

**General Assembly
Security Council**

Distr.: General
4 March 2021

Original: English

**General Assembly
Seventy-fifth session**

Agenda items 34, 71, 72 and 135

Prevention of armed conflict

Right of peoples to self-determination

Promotion and protection of human rights

**The responsibility to protect and the prevention of genocide,
war crimes, ethnic cleansing and crimes against humanity**

**Security Council
Seventy-sixth year**

**Letter dated 4 March 2021 from the Permanent Representative of
Armenia to the United Nations addressed to the Secretary-General**

With reference to my letter, dated 2 February 2021, I have the honour to transmit herewith a statement of the Ministry of Foreign Affairs of the Republic of Artsakh (Nagorno-Karabakh Republic) regarding the continued violation of obligations under international humanitarian law by Azerbaijan in relation to the Armenian prisoners of war and civilians captured during and after the military aggression against Artsakh (see annex).

I kindly request that the present letter and its annex be circulated as a document of the General Assembly, under agenda items 34, 71, 72 and 135, and of the Security Council.

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



Annex to the letter dated 4 March 2021 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

Statement of the Ministry of Foreign Affairs of the Republic of Artsakh

Azerbaijan's refusal to grant the status of prisoners of war to the Armenian servicemen and to repatriate them, as well as to release civilians as announced by the Azerbaijani president in an interview to foreign journalists on 26 February and by the Azerbaijani Foreign Ministry on 27 February, is a flagrant violation of Azerbaijan's international obligations under international humanitarian law and does not stand up to scrutiny.

The manufactured position of official Baku that these captured Armenians are not prisoners of war, claiming they were captured after the signing of the Trilateral Statement by the leaders of Armenia, Russia and Azerbaijan cannot exempt Azerbaijan from its obligations under the Geneva Convention relative to the Treatment of Prisoners of War. Azerbaijan, as a signatory of the Geneva Conventions, does not have the liberty to redefine persons at its leisure to escape its international humanitarian law obligations. Azerbaijan's obligation to comply with, and strictly observe, international humanitarian law (*jus in bello*) and ensure its observance cannot be absolved by arguments regarding the rules of use of force, (*jus ad bellum*), which is governed by other international treaties, in particular the UN Charter. The obligation of States to comply with the principles of international humanitarian law is absolute, and it is not diluted in any manner whatsoever by arguments as to the lawfulness of any use of force.

In its argumentation that the captured servicemen are not POWs, Azerbaijan also openly distorts the facts on the ground and demonstrates utter impunity. The 64 Armenian servicemen captured by Azerbaijan in December 2020 were deployed in the villages of Khtsaber and Hin Tagher of the Hadrut region of the Republic of Artsakh, which were under the control of the Artsakh Defence Army at the time of the signing of the Trilateral Statement. They were maintaining their positions as clearly required by Paragraph 1 of the Trilateral Statement. The capture of these 64 servicemen was a direct consequence of Azerbaijan's violation of the Trilateral Statement's clear call for a cessation of hostilities.

Azerbaijan's semantic gymnastics – redefining POWs in order to avoid its international humanitarian law obligations – is immediately apparent by the fact that, in addition to the 64 servicemen captured in December 2020, Azerbaijan still refuses to repatriate persons captured during its military aggression against the Republic of Artsakh, which it unleashed on 27 September 2020.

Azerbaijan's position is legally and factually bankrupt. Azerbaijan's blatant circumvention of its obligations under international humanitarian law in relation to the captured Armenian military personnel and civilians is not only contrary to the requirements of the Geneva Conventions relative to the Treatment of Prisoners of War and to the Protection of Civilian Persons in Time of War but it renders the Armenians held by Azerbaijan hostages. Indeed, Azerbaijan is detaining such persons for the very purpose of leverage to promote its position in the ongoing implementation of its strategic objectives against the Republic of Artsakh and the Republic of Armenia.

The Minister of Foreign Affairs of the Republic of Artsakh sent letters to the specialized agencies of the UN and the Council of Europe, furnishing them a detailed

analysis concerning the continuing application of international humanitarian law to persons captured by Azerbaijan.

The letters thoroughly explained why members of the armed forces of a State, while in a dispute with another State, are entitled to POW status if they fall into the hands of the enemy, regardless of whether there are full-scale hostilities between the two States.

The international specialized institutions charged with monitoring the implementation of Azerbaijan's commitments under international humanitarian and international human rights law, are in accord. In fact, these institutions have demanded, repeatedly, the immediate release of the prisoners of war and civilians held captive by Azerbaijan; they have done so in public statements and during closed meetings with Azerbaijani representatives. Azerbaijan refuses to comply.

Consistent with the requirements of the Trilateral Statement and the Geneva Convention, we demand that Azerbaijan comply with its international humanitarian law obligations rather than continue to try to justify its manifest violations with unlawful and vacuous statements. We further urge the international community, in accordance with the Common article 1 to all Geneva Conventions, to compel Azerbaijan to immediately and comprehensively comply with its clear obligations under the Conventions.

Stepanakert
March 1, 2021
