



**THE COMMISSIONER FOR HUMAN RIGHTS (OMBUDSMAN)
OF THE REPUBLIC OF AZERBAIJAN**



REPORT

concerning the factual evidences of extensive civilian casualties
and damage to civilian objects in Barda city caused by the ballistic missiles
launched by Armenian armed forces

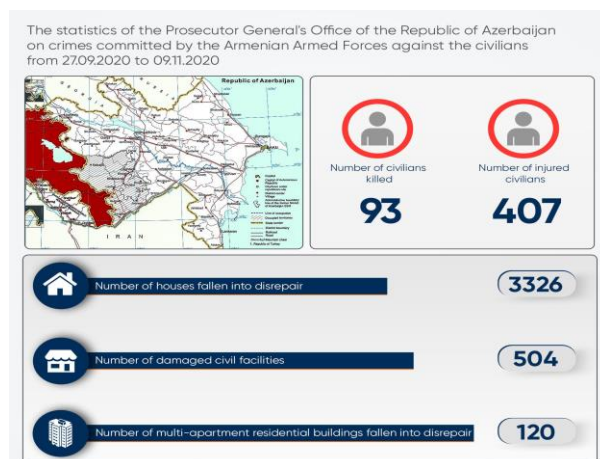
Baku -2020

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INTRODUCTION

As it was reported, Armenian military has started deliberately bombing civilians and the populated areas of Azerbaijan, which are located far from the area of active hostilities, using missiles and heavy artillery since September 27, 2020 in flagrant violation of international law norms and principles, including mainly the IV Geneva Convention, UN Security Council resolutions and decisions, as well as the agreement on humanitarian ceasefire. Hence, numerous of human casualties and injuries and extensive damage to civilian infrastructure also resulted from those attacks. Furthermore, peaceful citizens are damaged either materially, morally or physically.



Infographics describes the chart with statistics of casualties as a result of missile attacks by Armenia on the populated areas of Azerbaijan since September 27, 2020

The Armenian military that continue its war crimes and crimes against humanity deliberately targeted the populated areas far from the area of active hostilities in order to kill the peaceful civilians. One of such indiscriminate and deliberate attacks, which can be considered as a terror act, has been made on Barda city - one of the ancient cities, which is far from the place of active hostilities within two days on October 27 and 28, 2020, with the internationally prohibited weapons, which resulted in numerous human casualties among civilians and damages.

The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan has conducted a fact-finding mission in Barda and on-site investigation of the facts of casualties and destructions committed in violation of fundamental human rights and freedoms.

This Report is based on the evidences collected during the on-site investigation in Barda and covers the period of October 27-28, 2020.

1. OVERVIEW OF BARDA CITY SHELLED BY ARMENIA

Barda is one of the ancient settlements of Azerbaijan and in 1930 the city proclaimed as an administrative status, which consists of one city and 110 villages.

The Barda district has 35 administrative territorial units and districts, 67 municipalities, 73 institutions, 32 preschool educational facilities, 76 schools, 16 medical institutions, and 205 cultural centers.

Barda city as an administrative center of Barda district is one of the ancient centers not only Azerbaijan but also the entire Near East. This fact is proved by factual materials found during archeological excavations, such as coins of Alexander the Great, Arakis and Augustus, the Roman emperor. The sources proved that Barda had relationships with the city states existed B.C.

The remains of cultural items from the 2nd millennium BC to the late Middle Ages have been found and preserved in Barda, the ancient monuments have been maintained.

Indiscriminate and deliberate targeting civilians of Barda region of Azerbaijan from a long distance, from Armenia, using operational and ballistic rocket systems caused many human loss and damages.

The facts of absence any military objectives near the fired by Armenian military areas in Barda in severe violation of international humanitarian law norms, using of prohibited under international law weapons against civilians, deliberately targeting the civilians aimed at complete or partial killing, using methods of war caused superfluous damage, targeting educational, health, social service facilities of non-military advantage, also, deaths of peaceful citizens, also damage to their health, causing excessive damage to civilian property or an explosion, fire or other act (terror attack) endangering other socially dangerous consequences once again proof that Armenia commits war crimes, crimes against peace and humanity, as well as a crime against security of mankind.



All these facilitate to severe violation of fundamental human rights and freedoms established by international law norms.

2. ACTIVITY OF THE OMBUDSMAN RELATED TO THE INVESTIGATION OF BARDA ATTACKS BY THE ARMENIAN ARMED FORCES

The bombardment of Barda city by the armed forces of Armenian, using ballistic missiles and heavy artillery resulted in death of 27 civilians and wounding of other 105 in total and caused to excessive damage to civilian property, historical and cultural buildings, as well as civilian vehicles.¹

Hence, Armenian State intentionally broke the international law norms and principles, including IHL norms, especially the Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva and the third humanitarian agreement came into force on October 26, 2020, at 08.00 a.m. By shelling Barda, the historical and cultural heritage center of Azerbaijan, Armenia once more demonstrates its aggressive nature.

2.1. Call of the Ombudsman on international community about the military aggression of Armenia

The Ombudsman of Azerbaijan called on the international community to draw its attention to the truth and realities about the aggressive nature of Armenia, which caused numerous casualties and destruction by committing crimes against peace and humanity (extermination of the population), war (violation of international humanitarian law during armed conflict), public security (terrorism) in Barda region on 27²-28³ October, 2020, to once again expose them in the international arena and to impose sanctions under international law against this aggressor state.

The Ombudsman's appeals concerning the bombardment of civilians in Barda from Armenia, using ballistic rockets and calling on international community for taking urgent measures to prevent the war crimes and terror acts in conformity with international law norms and principles have been shared with the world community through social media platform-Twitter⁴, Facebook⁵, and media outlets.

2.2. Fact-Finding Mission of the Ombudsman on military aggression by Armenia

The Commissioner Sabina Aliyeva has carried out the fact-finding mission in Barda, which frequently attacked two days in row with the use of widely prohibited munitions, to investigate on the spot the severe losses among the civilian population.⁶

The objective of this Mission was to examine the numerous facts of civilian casualties,

¹ <https://defence.az/en/news/148208>

² <https://ombudsman.az/az/view/news/2171/ombudsmanin-metbuata-achiqlamasi>

³ <https://ombudsman.az/az/view/news/2177/ombudsmanin-metbuata-achiqlamasi>

⁴ https://twitter.com/az_ombudsman

⁵ https://www.facebook.com/ombudsman.az/?epa=SEARCH_BOX

⁶ <https://ombudsman.az/en/view/news/2185/ombudsman-sabina-aliyeva-conducts-fact-finding-mission-to-barda-city>

injuries and destruction of various civil infrastructure caused by war crimes and terror acts committed by Armenian military in Barda, to facilitate in assessment of these violations and facts of clear disrespect for international law that to be assessed under the norms of international law and to bring the attention of the world community to the situation through preparing her next report concerned.



During the Mission of the Azerbaijani Ombudsman in Barda, it was found that the intentional and deliberate attacks exercised by the Armenian armed forces on the populated areas of the city, which is tens of kilometers from the conflict zone, using ballistic missiles, resulted in excessive killing and wounding of civilians, including children, women and elderly people and severely damaging inflicted to the houses and other civil infrastructure.





The preliminary investigations showed that as a result of shelling of Garayusifli village of Barda district by the Armenian armed forces at 04:00 p.m. on October 27, 5 civilians were killed and 13 others were wounded; whereas, bombing of busy-commercial places and the crowded place at 01:00 p.m. on October 28, resulted in death of 20 civilians, including 5 women, and injuring of 70 civilians, including 8 children, 15 women, and civilian objects and vehicles have been severely damaged.

Furthermore, one staff of the Ministry of Emergency Situations was killed while providing assistance to civilians there and another was seriously injured.

There are many facts collected during the Mission in Barda, evidencing the violation of IHL norms by Armenia.



It was also established during the fact-finding investigation that when the area of dentist's office was hit by the missile strike by Armenian military, the dentist was providing medical service to a patient in his cabinet. If they did not leave the area of deadly blast in time, they would be died. Consequently, the cabinet of the dentist became useless.⁷

Armenian political and military leaders bear the legal responsibility for all these attacks against civilians.

The Ombudsman also visited the families of the killed civilians and the injured in Barda, and met with the inhabitants of the city. Thus, this Report has been prepared based on the factual investigation materials gathered on the spot during the Mission.⁸

In the course of the Mission, according to the results of the monitoring, the shelling of residential settlements in Barda district by Armenian armed forces using prohibited by international law cluster bombs⁹ was assessed as a gross violation of international human rights law and was established that there is a serious need to impose appropriate sanctions against the Armenian state, which continues to commit war crimes and terror acts against peace and humanity at the international level in the name of humanity and justice.¹⁰

⁷ https://twitter.com/az_ombudsman/status/1321771635930730498

⁸ https://twitter.com/az_ombudsman/status/1321737257628405765/photo/1

⁹ <https://www.amnesty.org/en/latest/news/2020/10/armenia-azerbaijan-first-confirmed-use-of-cluster-munitions-by-armenia-cruel-and-reckless/>

¹⁰ <https://ombudsman.az/en/view/news/2134/ombudsman-sabina-aliyeva-conducts-fact-finding-mission-to-ganja-city>

3. PHOTO-FACTS OF HUMAN LOSS AND DESTRUCTIONS IN BARDA CAUSED BY MILITARY OF ARMENIA

Photos depicting the bombardment by Armenian military of civilian population in Barda city, using weapons widely prohibited by international law provide a clear picture of the devastation that has resulted in excessive civilian casualties and damage.¹¹

The special rapid operational teams of the Azerbaijan National Agency for Mine Action (ANAMA) has inspected the area of bombing in Barda and found the fragments of 1 300 mm 9M525 missile and 72 9N235 bombs that were used. This fact proves once again that Armenian armed forces continue to use banned cluster ammunition against the civilian population of Azerbaijan.¹²



The photo above depicts the fragments and smaller submunitions of banned cluster bombs found by ANAMA in Barda that were used by Armenian military forces.¹³

It should be noted that the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan has submitted an open letter on this subject to international organizations, international non-governmental organizations, including Amnesty International, where she briefed about the killing of civilian population of Azerbaijan by the Armenian military, using widely forbidden weapons, underlining the fact of treaty violations by Armenia.¹⁴

¹¹ <http://www.anama.gov.az/en/news/156>

¹² <https://ombudsman.az/en/view/news/2134/ombudsman-sabina-aliyeva-conducts-fact-finding-mission-to-ganja-city>

¹³ <https://www.youtube.com/watch?v=1aJ5JzOvyq0>

¹⁴ <https://ombudsman.az/en/view/news/2105/commissioner-for-human-rights-ombudsman-of-the-republic-of-azerbaijan-sent-an-open-letter-to-the-amnesty-international>





Amnesty International (AI) has also confirmed on its own official website that Armenia has used forbidden weapons against civilian population during the active hostilities.¹⁵ According to the photos (photos taken by Vice News in Barda) AI's Crisis Response Crisis experts verified that the remnants of missiles fired into the city by Armenian armed forces were Russian-made 9M55 (Smerch) rockets, 9N235 cluster ammunition fragments.

¹⁵ <https://www.amnesty.org/en/latest/news/2020/10/armenia-azerbaijan-first-confirmed-use-of-cluster-munitions-by-armenia-cruel-and-reckless/>

Amnesty International's Regional Director for Eastern Europe and Central Asia, Marie Struthers said that the firing of cluster munitions into civilian areas is cruel and reckless, and causes untold death, injury and misery. The using of banned weapons caused to numerous casualties and injuries. Using of cluster munitions in any circumstances is banned under international humanitarian law. We are again calling on both sides immediately to stop using cluster munitions, and to prioritize the protection of civilians.

The fact of using of banned munitions by the armenian Armed forces against civilian population in Barda was also verified in Human Rights Watch's Report. The report also stressed that using weapons banned by an international treaty is a flagrant disregard for civilian life and international law.¹⁶

The shelling of Barda by Armenian armed forces using ballistic missiles and heavy artillery resulted in numerous casualties and destruction:



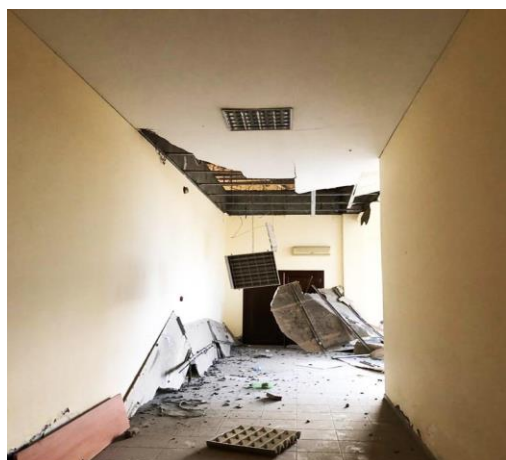
¹⁶ <https://www.hrw.org/news/2020/10/30/armenia-cluster-munitions-kill-civilians-azerbaijan?fbclid=IwAR3xekKv0YE1LkcpoOh-o6NbINEUYMbxG76MQ27QmvXIeA5mpwwLvCb8YH8>



Shelling of Barda with ballistic missiles and heavy artillery damaged individual and multi-apartment houses, office buildings, medical institutions, shopping centers and many other civil infrastructure facilities were destroyed, vehicles burned down.



As a result of bombardment Barda city by, both buildings of Barda Olympic Sport Complex with 3,8 ha. area became useless:



4. WAR CRIMES AND TERROR ACTS COMMITTED BY ARMENIA AGAINST CIVILIANS OF AZERBAIJAN WITH THE USE OF PROHIBITED MUNITIONS IN THE CONTEXT OF INTERNATIONAL LEGAL RESPONSIBILITY

On October 27-28, 2020, the Armenian military shelled heavy artillery and ballistic missiles at civilians and civilian settlements of Barda, one of the most ancient regions of Azerbaijan, located far from the combat area, using weapons prohibited under international law. Below is shown numerous facts of human casualties and damage caused by those attacks can be international legal reasonable bases for criminality of war and terror acts, crimes against peace and humanity:

(1). Armenian army continue firing on the settlements of Barda district, deliberately violating the third humanitarian agreement, which came into effect on October 26, 2020 at 08.00 a.m.;

(2). The fact of using of internationally banned cluster munitions against civilians in bombardment of Barda has already been verified by international NGOs such as Amnesty International and Human Rights Watch in their reports;

(3). Under the Rome Statute of the International Criminal Code for the criminal acts amounting war crimes should be provided international legal responsibility;

(4). UN Security Council Resolutions 822¹⁷, 853¹⁸, 874¹⁹ and 884²⁰ (1993) as the main guarantor of international peace and security, has defined the legal framework for the political process to resolve the conflict over Armenia's military aggression against Azerbaijan in accordance with the norms and principles of international law.²¹ The Resolutions once again condemn the occupation of the areas of Azerbaijan, reaffirm inadmissibility of use of force for the acquisition of territory, as well as the sovereignty and territorial integrity and demand the immediate complete and unconditional withdrawal of the occupying forces from the occupied territories of Azerbaijan;

Superfluous casualties caused by regular using of prohibited weapons by the occupying Armenia that fails to implement the UN Security Council Resolutions for the mass extermination of the civilian population of Azerbaijan, which contravenes the resolutions, creates a legal basis for international legal responsibility.

The UNGA Resolution titled “The Situation in the Occupied Territories of Azerbaijan”, (A/RES/62/243) of March 14, 2008, adopted in the 86th Session of the General Assembly, once again reaffirmed continued respect and support for the sovereignty and territorial integrity of Azerbaijan within its internationally recognized borders and demanded the immediate, complete and unconditional withdrawal of all Armenian forces from all the occupied territories

¹⁷ <http://unscr.com/en/resolutions/822>

¹⁸ <http://unscr.com/en/resolutions/853>

¹⁹ <http://unscr.com/en/resolutions/874>

²⁰ <http://unscr.com/en/resolutions/884>

²¹ <https://www.mfa.gov.az/en/content/110/munaqisenin-huquqi-aspektleri>

of Azerbaijan and reaffirmed that no State should recognize as lawful the situation resulting from the occupation of the territories of Azerbaijan, nor render aid or assistance in maintaining this situation.

However, the aggressor Armenia continues disobeying the UN Charter, international law norms and principles, including IHL, in particular the Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva and the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and the CRC.

Armenia as a Member State of the United Nations does not fulfil its obligations under treaties, including those applicable to international armed conflicts.²²

In accordance with Article 38 of the CRC, all States undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child and take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities,²³ but Armenia continues ignoring the provisions of this document, to which it is a party as well.

Under Article 45 (a) of the CRC, the specialized agencies, the United Nations Children's Fund (UNICEF), and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. Furthermore, the relevant Committee may invite the specialized agencies, the UNICEF and other competent bodies as it may consider appropriate to provide expert advice and to submit reports on the implementation of the Convention in areas falling within the scope of their activities;²⁴ Therefore, considering that Armenia severely violates either the CRC provisions and best interests of children, the Committee has a mandate to take urgent and all necessary measures to institute special procedures against this aggressor state of Armenia;

1974 UN Declaration (3318) on the Protection of Women and Children in Emergency and Armed Conflict also states that “attacks and bombings on the civilian population, inflicting incalculable suffering, especially on women and children, who are the most vulnerable members of the population, shall be prohibited, and such acts shall be condemned”.²⁵

The European Court of Human Rights in its Judgement on *Chiragov and Others vs. Armenia case*, held that Armenia keeps Nagorno-Karabakh and all other adjacent regions, including Lachin District are under the occupation. Further, the Court recognized that Armenia continues violating Article 1 (right to property), Article 8 (respect to private and family life) and Article 13 (right to effective remedy) of Protocol 1.²⁶

²² <https://www.icrc.org/en/doc/assets/files/publications/icrc-002-0173.pdf>

²³ <http://scfwca.gov.az/store/media/U%C5%9Faq%20h%C3%BCquqlar%C4%B1%20haqq%C4%B1nda%20BMT%20Konvensiyas%C4%B1.pdf>

²⁴ <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

²⁵ https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.19_declaration%20protection%20women%20armed%20conflict.pdf

²⁶ <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%22001-155353%22%5D%7D>

CONCLUSIONS

The following serious crimes committed by Armenian military forces using heavy artillery and ballistic missile strikes over the ancient city of Barda, which located beyond the conflict zone, confirm again that Armenia committed intentional crimes against peace and humanity, war crimes and crimes endangering public security:

1. No object of military advantage was in and near the area subjected to fire;
2. The weapons prohibited under international law were used against the civilian population;
3. The attacks were conducted being aimed at the deliberate killing of the civilian population;
4. The methods of war were used causing superfluous casualties;
5. Non-military educational, health and social service facilities were targeted;
6. It was committed an explosion, fire or other act (terror attack) causing deaths of peaceful citizens, damage to their health, excessive damage to civilian property or endangering other socially dangerous consequences.

Numerous casualties and injuries among the civilian population as a result of the Armenian shelling of Barda, the destruction of civil infrastructures have led to gross violations of the fundamental rights and freedoms of civilians. Therefore, there is sufficient international legal basis for assessing these acts against peace and humanity (extermination of the population), war (violation of international humanitarian law during armed conflict), public security (terrorism) and the imposition of effective sanctions in this regard.

Thus, these military provocations of Armenia against Azerbaijan, which pose a serious threat to the life and health of the civilian population, cause people to remain in a difficult and risky situation, not only physically and materially, but also morally and psychologically, grossly violating their rights and freedoms.

Such inhumane crimes committed by Armenia against the civilian population of Azerbaijan are a serious threat to life and health, and this act of aggression as a matter of serious concern of international and regional organizations, world powers and national human rights institutions, should force them to make efforts for taking prompt measures in relation to imposing sanctions against the aggressor Armenia.

The current reality is that international organizations have not yet taken concrete legal action against Armenia's military aggression, which cause a gross violation of human rights and freedoms.

No serious sanctions are imposed on Armenia that fails the relevant UNSC Resolutions (1993), continuing its military provocation endangering just peace, UN General

Assembly Resolution of 2006 and 2008 on the situation in the occupied territories of Azerbaijan, CRC, UN Declaration (2427) of 2018 on children and armed conflict.

Armenia continues to commit new crimes due to its impunity at the international level and the lack of effective measures taken by international organizations and foreign countries. Therefore, due to the impunity, it does not refrain from committing new war crimes and terror acts against the civilian population of Azerbaijan.

A number of world powers, which have a significant influence on the peaceful settlement of the military conflict between Armenia and Azerbaijan within the framework of Azerbaijan's territorial integrity, not only remain silent on this issue, but also based on the double standards close their eyes to hostile's aggression.

And this leads to the innocent death and injury of civilians, including children, women, people with disabilities and the elderly, as well as damage to civilian property and thus massive and gross violations of fundamental human rights and freedoms.

The aggressive activities of the military and political leaders of Armenia, which does not fulfill its treaty obligations under international law and continues to commit fragrant violations of the human rights of civilians of Azerbaijan, must be strongly condemned by international organizations and urgent measures should be taken to bring Armenia into justice for its crimes.

The international organizations should take serious measures based on the materials evidencing human casualties and damage caused by the firing by the Armenian armed forces on civilians, using prohibited weapons, that was amassed during the fact-finding mission of the Commissioner for Human Rights of Azerbaijan, while her visit to Barda on October 28, 2020.

Armenia should be held accountable for its ethnic cleansing, genocide policy, terrorism and aggression that has been pursuing for ages and gross violations of international law, including IHL.

The UN, the Council of Europe, the OSCE and other international organizations should take decisive measures to strengthen the universal peace among the main tasks of the settlement of conflicts, which is the main reason for the violation of peace, by peaceful means in a fair way and in accordance with international law.

UNSC Resolutions are to be fully and immediately implemented, Armenia's military aggression is to be prevented, and the territorial integrity of Azerbaijan is to be restored within its internationally recognized borders.

Armenia, continuing its policy of aggression, must put an end to cause damage to

the life, health and property of the civilian population of Azerbaijan, cause deep risk to the natural environment in the entire region, and thus to refrain from its physical crimes and eco-terrorism.

International organizations, sovereign states, foreign ombudsman institutions and other NHRIs should demonstrate a fair stance.

The world community must support stability and peacekeeping processes, should take decisive steps for the immediate, unconditional and peaceful liberation of the territories occupied by the Armenian armed forces, and act in the name of justice and humanity by taking urgent measures to establish international legal responsibility for Armenia.

Armenia's military provocations targeting civilians in Barda and other settlements should be considered as the gravest threat to fundamental human rights and freedoms.

NHRIs should conduct joint fact-finding missions to provide international legal assessment of evidences of human rights violations by Armenia, such as war crimes and terrorist crimes against civilians, especially children.





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