), available at <https://www.aaas.org/news/satellite-images-show-disappearance-armenian-artifacts-azerbaijan>.

denounced by the International Council on Monuments and Sites,¹²¹ the European Parliament,¹²² and international press reports, which have condemned Azerbaijan's acts as "the worst cultural genocide of the 21st century."¹²³

72. Recently released satellite images show that other centuries-old Armenian heritage in Nakhichevan has also been covertly destroyed over the years.¹²⁴ This notwithstanding Azerbaijan's statements that "there is no such thing as 'Armenian heritage' in the [Nakhichevan] Autonomous Republic simply because Armenians never lived there," and that "[n]on-existing sites or cemeteries cannot be destroyed."¹²⁵

73. Other examples of the destruction of Armenian heritage include the transformation of the St. Hovhannes (St. John the Baptist) Church in Ganja into a music hall and the destruction of the Surb Astvatsatsin church in the Hadrut region of Nagorno-Karabakh.¹²⁶

¹²¹ International Council on Monuments and Sites, *Resolutions of the General Assembly* (October 2008), available at https://www.icomos.org/quebec2008/resolutions/pdf/GA16_Resolutions_final_EN.pdf, Part 5.

¹²² European Parliament, *Resolution on the destruction of cultural heritage in Azerbaijan*, No. B6-0126-06 (13 February 2006), available at https://www.europarl.europa.eu/doceo/document/B-6-2006-0126_EN.html.

¹²³ Dale Berning Sawa, "Monumental loss: Azerbaijan and 'the worst cultural genocide of the 21st century,'" *The Guardian* (1 March 2019), available at <https://www.theguardian.com/artanddesign/2019/mar/01/monumental-loss-azerbaijan-cultural-genocide-khachkars>. See also Catherine Womack, "Historic Armenian monuments were obliterated. Some call it 'cultural genocide,'" *Los Angeles Times* (7 November 2019), available at <https://www.latimes.com/entertainment-arts/story/2019-11-07/armenian-monuments-azerbaijan>; Harut Sassounian, "Azerbaijan's Destruction of Armenian Monuments Exceeds ISIS Crimes," *The Armenian Weekly* (26 February 2019), available at <https://armenianweekly.com/2019/02/26/azerbaijans-destruction-of-armenian-monuments-exceeds-isis-crimes/>; Simon Maghakyan, "Let the stones scream," *Amnesty International* (1 December 2010), available at <https://blog.amnestyusa.org/europe/let-the-stones-scream-2>; Stephen Castle, "Azerbaijan 'flattened' sacred Armenian site," *The Independent* (23 October 2011), available at <https://www.independent.co.uk/news/world/europe/azerbaijan-flattened-sacred-armenian-site-480272.html>.

¹²⁴ Simon Maghakyan, "Special investigation: Declassified satellite images show erasure of Armenian churches," *The Art Newspaper* (1 June 2021), available at <https://www.theartnewspaper.com/feature/agulis>.

¹²⁵ *Ibid.*

¹²⁶ See UN General Assembly & Security Council, *Letter dated 18 May 2018 from the Chargé d'affaires a.i. of the Permanent Mission of Armenia to the United Nations addressed to the Secretary-General*, UN Doc. A/72/876-S/2018/486 (25 May 2018). See also Samvel Karapetian, Gayane Movsissian & Armen Gevorgian, "The state of Armenian historical monuments in

74. Azerbaijan's destruction of Armenian cultural sites escalated during the September–November 2020 armed conflict, and has continued since.¹²⁷ In October 2020, for example, Azerbaijan conducted two precision strikes, hours apart, against the historic Holy Saviour Ghazanchetsots Cathedral in Shushi, destroying part of it and injuring civilians who were inside the cathedral at the time.¹²⁸ When asked about the attack on the Cathedral, President Aliyev himself admitted that “the church was *not* a military target.”¹²⁹ Another important Armenian site in Shushi, the Kanach Zham church (also known as the “Green Chapel”), was also recently partially destroyed.¹³⁰

75. In addition, numerous widely circulated videos and images show Azerbaijani soldiers and mercenaries vandalising or destroying Armenian churches, gravestones, and cultural artefacts.¹³¹ Satellite imagery and other

Azerbaijan and Artsakh,” *Research on Armenian Architecture (RAA) Foundation* (2011), available at <https://www.mfa.am/filemanager/nkr/monuments.pdf>; Simon Maghakyan, “Special investigation: Declassified satellite images show erasure of Armenian churches,” *The Art Newspaper* (1 June 2021), available at <https://www.theartnewspaper.com/feature/agulis>.

¹²⁷ See Hakim Bishara, “Satellite Imagery Reveals Azerbaijan’s Persistent Erasure of Armenian Heritage Sites,” *Hyperallergic* (22 August 2021), available at <https://hyperallergic.com/663782/satellite-imagery-reveals-azerbajians-persistent-erasure-of-armenian-heritage-sites/>. See also Letter from Masis Mayilian, Minister of Foreign Affairs of the Republic of Artsakh, to Audrey Azoulay, Director-General of UNESCO, No. 04/1249/2020 (19 November 2020) (**Annex 11**).

¹²⁸ Avet Demourian, “Armenia says cathedral shelled in clashes with Azerbaijan,” *AP News* (8 October 2020), available at <https://apnews.com/article/archive-armenia-azerbaijan-30345ca9a343404eb0f6833aedec60f3>. See also Human Rights Watch, *Azerbaijan: Attack on Church Possible War Crime* (16 December 2020), available at <https://www.hrw.org/news/2020/12/16/azerbaijan-attack-church-possible-war-crime>. See also World Monuments Fund (@worldmonuments) Statement, *Facebook* (9 October 2020), available at <https://www.facebook.com/worldmonuments/posts/10157733480650886> (emphasis added).

¹²⁹ “Nagorno-Karabakh: President Ilham Aliyev speaks to the BBC,” *BBC* (9 November 2020), available at <https://www.bbc.com/news/av/world-europe-54865589> (emphasis added).

¹³⁰ “Satellite image shows Azerbaijan's destruction of Armenian church,” *PanArmenian* (17 March 2021), available at https://www.panarmenian.net/eng/news/291249/Satellite_image_shows_Azerbaijans_destruction_of_Armenian_church. See also, e.g., “Azerbaijan destroys Armenian ‘Green Church’ in Shushi,” *news.am* (17 March 2021), available at <https://news.am/eng/news/634185.html>.

¹³¹ See Armenian Bar Association, *Alternative Report to the Committee on the Elimination of Racial Discrimination (CERD)* (18 December 2020), available at <https://armenianbar.org/wp-content/uploads/2020/12/Armenian-Bar-Association-18-December-2020-Alternative-Report-to-the-CERD-1.pdf>, paras. 52–53, 57, 90–95. See also “Church and memorial desecration in post-ceasefire Nagorno Karabakh,” *DFR Lab* (25 November 2020), available at <https://medium.com/dfrlab/church-and-memorial-desecration-in-post-ceasefire-nagorno-karabakh-87ece968af3f>; Siranush Ghazanchyan, “Azerbaijanis destroy Armenian cross-stone in

evidence confirm the extent of the destruction of numerous important relics of Armenian cultural heritage in Nagorno-Karabakh.¹³²

76. Tellingly, Azerbaijan has still not permitted UNESCO to conduct an independent mission to draw a preliminary inventory of significant cultural properties as a first step towards the effective safeguarding of the region's heritage.¹³³

occupied Artsakh village,” *Public Radio of Armenia* (12 January 2021), available at <https://en.armradio.am/2021/01/12/azerbaijanis-destroy-armenian-cross-stone-in-occupied-artsakh-village/>; 301 (@301_AD), “Azerbaijani soldiers vandalizing Armenian graves as soon as they took over Karvachar, posting it on Tik Tok,” *Twitter* (26 November 2020), available at https://twitter.com/301_AD/status/1331915067248488449; Karabakh Records (@KarabakhRecords), “Footage with pictures showing a memorial in Artsakh being destroyed by Azerbaijani soldiers. It is noteworthy that the soldiers post these materials themselves - proudly celebrating their acts of vandalism. #PeaceforArmenians,” *Twitter* (26 November 2020), available at <https://twitter.com/KarabakhRecords/status/1331961689730854912>; Tigran Balayan, (@tbalayan), “Jihaddist-mercenaries brought by @presidentaz & @RTERdogan to conquer #Artsakh are doing exactly what they are supposed to do with #Armeinan cultural heritage. @UNESCO @Jos_Douma @NLMFAEurope @MFA_Lu @BuZaTweedekamer @nl_intrelations,” *Twitter* (14 November 2020), available at <https://twitter.com/tbalayan/status/1327676346315706369>.

¹³² See, e.g., “Satellite image shows Azerbaijan's destruction of Armenian church,” *PanArmenian* (17 March 2021), available at https://www.panarmenian.net/eng/news/291249/Satellite_image_shows_Azerbaijans_destruction_of_Armenian_church. See also *infra*, paras. 114-119; Hov Nazaretyan (@HovhanNaz), “Fresh satellite images show the partial destruction of Shushi's Kanach Zham church [Thread],” *Twitter* (17 May 2021), available at <https://twitter.com/HovhanNaz/status/1372085651097726978>; “Azerbaijan Destroys Another Armenian Church After War,” *Asbarez* (25 March 2021), available at <https://asbarez.com/azerbaijan-destroys-another-armenian-church-after-war>; “Azerbaijanis using Armenian gravestones to build roads. Artsakh Foreign Minister,” *Artsakh Press* (10 May 2021), available at <https://artsakhpress.am/eng/news/143559/azerbaijanis-using-armenian-gravestones-to-build-roads-artsakh-foreign-minister.html>; Caucasus Heritage Watch (@CaucasusHW), “CHW has made a high-confidence assessment that a centuries-old Armenian cemetery north of Shusha/Shushi has been partially destroyed. A portion of the grounds on the west side of a road leading into the city was leveled in the construction of a building complex. 1/4 [Thread],” *Twitter* (17 May 2021), available at <https://mobile.twitter.com/CaucasusHW/status/1394329613757734919>; Caucasus Heritage Watch (@CaucasusHW), “CHW confirms the destruction of an Armenian cemetery in the village of Sghnakh/Siğnaq, as first reported by Monument Watch (<https://bit.ly/368g7UH>). The area was bulldozed in connection with road construction. 1/3 [Thread],” *Twitter* (2 July 2021), available at <https://twitter.com/CaucasusHW/status/1411023424193978368>.

¹³³ UNESCO, *UNESCO is awaiting Azerbaijan's Response regarding Nagorno-Karabakh mission* (21 December 2020), available at <https://en.unesco.org/news/unesco-awaiting-azerbaijans-response-regarding-nagorno-karabakh-mission>. See also President of the Republic of Azerbaijan,

77. Azerbaijan has not only destroyed Armenian cultural heritage, it has also sought to erase or reinvent it. It has done so through, *inter alia*, redefining Armenian monuments as “ancient Azerbaijani landmarks,”¹³⁴ or as “Caucasian Albanian” in origin.¹³⁵ For example, in his visit to the Hadrut region in March 2021, President Aliyev recast Armenian heritage sites, such as the Armenian church built in the 17th century in the village of Tsakuri, as Albanian.¹³⁶ He also labelled the Armenian inscriptions on the walls of the church as “fake” and indicative of Armenia’s “false history.”¹³⁷

78. If Azerbaijan had its way, the world would forget about the presence of Armenians in the region.

6. Failure to take necessary and effective measures to eliminate racial discrimination

79. Azerbaijan actively perpetrates and perpetuates racial discrimination against Armenians—Armenophobia being at the heart of its national identity. Azerbaijan has therefore failed to take necessary and effective measures to eliminate racial discrimination, combat prejudices that lead to racial

Ilham Aliyev, *Address by the President of the Republic of Azerbaijan Ilham Aliyev* (1 January 2021), available at <https://en.president.az/articles/49798>.

¹³⁴ See Simon Maghakyan & Sarah Pickman, “A Regime Conceals Its Erasure of Indigenous Armenian Culture,” *Hyperallergic* (18 February 2019), available at <https://hyperallergic.com/482353/a-regime-conceals-its-erasure-of-indigenous-armenian-culture>.

¹³⁵ See “President of Azerbaijan Ilham Aliyev addressed the nation,” *Azertac* (25 November 2020) (certified translation from Azerbaijani) (**Annex 12**); *Letter from Vahram Dumanyan, Acting Minister of the Republic of Armenia Ministry of Education, Science, Culture and Sport, to Audrey Azoulay, Director-General of UNESCO*, No. 01/15.2/9381-2021 (7 May 2021), p. 2 (**Annex 47**); Anar Karimov (@anar_karim) “#Khudavang monastery is one of the best testimonies of ancient Caucasian Albania civilization. Built in 9-13th century by wife of Albanian prince Vakhtang in Kalbajar region of #Azerbaijan, this complex is composed of Church of Arzu Khatun, Church of Hasan, basilica and 2 chapels,” *Twitter* (11 November 2020), available at <https://twitter.com/AnarKarim/status/1326437397270310912?s=20>.

¹³⁶ President of the Republic of Azerbaijan, Ilham Aliyev, *Ilham Aliyev visited Fuzuli and Khojavand districts* (15 March 2021), available at <https://en.president.az/articles/50893>. See also Ministry of Foreign Affairs of the Republic of Artsakh, *Statement by the Foreign Ministry of Armenia regarding the consistent violations of international humanitarian and human rights law by Azerbaijan in the occupied territories of the Republic of Artsakh* (18 March 2021), available at https://www.mfa.am/en/interviews-articles-and-comments/2021/03/18/fa_az/10851.

¹³⁷ President of the Republic of Azerbaijan, Ilham Aliyev, *Ilham Aliyev visited Fuzuli and Khojavand districts* (15 March 2021), available at <https://en.president.az/articles/50893>. See also, e.g., B. Rustambekov, “Azerbaijan starts calculating damage inflicted by Armenia in Karabakh – Aliyev,” *Interfax* (13 January 2021) (certified translation from Russian) (**Annex 17**).

discrimination, and ensure the adequate development and protection of Armenians. Indeed, it has done exactly the opposite.

80. The CERD Committee itself expressed concern in its 2016 Concluding Observations on Azerbaijan's reports "at the absence of legislation enabling the implementation of the provisions of the [CERD]" in Azerbaijan.¹³⁸ It accordingly urged Azerbaijan, *inter alia*, "to introduce in its administrative, civil and criminal legislation a definition of 'racial discrimination' that is consistent with article 1 of the Convention and to ensure that all manifestations of racial discrimination, both direct and indirect, are prohibited and punished."¹³⁹ It has also urged Azerbaijan "to bring the relevant legal provisions into line with the requirements of article 4" of the CERD, including by prohibiting and punishing "the dissemination of ideas based on racial superiority," "propaganda activities promoting and inciting racial discrimination," and the "incitement to racial hatred."¹⁴⁰

81. Although Azerbaijan has made certain legislative changes since the CERD Committee's 2016 Concluding Observations, it has failed to amend its criminal laws to bring them in line with Articles 1 and 4 of the CERD. Nor does it appear to have followed the Committee's request to introduce a definition of racial discrimination or provide protection against indirect discrimination. And in responding to the CERD Committee's further call that it should "amend its legislation with a view to allowing the implementation of special measures for the purpose of securing adequate advancement of disadvantaged minority groups,"¹⁴¹ Azerbaijan merely asserted that its laws were non-discriminatory and already in compliance with its obligations under human rights treaties.¹⁴²

82. Other international bodies have expressed similar concerns. The ECRI, for example, has recommended that Azerbaijani authorities "inform the general public of the existence of criminal law provisions enabling racially motivated acts or acts of religious intolerance to be punished and take steps to encourage victims to lodge complaints concerning such acts, particularly by

¹³⁸ CERD Committee, *Concluding observations on the combined seventh to ninth periodic reports of Azerbaijan*, UN Doc. CERD/C/AZE/CO/7-9 (10 June 2016), p. 4, para. 21.

¹³⁹ *Ibid.*, p. 2, para. 6.

¹⁴⁰ *Ibid.*, para. 12.

¹⁴¹ *Ibid.*, para. 8.

¹⁴² CERD Committee, *Combined tenth to twelfth periodic reports submitted by Azerbaijan under article 9 of the Convention, due in 2019*, UN Doc. CERD/C/AZE/10-12 (10 October 2019), paras. 34-35.

substantially improving the functioning of the judicial system and strengthening public confidence in that system.”¹⁴³

83. Despite these repeated calls, Azerbaijan has *never* prosecuted speech espousing anti-Armenian hate. By contrast, it has prosecuted pro-Armenian speech, as discussed below.

84. Azerbaijan has also failed to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination.¹⁴⁴ As stated, not only do public officials routinely use the media to *encourage* hatred of Armenians,¹⁴⁵ but school textbooks themselves also formally teach racial hate.¹⁴⁶

85. Azerbaijan’s opening of a “Military Trophies Park” in Baku in the aftermath of the recent conflict is a testament to the pervasiveness of anti-Armenian sentiment in Azerbaijan and a continuation of its anti-Armenian policies.¹⁴⁷

86. The so-called park features purposely caricatured mannequins of Armenian soldiers presented in degrading and humiliating positions with exaggerated, Armenophobic features based on anti-Armenian tropes.¹⁴⁸ Numerous

¹⁴³ European Commission against Racism and Intolerance, *ECRI Report on Azerbaijan (fourth monitoring cycle)* (31 May 2011), available at <https://rm.coe.int/third-report-on-azerbaijan/16808b557e>, para. 26.

¹⁴⁴ See, e.g., Council of Europe, Advisory Committee on the Framework Convention for the protection of national minorities, *Fourth Opinion on Azerbaijan – adopted on 8 November 2017*, No. ACFC/OP/IV(2017)006 (2017), available at <https://rm.coe.int/4th-acfc-opinion-on-azerbaijan-english-language-version/1680923201>, paras. 62, 72; European Commission against Racism and Intolerance, *ECRI Report on Azerbaijan (fifth monitoring cycle)* (7 June 2016), available at <https://rm.coe.int/fourth-report-on-azerbaijan/16808b5581>, p. 9.

¹⁴⁵ See *supra*, para. 46.

¹⁴⁶ See *supra*, para. 47. See also Azerchild.info, available at <https://azerchild.info/en/index.html>.

¹⁴⁷ Bahruz Samadov, “Perspectives: Azerbaijan’s authoritarianism and Baku’s ‘Military Trophies Park,’” *Eurasianet* (16 April 2021), available at <https://eurasianet.org/perspectives-azerbajians-authoritarianism-and-bakus-military-trophies-park>. See also “‘War trophies park’ in Baku sparks controversy domestically and abroad,” *JAM News* (14 April 2021), available at <https://jam-news.net/war-trophies-park-in-baku-sparks-controversy-domestically-and-abroad/>; “Prezident İlham Əliyev Bakıda Hərbi Qənimətlər Parkının açılışında iştirak edib [President Ilham Aliyev attended the opening of the Military Trophy Park in Baku],” *Hərbi Qənimətlər Parkı [Military Trophy Park]*, available at <https://herbiqenimetlerparki.az/az/foto/87> (translation from Azerbaijani).

¹⁴⁸ Neil Hauer, “Azerbaijan’s ‘Ethnic Hatred’ Theme Park Draws Ire, Imperils Reconciliation,” *Radio Free Europe/Radio Liberty* (22 April 2021), available at <https://www.rferl.org/a/azerbaijan-karabakh-theme-park-armenia-ethnic-hatred-aliyev/31217971.html>. See also Bahruz Samadov,

photos show young children amidst the mannequins and helmets of fallen Armenian servicemen,¹⁴⁹ again revealing that Azerbaijan's State-sponsored indoctrination of hatred of Armenians in the next generation of Azerbaijanis is having its intended effect.

87. As the Commissioner for Human Rights of the Council of Europe stated in her letter to President Aliyev in reference to the anti-Armenian depictions at the park, “[t]his kind of display can only further intensify and strengthen long-standing hostile sentiments and hate speech, and multiply and promote manifestations of intolerance. Even more so, such developments significantly hamper any chance of genuine reconciliation among the communities affected by the conflict.”¹⁵⁰

88. Azerbaijan dismissed the Commissioner's concerns, describing the park as “a place for education for the present and future generations on the dangers of policy of aggression and intolerance,” a venue “for seeking the truth” and, perhaps most ironically, a symbol of “the triumph of international law and justice.”¹⁵¹

89. Azerbaijan has also positively stifled freedom of expression¹⁵² and any attempts by civil society to improve relations with Armenia and the situation

“Perspectives: Azerbaijan's authoritarianism and Baku's ‘Military Trophies Park,’” *Eurasianet* (16 April 2021), available at <https://eurasianet.org/perspectives-azerbaijans-authoritarianism-and-bakus-military-trophies-park>, p. 2; Colin Freeman, “Helmet windchimes and bullet casing in the gift shop: Inside Azerbaijan's ‘horrible’ new war museum,” *MSN* (10 July 2021), available at <https://www.msn.com/en-gb/news/world/helmet-windchimes-and-bullet-casing-in-the-gift-shop-inside-azerbaijans-horrible-new-war-museum/ar-AAM0IXU>.

¹⁴⁹ See, e.g., Ophelia Harutyunyan (@ArmOfeli), “Here are the images from the dead Armenians theme park,” *Twitter* (15 April 2021), available at <https://twitter.com/ArmOfeli/status/1382736223580590087>.

¹⁵⁰ Letter from Dunja Mijatović, Council of Europe Commissioner for Human Rights, to Ilham Aliyev, President of the Republic of Azerbaijan (20 April 2021), available at <https://rm.coe.int/letter-to-mr-ilham-aliyev-president-of-the-republic-of-azerbaijan-by-m/1680a2364c>.

¹⁵¹ Letter from Fakhraddin Ismayilov, Permanent Representative of the Republic of Azerbaijan, to Dunja Mijatović, Council of Europe Commissioner for Human Rights (26 April 2021), available at <https://rm.coe.int/reply-of-the-azerbaijani-authorities-to-the-letter-of-the-council-of-e/1680a24413>.

¹⁵² See United States Department of State, *2020 Country Reports on Human Rights Practices: Azerbaijan* (30 March 2021), available at <https://www.state.gov/wp-content/uploads/2021/03/AZERBAIJAN-2020-HUMAN-RIGHTS-REPORT.pdf>, p. 23. See also “Azerbaijan Suspected Of Spying On Reporters, Activists By Using Software To Access Phones,” *Radio Free Europe/Radio Liberty* (18 July 2021), available at <https://www.rferl.org/a/azerbaijan->

of Armenians in Azerbaijan. Civil society leaders, human rights activists and journalists in Azerbaijan working to improve dialogue over the conflict in Nagorno-Karabakh have been subjected to travel bans, investigated, and sentenced to prison based on unfounded and politically motivated charges.¹⁵³

90. For example, Leyla Yunus, Arif Yunus, and Rauf Mirgadirov, who worked extensively on sensitive human rights issues in Azerbaijan, including the Nagorno-Karabakh conflict,¹⁵⁴ were arrested and sentenced on false charges.¹⁵⁵ The ECtHR found that Azerbaijani authorities arrested and detained Mirgadirov and the Yunuses without any reasonable suspicion that they had committed a

pegasus-spying-nso/31365076.html; “Massive data leak reveals Israeli NSO Group's spyware used to target activists, journalists, and political leaders globally,” *Amnesty International* (18 July 2021), available at <https://www.amnesty.org/en/latest/news/2021/07/the-pegasus-project/>.

¹⁵³ See, e.g., “Azerbaijan: Guilty of Defending Rights, Azerbaijan’s Human Rights Defenders and Activists Behind Bars,” *Amnesty International* (4 March 2015), available at <https://www.amnesty.org/en/documents/eur55/1077/2015/en/>; “Journalists under threat, the Geybullayeva case,” *Balkanicaucaso* (22 July 2015), available at <https://www.balkanicaucaso.org/eng/Areas/Azerbaijan/Journalists-under-threat-the-Geybullayeva-case-162963>; “Azerbaijan: New Arrests, Convictions of Critics,” *Human Rights Watch* (13 May 2014), available at <https://www.hrw.org/news/2014/05/13/azerbaijan-new-arrests-convictions-critics>; “Open Letter Regarding the Human Rights Situation in Azerbaijan,” *Freedom House* (13 April 2015), available at <https://freedomhouse.org/article/open-letter-regarding-human-rights-situation-azerbaijan>; “Azerbaijan’s injustice,” *Washington Post* (16 August 2015), available at https://www.washingtonpost.com/opinions/azerbajians-injustice/2015/08/16/ea72941e-42bc-11e5-846d-02792f854297_story.html.

¹⁵⁴ See “Guilty of Defending Rights, Azerbaijan’s Human Rights Defenders and Activists Behind Bars,” *Amnesty International* (4 March 2015), available at <https://www.amnesty.org/en/documents/eur55/1077/2015/en/>, pp. 13-14; “Turkey/Azerbaijan: Journalist Deported, Imprisoned,” *Human Rights Watch* (24 April 2014), available at <https://www.hrw.org/news/2014/04/24/turkey/azerbaijan-journalist-deported-imprisoned>.

¹⁵⁵ “Guilty of Defending Rights, Azerbaijan’s Human Rights Defenders and Activists Behind Bars,” *Amnesty International* (4 March 2015), available at <https://www.amnesty.org/en/documents/eur55/1077/2015/en/>, pp. 11-14; Rachel Denber, “Prominent Peace Advocates Jailed in Azerbaijan,” *Asbarez* (30 April 2014), available at <https://asbarez.com/prominent-peace-advocates-jailed-in-azerbaijan>; Shahin Abbasov, “Will Journalist’s Arrest End Azerbaijani-Armenian Citizen Diplomacy?” *Eurasianet* (23 April 2014), available at <https://eurasianet.org/will-journalists-arrest-end-azerbaijani-armenian-citizen-diplomacy>; Mina Muradova, “Azerbaijani Journalist Accused of Spying for Armenia,” *The Central Asia-Caucasus Analyst* (7 May 2014), available at <https://www.cacianalyst.org/publications/field-reports/item/12967-azerbaijani-journalist-accused-of-spying-for-armenia.html>.

criminal offence, given that no incriminating evidence was presented by the Azerbaijani Government.¹⁵⁶

91. Another example of such persecution is the case of Mahammad Mirzali, who left Azerbaijan for France after coming under increasing pressure from Azerbaijani authorities for criticizing President Aliyev.¹⁵⁷ In the last few years, he has survived being shot, stabbed, and severely beaten, and he continues to receive warnings that his life is in danger.¹⁵⁸ After giving an interview to the Armenian news outlet CivilNet on 31 May 2021, during which he called for peace between Armenia and Azerbaijan, Mirzali began receiving ominous threats, including a threatening text message in Azeri, and had the window of his car smashed.¹⁵⁹

92. Reporters Without Borders (“RSF”) expressed its support for Mirzali, stating: “We know the Baku regime’s methods, which does not hesitate to harass, kidnap, and silence any critical voice—even beyond its borders.”¹⁶⁰ RSF also vowed that “[i]f anything at all happens to Mahammad Mirzali,” President Aliyev will “be held personally responsible.”¹⁶¹

93. Another way in which Azerbaijan has suppressed attempts by civil society to improve relations with Armenia is through measures restricting non-governmental organization (“NGO”) registrations and limiting their ability to access international funds.¹⁶² Because the authorities have made it “almost

¹⁵⁶ See *Case of Mirgadirov v. Azerbaijan and Turkey*, ECtHR, App. No. 62775/14, Judgment (17 September 2020), paras. 92-93. *Case of Yunusova and Yunosov v. Azerbaijan (No. 2)*, ECtHR, App. No. 68817/14, Judgment (16 July 2020), paras. 103-113.

¹⁵⁷ “‘We’ll hold Ilham Aliyev personally responsible if anything happens to this blogger in France’ RSF says,” *Reporters Without Borders* (4 June 2021), available at <https://rsf.org/en/news/well-hold-ilham-aliyev-personally-responsible-if-anything-happens-blogger-france-rsf-says>.

¹⁵⁸ Amos Chapple, “‘Soon Enough I’ll Be Killed’: Threats Against Azerbaijani Dissident Intensify After Armenian Media Interview,” *Radio Free Europe/Radio Liberty* (4 June 2021), available at <https://www.rferl.org/a/azerbaijani-dissident-mahammad-mirzali-threats/31290881.html>.

¹⁵⁹ *Ibid.*

¹⁶⁰ *Ibid.*

¹⁶¹ “‘We’ll hold Ilham Aliyev personally responsible if anything happens to this blogger in France’ RSF says,” *Reporters Without Borders* (4 June 2021), available at <https://rsf.org/en/news/well-hold-ilham-aliyev-personally-responsible-if-anything-happens-blogger-france-rsf-says>.

¹⁶² See “Guilty of Defending Rights, Azerbaijan’s Human Rights Defenders and Activists Behind Bars,” *Amnesty International* (4 March 2015), available at <https://www.amnesty.org/en/documents/eur55/1077/2015/en/>, p. 6; Elvin Yusifli, “The Challenges of Grant and NGO Laws in Azerbaijan’s Civil Society: Prospects For A Viable Path Forward,” *ISSICEU Policy Brief, Khazar University Baku* (December 2016) (**Annex 6**); United States

impossible”¹⁶³ to register and operate within the law, many human rights NGOs, including those working on reconciliation with Armenia, have not been registered, placing them at significant risk of criminal action.¹⁶⁴ In fact, during the September-November 2020 conflict, security forces summoned activists for making anti-war statements. For example, in November 2020, activist Latif Mammadov reported that Azerbaijani State Security Service officials threatened to kill him and his family for his anti-war posts online.¹⁶⁵ As a result, NGOs working in Azerbaijan do not feel safe defending or advocating for Armenian rights or improved relations between Azerbaijan and Armenia.¹⁶⁶

7. Failure to provide Armenians with equal treatment and effective protection and remedies

94. Azerbaijan has also failed to provide Armenians with equal treatment and effective protection and remedies through the competent national tribunals and other State institutions. Azerbaijan has claimed before the CERD Committee that it has received no information “concerning the infringement of the rights of ethnic minorities or their lawyers or human rights defenders” or “on the deliberate infringement on the part of the public authorities of the rights of any ethnic group and their representatives residing in Azerbaijan.”¹⁶⁷ This assertion rings hollow in light of the facts discussed above. Also, if true, would only serve to highlight the extent to which Azerbaijan’s legal system is unable to guarantee

Department of State, *2020 Country Reports on Human Rights Practices: Azerbaijan* (30 March 2021), available at <https://www.state.gov/wp-content/uploads/2021/03/AZERBAIJAN-2020-HUMAN-RIGHTS-REPORT.pdf>, pp. 28-30, 38-39.

¹⁶³ “Azerbaijan: Baku hosts Europa League Final as government crackdown continues,” *Amnesty International UK* (22 May 2019), available at <https://www.amnesty.org.uk/press-releases/azerbaijan-baku-hosts-europa-league-final-government-crackdown-continues>.

¹⁶⁴ Zohrab Ismayil & Ramute Remezaitė, “Shrinking Space for Civil Society in Azerbaijan: Tackling Restrictive Laws, Criminal Prosecutions, Tax Penalties,” *Caucasus Civil Initiatives Center* (13 July 2016), available at <http://www.caucasusinitiative.org/en/researchs/2>, p. 10.

¹⁶⁵ United States Department of State, *2020 Country Reports on Human Rights Practices: Azerbaijan* (30 March 2021), available at <https://www.state.gov/wp-content/uploads/2021/03/AZERBAIJAN-2020-HUMAN-RIGHTS-REPORT.pdf>, p. 26.

¹⁶⁶ See Institute for the Study of Human Rights – ISHR, “Armenian Prisoners of War and Detainees in Azerbaijan,” *YouTube* (11 August 2021), available at [youtube.com/watch?v=1jZJh7SN8Wg](https://www.youtube.com/watch?v=1jZJh7SN8Wg).

¹⁶⁷ CERD Committee, *Combined tenth to twelfth periodic reports submitted by Azerbaijan under article 9 of the Convention, due in 2019*, UN Doc. CERD/C/AZE/10-12 (10 October 2019), para. 98.

equal treatment and redress to Armenians. The message is clear and exemplified by the notorious case of Ramil Safarov, discussed above.

95. Azerbaijan's failure to provide equal and protective protection and remedies to Armenians can be further seen in the treatment of Armenian prisoners of war, hostages and other detained persons. As demonstrated below,¹⁶⁸ such individuals have been abused with impunity,¹⁶⁹ prosecuted on fabricated charges, and convicted in court proceedings with pre-ordained outcomes,¹⁷⁰ at times on the basis of coerced confessions.¹⁷¹

III. AZERBAIJAN'S VIOLATIONS OF THE CERD

96. In light of the foregoing, Azerbaijan, through its State organs, State agents, and other persons and entities exercising governmental authority, as well as through other agents acting on its instructions or under its direction and control, is responsible for serious violations of Articles 2, 3, 4, 5, 6, and 7 of the CERD. In particular, Azerbaijan's responsibility encompasses, but is not limited to:

- Engaging in practices of ethnic cleansing against Armenians in violation of Articles 2-7.

¹⁶⁸ See *infra*, paras. 105-113.

¹⁶⁹ See, e.g., Tanya Lokshina, "Survivors of unlawful detention in Nagorno-Karabakh speak out about war crimes: New evidence of torture and inhumane treatment of civilians by Azerbaijani forces emerges," *Human Rights Watch* (12 March 2021), available at <https://www.hrw.org/news/2021/03/12/survivors-unlawful-detention-nagorno-karabakh-speak-out-about-war-crimes>; Cristina Maza, "'They Chained Me to a Radiator and Beat me': Armenian POWs Speak Out," *Vice* (26 April 2021), available at <https://www.vice.com/en/article/akgdgk/armenia-azerbaijan-prisoners-of-war-nagorno-karabakh>.

¹⁷⁰ See, e.g., "Yerevan Condemns Prosecution of Armenian POWs by Azerbaijan," *Asbarez* (18 June 2021), available at <https://asbarez.com/yerevan-condemns-prosecution-of-armenian-pows-by-azerbaijan/>; "Indictment Read out at Trial of 14 Armenian POWs in Azerbaijan," *The Armenian Mirror-Spectator* (1 July 2021), available at <https://mirrorspectator.com/2021/07/01/indictment-read-out-at-trial-of-14-armenian-pows-in-azerbaijan/>.

¹⁷¹ The Human Rights Defender of the Republic of Armenia, *Ad Hoc Public Report: The Treatment of Armenian Prisoners of War and Civilian Captives in Azerbaijan (with Focus on their Questioning)* (2021), available at <https://ombuds.am/images/files/1138b156720bec6ae0fd88dc709eb62c.pdf>; Linda Berberian, "Fiancée of Vicken Euljekjian Reacts to His Prison Sentence," *Linda Berberian* (15 June 2021), available at <https://lindaberian.medium.com/fianc%C3%A9e-of-vicken-euljekjian-reacts-to-his-prison-sentence-37b46ac3478c>.

- Engaging in, glorifying, rewarding and condoning acts of racism against Armenians, including ethnically motivated murder, torture, and other inhumane treatment, in violation of Articles 2, 4 and 5(b).
- Engaging in, facilitating, tolerating, and failing to punish and prevent hate speech targeting Armenians in violation of Articles 2 and 4.
- Depriving Armenians, including Armenian prisoners of war, hostages and other detained persons, of the equal enjoyment of their individual rights, including the right to security of person and protection, the right to equal treatment before tribunals and all other organs administering justice, the right to property, the right to access and enjoy cultural heritage and activities, the right to freedom of movement and residence, the right to housing, the right to education and training, the right to marriage and choice of spouse, the right to freedom of thought, conscience and religion, the right to freedom of opinion and expression, the right to take part in government, political life and the conduct of public affairs, the right to access public services, and the right to employment, in violation of Articles 2 and 5.
- Systematically destroying and falsifying Armenian cultural sites and heritage in violation of Articles 2, 4, 5 and 7.
- Restricting the registration and operation of NGOs and arresting, detaining and sentencing human rights activists working towards reconciliation with Armenia and Armenians in violation of Articles 2(1)(c) and 2(1)(e).
- Failing to take necessary and effective measures to eliminate racial discrimination and combat prejudices which lead to racial discrimination, including through the adoption and implementation of legislation and the taking of special measures necessary to ensure the adequate development and protection of Armenians in violation of Articles 2(1)(d), 2(2) and 7.
- Failing to provide effective protection and remedies or uphold the right to seek just and adequate reparation or satisfaction for damage caused by acts of racial discrimination, in violation of Articles 2, 5(a) and 6.

IV. THE RELIEF SOUGHT

97. Armenia respectfully requests the Court to adjudge and declare:

1. That Azerbaijan is responsible for violating the CERD, including Articles 2, 3, 4, 5, 6 and 7.

2. That, as a consequence of its international responsibility for these breaches of the Convention, Azerbaijan must:

A. Cease forthwith any such ongoing internationally wrongful act and fully comply with its obligations under Articles 2, 3, 4, 5, 6 and 7 of the CERD, including by:

- refraining from practices of ethnic cleansing against Armenians;
- refraining from engaging in, glorifying, rewarding or condoning acts of racism against Armenians, including Armenian prisoners of war, hostages and other detained persons;
- refraining from engaging in or tolerating hate speech against Armenians, including in educational materials;
- refraining from suppressing the Armenian language, destroying Armenian cultural heritage or otherwise eliminating the existence of the historical Armenian cultural presence or inhibiting Armenians' access and enjoyment thereof;
- punishing all acts of racial discrimination, both public and private, against Armenians, including those taken by public officials;
- ensuring that the rights of Armenians, including Armenian prisoners of war, hostages and other detained persons are upheld on an equal basis;
- adopting the laws necessary to uphold its obligations under the CERD;
- providing Armenians with equal treatment before the tribunals and all other organs administering justice, and

providing effective protection and remedies against acts of racial discrimination;

- refraining from hindering the registration and operation of NGOs and arresting, detaining and sentencing human rights activists or other individuals working towards reconciliation with Armenia and Armenians; and
- taking effective measures with a view to combatting prejudices against Armenians, and special measures for the purpose of securing their adequate advancement.

B. Make reparations for the injury caused by any such internationally wrongful act, including:

- by way of restitution, allowing the safe and dignified return of displaced Armenians to their homes, and restoring or returning any Armenian cultural and religious buildings and sites, artefacts or objects;
- providing additional forms of reparation for any harm, loss or injury suffered by Armenians that is not capable of full reparation by restitution, including by providing compensation to displaced Armenians until such time as it becomes safe for them to return to their homes.

C. Acknowledge its violations of the CERD and provide an apology to Armenia and Armenian victims of Azerbaijan's racial discrimination.

D. Offer assurances and guarantees of non-repetition of violations of its obligations under Articles 2, 3, 4, 5, 6 and 7 of the CERD.

V. REQUEST FOR PROVISIONAL MEASURES

98. In accordance with Article 41 of the Statute of the Court, and Articles 73, 74 and 75 of the Rules of Court, Armenia requests that the Court indicate provisional measures. In light of the nature of the rights at issue, as well as the ongoing, severe and irreparable harm being suffered by Armenians, Armenia requests that the Court address the request as a matter of extreme urgency.

99. Armenia's Application describes a decades-long policy and practice of racial discrimination against Armenians. That practice has been undertaken,

facilitated and endorsed at the highest levels of Azerbaijan’s government, and has resulted in countless hate-based atrocities and the systematic destruction, erasure and falsification of Armenian cultural heritage, including during Azerbaijan’s aggression against Armenia and the Republic of Artsakh in September-November 2020.

100. Long after the 10 November 2020 ceasefire, Armenians continue to face the risk of murder, torture, and other cruel and inhumane treatment on the basis of their ethnic or national origin. These and other well-documented facts described in Armenia’s Application and below—including the ongoing destruction and erasure of Armenian cultural heritage, propagation of hatred towards Armenians by Azerbaijan’s President and manifestations of Armenophobia such as the so-called Military Trophies Park—present precisely the type of situation in which provisional measures have been indicated in the past.¹⁷² Armenia accordingly requests that the Court likewise issue provisional measures to protect and preserve Armenia’s rights and the rights of Armenians from further harm, and to prevent the aggravation or extension of this dispute, pending the determination of the merits of the issues raised in the Application.

A. *Prima Facie* Jurisdiction of the Court

101. The Court “may indicate provisional measures only if the provisions relied on by the Applicant appear, *prima facie*, to afford a basis on which its jurisdiction could be founded, but need not satisfy itself in a definitive manner that it has jurisdiction as regards the merits of the case.”¹⁷³

102. As set forth in the Application, the Court has jurisdiction over this dispute with respect to the interpretation and application of the CERD pursuant to

¹⁷² See, e.g., *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), Provisional Measures, Order of 15 October 2008, I.C.J. Reports 2008*, p. 396, paras. 143-44; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar), Provisional Measures, Order of 23 January 2020, I.C.J. Reports 2020*, paras. 65, 70, 72; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Provisional Measures, Order of 1 July 2000, I.C.J. Reports 2000*, p. 128, paras. 42-43; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide, Provisional Measures, Order of 8 April 1993, I.C.J. Reports 1993*, paras. 46, 52.

¹⁷³ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar), Provisional Measures, Order of 23 January 2020, I.C.J. Reports 2020*, p. 9, para. 16. See also, e.g., *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), Provisional Measures, Order of 19 April 2017, I.C.J. Reports 2017*, p. 114, para. 17.

its Statute and Rules and Article 22 of the CERD.¹⁷⁴ Neither party has made a reservation to Article 22, and the relevant jurisdictional preconditions are plainly satisfied. The requirement that the Court appear, *prima facie*, to have jurisdiction is therefore met.

B. Facts Supporting the Request

103. Azerbaijan has engaged in, promoted, and tolerated racial discrimination against Armenians since even before its emergence as an independent State. It continues to do so on an ongoing basis in a way that presents an urgent threat of irreparable harm in at least two key respects that are the subject of this Request.

1. Murder, torture and other abuse of Armenian prisoners of war, hostages and other detained persons

104. Azerbaijan has a well-documented history of murdering and torturing Armenians in areas under its control.¹⁷⁵ It was no different during Azerbaijan's September-November 2020 aggression.¹⁷⁶ Notwithstanding the end

¹⁷⁴ See *supra*, paras. 9-19.

¹⁷⁵ See, e.g., *Case of Saribekyan and Balyan v. Azerbaijan*, ECtHR, App. No. 35746/11, Judgment on Merits and Just Satisfaction (30 January 2020); *Case of Badalyan v. Azerbaijan*, ECtHR, App. No. 51295/11, Judgment (Merits & Satisfaction) (22 July 2021).

¹⁷⁶ See *supra*, paras. 52-53. See also, e.g., Republic of Artsakh Human Rights Ombudsman, *Ad Hoc Report on Inhuman Treatment of Members of Artsakh Defense Army and Civilians by Azerbaijani Armed Forces* (16 October 2020), available at <http://www.eoi.at/wp-content/uploads/2018/11/NKR-Report-on-the-Inhuman-Treatment-by-Azerbaijan-16.10.20.pdf>, pp. 10-17; Republic of Artsakh Human Rights Ombudsman, *Second Ad Hoc Report on Inhuman Treatment of Members of Nagorno-Karabakh (Artsakh) Defense Army and Captured Armenians by Azerbaijani Armed Forces* (17-25 October 2020), available at <http://www.eoi.at/wp-content/uploads/2018/11/NKR-2nd-ad-hoc-report-on-Inhuman-Treatment-of-Artsakh-soldiers-25.10.2020.pdf>, pp. 4-10; Republic of Artsakh Human Rights Ombudsman, *Third Ad Hoc Report on Inhuman Treatment of Members of Artsakh Defense Army and Captured Armenians by Azerbaijani Armed Forces* (26 October-3 November 2020), available at <http://www.eoi.at/wp-content/uploads/2018/11/NKR-3rd-ad-hoc-report-on-Inhuman-Treatment-of-Members-of-Artsakh-Defense-Army-and-Captured-Armenians-by-Azerbaijani-Armed-Forces.pdf>, pp. 4-10; The Human Rights Defender of Armenia & The Human Rights Ombudsman of Artsakh, *Fourth Ad Hoc Report on Torture and Inhuman Treatment of Members of Artsakh Defense Army and Captured Armenians by Azerbaijani Armed Forces (from November 4-18, 2020)* (November 2020), pp. 4-11 (**Annex 13**); The Human Rights Defender of Armenia & The Human Rights Ombudsman of Artsakh, *Fifth Ad Hoc Report on Torture and Inhuman Treatment of Members of Artsakh Defense Army and Captured Armenians by Azerbaijani Armed Forces (November 19-December 2, 2020)* (December 2020), available at http://www.eoi.at/wp-content/uploads/2018/09/Arm-5th-ad-hoc-report-on-Inhuman-Treatment-of-Members-of-ADA-and-Captured-Armenians-by-Azerbaijani-Armed-Forces_02.12.20_final.pdf, pp. 4-14; The Human Rights Defender of Armenia & The

of large-scale armed hostilities, however, Armenians still in Azerbaijani custody continue to face similar mistreatment.

105. The risk of such mistreatment is evidenced, for example, by authenticated videos showing Azerbaijani troops abusing Armenians who were subsequently murdered while in custody. Video footage shows, for example, an Armenian serviceman, Erik Mkhitarian, in a crawling position on the ground while an Azerbaijani soldier holds the back of his neck and shakes him.¹⁷⁷ Surrounding him are other Azeri soldiers pointing their rifles at him, while one soldier orders Mkhitarian to repeat: “Karabagh Azerbaijan.”¹⁷⁸ In April 2021, DNA evidence confirmed that Erik Mkhitarian had been killed.¹⁷⁹

106. Nor have Armenian civilians been spared. Arsen Gharakhanyan was captured by Azerbaijani soldiers at his home in the city of Hadrut in mid-October.¹⁸⁰ Video footage released in early January 2021 shows Gharakhanyan being forced to say “Karabakh is Azerbaijan” and degrade Armenian Prime Minister Nikol Pashinyan.¹⁸¹ His body was subsequently found on 18 January with visible gunshot wounds.¹⁸²

Human Rights Ombudsman of Artsakh, *Sixth Ad Hoc Report on Torture and Inhuman Treatment of Members of Artsakh Defense Army and Captured Armenians by Azerbaijani Armed Forces (from December 2-16, 2020)* (December 2020), pp. 5-19 (**Annex 16**); Republic of Artsakh Human Rights Ombudsman, *Interim Report on the Cases of the Killing of Civilians in Artsakh by the Armed Forces of Azerbaijan* (28 January 2021), available at <https://artsakhombuds.am/en/document/785>; Columbia University, Institute for the Study of Human Rights, *Atrocities Artsakh (Nagorno-Karabakh)*, available at <http://www.humanrightscolumbia.org/peace-building/atrocities-artsakh-nagorno-karabakh>.

¹⁷⁷ The Human Rights Defender of the Republic of Armenia, *The Treatment of Armenian Prisoners of War and Civilian Captives in Azerbaijan (With Focus on their Questionings)* (2021), p. 8, available at <https://www.ombuds.am/images/files/1138b156720bec6ae0fd88dc709eb62c.pdf>.

¹⁷⁸ *Ibid.*, p. 9.

¹⁷⁹ “Third case of a captive’s death in Azerbaijan: ECHR upheld the motion for an interim measure,” *I News* (19 April 2021), available at <https://www.1lurer.am/en/2021/04/19/Third-case-of-a-captive%E2%80%99s-death-in-Azerbaijan-ECHR-upheld-the-motion-for-an-interim-measure/458236>.

¹⁸⁰ Tanya Lokshina, “Survivors of unlawful detention in Nagorno-Karabakh speak out about war crimes,” *Human Rights Watch* (12 March 2021), available at <https://www.hrw.org/news/2021/03/12/survivors-unlawful-detention-nagorno-karabakh-speak-out-about-war-crimes#>.

¹⁸¹ *Ibid.*

¹⁸² *Ibid.*

107. Those lucky enough to be released speak of torture and other abuse at the hands of Azerbaijani authorities. Freed Armenian prisoners recall that they were not provided with adequate food, water or medical attention,¹⁸³ and were subjected to constant beatings and inhumane treatment by their guards who “would use different objects such as belts, screwdrivers, gun butts, metal chains, and batons.”¹⁸⁴

108. Human Rights Watch has expressed concern about the treatment of Armenian prisoners of war, finding that “Azerbaijani forces ... subject[ed] them to cruel and degrading treatment and torture either when they were captured, during their transfer, or while in custody at various detention facilities.”¹⁸⁵ Human Rights Watch also found that “Azerbaijani forces used violence to detain civilians and subjected them to torture and inhuman and degrading conditions of detention.”¹⁸⁶

¹⁸³ The Human Rights Defender of the Republic of Armenia, *Ad Hoc Public Report: Responsibility of Azerbaijan for Torture and Inhuman Treatment of Armenian Captives: Evidence-based Analysis (The 2020 Nagorno Karabakh War)* (September 2021), available at <https://www.ombuds.am/images/files/8f33e8ccaac978faac7f4cf10442f835.pdf>, paras. 31, 33.

¹⁸⁴ *Ibid.*, paras. 44, 87. See also Olga Prosvirova, “‘They beat me, they humiliate me, but I’m fine.’ Reports from Armenian servicemen returning from Azerbaijani prisons,” *BBC* (7 July 2021) (certified translation from Russian) (**Annex 56**); Cristina Maza, “‘They Chained Me to a Radiator and Beat me’: Armenian POWs Speak Out,” *Vice* (26 April 2021), available at <https://www.vice.com/en/article/akgdgk/armenia-azerbaijan-prisoners-of-war-nagorno-karabakh>.

¹⁸⁵ Human Rights Watch, *Azerbaijan: Armenian POWs Abused in Custody* (19 March 2021), available at <https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody>.

¹⁸⁶ See Tanya Lokshina, “Survivors of unlawful detention in Nagorno-Karabakh speak out about war crimes,” *Human Rights Watch* (12 March 2021), available at <https://www.hrw.org/news/2021/03/12/survivors-unlawful-detention-nagorno-karabakh-speak-out-about-war-crimes>. See also Republic of Artsakh Human Rights Ombudsman, *Ad Hoc Report on Inhuman Treatment of Members of Artsakh Defense Army and Civilians by Azerbaijani Armed Forces* (16 October 2020), available at <http://www.eoi.at/wp-content/uploads/2018/11/NKR-Report-on-the-Inhuman-Treatment-by-Azerbaijan-16.10.20.pdf>, pp. 15-17; The Human Rights Defender of Armenia & The Human Rights Ombudsman of Artsakh, *Fourth Ad Hoc Report on Torture and Inhuman Treatment of Members of Artsakh Defense Army and Captured Armenians by Azerbaijani Armed Forces (from November 4-18, 2020)* (November 2020), pp. 4-11 (**Annex 13**); The Human Rights Defender of Armenia & The Human Rights Ombudsman of Artsakh, *Fifth Ad Hoc Report on Torture and Inhuman Treatment of Members of Artsakh Defense Army and Captured Armenians by Azerbaijani Armed Forces (November 19-December 2, 2020)* (December 2020), available at http://www.eoi.at/wp-content/uploads/2018/09/Arm-5th-ad-hoc-report-on-Inhuman-Treatment-of-Members-of-ADA-and-Captured-Armenians-by-Azerbaijani-Armed-Forces_02.12.20_final.pdf, p. 6; The Human Rights Defender of Armenia & The Human Rights Ombudsman of Artsakh, *Sixth Ad Hoc Report on Torture and Inhuman Treatment of Members of Artsakh Defense Army and Captured Armenians by Azerbaijani Armed Forces (from December 2-16, 2020)* (December 2020), pp. 5-19 (**Annex 16**); Armenian Bar Association, *Alternative Report to the Committee on the Elimination of Racial Discrimination (CERD)* (18 December 2020),

109. The European Parliament, for its part, has expressed its “grave concern about credible reports, according to which Armenian prisoners of war and other captive persons have been and are being held in degrading conditions, and that they have been subjected to inhuman treatment and torture when captured or during their detention.”¹⁸⁷

110. In a joint statement, the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Working Group on Enforced or Involuntary Disappearances, and the Special Rapporteur on extrajudicial, summary or arbitrary executions echoed these concerns, calling, *inter alia*, for “the prompt release of prisoners of war and other captives from the recent Nagorno-Karabakh conflict.”¹⁸⁸

111. Under the terms of the Trilateral Statement and pursuant to their international humanitarian law obligations, Armenia and Azerbaijan agreed to exchange all “prisoners of war, hostages and other detained persons.”¹⁸⁹ Armenia fulfilled this obligation promptly. Azerbaijan has not. Azerbaijan continues to detain Armenian servicemen and civilians, the vast majority of whom were captured after the conclusion of the Trilateral Statement more than ten months ago.¹⁹⁰ Instead of releasing them, Azerbaijan has aggravated their mistreatment by prosecuting them on fabricated charges, with most already having been convicted to years of imprisonment in its prisons. In clear violation of the same obligations, Azerbaijan has continued to capture and detain Armenians.

available at <https://armenianbar.org/wp-content/uploads/2020/12/Armenian-Bar-Association-18-December-2020-Alternative-Report-to-the-CERD-1.pdf>, paras. 44-49, 78-87; Republic of Artsakh Human Rights Ombudsman, *Interim Report on the Cases of the Killing of Civilians in Artsakh by the Armed Forces of Azerbaijan* (28 January 2021), available at <https://artsakhombuds.am/en/document/785>, pp. 14-19.

¹⁸⁷ See European Parliament, *European Parliament resolution of 20 May 2021 on prisoners of war in the aftermath of the most recent conflict between Armenia and Azerbaijan*, No. 2021/2693(RSP) (20 May 2021), available at https://www.europarl.europa.eu/doceo/document/TA-9-2021-0251_EN.pdf, pp. 3-4.

¹⁸⁸ Office of the High Commissioner for Human Rights, *Nagorno-Karabakh: captives must be released – UN experts* (1 February 2021), available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26702&LangID=E>.

¹⁸⁹ See Prime Minister of the Republic of Armenia, *Statement by the Prime Minister of the Republic of Armenia, the President of the Republic of Azerbaijan and the President of the Russian Federation* (10 November 2020), available at <https://www.primeminister.am/en/press-release/item/2020/11/10/Announcement>, point 8.

¹⁹⁰ Armenia will submit the list of these individuals to the Court in due course.

112. These individuals continue to face a grave risk of torture, abuse or other mistreatment at the hands of the Azerbaijani authorities. The so-called “Military Trophies Park,” with its grotesque mannequins mimicking the inhumane conditions in which Armenian prisoners are kept,¹⁹¹ by itself serves as chilling evidence of this fact.

2. Destruction of Armenian cultural heritage

113. As stated in the Application, numerous videos and images show Azerbaijani soldiers and mercenaries vandalising or destroying Armenian churches, gravestones, and other cultural artefacts during and after Azerbaijan’s aggression in September-November 2020.¹⁹²

114. The Co-Chairs of the Minsk Group expressed their concern about “the preservation and protection of religious and cultural heritage,”¹⁹³ while the UN Secretary General has acknowledged the “need to introduce effective international mechanisms to protect and preserve the Armenian historical, cultural and religious heritage in the Nagorno-Karabakh conflict zone.”¹⁹⁴ Notwithstanding Azerbaijan’s disingenuous professions of willingness to allow UNESCO to visit,¹⁹⁵ the organization still has not been able to do so, despite widespread evidence that the destruction and erasure of Armenian cultural heritage is ongoing, and a real and genuine threat of further future destruction and erasure remains.¹⁹⁶

¹⁹¹ See Photo of Mannequins from “President Aliyev inaugurates Military Trophy Park in Baku [UPDATE],” *AzerNews* (12 April 2021) (**Annex 35**).

¹⁹² See *supra*, paras. 75-76.

¹⁹³ French Ministry for Europe and Foreign Affairs, *Statement by the Co-Chairs of the OSCE Minsk Group* (13 April 2021), available at <https://www.diplomatie.gouv.fr/en/country-files/armenia/news/article/statement-by-the-co-chairs-of-the-osce-minsk-group-13-apr-2021>.

¹⁹⁴ “Armenian Foreign Minister, UN Secretary-General Discuss Protection of Cultural Sites in Artsakh,” *hetq* (10 May 2021), available at <https://hetq.am/en/article/130672>.

¹⁹⁵ Ministry of Foreign Affairs of the Republic of Armenia, *The answer of the Ministry of Foreign Affairs’ Spokesperson to the question of the RFE/RL* (25 August 2021), available at https://www.mfa.am/en/interviews-articles-and-comments/2021/08/25/UNESCO_Artsakh_cultural_heritage/11040. See also “Ambassador: France regrets that UNESCO has not conducted study in Karabakh yet,” *news.am* (17 March 2021), available at <https://news.am/eng/news/634174.html>; UNESCO, *UNESCO is awaiting Azerbaijan’s Response regarding Nagorno-Karabakh mission* (21 December 2020), available at <https://en.unesco.org/news/unesco-awaiting-azerbajians-response-regarding-nagorno-karabakh-mission>.

¹⁹⁶ See Hakim Bishara, “Satellite Imagery Reveals Azerbaijan’s Persistent Erasure of Armenian Heritage Sites,” *Hyperallergic* (22 August 2021), available at

115. Among many other examples, the 200-year-old Saint John the Baptist church in Shushi, more commonly known as the “Green Chapel,” was destroyed after Azerbaijanis occupied the city,¹⁹⁷ while another church in Mekhakavan (Jabrayil) “disappear[ed].”¹⁹⁸ Similarly, satellite imagery confirms that an early 19th-century cemetery in Mets Tagher has been completely bulldozed and destroyed.¹⁹⁹ Moreover:

“Following the declaration of the armistice signed on November 10 2020, Azerbaijanis entered Shushi city and desecrated the Cathedral of Ghazanchetsots with graffiti on the external and internal walls of the Cathedral. Other damaged monuments in the post war period include ... monuments devoted to the victims of the Great Patriotic War in the village Avetaranots, Askeran district of NKAO and Talish, Mardakert district of NKAO, [and] the Armenian cross-stone in the village of Arakel, Hadrut district of Artsakh.”²⁰⁰

116. In addition:

<https://hyperallergic.com/663782/satellite-imagery-reveals-azerbaijans-persistent-erasure-of-armenian-heritage-sites/> (describing ongoing threats to Armenian cultural heritage).

¹⁹⁷ “Satellite image shows Azerbaijan's destruction of Armenian church,” *PanArmenian* (17 March 2021), *available at* https://www.panarmenian.net/eng/news/291249/Satellite_image_shows_Azerbaijans_destruction_of_Armenian_church. *See also, e.g.*, “Azerbaijan destroys Armenian ‘Green Church’ in Shushi,” *news.am* (17 March 2021), *available at* <https://news.am/eng/news/634185.html>.

¹⁹⁸ “Azerbaijan Destroys Another Armenian Church After War,” *Asbarez* (25 March 2021), *available at* <https://asbarez.com/azerbaijan-destroys-another-armenian-church-after-war>.

¹⁹⁹ Siranush Ghazanchyan, “Armenian cemetery in Azerbaijani-occupied Mets Tagher village destroyed,” *Public Radio of Armenia* (4 May 2021), *available at* <https://en.armradio.am/2021/05/04/armenian-cemetery-in-azerbaijani-occupied-mets-tagher-village-destroyed>; Hakim Bishara, “Satellite Imagery Reveals Azerbaijan’s Persistent Erasure of Armenian Heritage Sites,” *Hyperallergic* (22 August 2021), *available at* <https://hyperallergic.com/663782/satellite-imagery-reveals-azerbaijans-persistent-erasure-of-armenian-heritage-sites/>; Lori Khatchadourian, Ian Lindsay, & Adam T. Smith, *Caucasus Heritage Watch Monitoring Report #1* (June 2021), *available at* https://adobeindd.com/view/publications/29f1209a-86e5-45a6-a53e-974eda2177b6/41tt/publication-web-resources/pdf/Report_2021-01.pdf, pp. 21-22.

²⁰⁰ Transparency International Anticorruption Center, *Report on Xenophobia in Azerbaijan* (28 February 2021), *available at* <https://transparency.am/files/publications/1614692840-0-341815.pdf?v=4>, p. 22.

- Satellite photos show that, between 12 April and 18 June 2021, a historic Armenian cemetery in the village of Sghnakh, in the Askeran District, was razed to the ground to make way for road construction.²⁰¹
- A centuries-old Armenian cemetery north of Shushi was partially destroyed.²⁰²
- A cemetery in Taghavard was desecrated by the Azerbaijani military.²⁰³
- Armenian gravestones have reportedly been destroyed and used for the construction of a road through the village of Karin Tak to Shushi.²⁰⁴

²⁰¹ “Azerbaijan destroys one more Armenian cemetery in Karabakh,” *PanArmenian* (3 July 2021), available at https://www.panarmenian.net/eng/news/294087/Azerbaijan_destroys_one_more_Armenian_cemetery_in_Karabakh. See also Caucasus Heritage Watch (@CaucasusHW), “CHW confirms the destruction of an Armenian cemetery in the village of Sghnakh/Sığnaq, as first reported by Monument Watch (<https://bit.ly/368g7UH>). The area was bulldozed in connection with road construction. 1/3 [Thread],” *Twitter* (2 July 2021), available at <https://twitter.com/CaucasusHW/status/1411023424193978368>; Monument Watch, *Destruction of the cemetery of Syghnakh* (9 June 2021), available at <https://monumentwatch.org/alerts/destruction-of-the-cemetery-of-syghnakh/>.

²⁰² “Shushi Armenian cemetery partially destroyed by Azerbaijanis,” *PanArmenian* (18 May 2021), available at https://www.panarmenian.net/eng/news/292944/Shushi_Armenian_cemetery_partially_destroyed_by_Azerbaijanis; Caucasus Heritage Watch (@CaucasusHW), “CHW has made a high-confidence assessment that a centuries-old Armenian cemetery north of Shusha/Shushi has been partially destroyed. A portion of the grounds on the west side of a road leading into the city was leveled in the construction of a building complex. 1/4 [Thread],” *Twitter* (17 May 2021), available at <https://mobile.twitter.com/CaucasusHW/status/1394329613757734919>.

²⁰³ See also, e.g., “Azerbaijanis desecrate cemetery in Karabakh,” *PanArmenian* (4 May 2021), available at https://www.panarmenian.net/eng/news/292581/Azerbaijanis_desecrate_cemetery_in_Karabakh.

²⁰⁴ “Karabakh: Azerbaijanis using gravestones to build a road to Shushi,” *PanArmenian* (10 May 2021), available at https://www.panarmenian.net/eng/news/292739/Karabakh_Azerbaijanis_using_gravestones_to_build_a_road_to_Shushi.

- Satellite images confirm that Azerbaijani forces destroyed a monument to the Armenian Genocide in Shushi.²⁰⁵
- Azerbaijan has begun its controversial “renovation” of Shushi’s Ghazanchetsots cathedral without consulting Armenia.²⁰⁶ Part of the alleged “restoration work” has been the removal of the Cathedral’s domes.²⁰⁷
- A video shared on several Telegram channels shows a group of Azerbaijani soldiers entering the Saint Yeghishe Church in Mataghis, which had been partially destroyed during the armed conflict, and vandalising the church.²⁰⁸

117. Azerbaijan has also engaged in a concerted effort to reinvent Armenian monuments as “ancient Azerbaijani landmarks,” or as “Caucasian Albanian” in origin.²⁰⁹ This has led to calls from Azerbaijani officials, including President Aliyev himself, to erase traces of Armenian culture and history from historical sites in the region.²¹⁰ For example, after visiting a 17th century church in Hadrut, President Aliyev ordered the removal of medieval Armenian inscriptions

²⁰⁵ Zartonk Media (@ZartonkMedia), “Azerbaijanis Demolish Armenian Genocide Monument In Occupied Artsakh’s Shushi,” *Twitter* (30 March 2021), available at <https://twitter.com/ZartonkMedia/status/1376995152728760321> (showing before and after photos of the destruction of an Armenian Genocide monument in Shushi). See also generally Armenian Bar Association, *Urgent Call for Action: In response to the destruction and desecration of Armenian religious and cultural heritage property by the Azerbaijani Armed Forces and the denial and erasure of Armenian cultural heritage* (21 January 2021), available at <https://v9p4n7w5.stackpathcdn.com/wp-content/uploads/2021/01/Armenian-Cultural-Heritage-Report-1.21-2021.pdf>.

²⁰⁶ “Restoration or distortion of Armenian legacy in Shushi? What’s happening to the Ghazanchetsots Cathedral in NK,” *JAM News* (5 May 2021), available at <https://jam-news.net/restoration-or-distortion-of-armenian-legacy-in-shushi-whats-happening-to-the-ghazanchetsots-cathedral-in-nk>.

²⁰⁷ *Ibid.*

²⁰⁸ Arman Tatoyan, Human Rights Defender of the Republic of Armenia, Video of the St. Yeghishe Armenian Church, *Facebook* (27 March 2021), available at <https://www.facebook.com/100017676420633/videos/829108177688389/>.

²⁰⁹ See *supra*, para. 78.

²¹⁰ *Ibid.*

from Armenian churches that have fallen under Azerbaijani control, calling them fake.²¹¹

118. The widespread and well-founded fear that Azerbaijan will systematically destroy “all physical evidence of Armenian occupation”²¹² in territory now under its control is thus already being borne out.

C. The Rights the Protection of Which is Sought and the Link Between Those Rights and the Measures Requested

119. The Court has “the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party.”²¹³ The Court is not called upon to determine definitively whether the rights that Armenia seeks to protect exist.²¹⁴ Instead, it need only decide whether the rights claimed by Armenia on the merits, and for which it is seeking protection, are “plausible” and linked to the provisional measures requested.²¹⁵

120. Under the CERD, Azerbaijan has undertaken to respect the right of Armenians to enjoy, without distinction as to their national or ethnic origin, security of their person and protection by the State against violence or bodily

²¹¹ “Aliyev Orders Removal of Medieval Armenian Inscriptions, As Azeri Forces Destroy Shushi’s Kanach Zham Church,” *Asbarez* (18 March 2021), available at <https://asbarez.com/aliyev-orders-removal-of-medieval-armenian-inscriptions-as-azeri-forces-destroy-shushis-kanach-zham-church/>.

²¹² See, e.g., Dan Cruickshank, “Nagorno-Karabakh: priceless Christian artefacts are at risk of being destroyed,” *The Times* (16 December 2020), available at [thetimes.co.uk/article/nagorno-karabakh-priceless-christian-artefacts-are-at-risk-of-being-destroyed-3xsg98scg](https://www.thetimes.co.uk/article/nagorno-karabakh-priceless-christian-artefacts-are-at-risk-of-being-destroyed-3xsg98scg); Nora McGreevy, “Why Scholars, Cultural Institutions Are Calling to Protect Armenian Heritage,” *Smithsonian Magazine* (24 November 2020), available at <https://www.smithsonianmag.com/smart-news/metropolitan-museum-scholars-call-protection-cultural-heritage-nagorno-karabakh-180976364/>.

²¹³ Statute of the International Court of Justice, Art. 41.

²¹⁴ See, e.g., *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates), Provisional Measures, Order of 23 July 2018*, I.C.J. Reports 2018, p. 422, para. 44; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar), Provisional Measures, Order of 23 January 2020*, I.C.J. Reports 2020, p. 18, para. 44.

²¹⁵ See, e.g., *ibid.* See also, e.g., *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), Provisional Measures, Order of 19 April 2017*, I.C.J. Reports 2017, p. 126, para. 64.

harm,²¹⁶ as well as the right to equal treatment before the tribunals and all other organs administering justice,²¹⁷ and the right to access and enjoy their cultural heritage.²¹⁸ Each of these rights is squarely “grounded in a possible interpretation of the Convention.”²¹⁹

121. Moreover, Azerbaijan’s actions described plausibly, indeed plainly, constitute acts of racial discrimination in violation of its obligations under the CERD.²²⁰

122. In addition, each of the rights for which Armenia seeks protection are clearly linked to the provisional measures requested. Those measures will help ensure, *inter alia*, that Armenian prisoners, hostages and other detainees are protected from violence or bodily harm and are not subjected to unequal treatment on racial grounds, and that Armenians are able to access and enjoy cultural heritage threatened with irreparable harm. They will also help protect Armenians from State-sponsored expressions of hatred of other serious kinds. In granting the requested measures, the Court will therefore help ensure the protection of the rights under threat.

D. Risk of Irreparable Prejudice and Urgency

123. The Court has the power to indicate provisional measures “when irreparable prejudice could be caused to rights which are the subject of judicial proceedings or when the alleged disregard of such rights may entail irreparable

²¹⁶ See, e.g., International Convention on the Elimination of All Forms of Racial Discrimination (opened for signature 7 March 1966, entered into force 4 January 1969), 660 UNTS 195, Art. 5(b).

²¹⁷ *Ibid.*, Art. 5(a).

²¹⁸ See, e.g., *ibid.*, Arts. 1(1), 2(2), 5(d)(vi), 5(e). See also, e.g., UN Human Rights Council, *Report of the independent expert in the field of cultural rights, Farida Shaheed*, UN Doc. A/HRC/17/38 (21 March 2011); CERD Committee, *Draft Concluding observations of the Committee on the Elimination of Racial Discrimination, Ukraine*, UN Doc. CERD/C/UKR/CO/18 (22 August 2006), para. 18; CERD Committee, *Concluding observations of the Committee on the Elimination of Racial Discrimination, Laos*, UN Doc. CERD/C/LAO/CO/16-18 (13 April 2012), para. 21.

²¹⁹ *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, *Provisional Measures, Order of 28 May 2009*, I.C.J. Reports 2009, p. 152, para. 60.

²²⁰ See, e.g., *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)*, *Provisional Measures, Order of 19 April 2017*, I.C.J. Reports 2017, p. 135, para. 82

consequences.”²²¹ Although “the power of the Court to indicate provisional measures will be exercised only if there is urgency, in the sense that there is a real and imminent risk that irreparable prejudice will be caused before the Court gives its final decision,”²²² that condition is met “when the acts susceptible of causing irreparable prejudice can ‘occur at any moment’ before the Court makes a final decision on the case.”²²³

124. The indication of provisional measures does not require the Court “to establish the existence of breaches of CERD” or to “make definitive findings of fact.”²²⁴ On the contrary, the Court has found provisional measures appropriate where it was “not inconceivable” that a violation might occur,²²⁵ or where information before the Court “d[id] not exclude the possibility” that irreparable harm might be caused.²²⁶ The Court has accordingly repeatedly indicated provisional measures where possible rights under the CERD were threatened by acts of racial discrimination.²²⁷ In *Georgia v. Russia*, for example, the Court indicated provisional measures where:

²²¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar), Provisional Measures, Order of 23 January 2020, I.C.J. Reports 2020*, p. 24, para. 64.

²²² *Ibid.*, para. 65.

²²³ *Ibid.*

²²⁴ *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), Provisional Measures, Order of 15 October 2008, I.C.J. Reports 2008*, para. 141. See also, e.g., *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), Provisional Measures, Order of 19 April 2017, I.C.J. Reports 2017*, p. 136, para. 90.

²²⁵ Cf. *Immunities and Criminal Proceedings (Equatorial Guinea v. France), Provisional Measures, Order of 7 December 2016, I.C.J. Reports 2016*, p. 1169, para. 89.

²²⁶ *Nuclear Tests (New Zealand v. France), Interim Protection, Order of 22 June 1973, I.C.J. Reports 1973*, p. 141, para. 30.

²²⁷ See *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), Provisional Measures, Order of 15 October 2008, I.C.J. Reports 2008*, para. 149; *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates), Provisional Measures, Order of 23 July 2018, I.C.J. Reports 2018*, p. 433, para. 79; *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), Provisional Measures, Order of 19 April 2017, I.C.J. Reports 2017*, p. 140, para. 106.

- circumstances were “unstable and could rapidly change” due to “ongoing tension and the absence of an overall settlement to [a] conflict;”²²⁸
- “violations of the right to security of persons and the right to protection by the State against violence or bodily harm” could “involve potential loss of life and bodily injury;”²²⁹ and
- the affected population “remain[ed] vulnerable” to violations of the CERD.²³⁰

125. The Court has also indicated provisional measures, *inter alia*:

- to ensure that “no irreparable damage is caused to persons or property” following “armed clashes” leading to “fatalities, injuries and the displacement of local inhabitants,” as well as damage to a UNESCO World Heritage site;²³¹
- where “grave and repeated violations of human rights and international humanitarian law” had been committed, and “assets and resources” in the area of conflict remained vulnerable;²³²
- to protect prisoners or other captives from the risk of harm;²³³ and

²²⁸ *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), Provisional Measures, Order of 15 October 2008, I.C.J. Reports 2008, p. 396, para. 143.*

²²⁹ *Ibid.*, para. 142.

²³⁰ *Ibid.*, paras. 142-143.

²³¹ *Request for Interpretation of the Judgment of 15 June 1962 in Temple of Preah Vihear (Cambodia v. Thailand), Provisional Measures, Order of 18 July 2011, I.C.J. Reports 2011, paras. 53, 61. See also, e.g., Case Concerning United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran), Provisional Measures, Order of 15 December 1979, I.C.J. Reports 1979, p. 20, para. 42; Frontier Dispute, Provisional Measures, Order of 10 January 1986, I.C.J. Reports 1986, p. 10, para. 21; Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua), Provisional Measures, Order of 8 March 2011, I.C.J. Reports 2011, p. 24, para. 75.*

²³² *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Provisional Measures, Order of 1 July 2000, I.C.J. Reports 2000, p. 128, paras. 42-43.*

²³³ *Jadhav (India v. Pakistan), Provisional Measures, Order of 18 May 2017, I.C.J. Reports 2017, p. 246, para. 61; Avena and Other Mexican Nationals (Mexico v. United States of America), Provisional Measures, Order of 5 February 2003, I.C.J. Reports 2003, paras. 55, 59; LaGrand*

- where actions “could result in the destruction of evidence material to the Chamber’s eventual decision.”²³⁴

126. In these proceedings, the rights at issue are clearly threatened with imminent and irreparable injury.

127. As noted above, long after the ceasefire entered into effect on 10 November 2020,²³⁵ Armenians still under Azerbaijan’s control continue to be at grave risk of execution, torture or other forms of mistreatment.²³⁶ Azerbaijan also continues to damage, alter or destroy, or allow the damaging, altering or destruction of, Armenian churches, gravestones, and other cultural and religious sites and artefacts.²³⁷

128. These violations are taking place in an environment of anti-Armenian hatred that is propagated, directed and endorsed by Azerbaijani officials at the highest levels of government.²³⁸ The “Military Trophies Park” is emblematic of this environment. As noted above, it glorifies the killing of Armenian soldiers and features wax mannequins of Armenian soldiers and prisoners of war with exaggerated, Armenophobic features.²³⁹ According to one of the creators of the mannequins: “We generally try to do something as beautiful as possible. This time it was the opposite. It was a time consuming and difficult process. We prepared

(*Germany v. United States of America*), *Provisional Measures, Order of 3 March 1999*, *I.C.J. Reports 1999*, paras. 24-29; *Vienna Convention on Consular Relations (Paraguay v. United States of America)*, *Provisional Measures, Order of 9 April 1998*, *I.C.J. Reports 1998*, paras. 37, 39, 41.

²³⁴ *Frontier Dispute, Provisional Measures, Order of 10 January 1986*, *I.C.J. Reports 1986*, p. 9, para. 20. See also, e.g., *Land and Maritime Boundary between Cameroon and Nigeria, Provisional Measures, Order of 15 March 1996*, *I.C.J. Reports 1996*, p. 13, para. 43.

²³⁵ The Court has previously made clear that “the existence of a ceasefire ‘does not ... deprive [it] of the rights and duties pertaining to it in the case brought before it.’” *Request for Interpretation of the Judgment of 15 June 1962 in Temple of Preah Vihear (Cambodia v. Thailand)*, *Provisional Measures, Order of 18 July 2011*, *I.C.J. Reports 2011*, p. 551, para. 54 (quoting *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*, *Provisional Measures, Order of 15 March 1996*, *I.C.J. Reports 1996 (I)*, p. 22, para. 37).

²³⁶ See *supra*, paras. 52-53, 105-113.

²³⁷ See *supra*, paras. 75-78, 114-119. See also, e.g., The Human Rights Ombudsman of the Republic of Artsakh, *Ad Hoc Public Report on the Armenian Cultural Heritage in Artsakh (Nagorno-Karabakh): Cases of Vandalism and at Risk of Destruction by Azerbaijan* (26 January 2021), available at <https://artsakhombuds.am/en/document/792>.

²³⁸ See *supra*, paras. 42-46.

²³⁹ See *supra*, paras. 86-88.

them using aquiline nose forms, skull bases absent and other features.”²⁴⁰ In the similarly offensive words of one of the guides at the museum, “[t]he mannequins have big noses because most Armenians look that way, don’t they?”²⁴¹ Unsurprisingly, even some Azerbaijani officials “are believed to be uneasy about the park’s tone.”²⁴² That has not stopped Azerbaijan from promoting the park, which, “[s]ince opening in April, . . . has attracted crowds of enthusiastic locals.”²⁴³

129. President Aliyev has continued his hateful rhetoric since the Park’s opening, repeatedly making offensive and degrading statements about Armenians.²⁴⁴ Such expressions of hatred are also routinely and widely disseminated. They not only increase the risk of further atrocities, but also aggravate and extend the Parties’ dispute and place Armenians under Azerbaijan’s control under serious and constant threat.

130. The Court has recognized that “the political, civil, economic, social and cultural rights stipulated in Article 5 [of the] CERD are of such a nature that prejudice to them is capable of causing irreparable harm.”²⁴⁵ More generally, no “reparation could efface the results of” any of Azerbaijan’s conduct, which “the

²⁴⁰ “Azerbaijani Park Sculptors Admit Deliberately Making Armenian Figures Ugly,” *Mirror Spectator* (15 April 2021), available at <https://mirrorspectator.com/2021/04/15/azerbaijani-park-sculptors-admit-deliberately-making-armenian-figures-ugly/>.

²⁴¹ Colin Freeman, “Helmet windchimes and bullet casing in the gift shop: Inside Azerbaijan’s ‘horrible’ new war museum,” *The Telegraph* (10 July 2021), available at <https://www.msn.com/en-gb/news/world/helmet-windchimes-and-bullet-casing-in-the-gift-shop-inside-azerbaijans-horrible-new-war-museum/ar-AAMOIXU>.

²⁴² *Ibid.*

²⁴³ *Ibid.*

²⁴⁴ See, e.g., State Committee for Affairs of Refugees and Internally Displaced Persons of the Republic of Azerbaijan, *President Ilham Aliyev attended ceremony to lay foundation stone for restoration of Aghdam city met with members of general public* (28 May 2021), available at <http://idp.gov.az/en/news/1205>; “President Aliyev gives interview to Azerbaijan Television,” *MENA FN* (24 July 2021), available at <https://menafn.com/1102500513/President-Aliyev-gives-interview-to-Azerbaijan-Television&source=26>; President of the Republic of Azerbaijan, Ilham Aliyev, *Ilham Aliyev and First Lady Mehriban Aliyeva attended opening of Vagif Poetry Days in Shusha* (30 August 2021), available at <https://en.president.az/articles/52881>.

²⁴⁵ *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), Provisional Measures, Order of 19 April 2017, I.C.J. Reports 2017, p. 138, para. 96.*

Court may rule to [be] contrary to international law.”²⁴⁶ There is thus clearly a “real and imminent risk that irreparable prejudice will be caused to the rights in dispute before the Court gives its final decision.”²⁴⁷

E. Provisional Measures Requested

131. On the basis of the facts set forth above and in the Application, Armenia respectfully requests the Court, as a matter of extreme urgency, to indicate the following provisional measures pending its determination of this case on the merits:

- Azerbaijan shall release immediately all Armenian prisoners of war, hostages and other detainees in its custody who were made captive during the September-November 2020 armed hostilities or their aftermath;
- Pending their release, Azerbaijan shall treat all Armenian prisoners of war, hostages and other detainees in its custody in accordance with its obligations under the CERD, including with respect to their right to security of person and protection by the State against all bodily harm, and permit independent medical and psychological evaluations for that purpose;
- Azerbaijan shall refrain from espousing hatred of people of Armenian ethnic or national origin, including by closing or suspending the activities of the Military Trophies Park;
- Azerbaijan shall protect the right to access and enjoy Armenian historic, cultural and religious heritage, including but not limited to, churches, cathedrals, places of worship, monuments, landmarks, cemeteries and other buildings and artefacts, by *inter alia* terminating, preventing, prohibiting and punishing their

²⁴⁶ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide, Provisional Measures, Order of 13 September 1993, I.C.J. Reports 1993*, p. 349, para. 58.

²⁴⁷ *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates), Provisional Measures, Order of 23 July 2018, I.C.J. Reports 2018*, p. 428, para. 61. See also, e.g., *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar), Provisional Measures, Order of 23 January 2020, I.C.J. Reports 2020*, p. 24, para. 65; *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), Provisional Measures, Order of 19 April 2017, I.C.J. Reports 2017*, p. 136, para. 89.

vandalisation, destruction or alteration, and allowing Armenians to visit places of worship;

- Azerbaijan shall facilitate, and refrain from placing any impediment on, efforts to protect and preserve Armenian historic, cultural and religious heritage, including but not limited to churches, cathedrals, places of worship, monuments, landmarks, cemeteries and other buildings and artefacts, relevant to the exercise of rights under the CERD;
- Azerbaijan shall take effective measures to prevent the destruction and ensure the preservation of evidence related to allegations of acts within the scope of the CERD;
- Azerbaijan shall not take any action and shall assure that no action is taken which may aggravate or extend the existing dispute that is the subject of the Application, or render it more difficult to resolve; and
- Azerbaijan shall provide a report to the Court on all measures taken to give effect to its Order indicating provisional measures, no later than three months from its issuance and shall report thereafter to the Court every six months.

132. Armenia respectfully asks that this request for provisional measures be considered at the Court's earliest possible opportunity, including through the scheduling of a prompt oral hearing.

133. Armenia reserves its right to request additional provisional measures to prevent irreparable harm to the rights at issue in this case, or to prevent further aggravation of the dispute between the Parties, should they become necessary during the course of these proceedings.

VI. APPOINTMENT OF JUDGE *AD HOC*

134. Armenia reserves its right to appoint a judge *ad hoc* in accordance with Article 31 of the Statute of the Court and Article 35(1) of the Rules of Court.

VII. RESERVATION OF OTHER RIGHTS

135. Armenia reserves the right to revise, supplement or amend the terms of this Application and Request for Provisional Measures, as well as the grounds invoked.

VIII. APPOINTMENT OF AGENT

136. Armenia has designated as its Agent Dr. Yeghishe Kirakosyan, Representative of the Republic of Armenia before the European Court of Human Rights.

137. In accordance with Article 40, paragraph 1, of the Rules of Court, all communications relating to this case should be sent to: Johan de Wittlaan 5, 2517 JR, The Hague, Netherlands and yeghishe.kirakosyan@gov.am.

138. I have the honour to assure the Court of my highest esteem and consideration.

The Hague, 16 September 2021



Agent of the Republic of Armenia