



# CHAMBER OF ADVOCATES OF THE REPUBLIC OF ARMENIA

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## THE CALL OF THE CHAMBER OF ADVOCATES OF THE REPUBLIC OF ARMENIA TO THE EMBASSIES, INTERNATIONAL STRUCTURES, ASSOCIATIONS OF ADVOCATES 08.10.2020

On September 27, 2020, Azerbaijan, with the active support of Turkey and the active involvement of mercenary terrorists, launched a military attack against the Republic of Artsakh (formerly known as the Nagorno-Karabakh Republic) targeting peaceful settlements, including the capital Stepanakert and the cultural center Shushi, as well as other settlements. The Republic of Armenia was also attacked.

Now we briefly present the situation in the Republic of Artsakh and in the Republic of Armenia according to the facts.

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### **1. The party initiating war or hostilities**

Azerbaijan, on September 24, 2020, without declaring martial law began to recruit reserve servicemen, and on September 21, 2020 the police confiscated the off-road vehicles belonging to the Azerbaijanis and moved them to a separate parking lot for military purposes<sup>1</sup>.

The fact that Azerbaijan launched the attack was indirectly acknowledged by the President of Azerbaijan in one of his interviews, noting the statement of the Prime Minister of the Republic of Armenia Nikol Pashinyan that Artsakh is Armenia and that it is, as a result of which no negotiation process is possible<sup>2</sup>.

Unleashing this war is not only a purely territorial issue, but also a consequence of the centuries-old propaganda of hatred of Armenians by Turks and Azerbaijanis. Just years ago, Azerbaijan officially "rewarded" the murderer for killing a sleeping Armenian officer. The head of soldier Kyaram Sloyan, who was beheaded during the April war, was being shown by them in Azerbaijani villages. There are many such horrific cases that characterize the attitude of Azerbaijan, the Turkish nation, towards Christian Armenians.

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<sup>1</sup> <https://www.bbc.com/russian/news-54282373?fbclid=IwAR0GBUkECwmCp1r3Wvl0yDeELEK-17ul7SLJCI3SddNAkwPhW7bKR02AvGA>

<sup>2</sup> [https://www.youtube.com/watch?v=cb6-L\\_SekyY](https://www.youtube.com/watch?v=cb6-L_SekyY) 5:50

The fact that Azerbaijan started the war was also reported by a number of foreign media<sup>3</sup>.

Information on other violations of Azerbaijan's anti-Armenian propaganda can also be found at these links:

Armenian language link:

[http://advocates.am/images/library/Opinion\\_on\\_Artsakh\\_conflict\\_2017\\_arm.pdf](http://advocates.am/images/library/Opinion_on_Artsakh_conflict_2017_arm.pdf)

English language link:

[http://advocates.am/images/library/Opinion\\_on\\_Artsakh\\_conflict\\_2017\\_eng.pdf](http://advocates.am/images/library/Opinion_on_Artsakh_conflict_2017_eng.pdf)

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## **2. Involvement of mercenaries by Azerbaijan against the Christian Armenian people**

Azerbaijan carries out its military operations using the services of mercenaries<sup>4</sup>, even though in 1997 this country ratified the International Convention against the Recruitment, Use, Financing and Training of Mercenaries after 04.12.1989.

Article 1 of the above mentioned Convention considers mercenary a person who:

- a) is specially recruited to fight in a local or foreign armed conflict;*
- b) is motivated to participate in hostilities mainly having private interest; has been promised material compensation by or on behalf of one of the parties to the conflict substantially exceeding the amount paid to persons holding a similar rank in the armed forces of the Party;*
- c) is neither a representative of the nationality of the party to the conflict nor a citizen of the territory controlled by the party to the conflict;*
- d) is not a member of the armed forces of one of the parties to the conflict and*
- (e) has not been sent by a state not party to the conflict to perform its official duties as a member of its armed forces.*

Article 2 of the Convention provides that the recruitment, financing or training of persons listed in the Article 1 of the Convention is a violation of the Convention.

Article 5 of the Convention states that states shall not recruit, use, finance, or train mercenaries and should prohibit such activities in accordance with the provisions of the Convention.

It is noteworthy that such a legal regulation is also defined in the Criminal Code of Azerbaijan, article 114 of which stipulates:

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<sup>3</sup> The deep-frozen conflict in the Caucasus escalated last week when Azerbaijan launched a military campaign to retake Nagorno-Karabakh, a disputed territory that has been under the control of the Armenian forces for years. [https://www.dw.com/en/turkey-syrian-mercenaries-foreign-policy/a-55098604?fbclid=IwAR3u6TuvCuteclerqYAO85C7a9gn\\_lho2xmhlZD36Qh5sNDY30R03MQCozk](https://www.dw.com/en/turkey-syrian-mercenaries-foreign-policy/a-55098604?fbclid=IwAR3u6TuvCuteclerqYAO85C7a9gn_lho2xmhlZD36Qh5sNDY30R03MQCozk)

<sup>4</sup> <https://www.nzz.ch/international/konflikt-um-karabach-hunderte-soeldner-kaempfen-fuer-aserbajdschan-ld.1580214?reduced=true>

*114.1 The recruitment, training, financing or other material assistance of mercenaries, as well as their use in the armed conflict or hostilities, is punishable by imprisonment from 8 to 12 years.*

*114.2 The same act committed by using an official position or against a minor is punishable by imprisonment for a term of 9-15 years.*

*114.3 Participation in the armed conflict or hostilities by a mercenary is punishable by imprisonment for a term of 5-11 years.*

The mentioned article considers as a mercenary a person who is not a citizen of Azerbaijan, a permanent resident of the territory of Azerbaijan, not sent for the performance of his official duties, a participant in the armed conflicts, a participant in hostilities for material benefit.

Involvement of mercenaries is a war crime in Azerbaijan.

Of course, according to the published facts, Turkey recruits mercenaries, pays them 1500-2000 dollars and sends them to Azerbaijan to participate in the hostilities against Artsakh<sup>5</sup>.

However, Azerbaijan can not be unaware of the mercenaries sent to its country, as the head of state has been repeatedly asked by journalists about mercenaries; the official press is full of facts about mercenaries, including videos and transcripts of telephone conversations. It turns out that the mere fact that Azerbaijan accepts mercenaries recruited by Turkey, sends them to take part in hostilities already allows for a war crime, defined both by its domestic legislation and by its international obligations.

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### **3. Involvement of mercenaries by Azerbaijan as terrorists against the Christian Armenian people**

Turkey and Azerbaijan are not limited to the involvement of mercenaries, but they involve mercenaries as terrorists, which exacerbates the tension in the conflict. Armenian soldiers aged 18-20 are, in fact, assigned a mission to fight global terrorism, which is on the agenda today, a problem that is very difficult to solve even for developed and developing countries.

There is already reliable information about the mercenaries of various terrorist groups on the front lines taking part in the hostilities unleashed by Azerbaijan, as well as assurances from officials of a number of countries, such as Russia, France, the United States and Syria<sup>6</sup>.

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<sup>5</sup> <https://www.dw.com/ru/dlja-chego-turcii-nuzhny-sirijskie-naemniki/a-55125445>

<sup>6</sup> See the links: [https://www.ng.ru/armies/2020-09-01/5\\_7952\\_armenia.html](https://www.ng.ru/armies/2020-09-01/5_7952_armenia.html); <https://www.gazeta.ru/army/news/2020/07/19/14688493.shtml>; <https://ria.ru/20201002/boeviki-1578082665.html>; <https://armenpress.am/eng/news/1029822.html>; <https://www.vedomosti.ru/politics/news/2020/09/30/841731-mid-rf-zayavil-o-perebroske-v-nagornii->

On October 1, 2020, **President of France Emanuel Macron** stated at the EU summit in Brussels that the French side has evidence that Syrian Islamists brought from Turkey participate in the hostilities in Nagorno Karabakh. **"We have exact information, which indicates that the Syrian militants left the battlefield of Gaziantep to join the hostilities in Karabakh. This is very serious. We will discuss it in the coming hours,"** - Macron said. The French President stressed that the situation in Nagorno Karabakh is serious, he will do everything possible for the parties to return to peace negotiations. **"We will do everything to stop the military operations and to return to the peaceful format",** - he said<sup>7</sup>.

On October 6, 2020, **Sergey Naryshkin, head of the Russian Foreign Intelligence Service (FIS)** stated that mercenaries of terrorist organizations operating in the Middle East are actively leaving for the Nagorno Karabakh conflict zone. They represent Jabhat al-Nusra, Firqat al-Hamza and Sultan Murad. **"There have been clashes on the Nagorno Karabakh line of contact before. The current aggravation of the situation raises great concern not only with its scale, but also with the fundamentally new influence of external factors. For the first time, Turkey made such an open statement on the part of Azerbaijan. Besides, the armed confrontation in Karabakh attracts militants of various types from international terrorist organizations."** <sup>8</sup>

In an interview with RIA Novosti, Syrian President Bashar al-Assad said that the militants are moving to Nagorno Karabakh, and Damascus can confirm this<sup>9</sup>.

On 30.09.2020, Syrian Abdullah (name was changed at his request) told the BBC that several hundred men aged from 17 and 30, residents of areas controlled by anti-Assad forces in northern Syria, had been recruited by **"Turkish troops and the Syrian National Army"**. Last Wednesday, four days before the start of the battles, they were sent by airplanes to Azerbaijan and brought to the line of resistance against the Armenians. According to Abdullah, on September 27 he and his friends were taken to the front line, where they came under fire and suffered losses. Four Syrians were killed. At the base where they were, Abdullah saw the corpses of dozens of compatriots, and about seventy people were wounded. At the same time, the BBC interlocutor assured that most of the Syrians taken to Azerbaijan are not battle-hardened in the fights against Assad, but peaceful, untrained citizens. They have

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[karabakh-inostrannih-naemnikov; https://www.dailymail.co.uk/news/article-8789027/Armenia-reveals-photo-plane-shot-Turkish-F-16-jet.html](https://www.dailymail.co.uk/news/article-8789027/Armenia-reveals-photo-plane-shot-Turkish-F-16-jet.html); <https://ura.news/news/1052452847>

<sup>7</sup> <https://novayagazeta.ru/articles/2020/10/02/87340-v-boy-vstupayut-naemniki>

<sup>8</sup> <http://www.svr.gov.ru/smi/2020/10/o-situatsii-vokrug-nagornogo-karabakha.htm>

<sup>9</sup> <https://ria.ru/20201006/karabakh-1578360646.html> (the video material is also available)

already asked to be taken back after the first losses, but were not allowed and threatened with imprisonment<sup>10</sup>.

The Convention on the Prevention of Terrorism was adopted by the Council of Europe 16.05.2005. Article 15 of this convention stipulates:

**1. Upon reception of information that a person who has committed or is suspected of having committed a crime referred to in this Convention, may be present in its territory, the Party shall take such measures as may be necessary to investigate the facts contained therein under national law.**

**2. Making sure of the validity of the circumstances, the Party in whose territory the offender or suspect is present, shall, in accordance with national law, take appropriate measures to ensure the presence of that person for the purpose of investigation or extradition**<sup>11</sup>.

Summing up the above mentioned, it is proved that Azerbaijan, Turkey are building a lair of terrorist groups on the outskirts of the Artsakh Republic, trying to destroy the Armenian soldier and the Armenian nation through terrorists.

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#### **4. Targeted shelling of civilians by Azerbaijan, including journalists, as well as targeted destruction of cultural property**

There are obvious facts that Azerbaijan has targeted the settlements of Artsakh, the civilian population, including journalists. As a result of the hostilities of Azerbaijan, there have been casualties among civilians (including local and foreign journalists), there is destruction of civilian infrastructure, homes, educational institutions, cultural centers, humanitarian facilities, the rescue center through bombings. There were even shells left behind by the bombings near the Red Cross office.

A. Article 3 of the Convention on the Protection of Civilian Persons in the Time of War (12.08.1949), signed in Geneva, which is ratified by Azerbaijan, provides the following provisions: ***in the case of an armed conflict of a non-international nature, and if it arose in the territory of one of the High Contracting Parties, then each party to the conflict will be obliged to apply the following provisions as a minimum; individuals who are not directly involved in the hostilities, including those who represent the armed forces, but have laid down their arms, as well as those who have ceased to participate in hostilities due to illness, should in all circumstances enjoy humanitarian treatment without any kind of***

<sup>10</sup> [https://www.bbc.com/russian/features-54348623?fbclid=IwAR2tIQp8k3ghM9AHSol2Gh3tPx4yBXOI5mgM8ZMO\\_IQN6QIRmHSD0e28CY4](https://www.bbc.com/russian/features-54348623?fbclid=IwAR2tIQp8k3ghM9AHSol2Gh3tPx4yBXOI5mgM8ZMO_IQN6QIRmHSD0e28CY4)

<sup>11</sup> Azerbaijan has ratified this Convention and is aware at the level of the President that terrorists are brought to its territory, but not only takes any step to extradite terrorists from Syria, Afghanistan, Ukraine and other countries, but on the contrary, uses them to implement terrorist acts against Armenians.

*discrimination regardless their color of skin, religion or belief, sex, origin or property status or any other similar criteria.*

*For this purpose, the following actions are permanently prohibited against the above-mentioned persons and will be prohibited everywhere. a) encroachment on life and physical immunity, in particular, all forms of murder, mutilation, ill-treatment, and torture ....*

B. The Convention on Laws and Customs of War on Land was signed in The Hague on October 18, 1907, article 25 of which stipulates that **it is prohibited to attack or bomb unprotected cities, villages, settlements or structures.**

C. The UN General Assembly adopted the Convention for the Suppression of the Financing of Terrorism on 09.12.1999. Article 2 of this convention stipulates that a person is considered to have committed a crime within the meaning of this: ***Convention, who whether directly or indirectly, illegally or voluntarily collects or provides funds , which will be used, or realizes that will be used in whole or in part to perform:***

***(a) an act which, in the field of application of the treaties listed in the Annex to the Convention and as defined therein, is a crime;***

***(b) any other act aimed at causing death or grievous bodily harm to a civilian or a person who is not actively involved in the hostilities during the armed conflict, where the purpose of such an act is to intimidate the public by nature or context or to compel the Government or international organization to act or abstain from its execution.***

D. Protocol<sup>12</sup> No. 1 of the Convention for the Protection of Civilian Persons in the Time of War, signed in Geneva on 12.08.1949, is ratified by Azerbaijan. It stipulates that **journalists engaged in dangerous professional duties during the armed conflict must be treated as civilians and are subject to the protection within this Convention.** The same protocol states that the journalists must carry an identification card as defined in the Annex II to the protocol.

Azerbaijan, in fact, has not denied its targeting of journalists.

Moreover, on October 7, 2020, the Ministry of Foreign Affairs of Azerbaijan urged foreign journalists not to visit Nagorno Karabakh conflict zone without receiving accreditation in Baku<sup>13</sup>.

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<sup>12</sup> <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=6E95E63184FD05C8C12563CD0051E0FB>

<sup>13</sup> <https://tass.ru/mezhdunarodnaya-panorama/9658831>

**E. The Armenian church in Shushi was also targeted by Azerbaijan on 08.10.2020<sup>14</sup>.**

We leave the moral side of this crime to everyone's own assessment. As for the legal side of the issue **the Convention on the Protection of Cultural Property in the Event of Armed Conflict** was adopted in 1954, article 4 of which stipulates:

*1. The High Contracting Parties undertake to respect their own cultural values, as well as those in the territories of the other Parties, by prohibiting the use of those values, their immediate vicinity, and defense structures for purposes which may lead to the destruction or damage of such values in the event of armed conflict and refrain from any hostile action against values.*

*4. They refrain from taking any action against cultural values through repression.*

This convention was also ratified by Azerbaijan, which did not in any way constitute a restraining legal basis for the destruction of the Armenian Church.

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**5. The use of prohibited weapons by Azerbaijan**

The Azerbaijani armed forces use prohibited weapons, including missiles, projectiles and cluster munitions in the peaceful settlements of Artsakh<sup>15</sup>.

The Azerbaijani military forces also shelled the territory of the Republic of Armenia, as a result of which we have devastation and casualties among the civilian population<sup>16</sup>.

These terrorist acts against the people of Artsakh are a gross violation of the international humanitarian law.

The UN Convention on Certain Conventional Weapons (10.10.1980) was signed in Geneva. Article 2 of its Protocol No. 3 clearly states that **in any circumstances it is prohibited to attack civilians or civilian objects with the use of firearms**<sup>17</sup>.

<sup>14</sup> <https://en.armradio.am/2020/10/08/azerbaijani-forces-hit-ghazanchetsots-church-in-shushi/>  
<https://ru.armeniasputnik.am/karabah/20201008/24821282/Novyy-udar-po-tserkvi-v-Shushi-est-postradavshie.html>

<sup>15</sup> <https://news.am/arm/news/605792.html>;  
<https://armeniasputnik.am/karabah/20201006/24791106/stepanakert-rmbakocvum-ekasetayin-arkerov.html>

<sup>16</sup> See the links: <https://armeniasputnik.am/armenia/20200929/24659102/vardenis-zoh-anna-naxdalyan.html>;  
<https://www.civilnet.am/news/2020/09/29/%D5%8E%D5%A1%D6%80%D5%A4%D5%A5%D5%B6%D5%AB%D5%BD%E2%80%A4-%D6%84%D5%A1%D5%B2%D5%A1%D6%84%D5%A8-%D4%B1%D4%B9%D5%8D-%D5%AB-%D5%B0%D5%A1%D6%80%D5%BE%D5%A1%D5%AE%D5%AB%D6%81-%D5%B0%D5%A5%D5%BF%D5%B8/397265>;  
<https://ru.armeniasputnik.am/karabah/20200929/24659243/Azerbaydzhani-primenil-turetskie-bespirotniki-v-Vardenise--glava-MID-Armenii.html>



Although this convention has not been ratified by Azerbaijan, a similar legal regulation is provided by the Criminal Code of Azerbaijan.

Article 116 of the Criminal Code of Azerbaijan considers it a crime to violate international humanitarian law during the armed conflicts.

*116.1 The use of means of warfare which may cause great destruction.*

*116.2 Deliberate large-scale, continuous, severe damage to the environment.*

*116.3 Attacking personnel carrying out humanitarian aid or peacekeeping measures, including vehicles, medical equipment, Red Cross ....*

*116.6 Large-scale destruction, not conditioned by the needs for war.*

*116.10 Attack on civilians or individuals who do not participate in battles ....*

Since September 27, Azerbaijan has been using cluster munitions to target the cities of Artsakh. On September 27, 28 and October 2, after using LAR-160 and "Smerch" cluster warheads in the direction of Hadrut, Azerbaijan again used "Smerch" volley rockets in the capital Stepanakert and in the direction of Shosh village near the latter. Quite extensive use of cluster munitions took place on October 4 and 5. More than a hundred LAR-160 and "Smerch" type cluster warheads were fired at Stepanakert, Hadrut and other settlements of Artsakh, and the capital Stepanakert was targeted with special intensity. Moreover, Stepanakert was also targeted using "Polonez" missiles and other volley fire jet systems. The bombings were reported by both local and international media, including the organizations, which operate in the field of the protection of human rights, the BBC, Amnesty International, etc.

Regular shelling of settlements significantly far from military targets is present and even strategic civilian infrastructure is targeted. The regular nature of such rocket fire makes it clear that the civilian population and civilian infrastructure are deliberately targeted. Consequently, Azerbaijan, by targeting the civilian population, the infrastructure of civilian importance, is clearly committing gross violations of the international humanitarian law, committing war crimes.

In addition, used cluster missiles, by their very nature, clearly do not provide the necessary distinction between military and civilian targets when used in the vicinity of civilian infrastructure, especially when used in densely populated areas.

This means that Azerbaijan violates the prohibition of international humanitarian law, according to which weapons should not be used that do not allow to distinguish between military and civilian targets. This prohibition is not only enshrined in the Additional Protocol No. 1 of the 1949 Geneva Conventions, but is also enshrined in the law of non-member states such as the United States and Israel. It is noteworthy that Azerbaijan did not sign and ratify the 1<sup>st</sup> Additional Protocol. However, this does not relieve Azerbaijan of its obligation to respect the principle of distinguishing between

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<sup>17</sup> Article 1 of the Protocol defines what the firearms are, lists their types, including missiles, bombs, grenades, projectiles, and so on.



civilian and military targets. This principle has been recognized by the International Court of Justice as one of the fundamental principles of the international humanitarian law. Moreover, the principle of distinguishing between civilian and military targets stems from the basic considerations of humanitarianism, the public conscience, which are binding on all states in any situation of the armed conflict.

The regular use of such weapons, missiles, is a clear proof that the attacks on Artsakh are part of the policy of ethnic cleansing, that is, the policy of Azerbaijan to forcibly expel the Armenians from Artsakh by using violence against the Armenian civilian population.

Consequently, the regular use of cluster munitions against densely populated areas clearly violates the principle of differentiation and is a gross violation of the international humanitarian law by Azerbaijan and a war crime.

**Summing up the above mentioned, we call on you to give a legal assessment to the mentioned events within the scope of your authority and to condemn strongly:**

***1. Involvement of mercenary terrorists by Azerbaijan and Turkey in hostilities.***

***2. Actions by Azerbaijan to be considered a war crime aimed at the destruction of peaceful settlements, cultural objects, churches and civilians in Armenia (Artsakh (Nagorno Karabakh)).***

***3. The use of prohibited weapons by Azerbaijan.***

With respect,

Chairman of the Chamber of Advocates  
of the Republic of Armenia  
Ara ZOHRABYAN