

INTERNATIONAL COURT OF JUSTICE

**INTERPRETATION AND APPLICATION OF THE  
INTERNATIONAL CONVENTION ON THE  
ELIMINATION OF ALL FORMS  
OF RACIAL DISCRIMINATION**

**(REPUBLIC OF AZERBAIJAN *v.*  
REPUBLIC OF ARMENIA)**

REQUEST FOR THE INDICATION OF  
PROVISIONAL MEASURES OF PROTECTION

3 January 2023



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## I.

### INTRODUCTION

1. I have the honor to refer to the Application Instituting Proceedings submitted on 23 September 2021 (the “*Application*”) on behalf of the Republic of Azerbaijan (“*Azerbaijan*”) against the Republic of Armenia (“*Armenia*”) under Article 22 of the International Convention on the Elimination of All Forms of Racial Discrimination (“*CERD*”) and to the Court’s Order of 7 December 2021 (the “*7 December 2021 Order*”) indicating provisional measures in this matter. Azerbaijan respectfully files this second Request for Provisional Measures in accordance with Article 22 of CERD, Article 41 of the Statute of the Court and Articles 73, 74 and 75 of the Rules of the Court, on the basis of new facts that have come to light since the Court’s 7 December 2021 Order.

2. As described herein, new evidence has emerged that Armenia, contradicting representations it made to the Court in 2021, deliberately continued to lay landmines in or after 2021 in civilian zones to which displaced Azerbaijanis<sup>1</sup> are slated to return. In October 2022, Azerbaijan also discovered booby traps in civilian homes that were planted or facilitated by Armenia’s forces. This new evidence unquestionably demonstrates that Armenia’s recent placement of these landmines and booby traps has both the purpose and effect of discriminatorily impairing Azerbaijanis’ fundamental rights, including rights to life and security of person and rights to return home. Urgent action is needed to stem the mounting casualties caused in recent weeks by Armenia’s actions.

3. In the Trilateral Statement between Azerbaijan, Armenia, and the Russian Federation concluded on 10 November

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<sup>1</sup> Except where the context requires otherwise, this Request uses the terms “Azerbaijani” and “Azerbaijanis” to refer to persons of Azerbaijani ethnic origin or national origin and not in relation to nationality or citizenship.

2020, Armenia agreed to cease all hostilities<sup>2</sup> and return the Kəlbəcər (Kalbajar) and Laçın (Lachin) Districts to Azerbaijan in 2020<sup>3</sup>. The Trilateral Statement also guaranteed the use of a corridor (the “*Lachin Corridor*”) to provide civilian transportation between Xankəndi (Khankandi) and Armenia through the Laçın (Lachin) District under the control of Russian Federation peacemaking forces, and it provided for the construction of a new route through the corridor<sup>4</sup>. In August 2022, after completion of the new route, Azerbaijan regained control of the town of Lachin and the villages of Zabux (Zabukh) and Sus, formerly within the old route of the Lachin Corridor. The Trilateral Statement also provides for the return of internally displaced persons (“*IDPs*”) and refugees to the areas of which Azerbaijan has retained control<sup>5</sup>, and Azerbaijan has been preparing for the return of displaced Azerbaijanis to those areas.

4. Since August 2022, and most recently just a few weeks ago, Azerbaijan has discovered over 2,700 new landmines in the Kalbajar and Lachin Districts. Based on their markings, these landmines all were manufactured in Armenia in 2021. Over half of these newly manufactured landmines were found in

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<sup>2</sup> **Annex 1**, Statement by President of the Republic of Azerbaijan, Prime Minister of the Republic of Armenia and President of the Russian Federation, 10 November 2020, Annex to the letter dated 10 November 2020 from the Permanent Representative of the Russian Federation to the United Nations addressed to the President of the Security Council, document S/2020/1104 (“*Trilateral Statement*”) para. 1 (requiring a “complete ceasefire and termination of all hostilities”).

<sup>3</sup> *Id.* at para. 6 (requiring the return of Kalbajar and Lachin Districts in 2020).

<sup>4</sup> *Id.* at para. 6 (“The Lachin Corridor (5 km wide), which will provide a connection between Nagorno-Karabakh and Armenia while not passing through the territory of Shusha, shall remain under the control of the Russian Federation peacemaking forces. . . . [A] plan will be outlined for the construction of a new route via the Lachin Corridor, to provide a connection between Nagorno-Karabakh and Armenia, and the Russian peacemaking forces shall be subsequently relocated to protect the route.”).

<sup>5</sup> *Id.* at para. 7 (“Internally displaced persons and refugees shall return to the territory of Nagorno-Karabakh and adjacent areas under the supervision of the United Nations High Commissioner for Refugees”).

unequivocally civilian areas far from the Azerbaijan-Armenia border, near the villages of Bağlıpəyə (Baghlipaya) in the Kalbajar District and İkinci İpək (İkinji İpak) and Birinci İpək (Birinji İpak) in the Lachin District. In addition, Azerbaijan has discovered explosive booby traps, made of military equipment such as hand grenades and landmines activated by trip wire, purposely hidden in civilian houses in settlements in the Lachin District.

5. As detailed below, Armenia laid these landmines and booby traps in civilian areas *after* Armenia already had committed in November 2020 to keep the peace, return the territories to Azerbaijan, and allow the return of displaced Azerbaijanis<sup>6</sup>. Contrary to Armenia’s representation to the Court that any landmines were “*defensive weapons*” laid by Armenia during active hostilities<sup>7</sup>, no conceivable military purpose can explain the planting of landmines or booby traps in unequivocally civilian areas in or after 2021. The only conceivable purpose, and the inevitable effect, of Armenia’s actions is to target Azerbaijani civilians on the basis of their Azerbaijani ethnic and national origin, preventing their return home to the areas formerly under Armenia’s military occupation.

6. Just three weeks ago, on 14 December 2022, in the Kalbajar District, seven Azerbaijanis, including four civilian workers, were injured and one Azerbaijani was killed by a landmine blast<sup>8</sup>. Including that incident, 276 Azerbaijanis have been killed or injured by Armenia’s landmines since the

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<sup>6</sup> *Id.* at paras. 1, 6, 7.

<sup>7</sup> See Verbatim Record, public sitting of 18 October 2021, CR 2021/25, pp. 20–24, paras. 4–9 (Murphy).

<sup>8</sup> **Annex 2**, Letter dated 19 December 2022 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, document S/2022/979, p. 4. See also Ministry of Defense of the Republic of Azerbaijan, *Joint Statement of the Azerbaijan Ministry of Defense and the Prosecutor General’s Office* (14 December 2022), <https://mod.gov.az/en/news/joint-statement-of-the-azerbaijan-ministry-of-defense-and-the-prosecutor-general-039-s-office-45683.html>.

November 2020 date of the Trilateral Statement<sup>9</sup>. Azerbaijani IDPs have already begun to return to the areas liberated from Armenian occupation, initially to Zəngilan (Zangilan) District and soon to other districts as well. The continued presence of mines and traps planted by Armenia poses an immediate threat of bodily harm and loss of life to those IDPs as well as to personnel involved in mine clearance operations, and it stands as an impediment to the right of IDPs to return to their homes.

7. Under CERD, measures that have either the purpose or the effect of impairing equal exercise or enjoyment of fundamental rights on the basis of ethnic origin or national origin are prohibited<sup>10</sup>. Armenia's placement of landmines and booby traps in civilian areas previously inhabited by ethnic Azerbaijanis and to which it expected ethnic Azerbaijanis would soon return amply demonstrates that Armenia's conduct is discriminatory both in purpose and effect. To indicate provisional measures, it suffices that Azerbaijan has stated a plausible case that Armenia's conduct was discriminatory *either* in purpose *or* in effect.

8. Azerbaijan has raised and attempted to resolve this issue, both through diplomatic efforts and through correspondence with the Court<sup>11</sup>, but to no avail. To date, Armenia has refused to share information in its possession about the location

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<sup>9</sup> Ministry of Foreign Affairs of the Republic of Azerbaijan, No:596/22, *Commentary of the Press Service of the Ministry of Foreign Affairs of the UN Security Council on discussions regarding the situation on the Lachin road* (21 December 2022), <https://mfa.gov.az/en/news/no59622>.

<sup>10</sup> International Convention on the Elimination of All Forms of Racial Discrimination, 4 January 1969, 660 U.N.T.S. 195 (“*CERD*”), Arts. 1, 2, 5.

<sup>11</sup> See, e.g., **Annex 3**, Letter of 15 September 2022 from Mr. Elnur Mammadov, Agent of Azerbaijan to Mr. Yeghishe Kirakosyan, Agent of Armenia; **Annex 4**, Letter of 22 September 2022 from Mr. Elnur Mammadov, Agent of Azerbaijan, to Mr. Philippe Gautier, Registrar of the International Court of Justice; **Annex 5**, Letters from Lieutenant General Azer Aliyev, Head of the Investigation Department of the Ministry of Defense of the Republic of Azerbaijan, to Major General Andrey Volkov Alexandrovich, Commander of the Russian Peacekeeping Forces (2022) (certified translation).

of landmines and booby traps laid in areas over which Azerbaijan has recently regained control. Armenia has flatly refused to engage with Azerbaijan, instead issuing blanket denials that it has carried out this conduct without addressing the substantial evidence presented by Azerbaijan<sup>12</sup>.

9. Most recently, Armenia at the last minute pulled out of peace negotiations between the parties and the Russian Federation scheduled to take place on 23 December 2022 to address current issues, including the “aggravated situation” in the Lachin Corridor and Azerbaijan’s concerns about Armenia’s continued non-compliance with the Trilateral Statement<sup>13</sup>. Azerbaijan and the Russian Federation only learned of Armenia’s decision to

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<sup>12</sup> **Annex 6**, Letter dated 27 September 2022 from Mr. Yeghishe Kirakosyan, Agent of the Republic of Armenia, to Mr. Philippe Gautier, Registrar of the International Court of Justice, p. 2.

<sup>13</sup> See Ministry of Foreign Affairs of the Russian Federation, *Foreign Minister Sergey Lavrov’s statement and answers to media questions at a joint news conference with Foreign Minister of the Republic of Azerbaijan Jeyhun Bayramov following talks, Moscow, December 23, 2022*, [https://mid.ru/en/press\\_service/minister\\_speeches/1845369/](https://mid.ru/en/press_service/minister_speeches/1845369/) (describing an “earlier agreement” to hold a meeting “to follow up on our discussion of the peace treaty between these two countries”, but that “[u]nfortunately, our Armenian colleagues didn’t show up. They said they wouldn’t come at the last moment. We have taken note of this.”); *id.* (“Nonetheless, we decided to hold the meeting and see where we stand in terms of the current issues and progress towards a lasting settlement of the issues in all respects.”); *id.* (“We believe that everyone must strictly comply with the obligations spelled out in the statement by the leaders of Russia, Azerbaijan and Armenia of November 9, 2020 regarding traffic regulations in the Lachin corridor. As far as I understand, our Azerbaijani colleagues hold the same position.”); Ministry of Foreign Affairs of the Republic of Azerbaijan, *No:606/22, Commentary of the Press Service Department of the Ministry of Foreign Affairs on the statement of the Foreign Ministry of Armenia dated December 24, 2022*, <https://www.mfa.gov.az/en/news/no60622> (referring to Armenia’s use of the Lachin corridor to supply its armed forces and transport landmines in violation of paragraph 6 of the Trilateral Statement). See also United Nations Security Council, 9228th Meeting, on Letter from the Permanent Representative of Armenia to the United Nations addressed to the President of the Security Council (20 December 2022), video recording, at 1:08:14–1:09:52 (statement of Permanent Representative of Azerbaijan), <https://media.un.org/en/asset/k1o/k1o8d80kaj> (“*UNSC Video*”).

renege on its agreement to participate in the talks from a press release issued by Armenia<sup>14</sup>. Armenia's refusal to show up for the talks without even sending a diplomatic communication to the other parties led the Russian Federation's Foreign Minister Sergey Lavrov to criticize Armenia's conduct and to note that Armenia's decision not to attend will only delay the resolution of pending issues<sup>15</sup>.

10. Unless Armenia provides information about the location of mines and traps, further avoidable loss of lives, principally civilian lives, will be inevitable. Azerbaijan therefore requests that the Court require Armenia to take all necessary steps, including disclosure of information in its possession about the locations and characteristics of landmines and other explosive devices planted by Armenia in the relevant areas, to enable effective demining of these areas. In light of the fundamental nature of the rights at issue—including the rights to life and personal security—and the ongoing and serious threat of further irreparable harm to those rights, Azerbaijan respectfully requests that the Court consider this Request as a matter of urgency.

## II.

### JURISDICTION OF THE COURT

11. The Court has jurisdiction over the dispute between Azerbaijan and Armenia regarding the interpretation and

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<sup>14</sup> See Ministry of Foreign Affairs of the Russian Federation, *Foreign Minister Sergey Lavrov's statement and answers to media questions at a joint news conference with Foreign Minister of the Republic of Azerbaijan Jeyhun Bayramov following talks, Moscow, December 23, 2022*, [https://mid.ru/en/press\\_service/minister\\_speeches/1845369/](https://mid.ru/en/press_service/minister_speeches/1845369/) (“I have already expressed regret that our agreement on a trilateral meeting in Moscow was not fulfilled. Our Armenian colleagues refused to attend. Like you, we learned about their refusal from a report of the Press Service. They did not contact us via the diplomatic channels that are normally used in such cases. But this is the decision of Armenia.”).

<sup>15</sup> See *id.* (noting that conflict incidents “will continue even longer and more frequently if one side refuses to take part in agreed-upon rounds of talks after such incidents”).



application of CERD pursuant to its Statute and Rules and Article 22 of CERD<sup>16</sup>. In its 7 December 2021 Order, the Court found that, “prima facie, it has jurisdiction pursuant to Article 22 of CERD to entertain the case to the extent that the dispute between the Parties relates to the ‘interpretation or application’ of the Convention”<sup>17</sup>. Because this Request involves Armenia’s ongoing violations of rights asserted by Azerbaijan under CERD, the Court’s *prima facie* jurisdiction extends to this Request.

### III.

#### FACTS SUPPORTING THE REQUEST

##### A. New Evidence That Armenia Has Been Placing Landmines in Areas to Which Azerbaijani Civilians Will Be Returning

12. Since August 2022, Azerbaijan has discovered over 2,700 recently manufactured Armenian-produced landmines in the Lachin and Kalbajar Districts<sup>18</sup>. Over 1,000 of these mines

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<sup>16</sup> *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Republic of Azerbaijan v. Republic of Armenia)*, Application Instituting Proceedings (“**Application**”), paras. 1, 21–23.

<sup>17</sup> *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Republic of Azerbaijan v. Republic of Armenia)*, Provisional Measures, Order of 7 December 2021, I.C.J. Reports 2021 (“**7 December 2021 Order**”), para. 40.

<sup>18</sup> **Annex 7**, Letter from Major General Anar Karimov, Head of the General Department of Engineering Troops, Ministry of Defense of the Republic of Azerbaijan, to Mr. Elnur Mammadov, Deputy Foreign Minister of the Republic of Azerbaijan (30 December 2022) (certified translation) (“**30 December 2022 MOD Letter**”), p. 3. *See also Annex 8*, Letter from Mr. Jeyhun Bayramov, Minister of Foreign Affairs of the Republic of Azerbaijan, to H.E. Mr. Antonio Guterres, Secretary-General of the United Nations (28 November 2022), p. 1.

were discovered after the submission of Azerbaijan’s 22 September 2022 letter to the Court<sup>19</sup>.

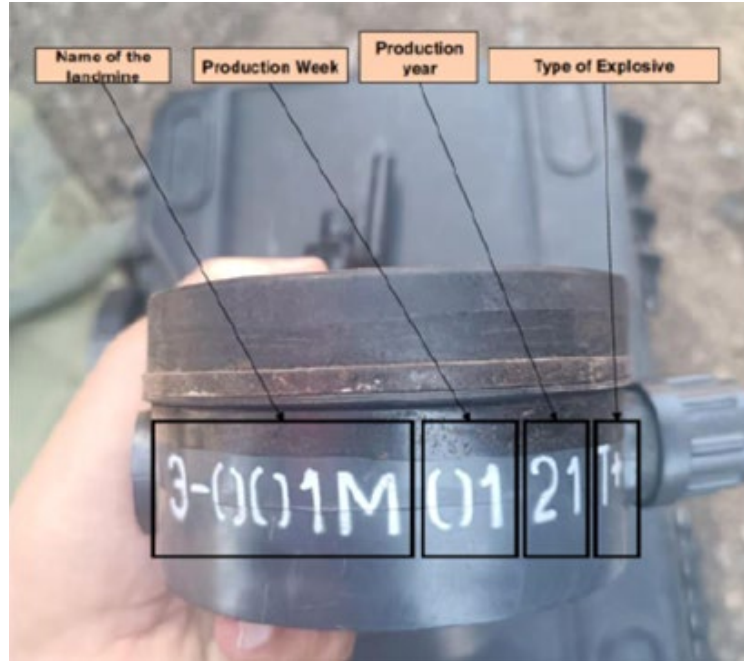
13. An Armenian landmine instruction manual that Azerbaijani forces recovered near one of the minefields detail the workings of the landmines, and markings found on the landmines show that all of them are antipersonnel mines produced in Armenia in 2021<sup>20</sup>. Figure 1 below shows one of the Armenian mines discovered in Lachin District with the marking showing the year of manufacture.

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<sup>19</sup> **Annex 7**, 30 December 2022 MOD Letter, p. 3.

<sup>20</sup> **Annex 9**, Letter from Azer Aliyev, Head of the Main Operations Department of the Ministry of Defense of the Republic of Azerbaijan, to Mr. Elnur Mammadov, Deputy Foreign Minister of the Republic of Azerbaijan, regarding the Ministry of Defense’s investigation and review of newly discovered landmines (20 September 2022), *with enclosures* (certified translation) (“**20 September 2022 MOD Letter**”), pp. 2, 5–6, 20 (depicting the mines’ Armenian make and production year); **Annex 10**, Letter dated 4 November 2022 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, document A/77/597 (18 November 2022), pp. 3, 13; **Annex 5**, Letters from Lieutenant General Azer Aliyev, Head of the Investigation Department of the Ministry of Defense of the Republic of Azerbaijan, to Major General Andrey Volkov Alexandrovich, Commander of the Russian Peacekeeping Forces (2022) (certified translation), p. 1; **Annex 11**, Letter dated 24 August 2022 from the Chargé d’affaires ad interim of the Permanent Mission of Azerbaijan to the United Nations addressed to the Secretary-General, document A/76/930-S/2022/642.

**Figure 1: Landmine found in Lachin District<sup>21</sup>**



14. Armenia was required in the Trilateral Statement to withdraw its forces in parallel to the deployment of the Russian Federation peacekeepers<sup>22</sup>. Despite this, Armenia’s forces have continued to operate within Azerbaijan’s sovereign territory in violation of the Trilateral Statement, as the Secretary of Armenia’s Security Council, Armen Grigoryan, has conceded<sup>23</sup>.

<sup>21</sup> **Annex 9**, 20 September 2022 MOD Letter, pp. 2, 20 (depicting the mines’ Armenian make and production year).

<sup>22</sup> **Annex 1**, Trilateral Statement, para. 4.

<sup>23</sup> “Armenian military returns from NK after wartime support deployment”, *ArmenPress* (19 July 2022), <https://armenpress.am/eng/news/1088539/>. See also Ministry of Foreign Affairs of the Republic of Azerbaijan, No:356/22, *Commentary of the Press Service Department of the Ministry of Foreign Affairs of the Republic of Azerbaijan on the statement of the Ministry of Foreign Affairs of Armenia dated August 3, 2022*, <https://www.mfa.gov.az/en/news/no35622>; Ministry of Defense of the Republic of Azerbaijan, *Azerbaijani Army positions were subjected to fire* (17

Armenia evidently used the Lachin Corridor to bring these landmines into at least the Lachin District after the date of the Trilateral Statement. That Corridor provides the only route from Armenia in and out of the region; Armenia has been using it for carrying military equipment and weapons from Armenia into Azerbaijan’s territory<sup>24</sup>.

15. Over half of the recently manufactured landmines were discovered in civilian areas to which Azerbaijani displaced persons are due to return<sup>25</sup>. Lachin District, for instance, was populated by 46,396 ethnic Azerbaijanis in 1989, who constituted 89.9% of its population<sup>26</sup>; and Kalbajar District was home to 42,548 ethnic Azerbaijanis in 1989, representing 96.6% of its population<sup>27</sup>. In August 2022, Azerbaijan discovered 1,259 of these landmines in close proximity to the villages of Ikinji Ipak and Birinji Ipak in the Lachin District—which are far from the Azerbaijan-Armenia border and , prior to Armenia’s occupation,

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December 2022), <https://mod.gov.az/en/news/azerbaijan-army-positions-were-subjected-to-fire-45724.html> (“[M]embers of an illegal Armenian armed detachment in the territory of Azerbaijan, where the Russian peacekeepers are temporarily deployed, using small arms subjected to fire the Azerbaijan Army positions stationed in the direction of the Naghdali settlement of the Lachin region.”).

<sup>24</sup> See UNSC Video at 1:08:14–1:09:52; **Annex 5**, Letters from Lieutenant General Azer Aliyev, Head of the Investigation Department of the Ministry of Defense of the Republic of Azerbaijan, to Major General Andrey Volkov Alexandrovich, Commander of the Russian Peacekeeping Forces (2022) (certified translation). See also **Annex 12**, CBC TV Azerbaijan, “Использовать Лачинский коридор для поставок оружия недопустимо — политолог Гусейнов”, YouTube, 7 November 2022, <https://www.youtube.com/watch?v=BPRLB1NOljQ> (certified translation); Caucasus War Report, Twitter, @Caucasuswar (16 December 2022, 08:14), <https://twitter.com/Caucasuswar/status/1603740341118681089>.

<sup>25</sup> **Annex 7**, 30 December 2022 MOD Letter.

<sup>26</sup> **Annex 4 to Azerbaijan’s Application**, USSR State Committee for Statistics, Results of the 1989 All-Union Population Census, Population Structure by Ethnicity, Native Language and Second Language of the USSR Peoples, Moscow 1989 (certified translation), p. 9.

<sup>27</sup> *Id.* at p. 8.

were home to a population of 50 ethnic Azerbaijani civilians<sup>28</sup>. Azerbaijan also discovered Armenian anti-personnel mines near the village of Baghlipaya in Kalbajar District, which again is far from the border and was home to 282 ethnic Azerbaijanis before Armenia's occupation<sup>29</sup>. Most recently, in November 2022, Azerbaijan discovered an additional minefield of 350 mines produced in Armenia in 2021 near the village of Ikinji Ipak in Lachin District<sup>30</sup>.

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<sup>28</sup> **Annex 9**, 20 September 2022 MOD Letter, pp. 2, 12; **Annex 13**, Letter from Fuad Huseynov, Deputy Chairman of the State Committee for Affairs of Refugees and Internally Displaced Persons of the Republic of Azerbaijan, to Mr. Elnur Mammadov, Deputy Foreign Minister of the Republic of Azerbaijan, regarding population and demographic information of the Lachin District (20 September 2022) (certified translation).

<sup>29</sup> **Annex 14**, Letter from Fuad Huseynov, Deputy Chairman of the State Committee for Affairs of Refugees and Internally Displaced Persons of the Republic of Azerbaijan, to Mr. Elnur Mammadov, Deputy Foreign Minister of the Republic of Azerbaijan, regarding population and demographic information of the Baghlipaya village of the Kalbajar district (29 December 2022) (certified translation). *See also Annex 9*, 20 September 2022 MOD Letter, pp. 2, 12; **Annex 13**, Letter from Fuad Huseynov, Deputy Chairman of the State Committee for Affairs of Refugees and Internally Displaced Persons of the Republic of Azerbaijan, to Mr. Elnur Mammadov, Deputy Foreign Minister of the Republic of Azerbaijan, regarding population and demographic information of the Lachin District (20 September 2022) (certified translation).

<sup>30</sup> **Annex 7**, 30 December 2022 MOD Letter, p. 4; **Annex 8**, Letter from Mr. Jeyhun Bayramov, Minister of Foreign Affairs of the Republic of Azerbaijan, to H.E. Mr. Antonio Guterres, Secretary-General of the United Nations (28 November 2022), p. 1.

**Figure 2: Landmines found near Ikinji Ipak and Birinji Ipak settlements in August 2022<sup>31</sup>**



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<sup>31</sup> **Annex 5**, Letters from Lieutenant General Azer Aliyev, Head of the Investigation Department of the Ministry of Defense of the Republic of Azerbaijan, to Major General Andrey Volkov Alexandrovich, Commander of the Russian Peacekeeping Forces (2022) (certified translation), p. 8; **Annex 9**, 20 September 2022 MOD Letter, p. 15.



16. These mines were placed in close proximity to villages that were formerly home to Azerbaijani IDPs<sup>32</sup>. Almost all—1,609 of the 1,614 mines discovered<sup>33</sup>—were confirmed as manufactured in 2021 in Armenia and therefore must have been laid by Armenia after it committed in the Trilateral Statement to cease all hostilities, return the territories to Azerbaijan, and allow

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<sup>32</sup> **Annex 7**, 30 December 2022 MOD Letter, p. 4; **Annex 9**, 20 September 2022 MOD Letter, p. 2.

<sup>33</sup> Five mines found in Baghlipaya were of unknown manufacture date. See **Annex 7**, 30 December 2022 MOD Letter, pp. 3–4.

the return of Azerbaijani IDPs<sup>34</sup>. Armenia accordingly had no conceivable military purpose for planting landmines in those areas. They can only have been intended to prevent the return of Azerbaijani civilians to their homes, on the basis of their Azerbaijani ethnic and national origin.

### **B. New Evidence that Armenia Has Been Booby-Trapping Houses in Areas to Which Azerbaijani Civilians Will Be Returning**

17. On 26 August 2022, Azerbaijan completed construction of a new road segment contemplated by the Trilateral Statement. This new road segment was constructed so that Azerbaijan could regain control of and rebuild the town of Lachin and the villages of Zabukh and Sus along the old Lachin Corridor route to facilitate the return of displaced Azerbaijanis. After the new road segment was completed, the Russian peacekeepers were relocated to the new route, and Azerbaijan regained control of the settlements along the old route.

18. After Azerbaijan regained control of Lachin town, Zabukh and Sus, it found booby traps planted in the houses in Zabukh and Sus, including under entryway floors, behind doors, and in courtyards. Azerbaijan found these traps on 3 October 2022 as it prepared for the return of Azerbaijanis to those villages<sup>35</sup>. The traps consisted of antipersonnel landmines with

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<sup>34</sup> See para. 3, above. See also **Annex 1**, Trilateral Statement, paras. 1, 6, 7.

<sup>35</sup> **Annex 10**, Letter dated 4 November 2022 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, document A/77/597 (18 November 2022), p. 4; Ministry of Foreign Affairs of the Republic of Azerbaijan, No: 493/22, *Press release on ongoing threats as a result of planting of landmines in the territories of Azerbaijan by Armenia* (25 October 2022), <https://www.mfa.gov.az/en/news/no49322>; **Annex 8**, Letter from Mr. Jeyhun Bayramov, Minister of Foreign Affairs of the Republic of Azerbaijan, to H.E. Mr. Antonio Guterres, Secretary-General of the United Nations (28 November 2022), p. 1.



hand grenades under them activated by trip wire.<sup>36</sup> Because these traps were constructed with military equipment, they must have been planted by or with the cooperation of Armenia's armed forces<sup>37</sup>. No active military operations had been conducted in those areas, so the booby traps could only have been intended to target civilians<sup>38</sup>.

19. Three of these explosive devices are illustrated in Figures 3, 4, and 5 below.

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<sup>36</sup> **Annex 10**, Letter dated 4 November 2022 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, document A/77/597 (18 November 2022), p. 4.

<sup>37</sup> *Id.* at p. 4; 20 September 2022 MOD Letter, pp. 5-6.

<sup>38</sup> **Annex 10**, Letter dated 4 November 2022 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, document A/77/597 (18 November 2022), p. 4.

**Figure 3: Explosive Device Installed Underneath Entry-way Floorboard in Lachin District<sup>39</sup>**



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<sup>39</sup> **Annex 10**, Letter dated 4 November 2022 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, document A/77/597 (18 November 2022), p. 18 (“Improvised hand-made explosive device installed under the floor at the entrance to the interior of the house which starts without releasing from the installed pressure located at the coordinates 39° 37’ 34.1” N 46° 30’ 53.6” E in the Sus village, Lachin district. . . . The floor at the entrance was removed and replaced with a closet door so that the unit would start without depressurizing when the door is lifted or stepped on both ends”).

**Figure 4: Grenade Installed in Door Entryway in Lachin District<sup>40</sup>**



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<sup>40</sup> **Annex 10**, Letter dated 4 November 2022 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, document A/77/597-S/2022/835 (18 November 2022), p. 16 (“RQ-42 hand grenade installed in the form of a trap mine on the entrance door in the roof part of the house located at the coordinates of 39° 37' 36.7" N 46° 30' 48.6" E in the Sus village, Lachin district. The body of the grenade is surrounded by nails from the outside to strengthen the shrapnel effect and increase the danger distance. The stairs of the house were blown up to direct the potential victim to that entrance.”).

**Figure 5: Mine Installed in Door Entryway in Lachin District<sup>41</sup>**



20. Like the landmines, the placement of booby traps in civilian homes, in areas abandoned by Armenian settlers and to which Azerbaijani IDPs were expected to return, demonstrates that they were targeted against Azerbaijanis to prevent them returning home on the basis of ethnic origin and national origin.

21. This ethnically targeted conduct is consistent with Armenia's larger goal underlying its invasion and nearly 30-year

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<sup>41</sup> **Annex 10**, Letter dated 4 November 2022 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, document A/77/597-S/2022/835 (18 November 2022), p. 15 (“POMZ 2 mine installed inside the door of the stall on the lower floor of the house located at the coordinates of 39° 35' 16.6" N 46° 32' 48.5" N in the village of Zabukh, Lachin district. The detonator is an MUV-2 type detonator manufactured in Armenia reinforced with an additional 1 x 75g TNT canister and 1 x 40mm OQ-7 rifle grenade corp.”).

occupation, which was to create a monoethnic “Greater Armenian” state that included part of Azerbaijan’s territory<sup>42</sup>. Prior to Armenia’s military occupation, hundreds of thousands of Azerbaijanis lived in the now-liberated territories<sup>43</sup>. As described in Azerbaijan’s Application, Armenia violently expelled hundreds of thousands of these Azerbaijanis from their homes in the then-occupied territories of Azerbaijan in a campaign of ethnic cleansing in the early 1990s, which ultimately resulted in the displacement of over 700,000 Azerbaijanis<sup>44</sup>. Armenia’s ethnic cleansing campaign was based on the openly expressed ethnonationalist ideology that Azerbaijanis cannot coexist peacefully with Armenians because of “ethnic incompatibility”<sup>45</sup> and must therefore be separated from Armenians and purged from areas near ethnic Armenian settlements<sup>46</sup>.

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<sup>42</sup> Application, para. 30.

<sup>43</sup> *Id.* at paras. 10, 35–39.

<sup>44</sup> *Id.* at paras. 10, 31–39.

<sup>45</sup> **Annex 5 to Azerbaijan’s Application**, “Council of Europe slams Armenian president’s ‘ethnic incompatibility’ remarks”, BBC (31 January 2003) (quoting Armenia’s then-President Robert Kocharyan as stating “This is about ethnic incompatibility. It is certainly unpleasant for me to say this, but this is a fact.”). *See also, e.g.*, T. de Waal, *Black Garden: Armenia and Azerbaijan through Peace and War* (2013), p. 310 (quoting Serzh Sargsyan, then Chief of Staff to the President, Minister of Defense and future Prime Minister and President of Armenia, as saying that “Our cultures are not compatible.”).

<sup>46</sup> Armenia’s Government sought to justify its ethnic cleansing campaign on the basis of the “Tseghakron” ideology, historically advanced by Garegin Nzhdeh, which posits that Azerbaijanis are an inferior “race” comprised of “barbarians” who are “not human”. *See* G. Nzhdeh, *Selected Works of Garegin Nzhdeh* (E. L. Danielyan, translation and commentary) (2011), pp. 35, 113 (espousing the Tseghakron desire “to be a powerful and Aryan people” while denigrating “Turks” as “barbarians, and barbarian means ignorance, immorality and cowardice”); **Annex 3 to Azerbaijan’s Application**, G. Nzhdeh, *Tribal Religion Movement*, [http://www.hhk.am/files/library\\_pdfs/24.pdf](http://www.hhk.am/files/library_pdfs/24.pdf) (Certified Translation), p. 5 (“Being a Tseghakron requires worshipping the blood of the race[ ]. In short, Tseghakron is against mixed marriages.”); **Annex 15**, G. Nzhdeh, *Unpreachable Nation* (certified translation), p. 144 (describing “Turks” as

22. Azerbaijan’s liberation of the territories held by Armenia during its 30-year occupation has not extinguished Armenia’s desire to exclude ethnic Azerbaijanis from its vision of an expanded “Greater Armenia”. Serzh Sargsyan, former Prime Minister and President of Armenia and current head of the Republican Party of Armenia, made this clear when he stated in May 2000 about Armenia’s ethnic cleansing campaign against Azerbaijanis: “The most important thing is not the territory. It’s that one ethnic group is left in Armenia.”<sup>47</sup> Consistent with this goal of establishing a monoethnically Armenian population in a portion of Azerbaijan’s territory, Armenia has maintained its efforts to exclude Azerbaijanis even though its military occupation has ended.

23. The ethnic animus behind Armenia’s planting of explosives in civilian areas is consistent with Armenia’s larger campaign to deter the return of Azerbaijani IDPs to the liberated territories. As international observers have documented, settlements that have returned to Azerbaijan’s control under the Trilateral Statement were destroyed by retreating Armenian military units in cooperation with departing ethnic Armenians who

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“this people, who for centuries had more dog traits in themselves than human ones, does not belong to our kind”); **Annex 23 to Azerbaijan’s Application**, “David Babayan: ‘Non-Humans Are Fighting Against Artsakhis’”, Public Radio of Armenia (15 October 2020), <https://ru.armradio.am/2020/10/15/давид-бабаян-против-арцахцев-воюют-и> (certified translation). “Turks” referred to both the former Ottoman Empire and to Azerbaijanis. See G. Nzhdeh, *Selected Works of Garegin Nzhdeh* (E. L. Danielyan, translation and commentary) (2011), p. 7 (referencing “Turco-Tatars of eastern South Caucasus (subsequently identified as Azerbaijanis)”). Today, the Republican Party of Armenia, the ruling party of Armenia from 1999 to 2018, still states on its website that it is “the ideological and political successor of Nzhdeh Tseghakron Professios and National United Party” whose “ideological basis is Garegin Nzhdeh’s teaching”. Republican Party of Armenia, “History of the Party”, <http://www.hhk.am/en/history/>. See also R. Panossian, “The Past as Nation: Three Dimensions of Armenian Identity”, *Geopolitics Journal*, vol. 7, p. 121 (2002), at pp. 133–136.

<sup>47</sup> T. de Waal, *Black Garden: Armenia and Azerbaijan Through Peace and War* (New York University Press, 2013), p. 310.

had been illegally settled there by the Government of Armenia<sup>48</sup>. Just in the last few months, departing settlers burned houses and forests and desecrated cemeteries in the settlements along the former route of the Lachin Corridor that were recently returned to Azerbaijan's control, and Armenia took no steps to prevent, investigate or seek accountability for these acts. This looting and destruction targets Azerbaijani IDPs by its nature<sup>49</sup>, and this goal has been confirmed by the words of the individuals committing these acts. For example, an Armenian settler in Zabukh confirmed that he set a house on fire to prevent Azerbaijanis from

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<sup>48</sup> For example, between 13 and 14 November 2020, Armenian troops and settlers burned at least 16 homes in the village of Çərəkdar (Charakdar) in Kalbajar District. See, e.g., “Nagorno-Karabakh: Villagers burn their homes ahead of peace deal”, *The Guardian* (14 November 2020), <https://www.theguardian.com/world/2020/nov/14/nagorno-karabakh-villagers-burn-their-homes-ahead-of-peace-deal>; Caucasus War Report, Twitter, @Caucasuswar (14 November 2020), <https://twitter.com/Caucasuswar/status/1327646682780151809?s=20&t=Fd0AykqaDWCletNwxX-neQ>; “Scorched Earth: Ethnic Armenians Destroy Homes, Infrastructure Before Fleeing Azerbaijani Regions”, Radio Free Europe/Radio Liberty (16 November 2020), <https://www.rferl.org/a/scorched-earth-as-ethnic-armenians-burn-homes-before-handover-of-territory-to-azerbaijancontrol/30952511.html>. See also T. Kuzio, “Mines, Karabakh and Armenia’s crisis”, *New Eastern Europe* (16 April 2021), <https://neweasterneurope.eu/2021/04/16/mines-karabakh-and-armenias-ccrisis/>. This is consistent with Armenia’s longstanding practice of a scorched-earth policy during its 30-year occupation, as documented by the then-Chairperson-in-Office of the Conference on Security and Cooperation in Europe (now the Organization for Security and Cooperation in Europe) (“CSCE”). See **Annex 15 to Azerbaijan’s Application**, Report by the Chairman of the CSCE Council on her visit to the Transcaucasian participating States, CSCE Communication No. 301, Prague, 19 November 1993, p. 8.

<sup>49</sup> See **Annex 4**, Letter of 22 September 2022 from Mr. Elnur Mammadov, Agent of Azerbaijan, to Mr. Philippe Gautier, Registrar of the International Court of Justice, pp. 7–9. See also **Annex 16**, Telegram, @herbixeber, 18 August 2022, <https://t.me/herbixeber/17101>, Telegram, @herbixeber, 18 August 2022, <https://t.me/herbixeber/17108>, Telegram, @reartsakh, 26 August 2022, <https://t.me/reartsakh/14414> (ethnic Armenians destroying their homes in Zabukh); **Annex 17**, Ministry of Defense of the Republic of Azerbaijan, YouTube, “Laçın rayonunun Sus kəndindən videogörüntülər”, 1 September 2022, <https://www.youtube.com/watch?v=eGD4e9GCZjg> (certified translation).

returning to the village, stating, “[t]he Turk will not be able to benefit of this house”<sup>50</sup>.

### C. The Impact of the Landmines and Booby Traps on Azerbaijani Internally Displaced Persons

24. For decades, as a result of Armenia’s actions, Azerbaijan has had “one of the largest per capita displaced populations in the world”, according to the United Nations High Commissioner for Refugees<sup>51</sup>. The vast majority of the more than 700,000 Azerbaijani IDPs have long wanted to return to their homes<sup>52</sup>, and the parties to the November 2020 Trilateral

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<sup>50</sup> **Annex 18**, Caliber.az English, Twitter, @CaliberEnglish (14 August 2022), <https://twitter.com/CaliberEnglish/status/1558825016510353410?s=20&t=49wje8wIv7MveA YFPdV1SQ> (certified translation). The word “Turk” is used disparagingly in reference to Azerbaijanis to deny them a distinct ethnic or national origin identity or heritage. Similarly, one Armenian soldier declared as he lit a house on fire in November 2020: “The Azeris. Screw them. Let them live here, if they can”. See also “Armenians set fire to homes before handing village over to Azerbaijan”, *Reuters* (14 November 2020), <https://www.reuters.com/article/us-armenia-azerbaijan-village/armenians-set-fire-to-homes-before-handing-village-over-to-azerbaijan-idUSKBN27U0FQ>.

<sup>51</sup> United Nations High Commissioner for Refugees, *Azerbaijan: Analysis of Gaps in the Protection of Internally Displaced Persons (IDPs)* (October 2009), p. 7, <https://www.unhcr.org/4bd7edbd9.pdf>.

<sup>52</sup> See, e.g., United Nations Human Rights Council, *Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kalin: Mission to Azerbaijan*, document A/HRC/8/6/Add.2 (15 April 2008), para. 52 (“The Representative noted the overwhelming desire of most internally displaced persons he consulted to return to their homes or villages”); United Nations High Commissioner for Refugees, *Azerbaijan: Analysis of Gaps in the Protection of Internally Displaced Persons (IDPs)* (2009), p. 50, <https://www.unhcr.org/4bd7edbd9.pdf> (“[A]ll IDP men, women, boys and girls interviewed in participatory assessment in 2007, expressed their fervent wish for a durable solution to their situation, stating that the preferred solution was the return to their place of origin.”); **Annex 19**, YouTube, “Zabux kənd sakini Elburus Əsədov 30 il əvvəl tərək etdiyi doğma yurduna qayıtmağa hazırlaşır” (describing an Azerbaijani IDP from Zabukh’s desire to go back home and “kneel and kiss the ground”). See also United Nations General Assembly, resolution 62/243 (2008), para. 2 (reaffirming “the inalienable right of the population expelled



Statement—including Armenia—recognized their right to do so<sup>53</sup>. Allowing displaced civilians to return to the liberated territories is one of Azerbaijan’s top priorities<sup>54</sup>. Displaced Azerbaijanis have already begun returning to their homes in the liberated territories, with an initial group returning to Zangilan District and other districts to follow soon<sup>55</sup>.

25. The presence of landmines and booby traps represents a real and present threat, not only to civilian workers engaged in reconstruction works and Azerbaijan’s forces engaged in clearance operations, but also to the displaced Azerbaijani civilians in the process of exercising their right to return home<sup>56</sup>. One Azerbaijani IDP, Ziba Dadashova, from the village of Sus in Lachin District, explained her family’s inability to return to their homes as follows:

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from the occupied territories of the Republic of Azerbaijan to return to their homes”, and stressing “the necessity of creating appropriate conditions for this return, including the comprehensive rehabilitation of the conflict-affected territories”).

<sup>53</sup> **Annex 1**, Trilateral Statement, para. 7 (noting that “[i]nternally displaced persons and refugees shall return to the territory of Nagorno-Karabakh and adjacent areas”).

<sup>54</sup> **Annex 20**, Order of the President of the Republic of Azerbaijan, *On approval of the ‘I State Program on the Great Return to the liberated territories of the Republic of Azerbaijan’* (16 November 2022) (certified translation), p. 1.

<sup>55</sup> T. Turksyoy, “Great Return: First Group of Azerbaijanis Once Expelled by Armenians Returns Back Home”, *Caspian News* (19 July 2022), <https://caspiannews.com/news-detail/great-return-first-group-of-azerbaijanis-once-expelled-by-armenians-returns-back-home-2022-7-19-0/>; Azerbaijan Starts Return of People to Recaptured Areas”, *VOA* (19 July 2022), <https://www.voanews.com/a/azerbaijan-starts-return-of-people-to-recaptured-areas-/6665547.html>.

<sup>56</sup> **Annex 20**, Order of the President of the Republic of Azerbaijan, *On approval of the ‘I State Program on the Great Return to the liberated territories of the Republic of Azerbaijan’* (16 November 2022) (certified translation), pp. 2, 9, 12, 17 (setting out Azerbaijan’s plans for clearing mines, unexploded ordinances, and other explosive devices and remnants in order to enable the return of displaced civilians to their homes).

“Those places were like paradise. We have lived there, thus we are longing for there ... [but] we are afraid that the child we raised with difficulties would die in a landmine explosion there. That is why we have concerns”<sup>57</sup>.

26. The eight Azerbaijanis killed or severely injured on 14 December 2022 had triggered Armenian-manufactured landmines that Armenia had been planted in the village of Çıraq (Chirag) in the Kalbajar District. The victims included four civilian workers who were engaged in repair and reconstruction works in anticipation of the return of Azerbaijani IDPs<sup>58</sup>.

27. Armenia continued to place landmines in Azerbaijan’s territory after it signed the Trilateral Statement and will not divulge information about the location of its landmines and other explosives. The indication of additional provisional measures directing Armenia to provide information necessary to assist in demining Azerbaijan’s territory and cease any further planting of landmines or explosives in Azerbaijan’s territory is urgently needed to prevent further loss of life and to protect the rights of Azerbaijanis under CERD.

#### IV.

#### THE RIGHTS AZERBAIJAN SEEKS TO PROTECT

28. Under Article 41 of the Court’s Statute, the Court has “the power to indicate, if it considers the circumstances so require, any provisional measures which ought to be taken to

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<sup>57</sup> **Annex 21**, YouTube, “Boşaldılan Sus kəndi köçkünlərinin qayğıları: kənddə iş, salamat ev varmı?”, Azadlıq Radiosu (29 August 2022), <https://www.youtube.com/watch?v=7MDtFQWNff0> (certified translation).

<sup>58</sup> **Annex 2**, Letter dated 19 December 2022 from the Permanent Representative to the United Nations addressed to the Secretary-General (19 December 2022), p. 4. *See also* Ministry of Defense of the Republic of Azerbaijan, *Joint Statement of the Azerbaijan Ministry of Defense and the Prosecutor General’s Office* (14 December 2022), <https://mod.gov.az/en/news/joint-statement-of-the-azerbaijan-ministry-of-defense-and-the-prosecutor-general-039-s-office-45683.html>.

preserve the respective rights of either party”. To indicate provisional measures in respect of these rights, the Court need not “establish the existence of breaches of CERD”<sup>59</sup> or “determine definitively whether the rights which Azerbaijan wishes to see protected exist; it need only determine whether the rights claimed by Azerbaijan on the merits, and for which it is seeking protection, are plausible”<sup>60</sup>.

29. This Request seeks to protect rights under Articles 2 and 5 of CERD. Article 2(1)(a) imposes a general obligation on States Parties not to engage in any “act or practice of racial discrimination against persons, groups of persons or institutions”, including by ensuring that none of their public authorities and institutions engage in such practices. In Article 2(1)(b), States Parties further undertake not to “sponsor, defend or support racial discrimination by any persons or organizations”. Article 1 of CERD defines “racial discrimination” to include discrimination that has either the *purpose* or the *effect* of discriminating on the basis of ethnic origin or national origin in the exercise of human rights and fundamental freedoms:

“the term ‘racial discrimination’ shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental

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<sup>59</sup> *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)*, Provisional Measures, Order of 19 April 2017, I.C.J. Reports 2017, para. 90.

<sup>60</sup> 7 December 2021 Order, para. 42. *See also Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)*, Provisional Measures, Order of 19 April 2017, I.C.J. Reports 2017, para. 64.

freedoms in the political, economic, social, cultural or any other field of public life.”

30. Article 5, in turn, provides a nonexhaustive list of some of the protected human rights and fundamental freedoms, including the “right to security of person and protection by the State against violence or bodily harm” under Article 5(b); the right to “freedom of movement and residence within the border of the State” under Article 5(d)(i); and the “right to leave any country, including one’s own, and to return to one’s country” under Article 5(d)(ii). The CERD Committee has placed particular emphasis on the rights of displaced persons under Article 5 to “freely . . . return to their homes of origin under conditions of safety”<sup>61</sup> following conflicts of an ethnic character<sup>62</sup>.

31. The Court has found in other recent cases that claims raising violations of CERD-protected rights are plausible for purposes of an application for provisional measures “if the acts complained of appear to constitute acts of racial discrimination as defined in Article 1 of the Convention”<sup>63</sup>. With respect to this case, the Court has already recognized that “a policy of driving persons of a certain national or ethnic origin from a particular

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<sup>61</sup> CERD Committee, *General Recommendation No. XXII: Article 5 and Refugees and Displaced Persons*, document 24/08/96 (1996), para. 2(a).

<sup>62</sup> Report of the CERD Committee, Official Records of the General Assembly, Fiftieth Session, Supplement No. 18, document A/50/18 (16 March 1995), p. 50, para. 219 (urging “the immediate reversal of ethnic cleansing which must begin with the voluntary return of displaced people” in the context of the situation in Bosnia and Herzegovina). *See also* CERD Committee, Decision on the situation in Bosnia and Herzegovina (17 August 1995), p. 20, para. (c). (“demand[ing] that persons be given the opportunity to return safely to the places they inhabited before the beginning of the conflict and that their safety be guaranteed”).

<sup>63</sup> *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates)*, Provisional Measures, Order of 23 July 2018, I.C.J. Reports 2018, para. 52.

area, as well as preventing their return thereto, can implicate rights under CERD”<sup>64</sup>.

32. While the Court previously declined to find that CERD “plausibly imposes any obligation on Armenia to take measures to cease and desist from planting landmines”, it did so because the Court considered that “Azerbaijan has not placed before the Court evidence indicating that Armenia’s alleged conduct with respect to landmines has ‘the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing’, of rights of persons of Azerbaijani national or ethnic origin.”<sup>65</sup> Article 75, paragraph 3 of the Court’s Rules provides that “[t]he rejection of a request for the indication of provisional measures shall not prevent the party which made it from making a fresh request in the same case based on new facts”. New facts, not available at the time of Azerbaijan’s previous Request, show that Armenia has been laying landmines and planting booby traps specifically targeting Azerbaijan civilians<sup>66</sup>.

33. Armenia represented to the Court in October 2021 that the landmines laid on Azerbaijan’s territory “are *defensive weapons*” used during active hostilities<sup>67</sup>. The recent discovery of landmines and booby traps planted by Armenia in large numbers in purely civilian areas<sup>68</sup> directly refutes that representation. The placement of landmines in civilian areas previously inhabited only by Azerbaijanis, after Armenia agreed to return such areas to Azerbaijan’s control, demonstrates the racially discriminatory nature of Armenia’s conduct<sup>69</sup>. The booby-trapping of

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<sup>64</sup> 7 December 2021 Order, para. 53.

<sup>65</sup> *Id.*

<sup>66</sup> *See* paras. 12–16, 16–20, above.

<sup>67</sup> *See* Verbatim Record, public sitting of 18 October 2021, CR 2021/25, pp. 20–24, paras. 4–9 (Murphy).

<sup>68</sup> *See* paras. 15–16, above.

<sup>69</sup> *See* paras. 3, 5, 16 above. *See also* **Annex 1**, Trilateral Statement, para. 6 (requiring that Armenia return the Kalbajar and Lachin Districts).

homes in the areas to which Azerbaijanis would be returning<sup>70</sup> similarly can only be explained as racially discriminatory violence. These booby traps were placed exclusively in domestic structures where they would maim or kill Azerbaijani civilians, far away from potentially legitimate military targets and border regions with Armenia, and well-within territory strictly demarcated for civilian return. Accordingly, such traps serve no legitimate military purpose and cannot be considered either “defensive” or “offensive” in nature. Instead, Armenia’s conduct impairs Azerbaijanis’ equal enjoyment of fundamental rights by intentionally posing an ongoing threat of death or injury should Azerbaijani civilians even attempt to return to their homes in Lachin, Kalbajar, and other districts where mines and traps may be present.

34. The ethnic animus behind Armenia’s acts of destruction and sabotage is further made clear by the statements of departing Armenian settlers, who openly admitted their hatred towards Azerbaijanis as a people, on the basis of their ethnic and national origin<sup>71</sup>.

35. Importantly, the Court need not determine that Armenia’s *purpose* in its placement of the landmines and booby traps in civilian areas was racially discriminatory in order to provide the requested relief. Rather, it suffices that *the effect or impact* of Armenia’s conduct is the impairment of Azerbaijanis’ equal enjoyment of their fundamental rights, including their right to return to their homes, to freedom of movement and residence, and to protection against violence and bodily harm. International observers have condemned the “civilian casualties”, “horrific injuries and incidents” and “ongoing threat to civilians and [] post-conflict recovery efforts” caused by Armenia’s continued mining of Azerbaijan’s territory and failure to cooperate in demining efforts<sup>72</sup>. These tragic consequences discriminatorily impact

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<sup>70</sup> See paras. 20–21, above.

<sup>71</sup> See para. 23, above.

<sup>72</sup> Joshua Kucera, “Azerbaijan demands ‘mine maps’ from Armenia”, Eurasianet (11 June 2021), <https://eurasianet.org/azerbaijan-demands-mine-maps-from-armenia>; Twitter, @Giorgi\_Gogia (4 June 2021, 10:08),

Azerbaijanis because Armenia laid mines in or near areas that were inhabited entirely or almost entirely<sup>73</sup> by Azerbaijanis before Armenia's occupation. With respect to the new evidence of landmines and booby traps manufactured and placed in or after 2021 in these areas, the effect of Armenia's conduct could not be more clear: Armenia agreed under the Trilateral Statement to return these territories to Azerbaijan and to the return of the displaced Azerbaijanis to these territories. It is therefore Azerbaijanis in particular who have been killed or injured, risk death or injury, or are forced to remain in exile as a result of the mines and booby traps planted by Armenia<sup>74</sup>. As the CERD Committee has recognized, "serious, massive, or persistent patterns of racial discrimination" can include "acts of extreme violence" such as the "use of . . . landmines"<sup>75</sup>.

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[https://twitter.com/Giorgi\\_Gogia/status/1400816623158710275?ext=HHwWhsCyrYDT2fAmAAAA](https://twitter.com/Giorgi_Gogia/status/1400816623158710275?ext=HHwWhsCyrYDT2fAmAAAA); Twitter, @ExtSpoxEU (4 June 2021, 15:23), [https://twitter.com/ExtSpoxEU/status/1400896078401183747?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1400896078401183747%7Ctwgr%5Eada2e1486ed1ac1388a460648209f8ef42a207d3%7Ctwcon%5Es1\\_&ref\\_url=https%3A%2F%2Feurasianet.org%2Fazerbaijan-demands-mine-maps-from-armenia](https://twitter.com/ExtSpoxEU/status/1400896078401183747?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1400896078401183747%7Ctwgr%5Eada2e1486ed1ac1388a460648209f8ef42a207d3%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Feurasianet.org%2Fazerbaijan-demands-mine-maps-from-armenia).

<sup>73</sup> See **Annex 4 to Azerbaijan's Application**, USSR State Committee for Statistics, Results of the 1989 All-Union Population Census, Population Structure by Ethnicity, Native Language and Second Language of the USSR Peoples, Moscow 1989 (certified translation), pp. 8–9; Application, paras. 10, 35–39. See also paras. 15–16, 20–21, above.

<sup>74</sup> See Ministry of Foreign Affairs of the Republic of Azerbaijan, *No:596/22, Commentary of the Press Service of the Ministry of Foreign Affairs of the UN Security Council on discussions regarding the situation on the Lachin road* (21 December 2022), <https://mfa.gov.az/en/news/no59622> (indicating that 276 Azerbaijani citizens have been killed or injured by landmines laid by Armenia since the signing of the Trilateral Statement); paras. 24–26 (explaining the impact of Armenia's recently planted landmines and booby traps on the ability of ethnic Azerbaijanis to return home).

<sup>75</sup> CERD Committee, Seventieth & Seventy-First Sessions (2007), document A/62/18, Annex III, *Guidelines for the Early Warning and Urgent Action Procedures*, p. 116, para. 7. See also CERD Committee, *Concluding Observations on the Combined Tenth to Seventeenth Reports of Sri Lanka*, document CERD/C/LKA/CO/10-17, p. 6, paras. 25–26 (6 October 2016)

36. Further, Article 2 of CERD obliges States Parties to pursue “by all appropriate means” a policy of eliminating racial discrimination “in all its forms”. In further defining this obligation, Article 2(1)(b) imposes on States Parties an obligation “not to sponsor, defend or support racial discrimination by any persons or organizations”. That obligation includes a prohibition on encouragement, financial support, and assistance<sup>76</sup>. In addition, Article 2(1)(d) also makes plain that the obligation on States Parties to “prohibit and bring to an end” racial discrimination extends to “discrimination by any persons, group, or institution”. Accordingly, Armenia is liable both for planting the mines and booby traps itself and, to the extent local settlers or others were involved, for supporting or assisting them in doing so and for failing to prevent them from doing so.

37. Despite its obligation under Article 2 of CERD to take active steps to eliminate racial discrimination, Armenia has refused to share its information about the placement of its landmines and booby traps that would assist Azerbaijan in safely and effectively demining civilian areas in Azerbaijan where Armenia has unlawfully targeted Azerbaijani civilians on the basis of ethnic origin and national origin<sup>77</sup>, so that those civilians may return to their homes.

38. As described above, the rights invoked by Azerbaijan against racial discrimination by Armenia are clearly plausible, and Azerbaijan requests provisional measures to protect against the harm caused by Armenia’s ongoing violation of those rights. On the other hand, there are no rights or legitimate interests of Armenia that would be jeopardized by the indication of the provisional measures requested here.

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(expressing concerns about the slow progress of demining efforts in preventing particular displaced ethnic groups from returning to their homes).

<sup>76</sup> See CERD Committee, *Concluding Observations on Russian Federation*, document CERD/C/62/CO/7, 2 June 2003, p. 3, para. 16. See also P. Thornberry, *The International Convention on the Elimination of All Forms of Racial Discrimination* (Oxford, 2016), p. 185.

<sup>77</sup> See paras. 12–16, 17–20, above.



## V.

### URGENCY AND IRREPARABLE HARM

39. The Court has the power to indicate provisional measures “when irreparable prejudice could be caused to rights which are the subject of judicial proceedings or when the alleged disregard of such rights may entail irreparable consequences”<sup>78</sup>. The Court will exercise this power only if “there is urgency, in the sense that there is a real and imminent risk that irreparable prejudice will be caused to the rights claimed before the Court gives its final decision”<sup>79</sup>.

40. In this case, the Court has found that Articles 4 and 5(a), (b), (c), (d) and (e) of CERD “are of such a nature that prejudice to them is capable of causing irreparable harm”<sup>80</sup>. In explaining this decision, the Court noted that violations of rights under CERD are capable of irreparable harm where the violations may have “serious damaging effects on individuals belonging to [a] protected group”, “includ[ing], but . . . not limited to, the risk of bodily harm or psychological harm and distress”<sup>81</sup>.

41. Armenia’s deployment of newly-manufactured landmines and booby traps in Azerbaijan’s territory urgently threatens the rights of Azerbaijanis under Article 5 of CERD, including irreparable harm to the rights to life, security of person and protection against violence or bodily harm, to freedom of movement and residence, and to safely return to their homes in the liberated territories.

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<sup>78</sup> 7 December 2021 Order, para. 59.

<sup>79</sup> *Id.* at para. 60.

<sup>80</sup> *Id.* at paras. 65–66.

<sup>81</sup> *Id.* at para. 66.

42. Armenia has in its possession information on the location of its minefields in Azerbaijan's territory<sup>82</sup>, which must include those it laid since the signing of the Trilateral Statement. Armenia's failure to disclose the location of landmines and booby traps creates a real and continuing risk that Azerbaijani civilians working in the Lachin and Kalbajar Districts or other liberated territories or attempting to return home to these territories will be seriously injured or killed by landmines, or that they will be prevented from returning home on account of the high probability of those consequences. There is a real and imminent risk that these harms will occur before the Court has had the opportunity to render its final judgment in this matter.

## VI.

### THE MEASURES REQUESTED

43. On the basis of the facts set forth above and in the Application, Azerbaijan, in its own right and as *parens patriae* of its citizens, respectfully requests the Court as a matter of urgency to indicate the following provisional measures, which are directly linked to the rights that form the subject matter of this dispute, pending its determination of this case on the merits:

- (a) Armenia shall immediately take all necessary steps to enable Azerbaijan to undertake the prompt, safe and effective demining of the towns, villages, and other areas to which Azerbaijani civilians will return in the Lachin District, Kalbajar District and other formerly

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<sup>82</sup> **Annex 10**, Letter dated 4 November 2022 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, document A/77/597 (18 November 2022), pp. 4–5 (“Under international pressure, Armenia released some pre-2020 minefield records. . . . These records constitute 5 per cent of all the liberated areas and less than a third of confirmed high threat areas reflected in the mine action assessment report on Azerbaijan (December 2020) prepared by the Mine Action Service and the United Nations Development Programme. . . . The Prime Minister of Armenia publicly boasted that the information (at the time of the statement, Armenia had released about 200,000 landmines) shared with Azerbaijan was only a ‘tiny portion’ of landmines planted by Armenia.”).

occupied districts of Azerbaijan, including by providing information about the location, quantity, type and characteristics of landmines, booby traps and any other explosive devices in these areas, in order to enable Azerbaijani internally displaced persons to return to their homes; and

- (b) Armenia shall immediately cease and desist from any further efforts to plant or to sponsor or support the planting of landmines and booby traps in these areas to which Azerbaijani civilians will return in Azerbaijan's territory, including, but not limited to, the use of the Lachin Corridor for this purpose.

Azerbaijan reserves its rights to amend this Request and to request additional provisional measures to prevent irreparable harm to the rights at issue in this case, or to prevent further aggravation of the dispute between the Parties, should they become necessary during the course of these proceedings.

I have the honor to reassure the Court of my highest esteem and consideration.

The Hague, \_\_\_\_\_

Elnur Mammadov

Agent

The Republic of Azerbaijan