Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 2517 (2023)[1]

The humanitarian situation in Nagorno-Karabakh

Parliamentary Assembly

1. Recalling Azerbaijan's "commitment to a peaceful settlement of the Nagorno-Karabakh conflict" as specified in Opinion 222 (2000) "Azerbaijan's application for membership of the Council of Europe", 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 this country's responsibility for the actions it takes within its internationally recognised borders.

2. The Assembly notes that the military operation took place after a ten-month period during which the Armenian population of this region were denied free and safe access through the Lachin Corridor, the only passageway to Armenia and the rest of the world, a situation which led to extremely acute food and supply shortages and left all inhabitants highly vulnerable. 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". In this context, the Assembly recalls the most recent decision of the European Court of Human Rights of 22 September 2023 to indicate interim measures under Rule 39 of its rules in respect of Azerbaijan and urges Azerbaijan to implement these measures without further delay.

3. The Assembly deeply regrets that, just at a time when the situation concerning the transport of humanitarian supplies to the population seemed to improve and a glimpse of hope was emerging, a contributing factor to the escalation of the situation was the killing of Azerbaijani civilians and law-enforcement personnel in a mine explosion, and that 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 to 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, the Convention) and the Framework Convention for the Protection of National Minorities (ETS No. 157), the International Covenant on Civil and Political Rights and 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

1. *Assembly debate* on 12 October 2023 (23rd sitting) (see Doc. 15840, report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Domagoj Hajduković). *Text adopted by the Assembly* on 12 October 2023 (23rd sitting).
See also Recommendation 2260 (2023).

its recent military operation. Azerbaijan 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 life and home (Article 8 of the Convention) and the right to the peaceful enjoyment of possessions (Article 1 of Protocol No. 1 (ETS No. 9)) could 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 who today remain on its territory in the region.

8. The Assembly notes the promises made by the Republic of Azerbaijan that the rights and freedoms of the Armenian residents would be ensured in line with its constitution and applicable international obligations, including those mentioned above. The Assembly notes the announcement by the Government of the Republic of Azerbaijan with respect to its plans for the reintegration of Armenian residents and for ensuring their rights, including in such areas as security, socio-economic development and religious, cultural and linguistic rights.

9. The Assembly welcomes the invitation by Azerbaijan to the United Nations to visit the region and notes the preliminary conclusions of the United Nations mission that took place on 1 October 2023. It also welcomes the planned visit by the Council of Europe Commissioner for Human Rights to Azerbaijan, including its Nagorno-Karabakh region, and the co-operation of the Azerbaijani authorities to facilitate this visit. The Assembly expects that this invitation will also be extended to its members.

10. The Assembly has witnessed with great sadness and a sense of powerlessness the massive exodus in recent days of the Armenian population from this region of Azerbaijan, resulting 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.

11. 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 because of the genuine threat of physical extinction, a long-standing policy in Azerbaijan of hatred towards Armenians and a lack of trust regarding their future treatment by the Azerbaijani authorities, the Assembly recognises the huge responsibility now placed upon Armenia to cope with the refugee crisis underway. The Assembly also notes, according to the available information, that the relevant independent bodies present on the ground, such as the United Nations agencies, have not recorded incidences of mistreatment by Azerbaijani authorities of Armenians leaving for Armenia. 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 join Armenia in this endeavour by 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 they wish to settle elsewhere.

12. 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 in this region about their safety and full respect for their rights, and to guarantee them a future free from acts or expressions of reprisal or revenge for the events which took place in the 1990s and during the 2020 war.

13. In its Resolution 2508 (2023) “Ensuring free and safe access through the Lachin Corridor”, 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 almost the entire Armenian population from this region, has led to allegations and reasonable suspicions that this amounts 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, insofar as it has the characteristics of specific war crimes (ordering the displacement of the civilian population) or crimes against humanity (deportation or forcible transfer of the population and persecution against any identifiable group), in accordance with the Rome Statute of the International Criminal Court and general international law. The Assembly notes the strong statements by Azerbaijan refuting such allegations and suspicions and calls upon the authorities to spare no effort in proving, through deeds and words, that this is not the case.

14. 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.

15. Each man, woman, elderly person or child who has left their home because of their belief that their personal security and that of all 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. The Assembly calls for greater regional co-operation and for the opening of regional connectivity links based on full respect for countries' sovereignty, territorial integrity and jurisdiction, as well as for the principles of equality and reciprocity. This is particularly important in the context of a possible transport link with Nakhchivan, which cannot be established against the will of Armenia or to the detriment of its freely determined national interests. In this context, the Assembly supports all efforts directed towards the normalisation of relations between Armenia and Azerbaijan, based on mutual recognition of sovereignty, inviolability of borders and territorial integrity of both countries, on the basis of the 1991 Almaty Declaration.

16. 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 reassure them and encourage 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.

17. The Assembly believes that this will require genuine, immediate and public investment on the part of Azerbaijan in clear and unequivocal statements, accompanied by discussions with the relevant parties on the concrete measures which will be put in place to protect the security and linguistic, religious, cultural and other minority rights of Armenians from this region. Any expressions of intolerance or revenge for past events are particularly unwelcome during 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 Armenian cultural heritage of the region.

18. 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 ensuring 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 and all Armenian prisoners of war currently held in Azerbaijan.

19. The Assembly welcomes the deployment by the United Nations of a mission to Nagorno-Karabakh for the first time in more than thirty 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.

20. In this respect, the Assembly believes that a visit by the Commissioner for Human Rights in the very near future and the visit later this year by 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 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 ensure that Azerbaijan encourages the return of this population to its homeland.

21. 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 with its neighbours in the region.

22. The Assembly considers that in addition to the urgent need for access to the region for the relevant Council of Europe 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 reassuring those who wish to return home that they can do so in complete safety.

23. 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 and 20 September 2023, the Assembly stands ready to examine in greater depth the political and legal implications of the unfolding situation and future measures. Should Azerbaijan fail to fulfil its obligations, the Assembly will 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 and to challenge the credentials of the Azerbaijani delegation at its first part-session of 2024.