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## Humanitarian situation in Nagorno-Karabakh

### Report<sup>1</sup>

Committee on Migration, Refugees and Displaced Persons

Rapporteur: Mr Domagoj HAJDUKOVIĆ, Croatia, Socialists, Democrats and Greens Group

### Summary

Over the last two weeks, more than 100 600 Armenians have fled Nagorno-Karabakh following a ten-month humanitarian crisis linked to the blockage of the Lachin Corridor and the military operation launched by Azerbaijan on 19 September 2023. While two narratives of the exodus of nearly 99% of the population of the region oppose each other, it is clear that Azerbaijan has the responsibility and the obligation to protect the rights and freedoms of all the inhabitants of this region and to do everything in its power to reassure the Armenian population of their safety and the respect of their rights, including their rights as a minority group.

Regretting the tragic events that have unfolded since 19 September 2023, forcing almost an entire population to leave its ancestral homeland, and inviting suspicions of many aspects of ethnic cleansing, the report calls on Azerbaijan to undertake unequivocal, genuine and immediate actions demonstrating its willingness to ensure the return of the Armenian population to Nagorno-Karabakh and to protect their rights. The use of reassuring and nuanced language and speedy access to the region by international organisations, including the Council of Europe, would be a first step.

Finally, the report looks at the dire humanitarian situation stemming from the forcible displacement of the Armenians from their homeland and highlights the need to support Armenia, including through Council of Europe action, in its effort to cope with a large number of refugees.

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1. Reference to committee: Bureau decision, Reference 4759 of 9 October 2023.



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## A. Draft resolution<sup>2</sup>

1. Recalling Azerbaijan's "commitment to a peaceful settlement of the Nagorno-Karabakh conflict" as specified in [Opinion 222 \(2000\)](#), the Parliamentary Assembly strongly condemns the military operation launched by the Azerbaijani army in Nagorno-Karabakh on 19 September 2023. The Assembly recognises the territorial integrity of Azerbaijan. It underlines that this entails the responsibility of this country for the actions it takes within its internationally recognised borders.
2. The Assembly notes that this military operation took place after a ten-month period during which the Armenian population of this region has been denied free and safe access through the Lachin Corridor, the only road allowing it to reach Armenia and the rest of the world, leading to a situation of extremely acute food and supply shortages and high vulnerability of all inhabitants. This was in clear disregard of the provisional and interim measures addressed to Azerbaijan by the International Court of Justice and the European Court of Human Rights, whose decisions also noted the obligation of Azerbaijan under the 2020 Trilateral Statement to "guarantee the security of persons, vehicles and cargo moving along the Lachin Corridor in both directions".
3. The Assembly deeply regrets that just at a time when the situation concerning the transport of the humanitarian supply to the population seemed to improve and a glimpse of hope was emerging, Azerbaijan took the decision to launch this show of force. Indeed, the combination of acute food and supply shortages for the population over a period of months, followed by a military operation and the opening of the corridor towards Armenia for departures, following each other in such short succession, could be perceived as being designed to incite the civilian population to leave the country.
4. The Assembly strongly believes that this long-standing and tragic conflict can only be resolved peacefully, through dialogue and unambiguous signals of goodwill, and on the basis of the applicable international law, fully respecting the human rights of everyone living there.
5. The Assembly recalls the positive obligations of Azerbaijan to ensure the protection of everyone living in its sovereign territory and under its jurisdiction, including the Armenian population of this region. These obligations are enshrined in the international human rights treaties to which Azerbaijan is a party, in particular the European Convention on Human Rights (ETS No. 5) and the Framework Convention for the Protection of National Minorities (ETS No. 157), the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.
6. The Assembly underlines the obligation now incumbent on Azerbaijan, under Articles 2 and 3 of the European Convention on Human Rights, to conduct a thorough, transparent, independent and effective investigation into the deaths, disappearances and allegations of ill-treatment which occurred during and after its recent military operation. It also has an obligation under Protocol No. 4 to the Convention (ETS No. 46) to respect the right of the Armenians of this region to freedom of movement, including the right to leave any country (Article 2 of Protocol No. 4), and the right to enter the territory of the State of which they are nationals (Article 3 of Protocol No. 4). These rights, as well as the right to respect for private and family lives and their homes (Article 8) and the right to the peaceful enjoyment of possessions (Article 1 of Protocol No. 1 (ETS No. 9)) would be breached if the Armenians who have fled the region were to be prevented from returning voluntarily to the homes and lands they left behind or if these were to be transferred or *de facto* expropriated.
7. The Assembly recalls that Azerbaijan is further bound by international standards for the protection of national minorities and for the prevention of population displacement and has moreover the obligation to provide and allow for humanitarian assistance to those Armenians remaining as of today on its territory in the region.
8. The Assembly has witnessed with great sadness and a sense of powerlessness the massive exodus over recent days of the Armenian population from this region of Azerbaijan, following on immediately from the launch of the military operation and the agreement reached by the Azerbaijani authorities with the self-proclaimed authorities, who have announced their dissolution.
9. Strongly regretting that almost the entire Armenian population of the region – more than 100 600 persons at the time of the adoption of this resolution – has left its ancestral homeland and fled to Armenia, certainly out of genuine fear and a lack of trust in their future treatment by the Azerbaijani authorities, the Assembly recognises the huge responsibility now placed upon Armenia to cope with the refugee crisis underway. It welcomes the declarations of support and solidarity clearly expressed in Armenia for the refugees and calls on the Council of Europe member States to accompany Armenia in this endeavour by

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2. Draft resolution adopted by the committee on 10 October 2023.

providing not only financial support but also expertise, in particular in the area of mental health and psychological support for this traumatised population. The Council of Europe member States should also be ready to demonstrate European solidarity in welcoming a part of the refugee population, should those persons wish to settle elsewhere.

10. The Assembly regrets the human tragedy unfolding today, as well as the long-standing and continuing failure on the part of the authorities of Azerbaijan to reassure the Armenian population of this region of their safety and the full respect of their rights, and to guarantee an approach to their future, free of acts or expressions of reprisals or revenge for the events which took place in the 1990s and during the 2020 war.

11. In its Resolution 2508 (2023), the Assembly noted the lack of acknowledgment on the part of the leadership of Azerbaijan for the very serious humanitarian and human rights consequences stemming from the blockade of the Lachin Corridor. The factual situation today, with the massive exodus of the almost entire Armenian population from this region, has led to allegations and reasonable suspicion that this can amount to ethnic cleansing. The Assembly notes in this respect that the practice of ethnic cleansing, may give rise to individual criminal responsibility under international law, in so far as it has the characteristics of specific war crimes (ordering the displacement of civilian population) or crimes against humanity (deportation or forcible transfer of population and persecution against any identifiable group). The Assembly notes the strong statements of Azerbaijan refuting such allegations and suspicions and calls upon the authorities to spare no efforts in proving in deeds and words that this is not the case.

12. The Assembly strongly believes that this tragic exodus of almost a whole population from its ancestral homeland must not be accepted as the new reality: it is not too late for Azerbaijan to redress the situation and prove its goodwill. As a member State of the Council of Europe, Azerbaijan can and should demonstrate, at this difficult time, its willingness and clear intention to calm fears and uphold its obligations under the human rights instruments to which it is a party, and its commitment to the core values of our Organisation.

13. Each man, woman, elderly person or child who has left their home because of their belief that their personal and collective security as Armenians would be in peril after the recent events in the region will have their own story to tell. Beyond these individual human stories, the security and stability of the entire South Caucasus region are at stake and must be preserved, and for this reason, the Assembly calls on Azerbaijan to do everything within its power to demonstrate its willingness to live in peace with its neighbour, Armenia. The Assembly expects both Armenia and Azerbaijan to fully respect each other's territorial integrity and sovereignty, as well as the inviolability of their respective borders. This is particularly important in the context of a possible transport corridor with Nakhchivan which cannot be established against the will of Armenia or to the detriment of its freely determined national interest.

14. It is now incumbent upon Azerbaijan to create the climate of trust and material conditions for the Armenians of this region to be able to return to their homeland. It should indeed take active steps to encourage and reassure them to do so. This involves gaining their confidence in the willingness of Azerbaijan to guarantee and uphold the protection of their lives and rights, including the right to liberty and security, the right to education in their own language, freedom of expression and freedom of assembly and association, the prohibition of discrimination, the protection of their religious and cultural rights and their right to property, as well as the possibility to maintain transborder relations with Armenia and their relatives living there.

15. The Assembly believes that this will require genuine, immediate and public investment on the part of Azerbaijan in clear and unequivocal statements to this end, accompanied by discussions with the relevant parties on the concrete measures which will be put in place to protect the security, language, religious, cultural and other minority rights of Armenians from this region. Any expressions of intolerance or revenge for past events are particularly unwelcome in this period, and the Assembly calls upon Azerbaijan to pay particular attention to this aspect. Indeed, given previous such statements there is a clear onus upon the political leadership at the highest level to express its firm rejection of any expressions of hate or revenge. The Assembly calls on Azerbaijan to extend its protection to the cultural heritage of the region.

16. Undoubtedly, a process of transitional justice to address the crimes which were perpetrated in the 1990s and during the 2020 war will be indispensable to ensure durable and sustainable peace in the region and between Armenia and Azerbaijan. The Assembly considers that such a process, while complex, may prove more fruitful in restoring confidence than aggressive actions, rhetoric or the instigation of criminal proceedings against the former leaders of Nagorno-Karabakh. The Assembly calls on Azerbaijan to release all detained representatives of Nagorno-Karabakh as well as all Armenian prisoners of war currently held in Azerbaijan.

17. The Assembly welcomes the deployment by the United Nations of a mission to Nagorno-Karabakh for the first time in more than 30 years, the aim of which is to assess humanitarian needs in the region. It expresses its hope that this visit will be swiftly followed by an agreement on the part of the Azerbaijani authorities to organise high-level and fact-finding visits from other international bodies, in particular relevant institutions and bodies of the Council of Europe.

18. In this respect, the Assembly believes that a visit of the Commissioner for Human Rights in the very near future and the visit later this year of the Advisory Committee on the Framework Convention for the Protection of National Minorities in the context of its regular monitoring cycle would be a clear sign of Azerbaijan's willingness to engage with the Organisation on the measures now needed. The facilitation of such visits will allow the Organisation to gain the best overview of the situation, conduct a more effective dialogue with the authorities of Azerbaijan and to lend its expertise and support in redressing the situation, including as regards the protection and reassurance of the remaining Armenian population, the safeguarding of the property and other assets of those who have sought refuge abroad in the current situation, and the necessary measures to encourage the return of this population to its homeland.

19. In particular, the Council of Europe could offer its expertise in confidence-building measures, aiming to allow the Armenian population of this region to feel confident enough to return to its homeland and to live in peaceful and trustful relations both with the Azerbaijani authorities and its neighbours in the region.

20. The Assembly considers that in addition to the urgent need for access to the region for the Council of Europe relevant institutions and bodies, the authorities of Azerbaijan should regularly provide the Secretary General and the Committee of Ministers with full and detailed information on the measures which have already been taken and that are planned to protect and enhance the rights and freedoms of the Armenians from this region under the European Convention on Human Rights, in particular with a view to securing confidence in a safe return for those who so wish.

21. Conscious of the focused scope of this report, which is centred exclusively on the humanitarian situation which has affected the Armenian population of Nagorno-Karabakh following Azerbaijan's military operation of 19-20 September 2023, the Assembly stands ready to examine in further depth the political and legal implications of the unfolding situation and the measures to come. Should Azerbaijan fail to fulfil its obligations, the Assembly shall have no other alternative than to call for the initiation of a complementary joint procedure between the Committee of Ministers and the Parliamentary Assembly in response to a serious violation by Azerbaijan of its statutory obligations.

## **B. Draft recommendation<sup>3</sup>**

1. Referring to Resolution... (2023) “Humanitarian situation in Nagorno-Karabakh”, the Parliamentary Assembly invites the Committee of Ministers to take urgent measures to address and redress the exodus of the almost entire Armenian population of Nagorno-Karabakh and the critical humanitarian and human rights crisis affecting them in the months before and immediately after the military operation launched by Azerbaijan on 19 September 2023. It is deeply concerned by a situation which seems, at the very least, to invite suspicions of many aspects of ethnic cleansing.
2. Regretting that Azerbaijan has not respected the commitment it undertook when it joined the Council of Europe to peacefully settle the conflict in this region, as stated in Opinion 222 (2000), the Assembly believes that it is not too late for Azerbaijan to redress the situation and prove its intention towards the Armenian population of Nagorno-Karabakh.
3. To this end, the Assembly requests that the Secretary General and the Committee of Ministers do everything possible to organise a Council of Europe fact-finding mission to Azerbaijan as swiftly as possible, with the aim of assessing and outlining the measures to be put in place to protect the rights of the Armenians of this region including those who have sought refuge outside the country, and to ensure the safe return of those who so wish. Such on-the-ground fact-finding would help in determining what support the Council of Europe can provide to this process, including expertise on minority issues and confidence building measures. This process should doubtless include immediate measures to register and protect the property and assets of those who are currently seeking refuge outside the country and to facilitate access to relevant international or national procedures, in particular in Azerbaijan.
4. Acknowledging the huge humanitarian crisis which Armenia is facing with the arrival of more than 100 600 Armenians from Azerbaijan, the Assembly welcomes the ongoing fact-finding mission to Armenia by the Special Representative of the Secretary General on Migration and Refugees, which aims to determine the support which the Organisation could provide to its member State in assisting these refugees.
5. Recognising the gravity of the situation, the Assembly will remain vigilant as to the next measures taken by the Azerbaijani authorities and to the follow-up given to Resolution ... (2023), basing itself in particular on the need to ensure full and unambiguous honouring of the international commitments and obligations entered into by, and incumbent upon Azerbaijan.

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3. Draft recommendation adopted by the committee on 10 October 2023.

## C. Explanatory memorandum by Mr Domagoj Hajduković, rapporteur

### 1. Introduction

1. On 8 October 2023, the Bureau decided to hold an urgent debate on the “Humanitarian situation in Nagorno-Karabakh” and to seize the Committee on Migration, Refugees and Displaced Persons for a report on the same topic. I was appointed rapporteur on 9 October 2023.

2. I have chosen throughout the following explanatory memorandum to refer to this region as “the region of Karabakh/Nagorno-Karabakh”. When naming places in the region, I have also decided to use both Azerbaijani and Armenian toponyms, such as Kakhendi/Stepanakert, thus reflecting Azerbaijan’s territorial sovereignty over the region and the rights of the Armenians from there.

3. Following a period of several months of extreme tension and suffering linked to the blockage of passage through the Lachin Corridor, the current situation has been triggered by the unannounced decision of the Azerbaijan authorities on 19 September 2023 to launch military force in the region, to crush the separatist self-proclaimed authorities of the Karabakh/Nagorno-Karabakh region. This military show of strength led then to the de facto surrender of the self-proclaimed authorities of the region, and at the same time the mass exodus of almost the entire Armenian population of the region, in the space of days.

4. Developments were still unfolding as this report was being drafted. Following the exodus of over 100 000 Armenians from Azerbaijan to the neighbouring Armenia, Azerbaijan has announced its undertaking of “tangible work in relation to the reintegration of Armenian residents living in the Karabakh region”.<sup>4</sup> In parallel, peace negotiations between Armenia and Azerbaijan are still ongoing. However, in the current climate of mistrust and recriminations, and lack of very tangible acts of goodwill on the part of the authorities of Azerbaijan to redress the situation of mass exodus and build a truly harmonious and diverse society in the region, the prospect of sustainable and mutually recognised peace and reconciliation seems very distant.

5. The military operation launched by Azerbaijan against the Armenian-populated areas of the Karabakh/Nagorno-Karabakh region on 19 September 2022 was the culmination of a ten-month period of tension, following the blockade of the Lachin Corridor on 12 December 2023, which resulted in an acute human rights and humanitarian situation. The Parliamentary Assembly deplored the lack of free and safe access through the Lachin corridor, leading to the prospect of a slow starvation of the local Armenian population, and the deprivation of their basic essentials, such as water, fuel, gas, electricity and medicine.<sup>5</sup>

6. As regards the events of September, two very different narratives are presented. From the point of view of Azerbaijan, the recourse to a military operation represents an “anti-terrorist operation”, necessary to remove a self-proclaimed separatist regime and exert the right of Azerbaijan to defend its territorial integrity. From the alternative perspective, the military operation is seen as an attack or an assault which has entailed significant civilian casualties and deaths and triggered the exodus of the Armenian population as refugees. Time and careful fact-finding will be needed to establish the responsibilities of the authorities regarding the deaths and injuries of civilians in this 24-hour military operation. Pending this wider evaluation, my report will focus on the immediate humanitarian consequences of the events of the past months and of the operation of 19-20 September 2023, namely the displacement and exodus of more than 100 000 persons seeking refuge. I will also consider the question of the respect by Azerbaijan of its international obligations towards the Armenian population of this region and measures needed to redress the current tragic situation of an entire minority group leaving its homeland. I believe that the Council of Europe can and must play a very active role in bringing to bear its considerable expertise in confidence building and minority rights, to ensure that the Armenians native of the Karabakh/Nagorno-Karabakh region of Azerbaijan feel safe and able to remain in or return to their homes. This is essential not only for the population in question, but as a prerequisite for the establishment of genuine good faith and trust between two of its member States, Armenia and Azerbaijan, which are seeking a just and sustainable peace and the resolution of the long-standing conflict around this region.

7. Given the urgency of the situation and the impossibility to carry out a fact-finding mission on the spot, I have based my report on reports from international bodies, independent media reports, and information provided by Armenia and Azerbaijan, with a view to evaluating the situation on the ground and the climate

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4. “Statement by the Presidential Administration of the Republic of Azerbaijan”, AZERTAC, 2 October 2023.

5. Resolution 2508 (2023) “Ensuring free and safe access through the Lachin Corridor”.

which has led in the last two weeks to the mass exodus of the Armenian population of the region following the military operation and the subsequent re-opening of the Lachin Corridor which provides the passage towards Armenia.

## 2. Azerbaijan's international obligations in the current situation of Karabakh/Nagorno-Karabakh

8. Azerbaijan is a State party to the European Convention on Human Rights (ETS No. 5, "the Convention") and to most of its additional protocols, except Protocols No. 12 and 13. It must secure to everyone within its jurisdiction the rights and freedoms guaranteed by the Convention and the ratified protocols. By virtue of its recognised territorial sovereignty over Karabakh/Nagorno-Karabakh and its current effective control over this region, it exercises "jurisdiction" and has negative and positive obligations under the Convention vis-à-vis the Armenian population living in this territory or fleeing from it. It has an obligation under Article 2 to protect the life of this population, notably in the context of the use of force by State agents during and after the recent military operation. It has a procedural obligation to conduct a thorough, independent and effective investigation into all deaths and disappearances that occurred during and after the operation. This also applies to any potential allegations of torture and ill-treatment at the hands of State agents, in accordance with Article 3. Other Convention rights that must be protected for Armenians remaining in Karabakh/Nagorno-Karabakh that may be at risk in the current situation are: the right to liberty and security (Article 5), the right to respect for private, family life and home (Article 8), freedom of religion (Article 9), freedom of expression (Article 10), freedom of assembly and association (Article 11), the prohibition of discrimination (Article 14), the right to the protection of property (Article 1 of Protocol No. 1 (ETS No. 9)), the right to education (Article 2 of Protocol No. 1), freedom of movement, which includes the freedom to choose their residence and the right to leave any country (Article 2 of Protocol No. 4 (ETS No. 46)), and the right to an effective remedy in relation to these rights (Article 13). Many of these rights are also enshrined in other international treaties to which Azerbaijan is a party, such as the International Covenant on Civil and Political Rights.<sup>6</sup> It is also important to note that Azerbaijan has not derogated from any of the Convention rights by virtue of an Article 15 notification related to the current events, unlike during the 2020 conflict.

9. For those Karabakh/Nagorno-Karabakh Armenians having fled the region and wanting to return in the future, the right of nationals not be expelled and the right to enter the territory of the State of which they are nationals (Article 3 of Protocol No. 4) could potentially be at stake. If displaced Armenians were to be prevented from returning voluntarily to their homes and lands in Karabakh/Nagorno-Karabakh or if these were to be transferred to Azerbaijani settlers or de facto expropriated, the right to respect for their private and family lives and homes and the right to the peaceful enjoyment of their possessions could be potentially breached.<sup>7</sup>

10. Azerbaijan is also a State party to the Council of Europe Framework Convention for the Protection of National Minorities (ETS No. 157). In its last report submitted to the relevant monitoring mechanism (2022), Azerbaijan noted that "after the end of the Armenia-Azerbaijan conflict the reintegration of all citizens in conflict affected territories into the political, legal, economic and social system of the country on the basis of equal rights (...) will ensure the implementation of the provisions of the Framework Convention with respect to persons of the Armenian origin in the conflict affected territories (...)".<sup>8</sup> This statement was made in relation to Article 16 of the Framework Convention, which imposes the obligation on States Parties to "refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities". This provision is highly relevant to the current situation of mass displacement of Armenians from Karabakh/Nagorno-Karabakh following the military operation. Other applicable provisions of the Framework Convention to the human rights situation of Armenians remaining in the region are: Articles 4 (right of equality before the law and equal protection of the law), 5 (right to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage); 6 (obligation to encourage a spirit of tolerance and intercultural dialogue and promote mutual respect and understanding); 7-9 (freedom of assembly, freedom of association, freedom of expression, and freedom of

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6. See Articles 6, 7, 9, 12, 17, 18, 19, 21, 22, and 26 of the [International Covenant on Civil and Political Rights](#) (1966).

7. See, for instance, [Chiragov and Others v. Armenia](#) (Application no. 13216/05) (GC), Judgment of 16 June 2015, paragraphs 192-201 and 206-208, regarding the denial of access to homes to Azerbaijani citizens displaced in the context of the Nagorno-Karabakh conflict and Armenia's failure to take measures to secure their property rights.

8. Advisory Committee on the Framework Convention for the Protection of National Minorities, "[Fifth Periodic Report of the Government of the Republic of Azerbaijan on the Framework Convention for the Protection of National Minorities of the Council of Europe](#)" (ACFC/SR/V(2022)004). This report is now being assessed by the Advisory Committee on the Framework Convention for the Protection of National Minorities.



religion); 10 and 14 (right to use and learn their minority language); 15 (effective participation in cultural, social and economic life and in public affairs); and 17 (right to establish and maintain free and peaceful contacts across frontiers with other persons sharing the same identity).

11. Both Armenia and Azerbaijan have instituted proceedings before the International Court of Justice (ICJ) with regard to alleged violations of the International Convention on the Elimination of All Forms of Racial Discrimination. In the context of these proceedings, the ICJ granted provisional measures ordering Azerbaijan, among other things, to “take all necessary measures to prevent the incitement and promotion of racial hatred and discrimination, including by its officials and public institutions, targeted at persons of Armenian national or ethnic origin”, as well as “to prevent and punish acts of vandalism and desecration affecting Armenian cultural heritage”.<sup>9</sup> In 2023 it granted further provisional measures ordering Azerbaijan to “take all measures at its disposal to ensure unimpeded movement of persons, vehicles and cargo along the Lachin Corridor in both directions”.<sup>10</sup> Following the recent events, Armenia has submitted a new request for provisional measures, including among others to order Azerbaijan to “refrain from taking any actions directly or indirectly aimed at or having the effect of displacing the remaining ethnic Armenians from Nagorno-Karabakh, or preventing the safe and expeditious return to their homes of persons displaced in the course of the recent military attack (...)”.<sup>11</sup>

12. Azerbaijan has ratified the 1948 Genocide Convention. It is obliged as such to prevent and punish any acts of genocide.<sup>12</sup> This includes direct and public incitement to commit genocide and attempt to commit genocide. One of the acts defined as genocide in the Convention that has been mentioned with respect to the obstruction of the Lachin Corridor (before the military intervention) is “deliberately inflicting on the group [national, ethnic, racial or religious] conditions of life calculated to bring about its physical destruction in whole or in part” (Article II, c)). On 16 August 2023, the United Nations Security Council (UNSC) held an emergency meeting upon the request of Armenia but did not adopt any resolution. The Armenian foreign minister, Mr Ararat Mirzoyan, urged the UNSC to avert a risk of “genocide”. A similar opinion was expressed on 7 August 2023 by Mr Luis Moreno Ocampo, former Prosecutor of the International Criminal Court (ICC), who wrote that “the blockade of the Lachin Corridor by the Azerbaijani security forces impeding access to any food, medical supplies, and other essentials should be considered a genocide under Article II, c) of the Genocide Convention: “Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part”.<sup>13</sup> However, the Mr Moreno Ocampo’s opinion has been contested by Mr [Rodney Dixon KC](#), a British barrister, who had been appointed as an expert by the government of Azerbaijan.

13. The factual situation today of mass displacement of Karabakh/Nagorno-Karabakh Armenians following the military intervention has led to allegations and reasonable suspicion of ethnic cleansing against Armenians. Ethnic cleansing is generally described as rendering an area ethnically homogeneous by using force or intimidation to remove from a given area persons of another ethnic or religious group.<sup>14</sup> Although not a self-standing crime under international law, it has the characteristics of specific war crimes (e.g. ordering the displacement of civilian population<sup>15</sup>, unlawful deportation or transfer<sup>16</sup>) or crimes against humanity

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9. International Court of Justice (ICJ), [Order of 7 December 2021](#), referring to Articles 2-7 of CERD. The ICJ referred to the Assembly [Resolution 2391 \(2021\)](#) “Humanitarian consequences of the conflict between Armenia and Azerbaijan / Nagorno-Karabakh conflict”. The European Commission against Racism and Intolerance (ECRI) has expressed concerns about the use of a language in the public sphere that propagates racist stereotypes and perpetuates animosities, notably, against Armenia, which is rooted in the context of the long-lasting conflict and confrontations related to Nagorno-Karabakh. See [ECRI Report on Azerbaijan \(sixth monitoring cycle\)](#), adopted on 29 March 2023, published on 21 June 2023, pp. 5-6, and the [press release](#) related to it. See also Council of Europe Commissioner for Human Rights, “[Memorandum on the humanitarian and human rights consequences following the 2020 outbreak of hostilities between Armenia and Azerbaijan over Nagorno-Karabakh](#)”, 11 November 2021.

10. ICJ, [Order of 22 February 2023](#).

11. “[Application of the International Convention on the Elimination of All Forms of Racial Discrimination \(Armenia v. Azerbaijan\) – Request for the indication of provisional measures](#)”, International Court of Justice Press Release, 29 September 2023.

12. According to the case law of the International Court of Justice, “a State’s obligation to prevent, and the corresponding duty to act, arise at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed. From that moment onwards, if the State has available to it means likely to have a deterrent effect on those suspected of preparing genocide, or reasonably suspected of harbouring specific intent (*dolus specialis*), it is under a duty to make such use of these means as the circumstances permit”. See ICJ, [Application of the Convention on the Prevention and Punishment of the Crime of Genocide \(Bosnia and Herzegovina v. Serbia and Montenegro\)](#), [Judgment of 26 February 2007](#), paras. 430-431.

13. Luis Moreno Ocampo (2023), [Expert Opinion, “Genocide against Armenians in 2023”](#).

14. UN Security Council, “[Final Report of the Commission of Experts established Pursuant to Security Council Resolution 780 \(1992\)](#)”, 1994.

(deportation or forcible transfer of population, persecution against any identifiable group, when committed as part of a widespread or systematic attack directed against any civilian population<sup>17</sup>). For instance, according to the elements of crime of the crime against humanity of deportation or forcible transfer of population, “the term “forcibly” is not restricted to physical force, but may include threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment”.<sup>18</sup> Although Azerbaijan has not ratified the ICC Statute, these are also crimes under customary international law and give rise to individual criminal responsibility.<sup>19</sup>

### 3. Military operation of 19 September and developments since that date

#### 3.1. The military operation

14. On 19 September 2023, just a day after the International Committee of the Red Cross (ICRC) was allowed to resume transport of humanitarian aid, Azerbaijan announced that it had launched “local counter-terrorism activities in the Karabakh economic region” in response to the deaths of two civilians and four police officers in incidents involving landmines. The Azerbaijani authorities alleged that these landmines had been planted by Armenian armed forces.<sup>20</sup> The Russian peacekeeping forces, whose mandate stems from the Trilateral Agreement signed on 9 November 2020 by Azerbaijan’s President Ilham Aliyev, Armenia’s Prime Minister Nikol Pashinyan and Russia’s President Vladimir Putin, did not intervene to prevent this use of force.<sup>21</sup>

15. The Armenian authorities have alleged that this military operation, following on from the blockade of the last months, constitutes a process of ethnic cleansing. The Armenian government has also firmly rejected Azerbaijan’s claims that Armenia had maintained armed forces in this region of Karabakh/Nagorno-Karabakh, that it had been involved in the setting of minefields and was hindering direct talks between Baku and Kakhendi/Stepanakert.<sup>22</sup>

16. On 20 September 2023, after 24 hours of intense hostilities, an agreement was reached on a complete cessation of hostilities. The conditions included disarmament, demilitarisation and disbanding of the “Armenian illegal military formations”. It was also agreed that the following day, a meeting between Azerbaijani officials and representatives of the Armenian residents living in the Karabakh/Nagorno-Karabakh region would take place in Yevlakh (Azerbaijan) to discuss “reintegration issues, based on the Constitution of the Republic of Azerbaijan and its laws” (see paragraph 50).<sup>23</sup>

17. The military operation has reportedly led to more than 200 deaths and 400 wounded, including civilians and children. Bodies were still being recovered in early October.<sup>24</sup> Some international media have reported “indiscriminate attacks” against civilians, notably in the village of Aghbulag/Sarnaghbuyr, surrounded by forest and far from any significant military targets, where at least two children were killed on 19 September 2023. At the same time, Azerbaijani officials claim that its army had orders “to neutralise only legitimate military targets”.<sup>25</sup> Pursuant to Articles 2 and 3 of the European Convention on Human Rights, Azerbaijan is under the

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15. See Article 7 of Additional Protocol II; Article 8(2)(e)(viii) of the [Rome Statute of the International Criminal Court \(ICC\)](#) (1998), which refer to armed conflicts not of an international character.

16. See Art. 8(2)(a)(vii) of the [Rome Statute of the International Criminal Court \(ICC\)](#) (1998), which refers to armed conflicts not of an international character.

17. See Art. 7(1)(d) and (h) of the [Rome Statute of the International Criminal Court \(ICC\)](#) (1998).

18. “Deported or forcibly transferred” is interchangeable with “forcibly displaced”, as indicated in ICC, “[Elements of Crimes](#)”, 2013.

19. It has also been argued that given the transboundary nature of the crime of deportation in this particular case, the recent ratification of the ICC Statute by Armenia would grant the ICC jurisdiction in respect of this crime, see for instance Petrossian in “[Armenia as the 124th Member to the Rome Statute](#)”, *OpinioJuris*, 22 September 2023, referring to the case of deportation of the Rohingya people from Myanmar to Bangladesh (ICC, Pre-Trial Chamber I, 6 September 2018).

20. “[Latest Clash between Armenia, Azerbaijan Undermines Prospects of Peace, Speakers Warn Security Council, Calling for Genuine Dialogue to Settle Outstanding Issues](#)”, United Nations meeting coverage, 21 September 2023.

21. “[Statement by the Prime Minister of the Republic of Armenia, the President of the Republic of Azerbaijan and the President of the Russian Federation](#)”, Office to the Prime Minister of the Republic of Armenia, 10 November 2020.

22. “[Statement by the President of the Republic of Azerbaijan, Prime Minister of the Republic of Armenia and President of the Russian Federation](#)”, Official website of the President of the Republic of Azerbaijan, 10 November 2020.

23. Farid Zohrabov, “[Reintegration talks between Karabakh Armenians, Azerbaijani officials kick off](#)”, *Trend News Agency*, 21 September 2023.

24. Andrew Roth, Sam Jones, Howard Amos, “[Nagorno-Karabakh: ceasefire agreed after dozens killed in military offensive](#)”, *The Guardian*, 20 September 2023.

obligation to conduct an independent, thorough transparent and effective investigation into all the deaths and injuries that might have happened during the military operation of 19 and 20 September 2023. Conducting such investigations in a timely fashion will undoubtedly contribute to creating the necessary trust which is so much lacking between Armenians and Azerbaijan.

18. Due to the military operation, several front-line villages had to be evacuated by Russian peacekeepers.<sup>26</sup> As a result, 13 400 persons, including several hundred children, were lodged and provided with food and medical aid at the Russian base near the airport. In the first days following this evacuation, despite requests being made, these persons had not been evacuated further to Armenia by the Russian peacekeepers as they had not received an order to do so.

19. On 21 September 2023, the Armenian self-proclaimed authorities of the region claimed that the Azerbaijani military had violated the ceasefire and continued to attack Stepanakert. Since then, the ceasefire seems to have been holding. The Azerbaijani army and the Russian peacekeepers have been collecting weapons and ammunitions handed over by the Armenian separatist forces.

### **3.2. Political and legal developments**

20. On 21 September 2023, a meeting between Azerbaijani officials and the self-proclaimed authorities of this region took place in Yevlakh. At this meeting, the parties discussed Azerbaijan's plans for "reintegration" of the region's Armenian population, the provision of humanitarian assistance, the restoring of infrastructure in the region and Baku's demands as laid down in the ceasefire agreement. A second meeting took place in Khojali on 25 September 2023, in which mainly humanitarian issues were discussed.<sup>27</sup> A similar third meeting took place on 29 September 2023 in Yevlakh, which focused on the reintegration of the Armenian population of Karabakh/Nagorno-Karabakh, restoration of infrastructure and organisation of its activities based on the Constitution and laws of the Republic of Azerbaijan.<sup>28</sup>

21. As regards the position of Armenia, it can be stated that Armenia's Prime Minister Nicol Pashinyan has reiterated several times that Armenia has not been a party to discussions on and the drafting of the ceasefire agreement. He has also stressed that Armenia has no military personnel or army present in the Karabakh/Nagorno-Karabakh region of Azerbaijan. During a live address on Facebook, the Prime Minister stated that Armenia was ready to host 40 000 persons from the region, although a mass evacuation should be avoided.<sup>29</sup> However, the developments in the following days demonstrated that his wish to "not to depopulate Nagorno-Karabakh" but to ensure that residents of the region "have the opportunity to live in their homes without fear, with dignity and safety" has not materialised, since the vast majority of the Armenian inhabitants of the region have left their homes and sought refuge in Armenia.

22. On 28 September 2023, the self-proclaimed authorities of this region announced it would dissolve itself and that the unrecognised republic of Nagorno-Karabakh would cease to exist by 2024. This was confirmed in the signing of a decree by the self-proclaimed president, Samvel Shahramanyan, in which he committed to the dissolution of all the related institutions by 1 January 2024. The decree also stated that the local population must "familiarise themselves with the conditions of reintegration presented by the Republic of Azerbaijan" and make "an independent and individual decision" on whether to stay or leave the region. The statement emphasised that the decision was taken because of the "complex military-political situation" created after Azerbaijan's attack on the region on 19 September 2023.<sup>30</sup>

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25. Grigor Atanesian, Tural Ahmedzade, Siranush Sargsyan, "['They bombed everywhere': Survivors recount Karabakh attack](#)", *BBC News*, 27 September 2023.

26. Aghayev et al., "[Azerbaijan demands complete surrender of Nagorno-Karabakh as it launches massive offensive](#)", *Open Caucasus Media*, 19 September 2023.

27. Asif Mehman, "[Topics discussed between Azerbaijani authorities, reps of Karabakh Armenians in Khojaly revealed](#)", *Trend News Agency*, 25 September 2023.

28. "[Another meeting with representatives of Armenian residents living in Karabakh region wraps up in Yevlakh](#)", *AZERTAC*, 29 September 2023.

29. Michael Ertl, "[Armenia ready for 40,000 families after Nagorno-Karabakh surrender](#)", *BBC News*, 21 September 2023.

30. Pjotr Sauer, "[Nagorno-Karabakh's breakaway government says it will dissolve itself](#)", *The Guardian*, 28 September 2023.

23. In Yerevan, the opposition organised protests, in which the government was accused of abandoning the Armenian population of the Karabakh/Nagorno-Karabakh region to its fate. Although still ongoing, these anti-government protests have lost substantial momentum in the last week of September, but it is clear that unrest against the government in Armenia may also impact negatively both upon the democratic reforms underway in that country and also on the on-going peace negotiations with Azerbaijan.

24. Upon a submission by Armenia, the European Court of Human Rights has issued interim measures under Rule 39 of its Rules. The Court “found that the military escalation of 19-20 September 2023 put the life and health of civilians and others at risk and accordingly decided, notwithstanding the ceasefire agreement reached on 20 September 2023, to indicate to the Government of Azerbaijan to refrain from taking any measures which might entail breaches of their obligations under the Convention, notably Article 2 (right to life) and Article 3 (prohibition of torture and inhuman or degrading treatment or punishment)”. The Court also decided to give immediate notice of the above interim measure to the Committee of Ministers.<sup>31</sup>

25. On 28 September 2023, Armenia submitted a request to the ICJ for the indication of provisional measures, “to preserve and protect rights enshrined in the International Convention on the Elimination of All Forms of Racial Discrimination (CERD)”. Armenia requested the Court to indicate a number of provisional measures, and to reaffirm Azerbaijan’s obligations under the Orders it has rendered in this case, in particular those of 7 December 2021 and 22 February 2023.

26. Another important development in these troubled times has been the ratification by the National Assembly of Armenia – with 60 votes to 22 – of the Rome Statute on 3 October 2023, thus recognising the jurisdiction of the ICC. It will come into force 60 days after the vote.<sup>32</sup> Armenia’s commitment to become the 124th State party to the Rome Statute had to be postponed because of an initial ruling of the Constitutional Court of Armenia that the Rome Statute conflicted with Armenia’s Constitution. The obstacle was removed after a new ruling by the court, on 24 March 2024, which determined that there was no longer a constitutional conflict regarding ICC membership. This important step was taken despite Russia’s political pressure and statements by State representatives, such as Russian presidential spokesperson Mr Dmitry Peskov, that Russia did not welcome this process of ratification. This courageous political decision, particularly in the current particularly complex circumstances, will undoubtedly bear consequences on the peace process underway and the transitional justice that should follow.<sup>33</sup>

### 3.3. International reactions

27. The recourse to military force by Azerbaijan in the Karabakh/Nagorno-Karabakh region has been almost unanimously condemned by the international community. Indeed, in doing so, Azerbaijan has put into question its important commitment to end the conflict through peaceful means. The following mass exodus of the Armenian population was also met with huge concern on the part of the international community. The Armenian diaspora around the world has been active in drawing international attention to the plight of the Armenians of this region, particularly during the months of the blockade of the Lachin Corridor and in the current situation of mass exodus towards Armenia.<sup>34</sup>

#### 3.3.1. United Nations

28. On 21 September 2023, at the request of Armenia and France, the UNSC held an urgent meeting on the situation in the Karabakh/Nagorno-Karabakh region following Azerbaijan’s military operation. Due to a veto from the Russian Federation, it was not possible to adopt a resolution but the discussion in the UNSC confirmed the worsening of the humanitarian and human rights crisis in the region and the fact that the lives and safety of the Armenians living there were at risk. The participating delegations stressed that the use of force by Azerbaijan was unacceptable and contradicted the norms and principles of international humanitarian and human rights law. It was also stressed that the rights and security of the Armenian population of this region must be ensured, including their right to live in their homes in dignity.<sup>35</sup>

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31. “ECHR fully approved request of Armenia’s Government and applied interim measure against Azerbaijan”, *1lurer.am*, 22 September 2023.

32. “Armenia ratifies ICC Rome Statute in show of defiance against Russia”, *Euronews*, 3 October 2023.

33. Gurgun Petrossian, “Armenia as the 124th Member to the Rome Statute”, *Opinio Juris*, 22 September 2023.

34. See for example *Radio France’s* podcast episode, André Manoukian: “On sait très bien que des élites européennes sont corrompues par l’Azerbaïdjan” ([radiofrance.fr](https://www.radiofrance.fr/)), 2 October 2023 [available in French only].

35. United Nations meeting coverage, *op.cit.*

29. The UN High Commissioner for Human Rights, Volker Türk, and the Special Rapporteur on extrajudicial, summary or arbitrary executions, Morris Tidball-Binz, recalled Azerbaijan's international obligations towards the Armenians from Karabakh/Nagorno-Karabakh, in particular regarding the protection of their rights and under humanitarian law.<sup>36</sup> "The Special Adviser of the Secretary General on the Prevention of Genocide, Alice Wairimu Nderitu, has also expressed her alarm over the military operation by Azerbaijan, emphasizing the importance of preventing further violence and of ensuring a durable peace in the region that protects the rights of all people."<sup>37</sup>

30. From the outset, the United Nations High Commissioner for Refugees (UNHCR) has been providing support to those fleeing their home, while calling for the protection of civilians and full respect of international humanitarian and refugee law. UNHCR has expressed its concern that "the majority of those arriving are vulnerable, including mainly older people, women and children. People arriving at the borders are exhausted and require urgent emergency assistance, as well as psychosocial support. With freezing temperatures at night and limited accommodation, emergency shelter support is urgently needed". UNHCR, together with other UN agencies, has been supporting the government of Armenia in setting up co-ordination structures. UNHCR is also leading the inter-agency refugee response, working with the UN Resident Coordinator's Office. UNHCR, together with UN agencies and NGO partners, has appealed for 97 million USD to provide urgent humanitarian aid and protection to refugees and those hosting them in Armenia, in support of the Armenia Emergency Refugee Response Plan (RRP), launched on 7 October 2023 and covering relief efforts until the end of March 2024.<sup>38</sup>

31. For the first time in more than 30 years, a UN mission led by the UN Resident Coordinator in Azerbaijan, has been permitted by Azerbaijan to carry out a mission in the region of Karabakh/Nagorno-Karabakh in order to assess the humanitarian needs on the spot. The visit took place on 1 October 2023, and the delegation travelled from Aghdam to Kakhendi/Stepanakert. In a press release issued the same day, the mission expressed how it had been "struck by the sudden manner in which the local population left their homes and the suffering the experience must have caused". Furthermore, "from the conversations that the team was able to have, it [was] difficult to determine at this stage whether the local population intend[ed] to return".<sup>39</sup>

### 3.3.2. Council of Europe

32. It is important to recall once again that when it applied to the Council of Europe, Azerbaijan committed "to a peaceful settlement of the Nagorno-Karabakh conflict" and "to settle international and domestic disputes by peaceful means and according to the principles of international law (an obligation incumbent on all Council of Europe member States), resolutely rejecting any threatened use of force against its neighbours".<sup>40</sup>

33. The Secretary General was attending the UN General Assembly (UNGA) in New York on the day of the launch of the military operation and was able to meet the Minister of Foreign Affairs of Azerbaijan in the margins of the UNGA general debate. After that meeting, she issued a statement in which she expressed her "grave concern about reports of a military escalation around the Karabakh region". The Secretary General also "deplored that innocent, vulnerable civilians, who have already been suffering an acute humanitarian crisis in the region, once again bear the brunt of the use of force" adding that "this cannot be tolerated." She "called on Azerbaijan to immediately halt the military actions" underlining that "[o]nly a meaningful, unconditional dialogue, involving all sides, can lead to a long-lasting peace, which has no alternative. The Secretary General also recalled that "[t]he Council of Europe remains ready to engage and assist in this process, with a view to ensuring the full enjoyment of human rights by all, including rights of national minorities."<sup>41</sup>

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36. "Azerbaijan / Armenia – Comment by UN Human Rights Chief Volker Türk", OHCHR Statements, 26 September 2023. And "Azerbaijan must respect and protect the lives of ethnic Armenians in Nagorno-Karabakh: UN expert", OHCHR Press Release, 27 September 2023.

37. "Statement by Ms. Alice Wairimu Nderitu, UN Special Adviser on the Prevention of Genocide, on the situation in Armenia and Azerbaijan", UN Press Release, 22 September 2023.

38. "UN and partners appeal for US\$97 million to respond to urgent needs of refugees and their hosts in Armenia", UNHCR Press Release, 07 October 2023.

39. "UN team completes mission to Karabakh", UN Azerbaijan Press Release, 02 October 2023.

40. Opinion 222 (2000) "Azerbaijan's application for membership of the Council of Europe".

41. "Military escalation around the Karabakh region", Statement from the Secretary General Marija Pejčinović Burić, Council of Europe Newsroom, 19 September 2023.

34. On the same day, the President of the Assembly expressed his deep shock “by the decision of the government of Azerbaijan to launch a new and aggressive military operation in Nagorno-Karabakh [...]”. He also “strongly condemn[ed] these actions and call[ed] on the authorities of Azerbaijan to cease their fire immediately”. He recalled that “[f]or months [the Assembly has] been witnessing and calling for an end to the rapidly deteriorating humanitarian situation in the region due to the blockade of the Lachin corridor” adding that “[...]his surely represents a major blow to the prospects of achieving sustainable peace and stability in the South Caucasus”. Tiny Kox concluded his statement by emphasising that “[...] the issue of Nagorno-Karabakh can only be resolved peacefully, through dialogue and unambiguous signals of goodwill, and on the basis on the applicable international law, paying full respect to the human rights of everyone living there.”<sup>42</sup>

35. The military operation led to a statement issued by the Commissioner for Human Rights deploring “the renewed military escalation around the Karabakh region and its impact on civilians, especially on the most vulnerable” and reiterating her “commitment and readiness to engage with all the relevant interlocutors and to travel to the region to assist in overcoming the existing human rights challenges.”<sup>43</sup> On 2 October 2023, after the region had already been emptied of its inhabitants, she issued another statement in which she called for the “safety and human rights of Karabakh Armenians” and for a “free and unhindered access of humanitarian assistance providers and international human rights missions to all areas and people affected by the current circumstances”.<sup>44</sup> Finally, the President of the Congress for Local and Regional Authorities expressed “grave concern over the Nagorno-Karabakh situation”.<sup>45</sup>

36. The seriousness of the situation has also led the President of the Assembly to propose the holding of a joint committee meeting (with the Committee on Ministers), to be held on 12 October 2023.

37. There is no doubt that one or more fact-finding visits to Azerbaijan from institutions or bodies of the Council of Europe, in the shortest possible time span, would considerably help in clarifying this very volatile situation, in entering into constructive dialogue with the authorities of Azerbaijan, and in determining the measures that can be put in place to redress the current dramatic departure of almost the entire Armenian population of the Karabakh/Nagorno-Karabakh region of Azerbaijan. In this respect, the announced intention to organise a visit of the Commissioner for Human Rights is especially welcome.

### 3.3.3. *The European Union*

38. Despite the tense situation which has resulted from the blockade of the Lachin Corridor in December 2022, peace talks between Armenia and Azerbaijan have continued under the auspices of the European Union, and to a lesser extent, the United States of America. Thus, on 26 September 2023, the European Council hosted a meeting between Secretary of Armenia’s Security Council Armen Grigoryan and Foreign Policy Advisor to the President of Azerbaijan Hikmet Hajiyev, with the participation of Diplomatic Advisers to French President Emmanuel Macron and German Chancellor Olaf Scholz, Emmanuel Bonne and Jens Ploetner, as well as EU Special Representative for the South Caucasus and the crisis in Georgia Toivo Klaar. On this occasion, the European Union reiterated its position on Azerbaijan’s military operation and stressed the need for transparency and access for international humanitarian and human rights actors and for more detail on Baku’s vision for Karabakh/Nagorno-Karabakh Armenians’ future in Azerbaijan.<sup>46</sup> Azerbaijan announced on 4 October 2023 that it would not participate in a much-awaited meeting for the Armenian and Azerbaijani leaders which was supposed to take place in Granada (Spain) in the framework of the Third European Political Community Summit on 5 October 2023. This meeting was seen as an important milestone to engage in talks on possible concrete steps to advance the Armenia-Azerbaijan peace process, such as those with regard to border delimitation, security, connectivity, humanitarian issues, and the broader peace treaty, and for both Yerevan and Baku to reiterate publicly their commitment to each other’s territorial integrity and sovereignty in line with agreements reached.<sup>47</sup>

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42. “[Military operation in Nagorno-Karabakh: PACE President calls on Azerbaijan to cease fire immediately](#)”, Council of Europe Newsroom, 19 September 2023.

43. “[Karabakh region: End the military escalation and ensure the safety and human rights of civilians](#)”, Statement of the Council of Europe Commissioner for Human Rights, 20 September 2023.

44. “[Ensure the safety and human rights of Karabakh Armenians](#)”, Statement of the Council of Europe Commissioner for Human Rights, 2 October 2023.

45. “[Congress President expresses grave concern over the Nagorno-Karabakh situation](#)”, Council of Europe News 2023, 19 September 2023.

46. “[Statement by Spokesperson for President of the European Council Charles Michel on Armenia-Azerbaijan normalization](#)”, European Council Press Release, 26 September 2023.

47. Ibid.

39. European Union officials, including Mr Josep Borrell, High Representative of the European Union for foreign affairs and security policy / Vice-President of the European Commission (HR/VP), and a delegation from AFET (Committee on Foreign Affairs) MEPs, condemned the escalation of the tensions and called for a cessation of the hostilities during the military operation.<sup>48</sup> Following the ceasefire, they reiterated their call for guarantees for the rights and security of the population of this region following the ceasefire – in particular in a phone conference between Council President Charles Michel and President Ilham Aliyev. The HR/VP also released a statement warning that forced displacement of the civilian population through military or other means will be met with a strong response by the European Union. He added that the European Union is ready to take measures if the situation deteriorated further. He reiterated this position including a call for the recommitment by Azerbaijan to Armenia's territorial integrity, at the dedicated UNSC meeting.<sup>49</sup> Discussing the matter with the European External Action Service (EEAS), MEPs from across the political spectrum called on the European Union to reassess its relationship with Azerbaijan and in particular to suspend gas imports; some MEPs called for sanctions against Azerbaijan.

40. On 29 September 2023, the EEAS Spokesperson released a statement recalling the urgent need “to ensure continuous unimpeded humanitarian support to those who are still in need in Karabakh, as well as to those who have left.” Announcing an additional package of humanitarian aid of EUR 5M to assist displaced people who have left their homes towards Armenia and those who find themselves in a vulnerable situation inside the region, EEAS underlined that “Azerbaijan bears the responsibility to ensure the rights and security of the Karabakh Armenians, including their right to live in their homes in dignity without intimidation and discrimination, as well as the right to return for those displaced.” It also deemed it “essential that a UN mission can access the territory within the next days”.<sup>50</sup>

41. In a resolution adopted with 491 votes – and 9 against – on 5 October 2023, the European Parliament demanded the European Union to review its relation to Azerbaijan, assessing that the current situation with Armenians fleeing Karabakh/Nagorno-Karabakh amounted to ethnic cleansing. It called for targeted sanctions against Azerbaijani government officials responsible for ceasefire violations and human rights abuses in the Karabakh/Nagorno-Karabakh region and the suspension of any negotiations on a renewed partnership with Baku. The MEPs also called on Türkiye to restrain its ally Azerbaijan.<sup>51</sup>

## 4. The exodus

### 4.1. A human tragedy

42. Tens of thousands of Armenians from the Karabakh/Nagorno-Karabakh region took the road towards Armenia immediately after the cease-fire came into force and Azerbaijan opened the Lachin Corridor. The self-proclaimed authorities of this region stated that evacuees would be accompanied across the border from the disputed region into Armenia by Russian peacekeepers. “Dear compatriots, we would like to inform you that, accompanied by Russian peacekeepers, the families who were left homeless as a result of the recent military operations and expressed their desire to leave will be transferred to Armenia,” a statement read. “The government will issue information about the relocation of other population groups in the near future.”<sup>52</sup> Local NGOs also assisted the evacuation.

43. Despite the cease-fire agreement between the authorities of Azerbaijan and the self-proclaimed authorities in the region, it was alleged that shelling continued even after the official end of the military operation by Azerbaijan. As of 3 October 2023, the Armenian government reported that more than 100 617 Armenians had been forcibly displaced from Azerbaijan to Armenia, representing nearly 99% of the Armenian population of the region.<sup>53</sup> It has also been reported that nine children are being treated in intensive care.<sup>54</sup>

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48. “Azerbaijan: Statement by the High Representative on the military escalation”, EEAS, 19 September 2023. And “Joint statement on Azerbaijan’s attack on Nagorno-Karabakh”, European Parliament DSCA Communiqués, 19 September 2023.

49. “Azerbaijan: Address by the High Representative Josep Borrell to UN Security Council on Nagorno-Karabakh”, EEAS, 22 September 2023.

50. “Azerbaijan: Statement by the Spokesperson on the displacement of people from Nagorno-Karabakh”, EEAS, 29 September 2023.

51. “Nagorno-Karabakh: MEPs demand review of EU relations with Azerbaijan”, European Parliament Press Release, 5 October 2023.

52. “First evacuees from Nagorno-Karabakh cross into Armenia”, *The Guardian*, 24 September 2023.

53. “100,617 forcibly displaced persons enter Armenia from Karabakh as of Tuesday morning”, *NEWS.am*, 3 October 2023.

54. “There are still 9 children displaced from Nagorno-Karabakh in the intensive care unit”, *Radar.am*, 03 October 2023.

44. Those seeking refuge travelled by car or minibus with the possessions they could carry, in a journey lasting for over two days for the few kilometres of road out of the country. Food, water and fuel were in short supply, and the video and photo reports of this exodus are testimony to the panic and confusion which prevailed. The Lachin Corridor effectively operates as a one-way passage out of the country for people, while it operates both ways for ICRC trucks bringing in the very much needed humanitarian aid for the few who have remained.

45. International organisations have expressed concern that many of those seeking refuge have been separated from their family; they also underlined the massive need for mental health support for refugees. Reports bear witness to children too weak to walk, a tragic sign of the vulnerability and trauma experienced by this population after the long period of deprivation they have endured.<sup>55</sup>

46. A number of vulnerable persons, including the elderly, sick, and disabled, are certainly unable to leave and the ICRC is now operating in the streets, using megaphones, to try to identify persons in need of assistance or who wish to be evacuated.<sup>56</sup>

47. To compound this situation, an explosion at a fuel storage depot near Kakhendi/Stpeanakert occurred on 26 September 2023. Hundreds of cars were queuing for petrol to leave, and at least 170 persons died, with more than 200 were wounded, most of whom were evacuated by helicopter to Armenia. The remains found at the scene of the blast have been sent to Armenia to identify the victims through DNA analysis.<sup>57</sup>

48. From the outset of this exodus of the population, fears have abounded that Azerbaijani border guards might use the opportunity to arrest persons suspected of association with the self-proclaimed authorities. On 27 September 2023, a prominent politician and former self-proclaimed State Minister Ruben Vardanyan was detained by the Azerbaijan Border Service as he attempted to cross the Lachin checkpoint into Armenia. The following day, the Azerbaijani authorities brought criminal charges against him, such as “financing terrorism, illegally entering Karabakh/Nagorno-Karabakh last year and supplying its armed forces with military equipment”. An Azerbaijani court subsequently remanded him in pre-trial custody. The Armenian media has reported that the Government of Armenia has applied to the European Court of Human Rights over the capture of Mr Vardanyan, with a demand for an interim measure requesting that Azerbaijan provide information on the condition of the detainee. There are reports of other detentions.<sup>58</sup>In my view, in this very difficult and tense period it is all the more important that any steps taken as regards suspicions of terrorist or illegal activities are clearly delimited, measured and transparent, to avoid perceptions of reprisals or revenge which could further exacerbate the fears of the Armenian population. The necessary safeguards, including the right to a fair trial, as guaranteed by Article 6 of the European Convention on Human Rights, should be applied, and ideally measures for a transitional justice mechanism should be given first precedence and priority.<sup>59</sup>

#### **4.2. Reception of refugees in Armenia**

49. The Armenian government, led by Prime Minister Nikol Pashinyan, has demonstrated its readiness to welcome and provide shelter for the refugees, although the numbers concerned exceed the announced capacity of 40 000 refugees.<sup>60</sup> As of 3 October 2023, according to the Armenian government, 100 632 refugees had crossed into Armenia, of which 92 216 were registered.<sup>61</sup> The United Nations estimates that those remaining number between 50 and 1000 persons.

50. Based on an immediate urgent needs assessment, the Armenian government has rapidly adopted several measures to assist the refugees and to provide them with food, housing, medicines, education, and other basic amenities. It has also implemented multiple cash-based assistance programmes.

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55. “Karabakh emergency escalates, thousands still pouring into Armenia”, UN News, 29 September 2023.

56. ICRC, Twitter, 4 October 2023.

57. “Death toll in Nagorno-Karabakh fuel depot blast jumps to 170”, BBC News, 29 September 2023.

58. The persons arrested include former de facto Presidents of the self-proclaimed Nagorno-Karabakh, Arkadi Ghukasyan, Bako Sahakyan, Arayik Harutyunyan, the current President of the de facto Parliament Davit Ishkhanyan, Davit Babayan, the former de facto Minister of Foreign Affairs, Levon Mnatsakanyan, the former de facto Minister of Defense, and his deputy, Davit Manukyan.

59. “MFA Statement”, The Ministry of Foreign Affairs of the Republic of Armenia, 4 October 2023.

60. op.cit.

61. See for instance this [statement from the Armenian Government's office](#) shared on the official Facebook account of the Government of the Republic of Armenia, 3 October 2023.



51. Special attention has been paid to separated children. Those who were not reunited with their families have been accommodated at the Goris crisis centre, while single elderly people were accommodated in elderly homes.

52. After reaching their immediate destination beyond the border in Goris or Kornidzor and being registered, the refugees were transported to Yerevan, from where they were further transported to other regions in Armenia, notably Syunik, Kotyak and Ararat. A primary need platform, a support mapping platform to coordinate the work of private support initiatives and a hotline were launched, and more than 600 volunteers were registered.

53. The international donor community has stepped in to help in this urgent and dramatic situation. UNHCR has been co-leading the interagency contingency and response plan with the Office of the UN Resident Coordinator in Armenia.<sup>62</sup> The European Union, Austria, Denmark, France, Spain, Sweden, Norway, the United Kingdom and the United States notably announced an additional package of humanitarian aid.

54. Despite all the efforts made, the huge numbers of arrivals in a very short time period has stretched to the limit of the abilities of the authorities to cope. Urgent and large-scale support and burden sharing need to be provided to the host communities and the refugees themselves.

55. While the project on displaced persons of the Armenia-Council of Europe Action Plan is now fully funded, the Special Representative of the Secretary General on Migration and Refugees could play a crucial role in assessing the further support which the Council of Europe could provide to Armenia to cope with this large number of refugees.

### **4.3. Azerbaijan's position**

56. Azerbaijan has strongly rejected any allegations of ethnic cleansing, as put forward by Armenia, and has affirmed its willingness and efforts to resolve the situation and to reintegrate the Armenian population in this region. The authorities drew attention to the press release issued by the UN after its mission, which states that the observers “[...] saw no damage to the civilian infrastructure, including hospitals, schools and housing, or to cultural or religious structures.” A UN representative has also been quoted saying that there had been no “recorded incidences of mistreatment” on the part of Azerbaijani forces against those who crossed the border to Armenia.<sup>63</sup>

57. A number of measures have, indeed, rapidly been taken, in particular the appointment of Ramin Mammadov as a focal point person for contacts with the Armenian population of the region.

58. The reintegration plans presented in three meetings held on 21, 25 and 29 September 2023, focused on the legal and governance sphere, security issues, economy, social issues and cultural, educational and religious areas.<sup>64</sup> On the basis of the available information, concrete measures have not yet been implemented. Such tangible and visible measures are absolutely necessary to reassure the Armenian population of its possibility of safe return and of the full respect and protection of its rights, including minority rights.

59. Azerbaijan has made available online a “reintegration portal of Armenian residents living in the Karabakh economic region of the Republic of Azerbaijan” allowing Armenians from the region to register in order to join the reintegration process.<sup>65</sup> It is explained that the registration process is intended to enable them to effectively use all the government services and help meet their socio-economic and humanitarian needs. The portal is available in four languages, including in Armenian. Azerbaijani social media have given examples of several Armenians who have opted for this process of registration.

60. The Provisional Management Centre under the Coordination Headquarters has also started providing medical services in Khankendi/Stepanakert with the dispatching of a specialised medical personnel, including medical specialists, ambulances and an emergency medical brigade. The next step will be the assessment of the medical and sanitary-epidemiological situation of the city's remaining population.

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62. “UNHCR ready to provide further humanitarian assistance for those fleeing to Armenia”, UNHCR Press Release, 26 September 2023.

63. “UN refugee agency says it has no reports of mistreatment of Armenians fleeing Karabakh”, *Anadolu Ajansı*, 30 September 2023.

64. “Statement by the Presidential Administration of the Republic of Azerbaijan”, *AZERTAC*, 2 October 2023. See also *op. cit.*

65. [Reintegration Portal of Armenian residents living in the Karabakh economic region of the Republic of Azerbaijan](#).

61. All these steps seem positive. However, trust must certainly be built up over time. The long-standing conflict and dispute over the blockade of the Lachin Corridor and the cutting off of energy supplies, consistently refuted by the authorities of Azerbaijan, as well as a lack of agreed figures on the numbers of Armenians living in this region and other very different perspectives on the facts, will contribute to a lack of belief in the intentions and good will of the authorities. Whether or not it accepts certain presentations of the situation, Azerbaijan must take the fears and perceptions of the population into account and focus its efforts on building up confidence and trust.

## 5. Conclusion and recommendations

62. Over the past few weeks, Europe and the world have witnessed a mass population exodus from one country to another following a long-standing situation of conflict and tension. More than 100 600 Armenians, representing nearly 99% of its population, have left the region of Karabakh/Nagorno-Karabakh following a ten-month humanitarian crisis linked to the blockage of the Lachin Corridor.

63. The opposing narratives around this exodus are hard to reconcile; while Azerbaijan asserts its right to protect its territory from separatist terrorist activity and its willingness to work towards a harmonious living together of all groups in this region, Armenia considers the exodus as a de facto forced displacement amounting to ethnic cleansing.

64. In any event, the authorities of Azerbaijan have the responsibility and the obligation to protect the rights and security of all inhabitants of this region and to now do everything in their power to reassure the Armenian population of their safety and the respect of their rights, including their rights as a minority group. The international obligations of Azerbaijan are the blueprint, including the Statute of the Council of Europe, the European Convention on Human Rights, the Framework Convention for the Protection on National Minorities.

65. As regards the largest part of the Armenian population, which is now in refuge abroad, it is imperative for Azerbaijan to demonstrate in words and concrete actions its readiness to welcome back these citizens, in full confidence and trust that they will be accepted and protected as an equal and respected component of the population of this country.

66. Armenia has demonstrated strong solidarity and resilience in receiving and welcoming in just a few days the almost entire population of the Karabakh/Nagorno-Karabakh region. The international community must step up to provide adequate support to protect and care for these vulnerable refugees and to support them in recovering from the trauma and deprivation they have experienced over recent months.

67. The Council of Europe can and must play a major role in following this situation, providing its expertise and input over the next weeks and months and encouraging Azerbaijan to put in place the necessary measures to demonstrate its goodwill and good intentions as expressed on a number of occasions. This support should start as rapidly as possible, with fact-finding and other missions to the two countries, including to the Karabakh/Nagorno-Karabakh region. In particular, an early visit of the Commissioner for Human Rights and the planned one of the Advisory Committee of the Framework Convention for the protection of National Minorities, will be critical.

68. In the shortest possible period, Azerbaijan should provide information on the measures it has put in place to preserve the cultural and religious heritage and the property of the Armenian population of this region, and to prepare for the return of those who so wish, and actively work towards this return.

69. In a situation of heightened rhetoric, recriminations, opposing perceptions and disputed presentations of the facts, it is not easy to move forward and make progress. However, this is the only way in which the long-awaited peace in this troubled region can be achieved. Azerbaijan has stated its willingness and commitment to the harmonious living together of all the inhabitants of the Karabakh/Nagorno-Karabakh region, and must now follow up on this in good faith and with concrete actions.

**Appendix – Dissenting Opinion by Mr Samad Seyidov (Azerbaijan, EC/DA), pursuant to Rule 50.4 of the Rules of Procedure**

The current report, especially the draft resolution, unfortunately, one-sidedly sets out the context of events, repeats a number of groundless claims, and ignores the steps taken by Azerbaijan for the reintegration of the Armenian residents of the Karabakh region of Azerbaijan and the stabilisation of the situation in the region. We consider it necessary to note the following.

The illegal military presence of Armenia on sovereign territory of Azerbaijan remained the most serious obstacle to the post-conflict normalisation between Armenia and Azerbaijan, as well as to efforts to reintegrate the ethnic Armenian residents of Karabakh after the signing of the Trilateral Statement on 10 November 2020. It is clear that no sovereign State would tolerate illegal military presence on its soil. Thus, Azerbaijan's counter-terror measures were aimed exclusively at neutralising legitimate military targets on its sovereign territory, which, until the last day, was a source of threat. As such, they fully aligned with the sovereign right of Azerbaijan to self-defence enshrined in the UN Charter. As a result of these measures, Armenia and its subordinate illegal regime were forced to agree to disarm, disband all illegal structures and withdraw from Azerbaijan. The reason why this did not happen peacefully lies in blatant disregard by Armenia and absence of adequate reaction by international actors over the past period.

Concomitantly, Azerbaijan, being a multi-ethnic and multi-religious country, has never ceased confirming publicly and unambiguously its commitment to create appropriate conditions for the ethnic Armenians residing in the Karabakh region to stay and reintegrate into the Azerbaijani society. The fact is that all those residents who left the Karabakh region for Armenia did so by their own choice. Unfortunately, Armenia has adhered to the view of "no Armenian can live under Azerbaijan's jurisdiction" in order to impose its annexationist and separatist stance on the international community. In these circumstances, this concept has been instilled in the Armenian society, as well as the Armenian residents of Karabakh, for three decades, accompanied by the dehumanisation and demonisation of Azerbaijan. Such artificially cultivated anti-Azerbaijani hatred and fear explain the main reason for the individual decision of many local residents to leave for Armenia.

Azerbaijan has outlined its plans for reintegration, including specific measures aimed at ensuring security, municipal self-governance, socio-economic development and enjoyment of rights, in particular those related to education, culture and religion. Moreover, among other things, several meetings have been held with the representatives of Armenian residents to discuss this plan and a dedicated portal for initial registration has been developed.

Azerbaijan's vision is to reach the normalisation of the interstate relations with Armenia, and to ensure that Azerbaijanis and Armenians live side by side in peace, dignity and mutual respect. Many Armenian residents already express their desire to return and live as Azerbaijani citizens, and Azerbaijan welcomes it and through consistent efforts tries to facilitate their voluntary return.

Thus, the report avoided recognising these facts in any form. On the contrary, with wrong assessments and presentation, it deprived the Assembly of making a possible positive contribution to the ongoing peace process in the region in a broad sense.