Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 2391 (2021)[1]

Humanitarian consequences of the conflict between Armenia and Azerbaijan / Nagorno-Karabakh conflict

Parliamentary Assembly

1. The Parliamentary Assembly regrets the tragic humanitarian consequences of the conflict between Armenia and Azerbaijan / Nagorno-Karabakh conflict. It is a conflict which has seen two major outbreaks of war, the first from the end of 1991 to 1994, and a six-week war in 2020.

2. The Assembly has dealt with many aspects of the conflict over the years, in particular in Resolution 1047 (1994) and Recommendation 1251 (1994) "Conflict in Nagorno-Karabakh", and in Resolution 1416 (2005) "The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference".

3. The Assembly recalls that both Armenia and Azerbaijan committed themselves, upon their accession to the Council of Europe in January 2001, to use only peaceful means for settling the conflict. It deeply regrets that this common commitment has remained unfulfilled for all these years, as the negotiations between Armenia and Azerbaijan over the past three decades have yielded no tangible results. Therefore, the six-week war in 2020 constitutes a breach of these commitments and should be duly addressed by the Council of Europe.

4. The Assembly notes that the recent six-week war was brought to an end by the trilateral statement of 9-10 November 2020, signed by the President of the Republic of Azerbaijan, the Prime Minister of the Republic of Armenia and the President of the Russian Federation. It considers that the trilateral statement provides the main elements of a ceasefire and creates a framework for solving many of the humanitarian consequences of the recent six-week war and conflict.

5. The Assembly is appalled by the number of people killed or missing during the six-week war: reportedly over 3 900 Armenian and 2 900 Azerbaijani military personnel killed or missing; 163 Armenian and 548 Azerbaijani civilian casualties; and around 243 Armenians and 7 Azerbaijanis missing. The Assembly welcomes and encourages the efforts of both parties to recover and exchange the dead and recognises the valuable contribution of the International Committee of the Red Cross (ICRC) and Russian peacekeepers. It is also aware of around 3 890 Azerbaijanis and 1 000 Armenians still unaccounted for from the 1991-1994 war and regrets that little progress has been made on these cases. It invites both parties to resume work at the intergovernmental commission level, with the assistance of the ICRC.

1. *Assembly debate* on 27 September 2021 (24th sitting) (see Doc. 15363, report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Paul Gavan). *Text adopted by the Assembly* on 27 September 2021 (24th sitting).
See also Recommendation 2209 (2021).

6. The Assembly notes that under Article 8 of the trilateral statement, "[a]n exchange of prisoners of war … is to be carried out", and that both countries claim to have complied with this. However, the Assembly notes with concern the notification by the European Court of Human Rights, communicated to the Committee of Ministers of the Council of Europe on 16 March 2021, in relation to 188 Armenians allegedly captured by Azerbaijan (some of whom have since been returned to Armenia). In this connection, the Assembly:

6.1. notes that under the Geneva Convention (III) Relative to the Treatment of Prisoners of War and Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, both Azerbaijan and Armenia have binding obligations to repatriate prisoners of war and release civilian persons without delay after the cessation of active hostilities;

6.2. considers that the clear intention of Article 8 of the trilateral statement was the exchange of all detained persons, without distinction as to the status assigned by one or other of the parties;

6.3. is deeply concerned about the fate of around 30 Armenians, allegedly seen, filmed or photographed in captivity, with no indication as to their current whereabouts. The Assembly is alarmed at allegations made by Armenia that these persons have been subjected to enforced disappearance and possibly killed;

6.4. calls on the Azerbaijani authorities to expedite their investigations into this matter and provide relevant information to the European Court of Human Rights and to Armenia;

6.5. welcomes the recent release of 15 Armenians on 12 June 2021 and a further release of 15 persons on 3 July 2021, bringing the total of those repatriated to over 100;

6.6. remains concerned about the detention conditions of around 48 Armenians captured after the trilateral statement, who are still in captivity, most of whom have faced or are facing speedy criminal trials, which may raise fair trial issues under the European Convention on Human Rights (ETS No. 5);

6.7. calls on the Azerbaijani authorities to release all remaining captives and return them to Armenia without further delay;

6.8. encourages the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to carry out an ad hoc visit, notwithstanding that the ICRC has regular access to these persons.

7. The Assembly is concerned about the many allegations of crimes, war crimes and other wrongful acts levelled against both Armenia and Azerbaijan during the six-week war. It notes the individual cases and interstate cases brought before the European Court of Human Rights, including those by Armenia against Azerbaijan on 27 September 2020 (Application No. 42521/20) and against Turkey on 4 October 2020 (Application No. 43517/20), and by Azerbaijan against Armenia on 27 October 2020 (Application No. 47319/20).

8. Among allegations made by both sides, backed up by reputable international non-governmental organisations and a wealth of information available from different sources, there are worrying allegations and evidence of:

8.1. extrajudicial killings, including, for example, the alleged decapitation or throat-slitting of at least two Armenians and one Azerbaijani;

8.2. a substantial number of consistent allegations of inhuman and degrading treatment and torture of Armenian prisoners of war by Azerbaijanis, as well as a number of allegations of similar treatment of Azerbaijani prisoners of war by Armenians;

8.3. highly disturbing evidence of despoliation of both Armenian and Azerbaijani dead;

8.4. the indiscriminate use of weapons resulting in the killing and injuring of civilians, particularly in places not located in the conflict zone. According to the parties, there were 205 Armenian and 548 Azerbaijani casualties. In this respect, Armenian forces appear to have used ballistic missiles, unguided artillery and multiple rocket launchers, while Azerbaijani forces also appear to have used unguided artillery and multiple rocket launchers as well as loitering munitions and missiles launched by drones. Both sides had a responsibility to respect international humanitarian law and protect civilians from explosive weapons that were certain to have an impact in civilian areas and failed to do so;

8.5. the use by Azerbaijan, with Turkey's assistance, of Syrian mercenaries, and the use by Armenia of Armenians from different countries as foreign fighters.

9. In the light of the highly disconcerting information above, the Assembly calls on Armenia and Azerbaijan to fully investigate the allegations and bring to justice anyone, including at command level, found to be responsible for crimes, war crimes or other wrongful acts. Both countries should co-operate fully with the European Court of Human Rights on the complaints lodged against them, and Turkey is invited to do the same. Unless there is accountability and some form of truth and reconciliation, these allegations will poison relations between the two countries for generations, and the consequences of the conflict will linger. Appropriate investigations should also be carried out in relation to allegations of crimes, war crimes or other wrongful acts which took place during the 1991-1994 war, for which there should be similar accountability.

10. The Assembly is gravely concerned that the conflict region is one of the most contaminated by mines and unexploded ordnance in the world. In consequence, the Assembly:

10.1. considers that it is incumbent on both sides to work together to remove mines, deploring that since the November 2020 ceasefire, 159 Azerbaijanis and 5 Armenians have been killed or injured;

10.2. welcomes the fact that on 12 June 2021, Armenia handed over maps indicating 97 000 mines planted in the region of Aghdam and, on 3 July, maps showing 92 000 mines planted in the Fuzuli and Zangilan districts, while noting with concern that, according to Azerbaijan, portions of the shared maps are said to lack the information necessary for effective demining;

10.3. calls on Armenia to release, without delay, all mine maps in its possession;

10.4. recommends that both Armenia and Azerbaijan step up mine and unexploded ordnance awareness programmes and calls on the international community to provide assistance in terms of equipment, training and funding for the clearance of what could be around a million mines.

11. Concerning the issue of displaced persons in Armenia, the Assembly:

11.1. notes that, according to Armenian sources, around 91 000 Armenians fled from the conflict area during the six-week conflict, 85% of whom were women and children;

11.2. welcomes that, notwithstanding many difficulties including those caused by winter and Covid-19, the Armenian authorities, along with the international community, including, importantly, the ICRC, were able to meet the basic humanitarian needs of displaced persons and provide them with shelter;

11.3. notes, based on Armenian sources, that there are currently around 36 000 Armenians from the six-week war who have not returned to their homes;

11.4. notes the problems facing those displaced, namely the lack of long-term shelter, ongoing cash assistance, education for children and the provision of livelihoods, in particular for women.

12. Concerning those from the Nagorno-Karabakh region who either remained or returned, the Assembly:

12.1. strongly regrets the international community's absence from the region, due to an ongoing disagreement between Armenia and Azerbaijan over the issue of access; in this sense, having in mind its Resolution 2240 (2018) "Unlimited access to member States, including 'grey zones', by Council of Europe and United Nations human rights monitoring bodies", it recalls the legal obligations on Council of Europe member States to co-operate fully and in good faith with international human rights monitoring mechanisms, including those of the Council of Europe and the United Nations;

12.2. recalls that all individuals in the Council of Europe area, including those living in conflict zones, are equally entitled to full protection under the European Convention on Human Rights, including via applicable monitoring mechanisms;

12.3. shares their feeling of abandonment by the international community and notes their concerns over security due to border incidents, the proximity of Azerbaijani troops and the regular sound of shots being fired;

12.4. notes the difficulties they face in terms of livelihoods and the need to rebuild and repair war damage and be provided with new housing, as well as protection of their basic human rights;

12.5. calls on all States involved to ensure unimpeded access by representatives of international independent humanitarian organisations and the media to the Nagorno-Karabakh region.

13. The Assembly welcomes the international community's support for Armenia, and in particular the role played by the United Nations Resident Coordinator Office and High Commissioner for Refugees (UNHCR), as well the support of the European Union. The ICRC plays an essential role as the only international

organisation with access to the whole region affected by the conflict. The Russian Federation also has access to the region and has performed an extremely important role in terms of providing humanitarian aid and security through its peacekeepers.

14. Concerning the issue of displaced persons in Azerbaijan, the Assembly:

14.1. notes that, according to Azerbaijani sources, around 84 000 Azerbaijanis were temporarily displaced during the six-week war;

14.2. welcomes the fact that, notwithstanding the difficulties caused by winter and Covid-19, the Azerbaijani authorities were able to provide all necessary assistance. They did so without calling on the international community for help;

14.3. welcomes the fact that almost all those displaced by the six-week war have returned to their homes, and most of the damage has been repaired;

14.4. understands that the greater challenge now for Azerbaijan is the return of the 650 000 displaced persons from the 1991-1994 war and the fact that 65% of these displaced persons would like to return to their homes; recognises in this respect the enormous challenge faced by Azerbaijan, as the territories are heavily mined and the damage is extensive. Areas such as Aghdam and Fuzuli have been almost totally destroyed;

14.5. welcomes the large-scale smart cities programme being developed by Azerbaijan and calls on the international community to provide assistance so that those displaced are able to return.

15. The Assembly recommends that Armenia and Azerbaijan make good use of Council of Europe expertise when designing and implementing their respective policies in support of displaced persons, thereby ensuring that they comply with Council of Europe human rights and rule of law standards.

16. The Assembly encourages the international community to continue to support Armenia and Azerbaijan and move towards a more mid- and long-term strategy that includes not just recovery, but also peacebuilding and confidence-building measures.

17. The Assembly is greatly concerned by the increase in incidents at various points on the border since May 2021. There have been deaths and injuries and Armenian soldiers have been taken captive. The Assembly therefore calls on both sides to:

17.1. de-escalate the situation and keep to the positions agreed by the parties under the trilateral statement;

17.2. negotiate a process of delimitation and demarcation of the border and examine the possibility of creating a demilitarised zone with the presence of a peacekeeping or military monitoring force.

18. The long-running conflict has had a catastrophic impact on the cultural heritage and property of the region, for which both Armenia and Azerbaijan are responsible. In light of this, the Assembly:

18.1. condemns the damage and destruction for which Armenia is responsible in the former conflict areas returned to Azerbaijan, and in particular the almost total destruction and looting of Aghdam, Fuzuli and other areas over the last thirty years, as well as the transfer of cultural heritage;

18.2. condemns the destruction over the last thirty years of Armenian cultural heritage in Azerbaijan for which Azerbaijan is responsible, notably in Nakhchivan Autonomous Republic, and condemns the damage deliberately caused to cultural heritage during the six-week war, and what appears to be the deliberate shelling of the Gazanchi Church, the St. Holy Saviour/Ghazanchetsots Cathedral in Shusha/Shushi, as well as the destruction or damage of other churches and cemeteries during and after the conflict;

18.3. remains concerned, in the light of past destruction, about the future of the many Armenian churches, monasteries, including the monastery in Khutavank/Dadivank, cross-stones (khachkars) and other forms of cultural heritage which have been returned under Azerbaijan control;

18.4. expresses concern about a developing narrative in Azerbaijan promoting a “Caucasian Albanian” heritage to replace what is seen as an “Armenian” cultural heritage;

18.5. recommends that Armenia and Azerbaijan allow the United Nations Educational, Scientific and Cultural Organization (UNESCO) unlimited access to all cultural heritage sites in both countries to assess the damage and the steps necessary to safeguard what remains;

18.6. invites UNESCO to look into the developing narrative promoting a “Caucasian Albanian” heritage, to ensure it is not being manipulated by either side.

19. Hate speech has been a long-standing problem in both countries, as noted by the European Commission against Racism and Intolerance (ECRI) in its reports, in particular in relation to Azerbaijan, which has also been criticised by the Advisory Committee on the Framework Convention for the Protection of National Minorities. The Assembly:

19.1. is shocked by the level of hate speech and hate crimes by both sides that took place during the six-week war, including the filming of horrific acts and their sharing on social media;

19.2. is aware of various statements to the effect that Azerbaijan is proud of its multiculturalism, but regrets that statements made at the highest level continue to portray Armenians in an intolerant fashion. What is known as the “Military Trophy Park” in Baku raises serious concerns, and the Assembly considers that the use of caricatured and stereotyped mannequins exacerbates intolerance and has no place in a museum or in society;

19.3. recommends that both countries take steps to tackle hate speech, including that by public and high-level officials, as well as hate crimes. Both countries should introduce appropriate legislation with the assistance of the Council of Europe.

20. In view of the many human rights issues linked to the humanitarian consequences of the conflict, the Assembly encourages the Council of Europe Commissioner for Human Rights to work with both the Azerbaijani Ombudsman and the Armenian Human Rights Defender to tackle these issues and to visit the region as soon as possible.

21. The Assembly invites Armenia and Azerbaijan to investigate the allegations raised and invites the delegations of both parliaments to the Parliamentary Assembly of the Council of Europe to start a dialogue on these issues.