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**Letter dated 10 October 2019 from the Permanent Representative  
of Armenia to the United Nations addressed to  
the Secretary-General**

Upon the instructions of my Government, I have the honour to transmit herewith a memorandum from the Ministry of Foreign Affairs of the Republic of Artsakh (Nagorno-Karabakh Republic) on Azerbaijan's international responsibility for particularly serious crimes committed in Artsakh by Azerbaijan's citizens (see annex), in reference to the letter dated 16 July 2019 from the Permanent Representative of Azerbaijan to the United Nations ([A/73/953-S/2019/581](#)).

I kindly request that the present letter and its annex be circulated as a document of the General Assembly, under agenda item 31, and of the Security Council.

(Signed) Mher **Margaryan**  
Ambassador  
Permanent Representative



**Annex to the letter dated 10 October 2019 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General**

**Memorandum from the Ministry of Foreign Affairs of the Republic of Artsakh on Azerbaijan's international responsibility for particularly serious crimes committed in Artsakh by Azerbaijan's citizens Shahbaz Guliyev and Dilham Askerov**

The Republic of Azerbaijan has elevated to the level of State policy the condoning and encouragement of crimes prompted by ethnically-motivated hatred towards Armenians. A case in point is Baku's campaign for international assistance in seeking the release of two Azerbaijani citizens, Shahbaz Jalal oglu Guliyev and Gardashkhan oglu Askerov. These two individuals were convicted in the Republic of Artsakh (Nagorno-Karabakh Republic) for particularly serious crimes in 2014. In furtherance of its campaign for their release, Azerbaijan distributed official documents ([A/72/940-S/2018/738](#), [A/73/953-S/2019/581](#)) to international organizations, including the United Nations, in an effort to present the convicted criminals as innocent victims. These documents openly distort established facts in the matter. This policy of Azerbaijan's leadership together with nationwide praise and glorification of the perpetrators of such heinous crimes have been decidedly calculated to deny the fundamental rights and freedoms of the Artsakh people.

*Factual Background*

In July 2014, an armed group consisting of three Azerbaijani citizens – Shahbaz Jalal oglu Guliyev (born in 1968), Dilham Gardashkhan oglu Askerov (born in 1960) and the leader of the group, Azerbaijani officer Hasan Hasanov (“Hasanov”) – illegally entered the territory of the Artsakh Republic for the purpose of conducting subversive and espionage activities in favour of Azerbaijan. The three were detected in Artsakh's Shahumyan region.

While in Artsakh, these individuals had committed a series of particularly serious crimes including: the abduction and murder of 17-year-old Smbat Tsakanyan, the murder of 43-year-old Sargis Abrahamyan, and the severe wounding of 37-year-old Karine Davtyan. A forensic examination revealed that victim Smbat Tsakanyan was killed by the weapon belonging to Askerov and that Sargis Abrahamyan was killed, and Karine Davtyan wounded, by the gun belonging to Hasanov.

Law enforcement officers of the Artsakh Republic successfully detained Guliyev and Askerov in the Shahumyan region. Hasanov, the third member of the illegal armed group, engaged in armed resistance during detention efforts, firing his weapon at law enforcement officers and, in the process, was killed.

Upon detention of the Guliyev and Askerov, law enforcement officers seized three 7.62 mm Kalashnikov assault rifles (numbered TD 2042, TF 7373 and TF 3878) with silencers, three 9 mm Makarov pistols (numbered BA 0033, SN 3478 and PK 7474) with silencers, two knives, several F-1 hand grenades and other ammunition. Officers also seized two Sony camcorders, one of which contained video recordings of infrastructure, military bases, Artsakh Defence Army movements and other military information.

*The Legal Proceedings*

From October 27 to December 29, 2014, the trial of Guliyev and Askerov took place in Stepanakert, Artsakh. The trial were open, transparent and conducted in full

compliance with the norms of both national and international justice. Guliyev and Askerov were each provided free legal representation and translation services during the entirety of the proceedings against them. Moreover, during the trial, Artsakh authorities repeatedly expressed their readiness to accept international lawyers if Azerbaijani authorities wished to hire such counsel to defend Askerov and Guliyev in the proceedings.

At trial, Guliyev was found guilty of espionage (Article 316), crossing the state border of the Republic of Artsakh in a group and without authorization or permission (Article 350 para. 2), illegal possession of weapons by an organized group (Article 245 para. 3) and kidnapping of a minor with the use of weapons and committed by a group of people (Art. 129 para. 1). Guliyev was then sentenced to 22 years in prison. Askerov, in addition to being found similarly guilty of the above counts, was also found guilty of murder motivated by national hatred, with the use of weapons and involving abduction by an organized group of people (Article 103, part 2, paras. 3, 7, 14). Askerov was sentenced to life imprisonment.

The criminal convictions were appealed. On March 10, 2015, the Court of Appeal of the Republic of Artsakh upheld the decision of the trial court.

Importantly, during the pre-trial detention and trial, the rights of Guliyev and Askerov were fully respected. Their rights continue to be respected while they serve their sentences. Moreover, the inmates are under constant monitoring by the International Committee of the Red Cross. Finally, Guliyev and Askerov are visited regularly by representatives of both local and international human rights organizations.

#### *Azerbaijan's Effort to Recast the Criminal Group as Peaceful Citizens is Disingenuous*

Azerbaijan's attempt to present the members of the criminal group as peaceful civilians who entered the territory of Artsakh allegedly to visit the graves of their relatives does not withstand scrutiny. In fact, it is patently outrageous.

First, neither Guliyev, Askerov nor Hasanov were born or lived, at the start of the Azerbaijan-Karabakh conflict, in the territory they illegally entered in 2014. Second, there is a legal procedure for visiting the Republic of Artsakh, which is a procedure likewise available to Azerbaijani citizens. In fact, journalists, human rights activists, public and political figures from Azerbaijan have previously visited Artsakh using these proper legal procedures. Third, even if the graves of an individual's relatives are indeed located on the territory of Artsakh (an averment for which no evidence was actually presented at trial or since), this does not give any individual the right to commit crimes of any nature, let alone murder and kidnapping – and it certainly does not relieve such individual of responsibility for committing the offenses.

#### *The Artsakh Court Verdicts Are Legitimate and Consistent with International Human Rights Law and International Humanitarian Law*

Azerbaijan tries to cast doubt on the legality of the Artsakh court verdicts against Askerov and Guliyev, claiming that they violate international human rights law and international humanitarian law. These claims are devoid of any legal basis. Neither international humanitarian law nor international human rights law give immunity to Azerbaijani citizens from criminal prosecution, regardless of their status as legal or illegal combatants or civilians.

According to Article 46 of Additional Protocol I to the Geneva Conventions, a member of the armed forces of a Party to the conflict who falls into the power of an

adverse Party while engaging in espionage or at the time of preparing or conducting attacks shall not have the right to the status of prisoner of war if, while so acting, he is not in the uniform of his armed forces. None of the Azerbaijanis involved in this matter were in the uniform of the Azerbaijani armed forces while committing the unlawful acts for which they were tried and convicted.

Moreover, according to Article 5 of the Geneva Convention (IV) relative to the Protection of Civilian Persons in Times of War, persons engaged in activities hostile to the security of the State shall not be entitled to claim rights and privileges under the Convention. As the evidence seized aptly demonstrated, the Azerbaijani citizens involved in this matter were clearly engaged in activities hostile to the security of the Artsakh Republic.

Importantly, under International Humanitarian Law generally and the Geneva Convention (IV) relative to the Protection of Civilian Persons in Times of War specifically, State Parties have undertaken to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches defined in Article 147, including wilful killing. That is exactly what Artsakh has done.

As a responsible member of the international community, the Republic of Artsakh is committed to preventing, investigating, punishing and providing remedies for human rights violations perpetrated by third parties – and doing so within the framework of international and regional human rights instruments. Artsakh has acceded to the International Covenant on Civil Rights and Political Rights (the “ICCPR”) and, in accordance with Paragraph 3 of Article 2, respects and pursues the requirement that, along with effective protection of the rights recognized in the ICCPR, State Parties shall ensure that any person whose rights or freedoms as therein recognized are violated shall have an effective remedy. In cases where investigations reveal the violations of a person’s rights warranting protection under the ICCPR, State Parties must ensure that those responsible for the violations of these rights are brought to justice.

Azerbaijan’s position that court decisions of unrecognized states are not legitimate due to their status as unrecognized is also inconsistent with international practices and norms. The presence and legitimacy of a judicial system, an integral part of any modern democratic society, cannot depend either on the recognized status of the country or the political process of conflict resolution, since the need for a fair and functioning judicial system is rooted in the protection of the interests of a given population.

To be clear, judicial decisions by the courts of *de facto* states cannot be considered illegitimate simply because of the non-recognition of the country in which such courts sit. In fact, it is well established that the criterion for the legality and validity of legal acts of *de facto* states, according to international law, is not the country’s status as recognized or unrecognized, but the conformity of such court decisions to the rights and interests of its inhabitants. The European Court of Human Rights itself has held that:

[L]ife must be made tolerable and be protected by the *de facto* authorities, including their courts; and, in the very interest of the inhabitants, the acts of these authorities related thereto cannot be simply ignored by third States or by international institutions, especially courts, including this one. To hold otherwise would amount to stripping the inhabitants of the territory of all their rights whenever they are discussed in an international context, which would

amount to depriving them even of the minimum standard of rights to which they are entitled.<sup>1</sup>

*The International Responsibility of Azerbaijan*

International law provides State responsibility for crimes conducted by its agents. According to Article 8 of the UN International Law Commission Report on State Responsibility for Internationally Wrongful Acts,<sup>2</sup> “the conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct.” Article 8 deals with two such circumstances: the first involves private persons acting on the instructions of the State in carrying out the wrongful conduct and the second deals with a more general situation where private persons act under the State’s “direction and control”. This latter category includes instances in which individuals or groups of private individuals who, though not specifically commissioned by the State and not forming part of its police or armed forces, are employed as auxiliaries, sent as ‘volunteers’ to neighbouring countries or are instructed to carry out particular missions abroad.<sup>3</sup>

Here, Azerbaijan bears international responsibility for the wrongful acts committed by Askerov, Guliyev and Hasanov. Arming and sending a criminal group into the territory of Artsakh for espionage and subversive actions is clearly encompassed by one or both of the applicable circumstances invoking responsibility under Article 8.

It must be emphasized, moreover, that during the investigation and the subsequent trials, facts confirming the illegal armed group’s direct connection with the special services of Azerbaijan were plainly established including but not limited to the following:

- According to Askerov’s trial testimony, he had illegally entered the territory of Artsakh several times prior to 2014 and reported to the Ministry of National Security of Azerbaijan. Askerov further testified that he repeatedly met with Hasanov and others from Hasanov’s circle who suggested to enter into the territory of Artsakh for collecting military information. It was these people, those from Hasanov’s circle prepared the members of the illegal armed group for the operation, provided them funds for purchasing video cameras and other equipment and instructed on the collection of military information in the territory of Artsakh. They drove the members of the armed group to the border of Azerbaijan, crossed them through Azerbaijani military positions and provided with weapons. It should also be noted, moreover, that the acquisition, sale, possession and transfer of military weapons by civilians is prohibited by law in Azerbaijan.
- Hasanov’s camcorder contained a recording of the interrogation of Armenian POW Hakob Injigulyan.<sup>4</sup> During trial, Injigulyan identified Hasanov from photographs and videos as one of the people that conducted the interrogation in August 2013

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<sup>1</sup> Judgment on the merits delivered by a Grand Chamber. Application No. 25781/94, § 96, ECHR. 2001.

<sup>2</sup> The “Responsibility of States for Internationally Wrongful Acts” is an annex to the UN General Assembly resolution of December 12, 2001. The provisions of the report are recognized by the International Court of Justice as customary rules of international law.

<sup>3</sup> UN (2013), Materials on the Responsibility of States for Internationally Wrongful Acts, UN, New York, <https://doi.org/10.18356/1b3062be-en>.

<sup>4</sup> Armenian soldier Hakob Injigulyan was taken captive in Azerbaijan in 2013. He was transferred to a third party in 2014 and repatriated.

- From 1993–1996, Azerbaijani officer, the leader of the criminal group Hasanov studied at a military lyceum in Nakhichevan and later, from 1996–2000, at the Azerbaijani Higher Military School named after former president of Azerbaijan, Heydar Aliyev. Upon graduation, Hasanov received the rank of officer.
- Only weeks before being recruited and sent to Artsakh, Askerov had been detained in Azerbaijan in April 2014 and was under investigation on charges of drug possession and sale. The fact that he illegally entered the territory of Artsakh, immediately after his release from detention in Azerbaijan, strongly suggests that carrying out espionage and subversive activities in Artsakh was one of the conditions for Askerov's release.

Given the fact that members of the armed group were recruited, armed and sent to Artsakh by the Azerbaijani official authorities for executing a particular mission – namely information and intelligence gathering – establish that these Azerbaijani citizens were acting on the instructions of Azerbaijan. As such, the wrongful acts committed by them in the territory of Artsakh shall be attributable to Azerbaijan.

The campaign of the Azerbaijani authorities in various international organizations, including the United Nations, calling for assistance in securing the release of Askerov and Guliyev is patently unrelated to any legitimate interest. Such a call for a release of the convicted individuals may prove the acknowledgement and acceptance of their wrongful acts. In fact, with respect to Askerov and Guliyev, Azerbaijani authorities have adopted the same deplorable pattern as they have with Ramil Safarov, an Azerbaijani military officer who was convicted and sentenced by a Hungarian court to life imprisonment for the premeditated murder of Armenian officer Gurgen Margaryan, while both were attending a NATO joint training program in Hungary.

In the case of Safarov – and despite the fact that the legality of the Hungarian court decision was not called into question by anyone – the President of Azerbaijan, Ilham Aliyev, sought the extradition of Safarov to Azerbaijan in 2012 for further serving his sentence. However, when Safarov actually arrived in Azerbaijan, he was pardoned by the President, received a promotion to the rank of major as well as other material rewards. Moreover, public and political figures of Azerbaijan – including state-owned media outlets – began to present Safarov as an example to follow for the younger generation of Azerbaijan.

On 6 August 2014, President of Azerbaijan Ilham Aliyev explicitly announced that he would provide Shahbaz Jalal oglu Guliyev and Dilham Gardashkhan oglu Askerov the same support and assistance he has provided as to Ramil Safarov.<sup>5</sup> In doing so, President Aliyev has demonstrated his express approval of the illegal armed group's unlawful conduct of and, undoubtedly, an intention to reward, indeed celebrate, Guliyev and Askerov for their crimes. These facts are, without any doubt, beyond sufficient to demonstrate that Azerbaijan has indeed acknowledged and adopted the acts of Guliyev and Askerov as its own conduct.

In conclusion, it should be particularly stressed that these cases in which Azerbaijani authorities reward, celebrate and encourage the killing of people of Armenian ethnicity are hardly isolated and remain, systematic and widespread.

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<sup>5</sup> Official website of the President of Azerbaijan <https://en.president.az/articles/12512>.