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Protection of  
Cultural Property in  
the Event of Armed Conflict

**Four-year cycle  
2017-2020**

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**Questionnaire  
National report on the implementation of the 1954 Hague  
Convention and its two (1954 and 1999) Protocols**

## GENERAL INFORMATION

### 1. Region:

State Party:

REPUBLIC OF ARMENIA

### 2. Submission of previous national reports

Yes

No

2.1. 2013-2016 cycle

### 3. Actors involved in the preparation of the national report

3.1. Government institutions responsible for the protection of cultural property

3.2. National Commission for UNESCO

3.3. Military expert

3.4. Independent experts

If other actors have been involved, please indicate them

### 4. National Focal Point

According to paragraph 120 of the Guidelines for the Implementation of the Second Protocol: *"Unless a Party requests otherwise, the presumed focal point would be its Permanent Delegation to UNESCO."* If you do not consider the Permanent Delegation as a focal point, you are invited to provide the Secretariat with the name and address of a national focal point who will receive all official documents and correspondence related to the national periodic reporting.

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# I. The Hague Convention of 1954

## 1. Article 3 - Safeguarding of cultural property

This Article provides for the obligation of the High Contracting Parties to adopt relevant peacetime safeguarding measures against the foreseeable effects of an armed conflict.

- *Has your State undertaken such measures?*

YES:  NO:

You can complete your answer below, taking into account the guidelines in the model report.

Decree of the Government of the Republic of Armenia, No 1180-N of 18 August 2011, lays down the key objectives, organisation and implementation of evacuation measures during emergency situations and martial law. The evacuation measures are regulated under previously developed evacuation plans which also include the procedure for withdrawal of tangible cultural properties.

Decree of the Government of the Republic of Armenia No 1178-N of 30 October 2014 "On establishing the procedure for evacuation and protection of the national library collection in emergency situations" regulates the relations pertaining to organisation and implementation of actions for evacuation and protection of the national library collection (hereinafter referred to as "the collection") in emergency situations in the territory of the Republic of Armenia.

The draft Decree of the Government of the Republic of Armenia "On approval of the procedure for immediate evacuation, safeguarding and return of museum and national library collections of the Republic of Armenia, of the thermal and humidity regime for the preservation of cultural property" has been submitted to the Staff of the Government of the Republic of Armenia for the purpose of improving the national legislation.

For the purpose of strengthening the army-education-culture ties, moulding high qualities among military servicemen and the youth through culture and art, embedding a respectful attitude towards the historical and cultural properties and traditions and increasing effectiveness of joint activities aimed at safeguarding them, a joint Order of the Minister of Defence of the Republic of Armenia (No 26 of 19 January 2012), the Minister of Education and Science of the Republic of Armenia (No 32-A/Q of 20 January 2012) and the Minister of Culture of the Republic of Armenia (No 14-A of 20 January 2012) of the Republic of Armenia was signed in January 2012. Pursuant to the Annex to this Order, the historical and cultural monuments of the Republic of Armenia have been attached to the military units of the Armed Forces and the educational institutions of the Republic of Armenia in order to embed a respectful attitude towards the historical and cultural properties and traditions of the Armenian people, as well as properly safeguard the historical and cultural monuments. Within the scope of the requirements of the joint Order, adjustments are regularly made with the marz [regional] services for the conservation of the historical environment, and activities are implemented for clarifying the process of record-registration of historical and cultural properties and filling the state lists of names of historical and cultural monuments.

Pursuant to the attachment approved under the joint Order of the Minister of Defence (No 796 of 8 July 2011) and the Minister of Culture (No 772 A/Q of 1 July 2011) of the Republic of Armenia, joint works for care and improvement of historical and cultural monuments are regularly carried out by military units and educational institutions.

To value historical and cultural monuments, solemn oath ceremonies of military servicemen are often held near those monuments. Historical and cultural monuments are viewed as

centres for the patriotic upbringing of the young generation, where group excursions are organised and solemn oath ceremonies of draftees are held.

## 2. Article 6 - Use of the distinctive emblem for the marking of cultural property

The 1954 Hague Convention creates a distinctive emblem for the exclusive marking of cultural property, with a view to ensure its recognition, particularly in the event of armed conflict. The marking of cultural property is one of the preparatory measures that can be undertaken in time of peace.

- *Has your State **marked cultural property** by using the distinctive emblem of the Convention?*

YES:  NO:

You can complete your answer below, taking into account the guidelines in the model report.

To date, the Republic of Armenia has not used the distinctive emblem specified by the Convention, as cases stipulated by Article 17 have not been recorded.

## 3. Article 7 - Military measures

This Article provides for the obligations of the High Contracting Parties with regard to the introduction in their regulations or instructions for the use of their armed forces of provisions to ensure compliance with the Convention, as well as to plan or establish within their armed forces, services or specialist personnel whose purpose will be to secure respect for cultural property and to co-operate with the civilian authorities responsible for safeguarding such property. These are obligations to be implemented in time of peace.

- *Has your State introduced provisions in the **regulations and instructions for your armed forces** to ensure compliance with the Convention?*

YES:  NO:

You can complete your answer below, taking into account the guidelines in the model report.

The framework of the legislation effective in the field of defence of the Republic of Armenia includes rules that allow ensuring implementation of the main provisions of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. In particular, the Combat Manual of the Armed Forces of the Republic of Armenia includes provisions that prohibit the use of the cultural property for military purposes, as well as prohibit the undertaking of any type of hostile act against cultural property under special protection and the use of sectors of sites adjacent to the cultural property for military purposes (Combat Manual, Part 2, Section "Requirements for Adherence to the Norms of International Humanitarian Law," Articles 39 and 40). Among the prohibited methods of warfare are the destruction of cultural properties, historical monuments, places of worship and other objects constituting the cultural or religious heritage of peoples, as well as their use to achieve success in combat operations (Combat Manual, Part 2, Section "Requirements for Adherence to the Norms of International Humanitarian Law," Article 41). Parts 1 and 3 of the Combat Manual are

still in the stage of supplementing, and it is also envisaged to include in those parts the provisions for adherence to the Norms of International Humanitarian Law. Adherence to the Norms of International Humanitarian Law, the provisions of the Geneva and the Hague Conventions and the Protocols to the Conventions are ensured and exercised by the commanders and chiefs of all the ranks in the Armed Forces of the Republic of Armenia.

By the Order of the Minister of Defence of the Republic of Armenia of 19 July 2002, the educational manual of International Humanitarian Law has been put into effect in the Armed Forces of the Republic of Armenia. The main provisions of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict regarding the protection of cultural property are also expressed in the mentioned manual; in particular, the definition of cultural property, the inadmissibility of the use of the cultural property for military purposes, the need to refrain from any type of hostile act against cultural property, the distinctive emblem of cultural property and more are presented.

Pursuant to the 2020 Plan for Co-operation in the Field of International Humanitarian Law between the Ministry of Defence of the Republic of Armenia and the Delegation of the International Committee of the Red Cross in Armenia, it is envisaged to launch a Programme for Armed Conflicts to assist in the revision of educational manuals (textbooks).

A chair for daily management and military-legal training of subdivisions operates at the Military University named after V. Sargsyan of the Ministry of Defence of the Republic of Armenia, where the cycle of military-legal training and international humanitarian law is included as a separate subject-oriented cycle. The subject "International Humanitarian Law (Law of Armed Conflicts)" is studied not only at the level of cadets and is included in the curricula of the trainees of the Centre for Raising Qualification of Officers and Military-Vocational Training, but is also taught at the Faculty of Command Staff starting from 2016. In their turn, the personnel of the Military University regularly participate in the training courses organised by the International Committee of the Red Cross.

Pursuant to sub-point "o" of part 1 of Article 8 of the Law of the Republic of Armenia, "On the legal regime of martial law," where martial law is declared, among the measures to be taken and the temporary restrictions shall be the evacuation to safer areas of the objects, tangible cultural properties that are of defence importance and of special significance for the life activities of the population, the state and local self-government bodies and for functioning of the State and the economy.

- *Has your State established **services** or designated specialist personnel *within your armed forces to ensure respect for cultural property?**

YES:  NO:

You can complete your answer below, taking into account the guidelines in the model report.

The Ministry of Defence of the Republic of Armenia, jointly with the Ministry of Education, Science, Culture and Sport of the Republic of Armenia, is carrying out activities to strengthen the army-education-culture ties, embed a respectful attitude towards the historical and cultural properties, monuments and traditions among military servicemen and increase the effectiveness of the joint activities being carried out to safeguard those historical and cultural properties, monuments and traditions. Implementation of the mentioned activities is regulated by the joint order of the Minister of Defence, the Minister

of Culture, Education and Science of the Republic of Armenia. The Ministry of Defence of the Republic of Armenia co-ordinates the mentioned activities through the Department of Moral and Psychological Support of the Armed Forces of the Republic of Armenia (formerly — the Department for Activities with the Personnel) and the Division for Culture and Leisure operating within the Department of Moral and Psychological Support (formerly — the Division for Culture and Public Relations) and the Department of Information and Public Relations of the Ministry of Defence of the Republic of Armenia, jointly with the General Department of Military Preparedness of the Armed Forces and the General Department of Personnel Management of the General Staff of the Armed Forces, such as, for instance, the number of hours of combat readiness trainings is determined by the General Department of Military Preparedness of the Armed Forces. The themes are divided by the Department of Moral and Psychological Support.

#### 4. Article 25 - Dissemination of the Convention

Regulations relating to the protection of cultural property in time of armed conflict must be included into the programmes of military and, if possible, civilian training. The objective is to ensure that the principles of the Convention are known by the whole population, especially the armed forces and personnel engaged in the protection of cultural property.

- *Has your State disseminated the provisions of the Convention within the armed forces as well as among target groups and the general public?*

YES:  NO:

You can complete your answer below, taking into account the guidelines in the model report.

In the Armed Forces of the Republic of Armenia, for the purpose of ensuring respect for and adherence to the Norms of International Humanitarian Law, including protection of cultural property, the training for the personnel of the Armed Forces is carried out through the educational manuals of Law of Armed Conflicts and International Humanitarian Law, approved by the Minister of Defence of the Republic of Armenia and put into effect.

Taking into account the fact that protection of cultural property forms a part of the Norms of International Humanitarian Law in case of armed conflict, study and hours of study of the Norms of International Humanitarian Law are prescribed by the programme for the command training at the military units of the Armed Forces of the Republic of Armenia. They are studied during the training of military servicemen both in time of peace and in time of war. The study at military units is organised and directly supervised by commanders, the deputy commanders for moral and psychological support and the assisting officers of the commander for legal activities. Through the programme, military servicemen are introduced to the Code of Conduct of a participant of combat operations of the Armed Forces of the Republic of Armenia, international distinctive emblems, signs and signals, the basic norms of humanitarian law within the scope of their official duties so that the participant can be guided by them and ensure control over adherence to the norms of international law in the whole course of armed conflicts.

Besides the aforementioned, the relevant subdivisions of the Armed Forces of the Republic of Armenia and the General Staff of the Armed Forces (including the General Department of Military Preparedness), with the direct participation of representatives of the International Committee of the Red Cross, organise and conduct courses for instructors of International Humanitarian Law for the command personnel of battalions, during which the knowledge of command personnel teaching the personnel about adherence to the Norms of

International Humanitarian Law during Armed Conflicts is taught and reinforced.

In the context under consideration, what is also worth mentioning are the pre-deployment courses that are held for the peacekeeping contingent of the Ministry of Defence of the Republic of Armenia leaving for a peacekeeping mission — envisaged under the programme for co-operation between the Ministry of Defence of the Republic of Armenia and the International Committee of the Red Cross, within the scope of which the principles and the norms of international humanitarian law and those in regard to the protection of cultural property in case of armed conflict, and the meetings organised with the relevant specialists of the International Committee of the Red Cross before departure and upon return of the mission, are included.

The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its First Protocol (1954) have been translated into Armenian and published in issue No 4 (12) of 20 December 2004 of the official collection of the international treaties.

The official bulletins are published by the Ministry of Foreign Affairs of the Republic of Armenia and delivered to all the central and marz [regional] bodies and structures of public administration of the Republic of Armenia, are provided to all the central and community libraries, as well as higher education institutions.

## 5. Article 26(1) - Official translations

This Article requires that the High Contracting Parties communicate to one another, through the Director-General of the United Nations Educational, Scientific and Cultural Organization, the official translations of the present Convention and of the Regulations for its execution:

**Please submit a copy / copies of such translation(s), in electronic format, if possible, to the Secretariat”**

Please annex an *electronic copy of your translation(s) to this report:*

The electronic versions of the translation of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its First Protocol (1954) are attached.

Attach the document

## 6. Article 28 - Sanctions

This Article provides for the obligations of the High Contracting Parties to take, within the framework of their ordinary criminal jurisdiction, all necessary steps to prosecute and impose penal or disciplinary sanctions upon those persons, regardless of their nationality, who commit or order a breach of the Convention.

- *Has your State **introduced in your domestic legislation** all necessary steps to prosecute and impose penal or disciplinary sanctions against a conduct contrary to the obligations set out in the Convention?*

YES:  NO:

You can complete your answer below, taking into account the guidelines in the model report.

Point 4 of part 4 of Article 390 of the Criminal Code of the Republic of Armenia prescribes liability for making the clearly-recognised historic monuments, works of art, places of worship which constitute the cultural and spiritual heritage of peoples and which are under special protection, the object of attack, and causing extensive damage thereto as a result of the attack, where they are not located in the immediate proximity of military objectives, and where there is no evidence of using such historic monuments, works of art, places of worship by the adversary in support of the military operations, and Article 397 prescribes liability for, inter alia, making use of the protective signs intended for cultural property, or other distinctive emblems (in regard to Article 28 of the Convention and Articles 15 and 21 of the Second Protocol of 1999).

Pursuant to the Combat Manual of the Armed Forces of the Republic of Armenia, the commanders of all ranks are obliged to know the Norms of International Humanitarian Law (also including the rules regarding the safeguarding of cultural property), requiring the subordinate personnel for the knowledge and adherence to the norms, as well as impose liability on persons having committed violations (Combat Manual, Part 2, Section "Requirements for Adherence to the Norms of International Humanitarian Law," Article 52).

Pursuant to the Convention and its two Protocols, cases of smuggling of items deemed to be cultural property have not been recorded between 2017 and 2020. Requests for mutual legal assistance — received from other states or addressed to foreign states by the Republic of Armenia in regard to similar situations — have not been recorded, either.

On September 27, 2020, Azerbaijan launched a large-scale military aggression against Artsakh (Nagorno-Karabakh) with direct involvement of Turkey and the latter's backed foreign terrorist fighters from Syria and Libya, indiscriminately and deliberately attacking civilian population and civilian infrastructures and cultural objects of Artsakh. During the course of the preliminary investigation on the criminal case initiated in relation to unleashing of a war against the Republic of Artsakh, preliminary data were received about the destruction of, damage to and desecration of historical monuments, as well as items of particular historical or cultural value of Artsakh by representatives of the Armed Forces of the Republic of Azerbaijan during the war and after the trilateral statement of 9 November 2020 on ceasefire. In particular, among the numerous war crimes committed by the Armed Forces of Azerbaijan during the aggression unleashed against Artsakh, what particularly stand out are the two deliberate shellings of the Ghazanchetsots Cathedral of the Holy Saviour in Shushi in one day, by the use of high-precision weapons, as well as acts of vandalism committed after the statement on ceasefire. The video and photo evidence circulating in social media shows that the external and internal walls of the church were desecrated by various Armenophobic notes, the statuettes of angels placed on the gates to the church were destroyed and removed. Furthermore, in an attempt to misrepresent the Armenian cultural property of Artsakh, Azerbaijan has demolished the dome, changing the architectural plan of the church. Other historical and cultural monuments of Artsakh vandalised by the Armed Forces of the Republic of Azerbaijan, include the memorial dedicated to the memory of the victims of the Great Patriotic War located in the Avetaranots village, the cross-stones (khachkars) placed in various settlements of the Republic of Artsakh, the cemeteries of Armenian soldiers and the plaques erected in their memory. After the trilateral statement on ceasefire, the Armed Forces of Azerbaijan have destroyed the dome and the belfry of the Saint John the Baptist Church (Kanach Zham) of the city of Shushi. According to a video that appeared on the Internet on 16 November 2020, military servicemen of the Armed Forces of Azerbaijan desecrated and damaged the Zoravor Holy Mother of God Church located near Mekhakavan settlement (Jabrayil), by breaking the cross of the Church. Later, the BBC news service placed into circulation videos evidencing



the total destruction of the same Church.

The aforementioned circumstances were, inter alia, also investigated during the preliminary investigation on the criminal cases initiated under the elements of the crimes provided for by part 2 of Article 384, points 1 and 2 of part 3 of Article 390, part 3 of Article 391, part 1 of Article 387, points 1, 6, 7 and 13 of part 2 of Article 104, points 1, 6, 7 and 13 of part 2 of Articles 34-104 of the Criminal Code of the Republic of Armenia and points 1 and 2 of part 3 of Article 185 of the Criminal Code of the Republic of Armenia. At the same time, during the preliminary investigation on criminal cases, investigative and other procedural actions, operational intelligence works are being undertaken to gather facts about other similar manifestations, disclose all the circumstances of the mentioned cases, identify the persons having committed actions aimed at destructing, damaging and desecrating historic and historical-cultural monuments, give full criminal-legal evaluations of similar acts that are characteristic of war crimes and solve the issue of subjecting the guilty to criminal liability.

At the same time, we inform that Article 390 of the Criminal Code of the Republic of Armenia prescribes that 1. Committing — in time of armed conflicts — the following acts, regarded as grave breaches of the norms of international humanitarian law, against persons who do not directly take part in hostilities or are deprived of means of protection, the wounded, sick, medical or religious personnel, medical units or medical transports, prisoners of war, civilians, civilian population, refugees, protected persons or other persons enjoying protection during hostilities:

- (1) murder;
- (2) torture and inhuman treatment, including biological experiments;
- (3) intentionally causing great suffering or committing other actions endangering the physical or mental state of a person —

shall be punished by imprisonment for a term of twelve to twenty years or by life imprisonment.

2. Committing — in time of armed conflicts — the following acts, regarded as grave breaches of the norms of international humanitarian law, against persons or objects referred to in part 1 of this Article:

- (1) causing harm to health;
- (2) compelling a protected person or a prisoner of war to serve in the armed forces of a hostile Power;
- (3) depriving a protected person or a prisoner of war of the right of fair and regular trial;
- (4) unlawful deportation, transfer and confinement or other forms of deprivation of liberty of a protected person;
- (5) taking of hostages;
- (6) extensive destruction or appropriation of property, not justified by military necessity, carried out unlawfully and wantonly —

shall be punished by imprisonment for a term of five to twelve years.

3. The following acts — in time of armed conflicts — regarded as grave breaches of the norms of international humanitarian law, which have caused serious harm to a physical or mental state of a person or human death:

- (1) an attack against the civilian population or individual civilians;

(2) an indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause excessive losses among civilians or excessive damage to civilian objects, where causing such damages is excessive in relation to the concrete and direct military advantage;

(3) attacking on works and installations containing dangerous forces in the knowledge that such attack will cause excessive losses among civilians or excessive damage to civilian objects, where causing such damages is excessive in relation to the concrete and direct military advantage;

(4) making non-defended localities and demilitarised zones the object of attack;

(5) an attack against a person in the knowledge that he or she has stopped direct participation in hostilities —

shall be punished by imprisonment for a term of thirteen to twenty years or by life imprisonment.

4. The following acts — in time of armed conflicts — regarded as grave breaches of the norms of international humanitarian law:

(1) resettlement by the occupying State of parts of its own civilian population in the occupied territory, or the deportation or transfer of all or parts of the population of the occupied territory within or outside the boundaries of the occupied territory;

(2) unjustifiable delay in the repatriation of prisoners of war or civilians;

(3) practices of apartheid or other inhuman and degrading practices involving outrages upon personal dignity, based on racial discrimination;

(4) making the clearly-recognised historic monuments, works of art, places of worship which constitute the cultural and spiritual heritage of peoples and which are under special protection, the object of attack, and causing extensive damage thereto as a result of the attack, where they are not located in the immediate proximity of military objectives, and where there is no evidence of using such historic monuments, works of art, places of worship by the adversary in support of the military operations —

shall be punished by imprisonment for a term of eight to twelve years.

5. Medical intervention — in time of armed conflicts — regarded as a grave breach of the norms of international humanitarian law, in respect of persons in the power of the adversary, confined or otherwise deprived of liberty, which endangers their health, physical and mental state, and which is not conditioned by the state of their health and does not comply with generally accepted medical standards, in particular, inflicting physical mutilation upon them, carrying out medical or scientific experiments with them, removing body parts or tissues, or carrying out a transplant surgery, even with the consent of the mentioned persons —

shall be punished by imprisonment for a term of eight to twelve years.

6. Other violations — in time of armed conflicts — of the norms of international humanitarian law provided for by international treaties —

shall be punished by imprisonment for a term of maximum five years.

In fulfilment of the commitments assumed under this Convention, relevant regulations have been envisaged by the new Criminal Code of the Republic of Armenia (adopted on 5 May 2021 and will enter into force on 1 July 2022), in accordance with international standards (Articles 139, 140, 144-146). In particular, the following is envisaged by point 5 of part 2 of

Article 140 of the new Criminal Code:

... making the clearly-recognised historic monuments, works of art, places of worship which constitute the cultural or spiritual heritage of peoples and which are under special protection, or other cultural property prescribed by international documents regulating the protection of cultural property, the object of attack, and causing extensive damage thereto as a result of the attack, where they are not located in the immediate proximity of military objectives, and where there are no data on use of such historic monuments, works of art, places of worship or other cultural property prescribed by international documents regulating the protection of cultural property by the adversary in support of the military operations — shall be punished by imprisonment for a term of eight to twelve years.

Article 144 envisages the following:

1. Destructing, damaging, robbing cultural property prescribed by international documents regulating the protection of cultural property in time of international armed conflict or non-international armed conflict, illegally transferring them from the place of location, including from the territory of one state to the other, or failing to return the illegally transferred cultural property or altering the cultural property or its designation for the purpose of destructing or concealing historical, cultural or scientific evidence — shall be punished by imprisonment for a term of five to ten years.

Pursuant to Article 145 of the new Criminal Code, "Violating the rules for the protection of cultural property prescribed by international documents regulating the protection of cultural property in an occupied territory or in time of war or an armed conflict, where the elements of crimes provided for by Articles 139, 140 or 144 of this Code do not exist — shall be punished by imprisonment for a term of two to five years."

The following is provided for by Article 146 of the new Criminal Code (Destructing or damaging cultural property for the purpose of inciting racial, national, ethnic or religious hostility): Destructing or damaging cultural property, including religious buildings or constructions or buildings or constructions for rituals for the purpose of inciting racial, national, ethnic or religious hostility — shall be punished by imprisonment for a term of six to twelve years.

## II. Resolution II of the 1954 Conference

- *Has your State established a **National Advisory Committee** in accordance with the wish expressed by the Intergovernmental Conference (1954) in [Resolution II](#)?*

YES:  NO:

You can complete your answer below, taking into account the guidelines in the model report

In execution of the requirements prescribed by the Second Resolution, an inter-agency working group comprising representatives of the Ministry of Foreign Affairs of the Republic of Armenia, the Ministry of Education, Science, Culture and Sport of the Republic of Armenia, the Ministry of Defence of the Republic of Armenia, and the Ministry of Justice of the Republic of Armenia has been created. The works of the group are coordinated by the Ministry of Foreign Affairs of the Republic of Armenia (Secretariat of the Armenian National Commission for UNESCO).

- *In the event that you have established a National Advisory Committee, has it been incorporated into a national commission for the implementation of international humanitarian law?*

YES:  NO:

You can complete your answer below, taking into account the guidelines in the model report.

It is not a member of the National Commission for the Implementation of International Humanitarian Law.

### III. 1954 (First) Protocol

*[To be completed only by the High Contracting Parties to the 1954 Protocol]*

The main purpose of the 1954 Protocol is the protection of cultural property in **or stemming from** occupied territory.

- *Has your State undertaken **measures to implement** these international obligations, including the adoption of relevant legislation?*

YES:  NO:

You can complete your answer below, taking into account the guidelines in the model report

The new Criminal Code of the Republic of Armenia was adopted on 5 May 2021. It will enter into force from 1 July 2022. Article 145 of the new Criminal Code establishes that "Violating the rules for the protection of cultural property prescribed by international documents regulating the protection of cultural property in an occupied territory or in time of war or an armed conflict, where the elements of crimes provided for by Articles 139, 140 or 144 do not exist, shall be punished by imprisonment for a term of two to five years."

## IV. The 1999 Second Protocol

[To be filled in only by the Parties to the 1999 Second Protocol]

The 1999 Second Protocol supplements the 1954 Hague Convention in many respects. In case the information has already been presented in the context of questions relating to the 1954 Hague Convention, you can directly refer to it.

### 1. Article 5 - Safeguarding of cultural property

Article 5 of the Second Protocol supplements Article 3 of the Hague Convention by providing concrete examples of preparatory measures to be undertaken in time of peace, such as the preparation of inventories of cultural property or the designation of competent authorities responsible for the safeguarding of cultural property.

- *Has your State undertaken such measures?*

YES:  NO:

You can complete your answer below, taking into account the guidelines in the model report.

See the response introduced under Article 3 of the 1954 Hague Convention.

### 2. Article 9 - Protection of cultural property in occupied territory

Article 9 of the Second Protocol complements Article 5 of the 1954 Hague Convention by imposing specific obligations on the occupying power. Paragraph 119 of the Guidelines for the Implementation of the 1999 Second Protocol requires Parties that are occupying powers to provide information in their national reports on how the provisions relating to the protection of cultural property in occupied territory are being respected.

- *Do you ensure compliance with the provisions relating to the **protection of cultural property in the context of military occupation**?*

YES:  NO:  Not applicable:

You can complete your answer below, taking into account the guidelines in the model report.

### 3. Article 10 - Enhanced protection

The 1999 Second Protocol establishes an enhanced protection regime. Enhanced protection is granted by the Committee for the Protection of Cultural Property in the Event of Armed Conflict (composed of 12 Parties).

- *Do you **intend to request the granting** of enhanced protection for cultural property within the next four years or, if appropriate, to submit a **national tentative list** under Article 11 (1) of the 1999 Second Protocol?*

YES:  NO:

You can complete your answer below, taking into account the guidelines in the model report.

Based on the decisions of the Intergovernmental Committee of the 1999 Second Protocol, the Republic of Armenia plans to submit new applications during the next 4 years for granting enhanced protection to cultural property.

### **MONITORING OF CULTURAL PROPERTY UNDER ENHANCED PROTECTION**

*[If some cultural property in your State benefits from enhanced protection, please also fill in this part of the questionnaire].*

The benefit of enhanced protection implies the continued fulfilment of the conditions provided for in Article 10 of the 1999 Second Protocol.

- *Is a **specific mechanism for monitoring cultural property under enhanced protection** in place? For example, are the measures undertaken to ensure the highest level of protection periodically reviewed to ensure their full adequacy in all circumstances?*

YES:  NO:

You can complete your answer below, taking into account the guidelines in the model report.

See the response introduced under Article 3 of the 1954 Hague Convention.

Pursuant to paragraph 94 of the Guidelines, a distinctive emblem is created for the exclusive marking of cultural property under enhanced protection.

- *Has your State **marked with the distinctive emblem** cultural property under enhanced protection?*

YES:  NO:

You can complete your answer below, taking into account the guidelines in the model report.

On 7 December 2018, during the 13<sup>th</sup> sitting of the Intergovernmental Committee of the 1999 Second Protocol to the 1954 Convention on Protection of Cultural Property in the Event of Armed Conflict at the UNESCO Headquarters in Paris, a unanimous decision was made by the members of the Committee on granting the "Monastery of Geghard and the Upper Azat Valley" site an enhanced protection status, as a value of exclusive importance for humanity.

After being granted the status of enhanced protection, the distinctive emblem was used on the monument.

#### **4. Article 15 - Serious violations of the 1999 Second Protocol**

"Article 15 obliges Parties to **establish as criminal** offences in their domestic law offences constituting serious breaches of the Second Protocol, **and to make such offences punishable by** appropriate penalties".

- *Has your State implemented this obligation?* If yes, what measures have been undertaken?

YES:  NO:

You can complete your answer below, taking into account the guidelines in the model report.

Article 264 of the Criminal Code of the Republic of Armenia provides for criminal liability for the destruction of or damage to historical and cultural monuments.

Pursuant to paragraph 4 of part 4 of Article 390 of the Criminal Code of the Republic of Armenia, the following acts — in time of armed conflicts — are regarded as grave breaches of the norms of international humanitarian law:

making the clearly-recognised historic monuments, works of art, places of worship which constitute the cultural and spiritual heritage of peoples and which are under special protection, the object of attack, and causing extensive damage thereto as a result of the attack, where they are not located in the immediate proximity of military objectives, and where there is no evidence of using such historic monuments, works of art, places of worship by the adversary in support of the military operations. Criminal liability for the mentioned act is stipulated: imprisonment for a term of eight to twelve years.

See also the response to Article 28 of the 1954 Hague Convention. No administrative and criminal penalties are provided for by the legislation of the Republic of Armenia in case of negligent or intentional damage to or destruction of cultural property under enhanced protection in time of peace, as well as in time of war. However, the new Criminal Code to be adopted in the nearest future will provide appropriate criminal penalties for the above-mentioned offences. The same refers to the acts listed in Article 21.

Also, the new Criminal Code of the Republic of Armenia provides appropriate penalties for the indicated offences.

In addition to the above-listed Articles (Articles 144-146), it should be underlined that Article 139 of the new Criminal Code of the Republic of Armenia (War crimes against the provision of humanitarian assistance or distinctive emblems) prescribes the following:

1. In time of international armed conflict or non-international armed conflict:

(1) directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to protection given to civilians or civilian objects under international humanitarian law, or

(2) directing attacks against buildings, material, medical establishments, means of transport or staff members thereof entitled to protection under international treaties ratified by the Republic of Armenia, bearing distinctive emblems:

shall be punished by imprisonment for a term of three to seven years.

2. Illicit use — in time of international armed conflict or non-international armed conflict — of distinctive emblems of the Red Cross, Red Crescent or Red Crystal, the flag of truce or the flag of the Armed Forces of the adversary or a neutral state, the uniform or the state distinctive emblems or the state flags thereof, or the uniform, the military insignia, the flag or the distinctive emblems designated for protection of cultural property of the United Nations Organisation, or other distinctive emblems protected under the international law:

shall be punished by imprisonment for a term of five to ten years.

3. The act provided for by part one or two of this Article, which has negligently caused a



person's death or serious damage to health:

shall be punished by imprisonment for a term of eight to fifteen years.

## 5. Article 16 - Jurisdiction

Pursuant to Article 16 of the Second Protocol, the Parties shall take the necessary legislative measures to establish their jurisdiction over offences set forth in Article 15 of the 1999 Second Protocol in certain cases.

- *Has your State **implemented this obligation**?* If yes, what measures have been undertaken **to grant jurisdiction to your courts** over serious offences under the 1999 Second Protocol?

YES:  NO:

You can complete your answer below, taking into account the guidelines in the model report.

Pursuant to Article 91 of the Constitution of the Republic of Armenia, in the Republic of Armenia, justice shall be administered only by courts in compliance with The Constitution and laws.

Final court acts shall be adopted on behalf of the Republic of Armenia.

Pursuant to Article 92 of the Constitution of the Republic of Armenia, in the Republic of Armenia, there shall be courts of the first instance of general jurisdiction, courts of appeal and the Court of Cassation, as well as, in cases provided for by law, specialised courts.

The highest judicial instance of the Republic of Armenia—except for matters of constitutional justice — shall be the Court of Cassation, which is called to ensure the uniform application of the law. Powers of the Court of Cassation shall be defined by the Constitution and by law.

The establishment of ad hoc courts in the Republic of Armenia shall be prohibited.

Article 14 of the Criminal Code of the Republic of Armenia defines that a person having committed a crime within the territory of the Republic of Armenia shall be subject to liability under the Criminal Code of the Republic of Armenia. At the same time, Article 15 of the same Code also defines the operation of criminal statutes on persons having committed a crime outside the territory of the Republic of Armenia.

Currently, the Criminal Code of the Republic of Armenia envisages penalties for violations of the Convention. However, no administrative and criminal penalties are provided for by specific provisions of the legislation of the Republic of Armenia in case of negligent or intentional damage to or destruction of the cultural property under enhanced protection in time of peace, as well as in time of war.

## 6. Article 21 - Measures regarding other violations

The 1999 Second Protocol obliges Parties to adopt legislative, administrative or disciplinary measures as may be necessary to **suppress certain other violations of the Second Protocol**:

a. any use of cultural property in violation of the 1954 Hague Convention or the 1999 Second Protocol;

b. any illicit export, other removal or transfer of ownership of cultural property from occupied territory in violation of the 1954 Hague Convention or the 1999 Second Protocol.

- *Has your State* implemented such measures?

YES:  NO:

You can complete your answer below, taking into account the guidelines in the model report.

See the response to Article 15 of the 1999 Second Protocol.

Article 145 of the new Criminal Code of the Republic of Armenia (Violating the rules for the protection of cultural property in time of war or an armed conflict) envisages the following: "Violating the rules for the protection of cultural property prescribed by international documents regulating the protection of cultural property in an occupied territory or in time of war or an armed conflict, where the elements of crimes provided for by Articles 139, 140 or 144 do not exist,

shall be punished by imprisonment for a term of two to five years."

## 7. Article 30 - Dissemination

Article 30 of the Second Protocol complements Articles 7 and 25 of the 1954 Hague Convention. In this regard, Article 30 it asks the Parties, to endeavour by appropriate means, and in particular by educational and information programmes, to strengthen appreciation and respect for cultural property by their entire population, to ensure the dissemination of the 1999 Second Protocol, and to incorporate in their military regulations' guidelines and instructions for the protection of cultural property.

- *Has your State disseminated the provisions of the Convention and the Second Protocol within the armed forces as well as to target groups and the general public?*

YES:  NO:

You can complete your answer below, taking into account the guidelines in the model report.

The information has been presented in the periodic report on implementation of the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict and the two protocols thereto, submitted in 2014, see also the response to Article 25 of the 1954 Hague Convention.

## 8. Article 33 – Assistance of UNESCO

Pursuant to paragraph 151 of the Guidelines for the Implementation of the 1999 Second Protocol, the Parties having activities at bilateral or multilateral level are invited to inform the Committee, in their periodic reports, of their activities in order to share their experiences or good practices.

- ***Has your State shared, in particular through the Secretariat of UNESCO, your experiences and good practices in implementation of the 1954 Hague Convention and / or its Protocols?***

YES:  NO:

You can complete your answer below, taking into account the guidelines in the model report.

The Republic of Armenia has introduced its experience and practices in the implementation of the 1954 Convention and its two Protocols through the previously submitted periodic reports, during international conferences, summits of intergovernmental committees of this Convention and its two Protocols.

**9. Article 37 - Official translation of the 1999 Second Protocol to the 1954 Hague Convention**

Pursuant to Article 37 of the Second Protocol, the Parties shall translate the 1999 Second Protocol into their official language(s) of their countries and shall communicate these official translations to the Director-General.

**Please submit a copy / copies of such translation(s), in electronic format, if possible, to the Secretariat.**

Please annex an *electronic copy of your translation(s) to this report.*

The electronic version of the translation of the Second Protocol (1999) to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict is attached.

## V. Other questions relating to the 1954 Hague Convention and its two Protocols

### 1. Ratification of / accession to other international treaties having provisions of the protection of cultural property

- Can you indicate the other international instruments to which your State is a party?

International instruments	Ratification/Accession
1970 UNESCO Convention on the means on Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property	Succession
1972 UNESCO Convention on the Protection of the World, Cultural and Natural Heritage	Succession
2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage	
2003 UNESCO Convention for the Safeguarding of Intangible Cultural Heritage	Acceptance
2005 UNESCO Convention for the Protection and Promotion of Diversity of Cultural Expressions	Accession
Additional Protocol (I) to the Geneva Conventions, 1977	Accession
Additional Protocol (II) to the Geneva Conventions, 1977	Accession
Additional Protocol (III) to the Geneva Conventions, 2005	

### 2. National practice relating to the implementation of the Hague Convention and its two Protocols

The Secretariat would be grateful if you could annex a copy of the following documents in French and/or English:

- Relevant **civil and military administrative regulations**:

PDF Document                      Website

- **National laws** relating to the protection of cultural property, as well as criminal provisions adopted in the context of the implementation of Article 28 of the Hague Convention and Articles 15, 16 and 21 of the Second Protocol, and case law relating to the protection of cultural property.

PDF Document                      Website

- Documents relating to awareness-raising activities (seminar programme, brochures, etc.), as well as any other document (legislative, judicial or administrative) relevant to the dissemination of the 1954 Hague Convention and its 1999 Second Protocol.

PDF Document

Website

### 3. Effectiveness of cooperation mechanisms at the national level

- The implementation of the Hague Convention and its two Protocols requires cooperation at the national level between the various authorities (civil, military, etc.). Can you assess the degree of cooperation, at the national level, in your State?

- |   |                                     |
|---|-------------------------------------|
| There is no cooperation between the different authorities   | <input type="checkbox"/>            |
| There is limited cooperation between the different authorities                                    | <input type="checkbox"/>            |
| There is cooperation between the various authorities, but there are still improvements to be made | <input checked="" type="checkbox"/> |
| There is a perfectly functional cooperation between the different authorities                     | <input type="checkbox"/>            |
| Other (specify)   |                                     |

## VI. Self-assessment forms

In order to reflect in the synthesis document of the national reports the status of implementation of the 1954 Hague Convention and its 1999 Second Protocol in key areas, please fill in the two tables below.

### 1. Assessment of the degree of implementation

*[To do this, please use the following rating scale]*

1. Not at all implemented;
2. Partially implemented and the process is at standstill;
3. Partially implemented, the process following its course; and
4. Fully implemented.

Implementation of the safeguarding obligation through the adoption of preparatory measures	3
Military training on regulations for the protection of cultural property	3
Use of the distinctive emblem to mark cultural property	4
Implementation of the obligation to disseminate, through the implementation of awareness-raising activities for target audiences	4
Adoption of relevant criminal legislation	3
<i>For Parties with cultural property under enhanced protection only.</i> Establishment of a monitoring system for cultural property under enhanced protection at the national level	3

### 2. Assessment of the difficulties encountered

*[To do this, please use the following rating scale]*

1. Difficulties are encountered, but there are no plans to seek technical assistance from the UNESCO Secretariat;
2. Difficulties are encountered, nevertheless, it is planned to make use of the technical assistance of the UNESCO Secretariat;
3. Difficulties were encountered, but thanks to the technical assistance of the Secretariat they could be resolved;
4. Difficulties were encountered at first, but they turned into challenges that were overcome; and
5. No difficulties were encountered.

Implementation of the safeguarding obligation through the adoption of preparatory measures	1
Military training on regulations for the protection of cultural property	1
Use of the distinctive emblem to mark cultural property	1
Implementation of the obligation to disseminate, through the implementation of awareness-raising activities for target audiences	1
Adoption of relevant criminal legislation	1
<i>For Parties with cultural property under enhanced protection only.</i> Establishment of a monitoring system for cultural property under enhanced protection at the national level	1

## VII. Enhanced protection mechanism – Opinion survey

Pursuant to Chapter 3 of the 1999 Second Protocol, enhanced protection is granted by the Committee for the Protection of Cultural Property in the Event of Armed Conflict if three criteria are cumulatively met:

- ✓ Cultural property is of the greatest importance to humanity;
- ✓ Cultural property is protected by adequate domestic, legal and administrative measures recognising its exceptional cultural and historical value and ensuring the highest level of protection; and
- ✓ Cultural property must not be used for military purposes or to shield military sites. And the Party which has control over the cultural property has to make a declaration confirming that it will not be used for military purposes or to shield military sites.

As these conditions are set out in an international treaty, their interpretation cannot be made independently of State practice, which is of fundamental importance under international treaty law. Therefore, this national report is an opportunity for the national authorities of the Parties to express their views on the conditions under which enhanced protection is granted.

*For each of the conditions set out in Article 10 of the Second Protocol, please answer the following questions, taking into consideration the relevant paragraphs of the Guidelines for the Implementation of the Second Protocol.*

- Article 10, paragraph (a) - "The greatest importance for humanity"

Please list the main factors to be undertaken into consideration in determining whether a cultural property is of the greatest importance for humanity?

It is recommended to be guided by 10 criteria of the UNESCO World Heritage Convention, which give the State Parties an opportunity to identify the monuments of cultural and natural heritage for the purpose of their inclusion in the representational list.

- Article 10, paragraph (b) - "The highest level of protection"

Please mention the national authorities to be consulted in determining the choice of measures to be adopted to ensure the highest level of protection for a cultural property for which enhanced protection is requested. What measures can ensure the highest level of protection?

Ministry of Defence, Ministry of Justice, Prosecutor's Office, Ministry of Emergency Situations, the state authorised body engaged in the preservation of monuments, the state authorised body in the field of cadastre, local self-government bodies.

High protection of monuments of historical and cultural and natural heritage may be guaranteed in case of the availability of specialised services and powers deriving from the national legislation.

- Article 10, paragraph (c) - "Not-used for military purposes"

Please mention the national authorities to be consulted in order to take the decision not to use the proposed cultural property for granting enhanced protection for military purposes or to shield military sites?

Ministry of Defence, the state authorised body in the field of culture.





# SUPPLEMENTARY REPORT OF THE REPUBLIC OF ARMENIA

## on the destruction and acts of vandalism perpetrated against Armenian cultural property in 2020 – 2021 by Azerbaijan during its aggression against Nagorno-Karabakh (September – November 2020) and on the territories under its control as a result of this conflict

### I. Introduction

Artsakh (Nagorno-Karabakh) has a rich and complex cultural history. It is home to around 4 000 Armenian cultural sites, including 370 churches, 119 fortresses, and other historical and cultural monuments and antiquities dating back centuries.

The cultural and religious monuments of Artsakh provide material evidence for the millennia-long undeniable Armenian presence in the region. For instance, the partially excavated Tigranakert archaeological site, which is currently under the military control of Azerbaijan, is known as the “best-preserved city of the Hellenistic and Armenian civilizations” of the Caucasus. It was founded in the second to first century BC and later was a significant hub for early Christianity, with over ten inscriptions discovered to date in the Armenian and Greek languages dating to the fifth and seventh centuries CE (*see Annex 1*).

Nagorno-Karabakh is also home to many important sites for Armenian religious and cultural heritage. As a result of the aggression launched against Nagorno-Karabakh in the fall of 2020 and following the Trilateral Statement of November 9, 2020, up to **2 000 objects of the Armenian historical and cultural property** have come under Azerbaijani control. This includes 161 Armenian churches, more than 10 chapels, 52 castles and fortresses, 591 khachkars (unique hand-carved cross-stones), the archaeological site of Tigranakert, the Azokh Paleolithic cave, the Nor Karmiravan tombs, and architectural monuments such as palaces, bridges, and historic quarters.

Moreover, 10 state museums and galleries (*see Annex 2*), as well as privately owned the Shushi Carpet Museum and the Armenian Dram Museum, **with up to 21 000 artifacts and 127 school libraries with 617 000 books**, were also located on the territories that came under Azerbaijani control in the fall of 2020. Most of those museums were founded after the ceasefire of 1994 and showcase the history, religion, and cultural traditions of the indigenous Armenian population of Artsakh.

Today, after more than a year since the cessation of hostilities, the fate of the monuments, religious sites, and museum exhibits under the military control of Azerbaijan remains unclear as they are facing a constant threat of deliberate destruction, acts of vandalism, and desecration.

There are serious concerns over the preservation of these monuments, religious sites, and museum exhibits, given Azerbaijan’s practice of systematic destruction and falsification of the identity of the Armenian cultural heritage over the last several decades, both during peacetime and the war.

Indeed, there are several flagrant cases of the Azerbaijani campaign of intentional destruction within its borders. The most notorious one is **the complete annihilation of the ancient Armenian cemetery of Old Jugha in Nakhichevan between 1997 and 2006, in which a total of 28 000 monuments** (including 89 medieval churches, 5 840 khachkars, and 22 000 ancient tombstones) were bulldozed by the Azerbaijani army<sup>1</sup>. There is ample evidence, including photos and videos, demonstrating the deliberate policy of destruction of Armenian cultural heritage (Annex 3)<sup>2</sup>. This destruction has been acknowledged and denounced by the International Council on Monuments and Sites, the European Parliament, and international press reports, which have condemned Azerbaijan's acts as "the worst cultural genocide of the 21<sup>st</sup> century"<sup>3</sup>.

Other notable examples of Azerbaijan's well-documented policy of the destruction of Armenian cultural heritage is the destruction of Armenian monuments of the **Tsar village in the Karvachar (Kelbajar) region of Nagorno-Karabakh**<sup>4</sup> and the destruction of Surb Astvatsatsin Church (Holy Mother of God Church, 1797) in Baku in 1992<sup>5</sup> (See Annex 4).

The Azerbaijani government employs two main methods of erasing Armenian cultural heritage and historical presence in Nagorno-Karabakh. The first is the physical destruction or alteration of the sites. Then, wherever the first method is not feasible due to received media attention and easily accessible location, the Azerbaijani authorities try to change the identity of the Armenian cultural heritage, deny their historical roots labeling them as mythical "Caucasian Albanian." These attempts are in fact the steps taken towards misappropriating Armenian culture. Azerbaijan purports to be a descendant and successor of the early medieval Caucasian Albanian state (that ceased its existence around one thousand years ago), which is an anti-scientific and purely false narrative not supported by any academics, but the Azerbaijani ones or the ones funded by Azerbaijan.

The distortion of the identity of the Armenian heritage is an attempt of cultural looting, which is a vivid example of a gross violation of the relevant international legal instruments. Azerbaijan has relentlessly continued the misrepresentation of the Armenian cultural heritage because the very

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<sup>1</sup> Dale Berning Sawa. (March, 2019). *Monumental loss: Azerbaijan and 'the worst cultural genocide of the 21<sup>st</sup> century'*. The Guardian. Available at: <https://bit.ly/3dG4d7q>

<sup>2</sup> Nora McGreevy, "Why Scholars, Cultural Institutions Are Calling to Protect Armenian Heritage," *Smithsonian Magazine* (24 Nov. 2020), <https://www.smithsonianmag.com/smart-news/metropolitan-museum-scholars-call-protection-cultural-heritage-nagorno-karabakh-180976364/>

See also: Alexandre de Rhodes, *Divers voyages et missions du père Alexandre de Rhodes de la Compagnie de Jésus en la Chine et autres royaumes de l'Orient, avec son retour en Europe par la Perse et l'Arménie* (Various voyages and missions of Father Alexander of Rhodes of the Society of Jesus in China and other kingdoms of the East, with his return to Europe through Persia and Armenia) (in French), Paris: Sébastien Cramoisy, 1653, Part 3, 63.

<sup>3</sup> "Destruction of the Armenian Cemetery of Djulfa" Article in ICOMOS Heritage at Risk, available at: [https://www.icomos.org/risk/world\\_report/2006-2007/pdf/H@R\\_2006-2007\\_09\\_National\\_Report\\_Azerbaijan.pdf](https://www.icomos.org/risk/world_report/2006-2007/pdf/H@R_2006-2007_09_National_Report_Azerbaijan.pdf)

<sup>4</sup> Council of Europe, *Parliamentary Assembly Documents 2002 Ordinary Session (First Part)*, Volume I, "Maintenance of historical and cultural heritage in the Nagorno-Karabakh Republic", p.35, "Maintenance of historical and cultural heritage in the Nagorno-Karabakh Republic", p.35, <https://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=9533&lang=EN&fbclid=IwAR1XFauk5zMBAp9kDRi2a48ksOhX0Rd-R8FQLyfaVP7DqDmUnTeBWCgOe4>

<sup>5</sup> Photo illustration published on the Twitter account of user ChrisKhach (26 March 2021). Available at: <https://twitter.com/ChrisKhach/status/1375228904848289795>

existence of Armenians in Nagorno-Karabakh has been a severe challenge to the Azeri claims of indigeneity in the region.

This report aims to highlight the urgency required in taking steps to protect Armenian cultural heritage in the Republic of Artsakh and prevent its further destruction under Azerbaijani control.

## **II. Azerbaijan’s intentional destruction of immovable and movable cultural and religious heritage during and after the war**

During the hostilities and after the Trilateral Statement in direct violation of the Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, to which both Armenia and Azerbaijan are signatories<sup>6</sup>, as well as customary international humanitarian law, Azerbaijan intentionally demolished and desecrated Armenian historical and cultural heritage sites.

Significant examples of the destruction, desecration and erasure of Armenian immovable and movable cultural heritage and objects of worship during Azerbaijan’s 2020 military campaign and after the ceasefire include in particular the following sites:

- On October 8, 2020, the Holy Savior Ghazanchetsots Cathedral – a historical and religious symbol – in the cultural center of Artsakh, Shushi, was struck twice within a few hours, resulting in the partial destruction of the two domes of the Cathedral<sup>7</sup>. The damage to the interior and exterior of the Cathedral was extensively documented (*See Annex 5*). Civilians were sheltering in the Cathedral at the time of the attacks, and three journalists who had come to the scene to document the first strike were injured in the second attack.

The report by the Human Rights Watch, published on December 16, 2020, referred to attacks as a possible war crime since the Cathedral was intentionally targeted twice with precise weaponry.

The attacks were conducted by precise striking drones, emphasizing their intentional nature, which is a blatant violation of the Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. Article 7 of the Convention requires, among others, to “do everything feasible to verify that the objectives to be attacked are not cultural property.”<sup>8</sup>

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<sup>6</sup> The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954) and its two additional Protocols

<sup>7</sup> Artsakh Ombudsman, “Artsakh Ombudsman Second Interim Public Report on the Azerbaijani Atrocities Against the Artsakh Population in September to October 2020” (18 Oct. 2020). Available at: <https://artsakhombuds.am/en/document/735>

<sup>8</sup> The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954) and its two additional Protocols

The Ghazanchetsots Cathedral of Shushi was also vandalized in a merely few days after the end of hostilities<sup>9</sup>, in peacetime. Furthermore, the evidence is in place that the second dome of the Cathedral has been damaged, and this time long after the ceasefire statement was signed.

Moreover, after the ceasefire, under the guise of “reconstruction works,” Azerbaijan started to carry out actions to distort the historical appearance of the city of Shushi, misrepresenting and misinterpreting its Armenian origin. The starting point of its actions was the removal of the conical metal dome of the Ghazanchetsots Cathedral (May 2021) to change the monument’s architectural integrity before any assessment mission is dispatched. It’s noteworthy that Azerbaijan carries out these actions at the Shushi Cathedral without consulting with the Armenian Apostolic Church, which clearly violates the right of the Armenian believers to freedom of religion. The Ghazanchetsots Cathedral contains multiple interior and exterior elements, libraries, icons, etc., that prove its Armenian-Christian background, thus putting them currently at risk of extermination or alteration during the so-called “restoration” (*See Annex 6*). In the Communication of February 2, 2021, the UN Special procedure mandate holders called for full involvement of the Armenian Apostolic Church in the reconstruction and made an inquiry about the condition of artworks, furnishing, books, manuscripts, and relics. **Azerbaijan never replied to Communication.**

It is important to note that this is not the first time that Shushi and its symbolic Cathedral are the subjects of intentional attacks perpetrated by Azerbaijan. Indeed, during the 1988-1994 conflict, after deporting the local Armenian community in 1988, the Azerbaijani authorities demolished the Cathedral’s relief carvings, turned the Church into arsenal storage, and during the 1990s Karabakh war used it as the warehouse of the Azerbaijani authorities’ GRAD missile launcher system, effectively converting one of the most sacred sites for the Armenian people into a physical source of death for nearby civilians.

- The attacks on Shushi during the fall of 2020 also targeted the city’s Cultural Center. In total, four cultural houses have been destroyed by Azerbaijan thus far (*See Annex 7*)<sup>10</sup>.
- Additionally, during the aggression, the significant Hellenistic and Armenian archaeological site of Tigranakert, an ancient city founded by king Tigranes the Great in the first century BCE, became an area of intensive war activity and was shelled for several times (October 2020), proving yet again the complete disdain of Azerbaijani authorities towards even the most remarkable cultural heritage sites, which belong not only to Armenia but the whole mankind.
- In mid-November 2020, images and videos circulated in social media shortly after the occupation of Shushi by Azerbaijan, showing that the 19th-century Church of Saint John the Baptist in Shushi (Kanach Zham) had been severely damaged; the dome and the bell tower of the Church had been almost fully destroyed. Later, in February 2021, satellite

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<sup>9</sup> Rob Lee, Twitter (14 Nov. 2020), Available at: <https://twitter.com/RALee85/status/1327791527507144705?s=20>

<sup>10</sup> Artsakh Info center. (October, 2020). Available at: <https://bit.ly/35aLhtQ>

images of Google Earth confirmed that the Church had been completely leveled, with the bell tower and the dome removed (*See Annex 8*)<sup>11</sup>.

- According to video material prepared by the BBC, an Armenian Church, built in 2017 in Mekhakavan (Jabrail), now under Azerbaijani control, was vandalized by the armed forces of Azerbaijan (November 14, 2020) just after the war and has been completely erased without a trace (March 2021) (*See Annex 9*).
- In the same month, videos of the St. Yeghishe Church of Mataghis (Martakert region) being vandalized and desecrated by Azerbaijani soldiers were broadcast<sup>12</sup>.
- Damages to symbolic monuments of Armenian collective memory and cultural identity were also reported. In Shushi, a memorial dedicated to the victims of the Armenian Genocide, fallen soldiers in World War II and the First Karabakh war was destroyed entirely (December 2020). Several memorials were also damaged or vandalized in Talish (*see Annex 10*), khachkars were destroyed in Hadrut (Arakel village), Kubatli, Mekhakavan (Jabrayil) and cemeteries were desecrated<sup>13</sup>. One of the latter's vivid illustrations is the destruction of the cemetery of the Avetaranots' village (Askeran region). In late May, it was also revealed that in the same region, Azerbaijani armed forces had also leveled the 18th-century cemetery of the Sghnakh village to the ground (*see Annex 11*). In the Hadrut region, the cemetery of Mets Tagher (19<sup>th</sup> century) was also destroyed (June 2021) (*see Annex 12*)<sup>14</sup>.
- Other Armenian cultural heritage symbols face an imminent threat of destruction as well. The Vankasar Church, built around the 6<sup>th</sup>-7<sup>th</sup> centuries and located near the ancient site of Tigranakert, is reported to have been loaded with heavy military equipment by the Azerbaijani army. The Holy Astvatsatin Church (19<sup>th</sup> century), located in the area of the village of Taghavard, the Western part of which came under Azerbaijani control, is threatened by the ongoing destruction of the West part of the village that extends to the edge of the Church<sup>15</sup>. Katarovank, located on top of Mount Dizapayt occupied by Azerbaijani armed forces as a result of the violation of the ceasefire of December 12, 2020, is also the subject of serious concerns as various videos show that the monastery is now being used for military purposes and that Azerbaijani soldiers live inside the complex (March 29, 2021)<sup>16</sup>. Another monastery, Kusanats Anapat, in Avetaranots village of the

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<sup>11</sup> Fact Investigation Platform (October, 2021). Available at: <https://fip.am/en/17184?fbclid=IwAR11ASo-SXJwNawD6g52ZR1rIsRS6RT1GbeKusr2RQP3Hpgr-YJYPqjAXaw>

<sup>12</sup> Nazaretyan H. (May, 2021). Artsakh's cultural heritage under threat, EVN Report. Available at: <https://www.evnreport.com/spotlight-karabakh/artsakh-s-cultural-heritage-under-threat>

<sup>13</sup> Ibid

<sup>14</sup> Fact Investigation Platform (October, 2021). Available at: <https://fip.am/en/17184?fbclid=IwAR11ASo-SXJwNawD6g52ZR1rIsRS6RT1GbeKusr2RQP3Hpgr-YJYPqjAXaw>

<sup>15</sup> Information published on the Caucasus Heritage Watch Facebook account (16 July 2021). Available at: <https://ne-np.facebook.com/CaucasusHW/posts/threat-alert-the-historic-holy-mother-of-god-church-s-astvatsatsin-in-the-villag/133238675611321/>

<sup>16</sup> Information published on the Monument Watch website (13 April 2021). Available at: <https://monumentwatch.org/alerts/the-usage-of-the-church-of-kataro-monastery-for-military-purposes/>

Askeran region, has suffered the same fate by being desecrated and ruined by Azerbaijani military forces (October 7, 2021)<sup>17</sup>.

- Several cultural heritage monitoring institutions also express serious concerns about the ongoing significant-scale road constructions in the occupied territories of Artsakh that threaten Armenian cultural monuments. These activities accelerate the destruction process. Therefore, the Thukhnakal mansion located near Moshkhmkhat village (Askeran region), the Surb Astvatsatsin church in Madatashen village (Askeran region), the cemetery and the Bridge of Avetaranots and the Bridge of Taghis near Mets Tagher village are all in danger. The memorial complex in Azokh village - dedicated to the victims of World War II, the First Artsakh War and the Armenian Genocide - has already been destroyed<sup>18</sup>. Moreover, the Syghnakh cemetery (Askeran region), some territories of Mets Tagher village and the Makun Bridge (*see Annex 13*) were destroyed and leveled (October 2021) under the guise of road construction<sup>19</sup>.
- The Caucasus Heritage Watch published a number of Monitoring Reports on the state of the cultural heritage in Nagorno-Karabakh<sup>20</sup>. It concluded that there are “two primary areas where significant damage to heritage is most clearly visible” – in the town of Shushi and along two corridors in the southern region (one corridor from Fizuli to Shushi and another one along the Hakari/Aghavno River valley)<sup>21</sup> (*see Annex 14, 15, 16*). Caucasus Heritage Watch also reported that the 51 sculptures in the park next to the Shushi Museum of Fine Arts park appear to have been removed or destroyed<sup>22</sup> (*see Annex 17*). This park had works of sculptors from a number of countries donated to the city of Shushi.
- Furthermore, the constant fire by the Azerbaijani armed forces during the conflict on civilian settlements made it impossible for museum and heritage professionals to care for the safety of the collections and ensure their protection. This includes eight state museums and galleries and two private museums, namely the Shushi Carpet Museum and the Shushi Armenian Dram Museum, which are located in the areas currently under the military control of Azerbaijan. Other relevant museums comprise the State Geological Museum of Shushi with its entire collection of 48 ore and organic fossil remains from 47 different countries and 1.2 billion-year-old exhibits and the history Museum in Shushi with its 300 exhibits.

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<sup>17</sup>Information published on the Monument Watch website (22 October 2021). Available at: <https://monumentwatch.org/alerts/the-enemy-desecrated-kusanats-anapat-monastery-in-avetaranots-village-of-askeran-region/>

<sup>18</sup>Information published on the Monument Watch website (28 August 2021). Available at: <https://monumentwatch.org/alerts/destruction-of-the-memorial-complex-in-azokh-village-of-hadrut/>

<sup>19</sup>Information published on the Monument Watch website (13 October 2021). Available at: <https://monumentwatch.org/alerts/the-roads-of-azerbaijan-and-threats-to-the-armenian-cultural-heritage/>

<sup>20</sup> Caucasus Heritage Watch website. Available at: <https://caucasusheritage.cornell.edu/index.php/report>

<sup>21</sup> Khachadourian & al (2021), Caucasus Heritage Watch Monitoring Report #1, Cornell University

<sup>22</sup>Information published on the Caucasus Heritage Watch Twitter account (13 August 2021). Available at: <https://twitter.com/CaucasusHW/status/1426236001794543623>

Along with protecting material legacy in Artsakh, it is vital to preserve the region's intangible cultural heritage. More than 90 000 civilians were displaced from their ancestral homes due to the war of 2020. 40 000 of them are deprived of the possibility to return to their places of residence since they are occupied by the armed forces of Azerbaijan. This means that these people are stripped of their ability to express their cultural identity in their natural habitats to ensure the viability of various manifestations of intangible heritage, which itself violates the rights of the bearers of that heritage.

### **III. Azerbaijan denies the evidence of Armenian historic presence in Nagorno-Karabakh by promoting the policy of falsification of the identity of the Armenian cultural heritage**

Azerbaijan's intentional destruction has been combined with official efforts to rewrite history and engage in cultural erasure. Azerbaijan's practice of historical revisionism has been carried out through systematic acts of misappropriation of Armenian cultural heritage since the 1950s.

Indeed, in efforts to strengthen its ties to these lands, Azerbaijan claims that the Armenian churches and khachkars belong to "Caucasian Albanians," with a putative assumption that Caucasian Albanians are the ancestors of the Azerbaijani people. The latter was a historical polity situated in the north of the river Kura (in the Shaki, Qakh, Oghuz, Gabala, and Ismayilli districts of present-day Azerbaijan and southern Dagestan in the Russian Federation) and ceased to exist in the 8<sup>th</sup> century. The population of historical Caucasian Albania consisted of more than two dozen ethnic groups, none of which were title-bearing people nor had the identity of "Caucasian Albanian."

Azerbaijan has never made a secret out of its intention to use the cultural destruction and misappropriation as means of demographic engineering of Nagorno-Karabakh and completely distorting its cultural identity. Particularly the publicly pronounced plans for the construction of new mosques in Hadrut and Karin Tak villages and rebuilding of the historic center of Hadrut speak for themselves<sup>23</sup>. Both villages never had any Azerbaijani population before they were occupied by the armed forces of Azerbaijan in 2020.

On March 15, 2021, the Azerbaijani President visited the 17th-century Armenian Church in the village of Tsakuri in the Hadrut region of Artsakh, currently under the occupation of the Azerbaijani Armed Forces, and openly declared it "Caucasian Albanian." He labeled the Armenian inscriptions on the Church's walls as "fake," thus preparing the ground for future acts of vandalism in explicit violation of the 1954 Convention and the UN Security Council Resolution 2347 (2017).

The attempts to alienate these monuments from the Armenian people have no historical, religious, or moral grounds. Attempts to present the Christian heritage of Armenians of the region as so-called "Caucasian Albanian" have not been corroborated by any academicians other than in Azerbaijan or the ones directly funded by Azerbaijan.

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<sup>23</sup> Information published on the Monument Watch website (15 November 2021). Available at: <https://monumentwatch.org/alerts/foundation-of-new-mosques-in-the-armenian-settlements-of-artsakh/>

The indigenous Armenian origin of the religious sites is supported not only by vast historiographic evidence but is also verifiable by their strict adherence to the distinctive architectural features, canons and worship practices of the Armenian Apostolic Church, as well as by the thousands of inscriptions in the Armenian language on the churches and other places of worship, which present the history of the construction of those monuments.

Comprehending the baselessness of its claims to the monuments of Artsakh, Azerbaijan has been exploiting the factor of the Christian Udi minority. There are currently about 4 000 Udis living in Azerbaijan who are traditional followers of the Armenian Apostolic Church. They mainly live in two villages - Vardashen and Nij. Although the Udis were closely associated with Armenian culture and the Church, their area of residence is located north of the Kur river, hundreds of kilometers far from Artsakh, and thus they have no relation to the erection of Christian monuments in Artsakh.

The Udis have been continuously oppressed. Between 1918-1922, some Udis emigrated to Georgia as a result of persecution. Between 1989-1991, due to the large-scale persecution of Armenian-speaking Udis, most of them left Azerbaijan, and the rest were forced to renounce the Armenian Apostolic Church. In 1991, the Vardashen (Armenian toponym meaning the village of roses) village was renamed Oghuz (the name of Turkic tribes that arrived in the Caucasus in the 11th century). The Caucasian Albanian card is nothing but a means to claim the historical and cultural heritage of neighboring nations.

The restoration of the Church in Nij is illustrative in this regard. As a result of “reconstruction”, the historic Armenian script on the Church was completely erased, which is another example of cultural cleansing by Azerbaijani authorities. The Norwegian charity organization, which was supporting the restoration along with the Ambassador of Norway to Azerbaijan, criticized the erasure of the Armenian script<sup>24</sup>.

The distortion of the identity of the Armenian heritage is an attempt of cultural looting, which is also a gross violation of the relevant international legal instruments. Azerbaijan has relentlessly continued the misrepresentation of Armenian cultural heritage because the historic and cultural monuments point to the undeniable and continuous presence of Armenians in Nagorno-Karabakh, which has been a severe challenge to the claims of Azerbaijan over the control of the territory.

Furthermore, presenting the Armenian churches as Caucasian Albanian is, in fact, an intermediate step towards “Azerbaijanizing” them, taking into account Azerbaijan’s claims of being a descendant of Caucasian Albanians. Ethnographic, archaeological, and anthropological research has proven this to be false. No feature of identity, including religion, language, or ethnonym, can attest to the mere similarity of these ancient Caucasian populations to that of Turkic Azerbaijanis. The aim of this faulty thesis is to eradicate the Armenian peoples’ historical roots in the region and thereby diminish their entitlement to live in and organize their lives in these areas, while also fabricating an Azerbaijani historical presence. This systemic “Albanization/ Azerbaijanization” of Armenian cultural property quite evidently constitutes historical revisionism by Azerbaijan.

The misappropriation of Armenian cultural heritage is not limited to places of worship; Azerbaijan has also been attempting to usurp the Armenian tradition of carpet weaving. Armenian carpets have

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<sup>24</sup> *Azeri church sparks political row*. Available at: <http://news.bbc.co.uk/2/hi/europe/4336733.stm>



been revered in the Christian West for over five hundred years now, and Artsakh was one of the key centers of Armenian carpet weaving culture. Artsakh carpets reflect the rich traditions of Armenian carpet weaving as well as the artistic and semantic features typical of different eras, thus serving as the best evidence of the centuries-old history of the indigenous Armenian people.

Nevertheless, Azerbaijani authorities do not recognize the historical role played by Armenians in the rich history of carpet weaving, continuing to allege that Armenian carpet weaving traditions are just a reflection of the Azerbaijani art form, thus appropriating Armenian carpet weaving culture and ascribing it to Azerbaijan.

According to the Second Protocol to The Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict (1999), Article 9, point C, “any alteration to, or change of use of, a cultural property which is intended to conceal or destroy cultural, historical or scientific evidence” is prohibited. And the general provisions of UNESCO and ICOMOS prohibit any external or internal changes of forms, components, functions of the Cultural object that can contradict the world’s primary principles of identity, integrity, cultural value and uniqueness of the Heritage site.

#### **IV. Violation of freedom of religion or belief of the Armenian Christians of Nagorno-Karabakh**

It is also noteworthy that besides the physical destruction and identity denial of the Armenian legacy in the region, the institutionalized anti-Armenian campaign of Azerbaijan deliberately targets the religious rights of the Armenian population by blocking access to religious sites of Armenian-Christian pilgrims and thus denying the right of displaced Armenians to exercise their religion in their churches freely. Moreover, the Azerbaijani government pursues a policy of intimidating Armenian clergy by isolating and subjecting them to inhumane conditions.

For instance, the Dadivank monastery complex, one of the best-known Armenian monastic complexes, was an active religious site, where worshippers and pilgrims would regularly attend masses even up to the very last hours before it was fell under Azerbaijani control. After the ceasefire statement, under the protection of Russian Peacekeepers, Armenian monks remained in the monastery and pilgrims were allowed to continue visiting the site. Unfortunately, since late April, Azerbaijan has denied access to pilgrims to the Dadivank Monastery using various excuses such as the pandemic, road construction, etc. Moreover, there are now only six members of the Armenian Apostolic Church remaining in Dadivank. In addition to not receiving pilgrims or worshippers, the priests cannot leave the monastic complex for fear of denying further access to the monastery.

It is essential to guarantee safe access for Armenian pilgrims and religious leaders to churches, monasteries and other places of worship to exercise their right to religion and belief freely.

Lastly, Azerbaijani attempts to prevent the extension of Humanitarian Aid to the population of Nagorno-Karabakh is another illustration of Azerbaijani will eradicate Armenian presence in the region.

All the above-mentioned facts showcase severe violation of human rights and international humanitarian law standards, to name but few are the Article 27 of the Universal Declaration of Human Rights and Article 15 of the International Covenant on Economic, Social and Cultural Rights, which require a guarantee of the right of everyone to take part in cultural life, without discrimination.

The targeted destruction of many cultural and religious sites by Azerbaijan neglects General Comment Number 21, recalled by the Committee on Economic, Social, and Cultural Rights, as well as the 2003 UNESCO Declaration on the States' obligations, respectively, to "respect and protect cultural heritage in all its forms, in times of war and peace" and "not to intentionally destroy heritage, whether or not it is inscribed on the list maintained by UNESCO or another international organization."

On the contrary to Azerbaijan's policy, advocacy of cultural diversity and respect towards others' cultures and their legacies are the main policy guidelines for Armenia and Artsakh.

According to the information provided by the Government of Artsakh, the historical and cultural monuments of Nagorno-Karabakh are under the protection of the Government, regardless of their origin and religious affiliation. By 2020, authorities of Artsakh have issued certificates to more than 4 000 historical and cultural monuments and more than 1 000 protection zones. The legislative framework has been improved, the State Service for the Protection of the Historic Environment was set up to pay more attention to the issues of maintenance and accessibility to monuments.

Currently, there are about 2 500 monuments in the areas under the control of the authorities of Artsakh. They are registered on the State List of Monuments of the Republic of Artsakh. Correspondingly, the preservation and respective policy actions were being implemented by Artsakh leadership and Russian peacekeeping troops.

The Government of Armenia is fully committed to relevant international norms and principles on the respect, preservation, protection, right of access to and enjoyment of cultural heritage forms. For instance, in collaboration with the Revival of Oriental Historical Heritage Foundation, the Government of Artsakh has completed the Gohar Agha Upper Mosque Restoration in Shushi in 2019. The project involved both local and international organizations to ensure the implementation of the best international practices and standards. The preservation and renovation efforts of cultural heritage are carried out in accordance with international standards and in consultation with those with close connections to that heritage.

## **V. Azerbaijani anti-Armenian xenophobia and policy**

The Azerbaijani hostility and disdain towards Armenian cultural heritage stem from the historically rooted anti-Armenian hate and xenophobia within the Azerbaijani society that also reflects in the hate policy pursued by Azerbaijan, and which has intensified over decades<sup>25</sup>. Indeed, this matter has been confirmed by several independent international organizations. For example, the European

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<sup>25</sup> Adibekyan A. & Elibekova E. (2015), *Armenophobia in Azerbaijan*, Information and Public Relations Center of the Administration of the President of the Republic of Armenia

Commission against Racism and Intolerance (ECRI) of the Council of Europe has affirmed that hate speech against Armenians is a prevalent problem in Azerbaijan and found that political leaders, educational institutions, and the media have ensured that a generation of Azerbaijanis has been imbued with this hateful anti-Armenian rhetoric<sup>26</sup>. Thus it is not surprising that during the war and afterwards various Azerbaijani top executives, including President Aliyev, referred to Armenians as dogs that should be chased out of Nagorno-Karabakh.

For decades, Azerbaijani authorities have used the dehumanization and demonization of Armenians as an instrument of propaganda to shape public opinion and create deeply rooted damaging stereotypes about Armenians. That hate speech has boosted more hostility, murders and war crimes against Armenians, based on their ethnicity.

Another striking example of the racist and hate-generating initiatives of Azerbaijan is the installation of the Military Trophies Park in Baku, dedicated to the war in Artsakh, inaugurated on April 12, 2021, with the presence of the President of Azerbaijan. The exhibits of this Park displayed the helmets of the fallen Armenian soldiers and wax mannequins depicted Armenian soldiers with degraded faces, some of which were shown as suffering, captured, and dying. The Park has opened its doors to Azerbaijani children, who in photos released by Azerbaijani media, were seen happily playing with the degrading displays of Armenian soldiers. The Park is still operational; however, in response to international outrage and pressure, as well as proceedings in the International Court of Justice the helmets and the wax mannequins were removed in October 2021.

On this matter, on September 13, 2021, the Parliamentary Assembly of the Council of Europe published its report entitled *Humanitarian consequences of the conflict between Armenia and Azerbaijan*. The report stated the persistent refusal of Azerbaijani authorities to release the remaining Armenian prisoners of war and civilian detainees, which constitutes a clear violation of the November 2020 Trilateral Statement and international agreements. It also recalled the prevailing accusations of tortures and other wrongful acts perpetrated against Armenian POWs. It should be noted that Azerbaijani authorities denied the PACE Rapporteur to meet the captives, thus testifying on Azerbaijani attempts to avoid international investigation and blur the evidence of war crime perpetrations that it has been accused of by various organizations.

On September 16, 2021, the Republic of Armenia instituted proceedings against the Republic of Azerbaijan before the International Court of Justice concerning the *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan)*. Armenia also requests the Court to indicate certain provisional measures “as a matter of extreme urgency”.

On December 7, 2021, ICJ issued its orders acknowledging Armenia’s valid concerns raised in the request and the risk of irreparable harm to the rights of the Armenians under the “International Convention on the Elimination of All Forms of Racial Discrimination.”

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<sup>26</sup> European Commission against Racism and Intolerance (ECRI). (June, 2016). Report on Azerbaijan (fifth monitoring cycle). Available at: <https://rm.coe.int/fourth-report-on-azerbaijan/16808b5581>

Out of three orders imposed to Azerbaijan, two of them contain explicit content of prevention of racial hatred and destruction of the Armenian cultural heritage by Azerbaijan. Thus ICJ urges Azerbaijan particularly to:

- “Take all necessary measures to prevent the incitement and promotion of racial hatred and discrimination, including by its officials and public institutions, targeted at persons of Armenian national or ethnic origin”;
- “Take all necessary measures to prevent and punish acts of vandalism and desecration towards Armenian cultural heritage, including churches and other places of worship, monuments, landmarks, cemeteries and artifacts”<sup>27</sup>.

Thus in ICJ, Armenia sought emergency measures to deal with the cycle of violence and hate perpetrated against ethnic Armenians. This also involved serious consideration of the protection of Armenian cultural heritage in the region and Azerbaijan’s accountability for the violation of various international conventions and resolutions (A/HRC/RES/33/20, A/HRC/RES/37/17, UDHR Art. 27; 1954 Convention Art. 4,18, 28; 1970 Convention Art. 2,7,8,11,15,16,17; 1999 Protocol Art. 5,6,9,15,16; 2003 UNESCO Declaration Art. IV, VIII, the European Convention on Offences relating to Cultural Property, Art. 13; CERD Art. 1,2,5,7; CESCRR Art. 1,3,5)<sup>28</sup>.

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<sup>27</sup> International Court of Justice. (December 2021). *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan)*. The Court indicates provisional measures to protect certain rights claimed by Armenia and orders both Parties to refrain from any action which might aggravate or extend the dispute, No. 2021/34. Available at: <https://www.icj-cij.org/public/files/case-related/180/180-20211207-PRE-01-00-EN.pdf>

<sup>28</sup> United Nations Human Rights Council. *Human Rights and the protection of cultural heritage*. 6 October, 2015 Available at: <https://www.ohchr.org/EN/Issues/ESCR/Pages/CulturalRightsProtectionCulturalHeritage.aspx>  
*Resolution 33/20 Cultural Rights and the protection of cultural heritage*, HRC, 30 September 2016. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/099/82/PDF/G1809982.pdf?OpenElement>  
Un General Assembly “Universal Declaration of Human Rights” United Nations 217(III) A, 1948, Paris. Available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>  
U.N. Charter. 24 October 1945. Available at: <https://www.un.org/en/about-us/un-charter/full-text>  
*Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention*, The Hague, 14 May 1954. Available at: [https://en.unesco.org/sites/default/files/1954\\_Convention\\_EN\\_2020.pdf](https://en.unesco.org/sites/default/files/1954_Convention_EN_2020.pdf)  
*Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970*, Paris 14 Nov. 1970. Available at: [http://portal.unesco.org/en/ev.php-URL\\_ID=13039&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13039&URL_DO=DO_TOPIC&URL_SECTION=201.html)  
*Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict*, The Hague, 26 March 1999, UNESCO Doc. HC/1999/7. Available at : [http://portal.unesco.org/en/ev.php-URL\\_ID=15207&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=15207&URL_DO=DO_TOPIC&URL_SECTION=201.html)  
UN Educational, Scientific and Cultural Organization (UNESCO), *UNESCO Declaration Concerning the Intentional Destruction of Cultural Heritage*, Paris, 17 October 2003. Available at: [https://international-review.icrc.org/sites/default/files/irrc\\_854\\_unesco\\_eng.pdf](https://international-review.icrc.org/sites/default/files/irrc_854_unesco_eng.pdf)  
*European Convention on Offences relating to Cultural Property*, Delphi, 1985 European Treaty Series No. 119. Available at: <https://rm.coe.int/168007a085>  
*International Convention on the Elimination of All Form of Racial Discrimination*, New York, 21 December 1965. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>  
*International Convent on Economic, Social and Cultural Rights*, New York, 3 January 1976. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

Indeed, according to many scholars: “The protection of cultural heritage is not simply about preserving old monuments, it is one front in the wider global effort to combat hatred and discrimination.”<sup>29</sup>.

Thus, the ruling of the International Court of Justice on the necessity of protection of the Armenian cultural heritage, which is currently under Azerbaijani control, made a direct link between the promotion of racial hatred against Armenians and the destruction of the Armenian cultural heritage by Azerbaijan.

## **VI. International efforts**

The Government of the Republic of Armenia held discussions with the UNESCO leadership for devising an expert mission to monitor the cultural heritage in the region. With this regard, the engagement of international experts and groups, as well as relevant cultural and religious institutions, with the possible involvement of local government and civil society representatives, is of vital importance.

As the first step towards the effective safeguarding of the region’s heritage, on November 20, 2020, UNESCO Director-General proposed in her statement to both Armenia and Azerbaijan to send an independent mission of experts to draw a preliminary inventory of significant historical and cultural heritage sites in and around Nagorno-Karabakh<sup>30</sup>.

Since then, Armenia has been constructively engaged with the UNESCO Secretariat to identify the modalities of the mission. We have expressed, and for many times, our willingness to contribute to its implementation as soon as possible, in conformity with the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, as the Director-General has initially proposed it<sup>31</sup>. Furthermore, the UNESCO proposal has been fully supported by the Minsk Group Co-Chairs of the OSCE (the internationally agreed mediation format of the Nagorno-Karabakh conflict resolution) and the Republics of Armenia and Artsakh.

It’s worth mentioning as well that the members of the Intergovernmental Committee of the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict and its Second Protocol (1999), adopted a declaration on December 11, 2020, welcoming UNESCO’s initiative and confirming the need for a mission to take stock of the situation regarding cultural properties in and around Nagorno-Karabakh. As mentioned in the Declaration of the Committee, an independent technical mission of UNESCO should be sent to Nagorno-Karabakh as soon as possible with the aim of assessing the status of the cultural property in all its forms as a prerequisite

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<sup>29</sup> Cornell University. (October 2021) Attacks upon cultural heritage are “attacks upon a people”. Available at: <https://as.cornell.edu/news/attacks-upon-cultural-heritage-are-attacks-upon-people>

<sup>30</sup> Statement of the UNESCO Director-General, “*Nagorno-Karabakh: Reaffirming the obligation to protect cultural goods, UNESCO proposes sending a mission to the field to all parties*” (December 20, 2020). Available at: <https://en.unesco.org/news/nagorno-karabakh-reaffirming-obligation-protect-cultural-goods-unesco-proposes-sending-mission>

<sup>31</sup> Remarks of the Foreign Minister of Armenia Ararat Mirzoyan at the 41st Session of the UNESCO General Conference, Available at: [https://www.mfa.am/en/press-releases/2021/11/11/am\\_unesco/11168](https://www.mfa.am/en/press-releases/2021/11/11/am_unesco/11168)

for the effective protection of heritage<sup>32</sup>. It is crucial to maintain unlimited access of UNESCO to all endangered sites throughout the mission without any discrimination. The Armenian side can agree to any list of the sites presented by Azerbaijan, provided that Azerbaijan would not try to limit the list of the Armenian monuments to be assessed by the mission.

Regrettably, Azerbaijan, which has been politicizing the issue since the beginning, currently continues to create new obstacles for the effective engagement of UNESCO, trying to distort the scope and purpose of the proposed mission. UNESCO Assistant Director-General for Culture publically stated that: “it is only the response of Azerbaijan that is still awaited for UNESCO to proceed with the sending of a mission to the field. The authorities of Azerbaijan have been approached several times without success so far.”<sup>33</sup>

Once again, Armenia stresses the urgent need to organize UNESCO mission to Nagorno-Karabakh and adjacent territories in the framework of the UNESCO 1954 Convention, as endorsed by the Director-General’s statements of November 20 and December 11, 2020, and in line with the Declaration adopted by the Committee on the Second Protocol (1999) of the 1954 Convention.

Having in mind the numerous facts of the systematic destruction of the cultural and religious heritage of the region in the past, the preservation of historical-cultural and religious monuments must be an essential part of the peace process. In this context, the Azerbaijani leadership and state propaganda machine must immediately put an end to the deplorable approach of misappropriation, distortion of the identity of Armenian churches, and at least demonstrate due respect towards cultural and religious monuments. The proper protection of religious sites, both from the physical and spiritual perspectives, can create conditions for peace and reconciliation in the region. In the context of the above mentioned, the Government of Armenia welcomes and highly values international engagement and respective monitoring missions in the region to investigate allegations and make recommendations on accountability, restoration and reparation of the cultural heritage.

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<sup>32</sup> Declaration of the Committee for the Protection of Cultural Property in the Event of Armed Conflict of the Second Protocol to The Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict – ensuring cultural property protection in and around Nagorno-Karabakh and setting-up an independent technical mission (December 11, 2020). Available at: [https://en.unesco.org/sites/default/files/en\\_15\\_com\\_declaration\\_haut-karabakh\\_final\\_1.pdf](https://en.unesco.org/sites/default/files/en_15_com_declaration_haut-karabakh_final_1.pdf)

<sup>33</sup> UNESCO’s press release, *UNESCO is awaiting Azerbaijan’s Response regarding Nagorno-Karabakh mission* (December 21, 2020). Available at: <https://en.unesco.org/news/unesco-awaiting-azerbaijans-response-regarding-nagorno-karabakh-mission>

## ANNEX

### Annex 1: Tigranakert Excavation sites



The site was shelled several times by the Azerbaijani armed force

Sources: <https://hyperallergic.com/592287/tigranakert-artsakh-nagorno-karabakh-war/>

**Annex 2: The list and some photos of state museums currently under the military control of Azerbaijan**

- State Museum of Fine Arts
- State Museum of Geology after Professor G. Gabrielyants
- Shushi Museum of History
- Shushi Art Gallery
- State Archaeological Museum of Kashatagh
- Hadrut Local Lore Museum After Arthur Mkrtchyan
- Mets Tagher Museum after A. Khanperiyants
- Tumi Museum after Tevan Stepanyan
- Carpet Museum of Shushi, city of Shushi
- Armenian Money Museum of Shushi, city of Shushi
- Tigranakert Archaeological Museum
- Azokh Cave State Reserve



State Museum of Fine Arts





State Museum of Geology after Professor G. Gabrielyants in Shushi

### Annex 3: The destruction of the Ancient Armenian cemetery of Old Jugha, Nakhijevan



Military “firing range” in place of the destroyed cemetery of Old Jugha (photos showing the situation before and after). Source: [https://www.icomos.org/risk/world\\_report/2006-2007/pdf/H@R\\_2006-2007\\_09\\_National\\_Report\\_Azerbaijan.pdf](https://www.icomos.org/risk/world_report/2006-2007/pdf/H@R_2006-2007_09_National_Report_Azerbaijan.pdf)

**Annex 4: The destruction of the Armenian Church in Baku**



Surb Astvatsatsin Church (Holy Mother of God Church) in Baku (1797-1992)

Source: <https://twitter.com/ChrisKhach/status/1375228904848289795/photo/2>

**Annex 5: Damages to the Holy Savior Ghazanchetsots Cathedral of Shushi**







Source: Artsakh Info center <https://bit.ly/2SVJ13Y>



## Annex 6: Reconstruction of Holy Savior Ghazanchetsots Cathedral of Shushi



Source: Fact Investigation Platform <https://fip.am/en/17184>



Ghazanchetsots in 1904 and 1975 (Source: Shahen Mkrtychyan, Historical-Architectural Monuments of Nagorno-Karabakh, 1980); the Church after it was hit twice by the Azerbaijani military on October 8, 2020 (credit: hetq.am); the Cathedral without the metal roof on its iconic dome on May 4, 2021 Source: Gegham Stepanyan, <https://www.evnreport.com/spotlight-karabakh/artsakh-s-cultural-heritage-under-threat>



Graffiti comprising hateful speech on Ghazanchetsots Cathedral, November, 2020  
Source: <https://medium.com/@mujj/azerbaijan-residents-waste-no-time-in-mocking-and-vandalizing-12th-century-historic-armenian-bdac30da5>

#### **Annex 7: Cultural Center of Shushi**



The cultural center after the shellings in October 2020  
Source: <https://www.24news.am/news/127146>



**Annex 8: St John the Baptist Church / Kanach Zham**



Satellite images of Kanach Zham Church on April 3, 2020, and February 15, 2021 (credit: Maxar Technologies/Google Earth); an undated photo of an Azerbaijani soldier in front of the Church; and Kanach Zham church in mid-November 2020

Source: <https://www.evnreport.com/spotlight-karabakh/artsakh-s-cultural-heritage-under-threat>



Recent satellite images show the progressive destruction of Kanach Zham Church

Source: Fact Investigation Platform, <https://fip.am/en/17184>

**Annex 9: Holy Mother of God Church / Zoravor Surb Astvatsatsin Church**



Zoravor Surb Astvatsatsin Church in 2017. After the 44-day war, the Church was vandalized and insulted by Azerbaijani soldier before being demolished

Source: <https://asbarez.com/azerbaijan-destroys-another-armenian-church-after-war>

## Annex 10: The memorial complex in Talish



The memorial in 2017 before being demolished and vandalized by Azerbaijanis in 2020  
Source: <https://www.aragatsfound.org/post/talish-khachkars-memorials-and-holy-books-vandalized>

### Annexe 11: Sghnakh cemetery



Satellite images show the 18th-century cemetery was completely leveled between April and June 2021

Source: Caucasus Heritage Watch,

<https://twitter.com/CaucasusHW/status/1411023428480610304>

### Annex 12: Mets Tagher cemetery



The 19th-century cemetery in June 2020 and in April 2021 after having been destroyed

Source: <https://twitter.com/CaucasusHW/status/1389639754602491904>

### Annex 13: Makun Bridge in Mets Tagher



Satellite images show that between April and July 2021, the 19<sup>th</sup> century Bridge was destroyed  
Source: <https://twitter.com/CaucasusHW/status/1432769995755433993>

### Annex 14: Northern Cemetery of Shushi



The cemetery has been partially destroyed according to satellite images captured in April 2021  
Source: <https://twitter.com/CaucasusHW/status/1394329613757734919/photo/1>

**Annex 15: The Statue of Vazgen Sargsyan**



The Statue of the former Prime Minister of Armenia and national hero was destroyed in Shushi  
Source: Fact Investigation Platform <https://fip.am/en/17184>

**Annex 16: Aknakhbyur memorial in Hadrut region**



The memorial dedicated to the victims of the First Artsakh war was vandalized  
Source: <https://monumentwatch.org/alerts/destruction-alteration-modification-of-cultural-heritage-of-aknaghb>

**Annex 17: Fine Arts Museum Sculpture Garden, Shushi**



The park located next to Shushi Museum of Fine Arts was cleared of its 51 sculptures  
Source: <https://twitter.com/CaucasusHW/status/1426236001794543623>