



General Assembly Security Council

Distr.: General
22 December 2021

Original: English

General Assembly
Seventy-sixth session
Agenda items 72, 76 and 85

Security Council
Seventy-sixth year

**Elimination of racism, racial discrimination, xenophobia
and related intolerance**

Report of the International Court of Justice

The rule of law at the national and international levels

Letter dated 20 December 2021 from the Chargé d'affaires a.i. of the Permanent Mission of Azerbaijan to the United Nations addressed to the Secretary-General

The letter from the Permanent Representative of Armenia dated 8 December 2021 (A/76/589-S/2021/1023) and the annexed statement of the Ministry of Foreign Affairs of Armenia regarding the orders of the International Court of Justice on the requests for provisional measures under the International Convention on the Elimination of All Forms of Racial Discrimination are wrong and misleading for the following reasons.

On 7 December 2021, the International Court of Justice issued two orders on the requests from both Azerbaijan and Armenia in the proceedings instituted by them against each other under the aforementioned International Convention.¹

At this stage of the proceedings, the Court was not required to establish whether any violations of the Convention had occurred, a finding that could only be made as part of the examination of the merits of the two cases. Thus, the Court made it clear that it “is not called upon, for the purposes of its decision on the Request for the indication of provisional measures, to establish the existence of breaches of CERD”² and that “it cannot at this stage make definitive findings of fact”.³ The Court’s task, at the stage of making an order on provisional measures, was to establish whether the

¹ *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Azerbaijan v. Armenia)*, Provisional Measures, Order of the International Court of Justice of 7 December 2021; and *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan)*, Provisional Measures, Order of the International Court of Justice of 7 December 2021.

² *Azerbaijan v. Armenia*, Provisional Measures, para. 61; and *Armenia v. Azerbaijan*, Provisional Measures, para. 71.

³ *Ibid.*



acts and omissions complained of by the parties were capable of falling within the provisions of the Convention.⁴

The Court rejected most of Armenia's requests for specific measures, including those relating to the release of detainees and the closure of the Military Trophies Park in Azerbaijan – the issues to which Armenia dedicated most of its oral and written pleadings.

The Court further rejected Armenia's request for the "right of access to and enjoyment" of its alleged cultural heritage in the liberated territories of Azerbaijan, as well as the request to oblige Azerbaijan to "facilitate, and refrain from placing any impediment on, efforts to protect and preserve Armenian historic, cultural and religious heritage".

Importantly, the Court also rejected the request to prevent and prohibit "alteration" of the "heritage", which was essentially intended to halt any restoration works by Azerbaijan in relation to monuments located in the liberated territories. The Court only indicated prevention and punishment of acts of vandalism and desecration of the heritage, which Azerbaijan has always been committed to do anyway. Even with this, two judges dissented on this measure.

Instead, the Court chose to indicate very general measures of its own, which simply reaffirm the existing treaty obligations of Azerbaijan.

At the same time, in relation to Azerbaijan's request for provisional measures, the Court ordered Armenia to "take all necessary measures to prevent the incitement and promotion of racial hatred, including by organizations and private persons in its territory, targeted at persons of Azerbaijani national or ethnic origin".⁵

In its comments of 7 December 2021, the Ministry of Foreign Affairs of Azerbaijan welcomed the Court's order, calling it essential to preventing irreparable harm by Armenia's incitement and promotion of racial hatred to the rights of Azerbaijan and the human rights of Azerbaijanis. The Ministry also urged Armenia to comply with the order.⁶

Azerbaijan will continue to uphold the rights of all people under international law and to hold Armenia to account for its ongoing and past flagrant violations of human rights.

I should be grateful if you would have the present letter circulated as a document of the General Assembly, under agenda items 72, 76 and 85, and of the Security Council.

(Signed) Tofiq **Musayev**
Chargé d'affaires a.i.

⁴ *Azerbaijan v. Armenia*, Provisional Measures, para. 27; and *Armenia v. Azerbaijan*, Provisional Measures, para. 28.

⁵ *Azerbaijan v. Armenia*, Provisional Measures, paras. 71 and 76 (1).

⁶ Available at <https://mfa.gov.az/en/news/no49921>.