



# INTERNATIONAL COURT OF JUSTICE

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## Press Release

Unofficial

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### **Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan)**

#### **The Court finds that it has jurisdiction on the basis of Article 22 of the International Convention on the Elimination of All Forms of Racial Discrimination to entertain the Application filed by Armenia**

THE HAGUE, 12 November 2024. The International Court of Justice today handed down its Judgment on the preliminary objections raised by Azerbaijan in the case concerning *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan)*.

It is recalled that, on 16 September 2021, Armenia instituted proceedings against Azerbaijan concerning alleged violations of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) (see press release No. [2021/20](#)). As basis for the Court's jurisdiction, Armenia invoked Article 36, paragraph 1, of the Statute of the Court and Article 22 of CERD, to which both States are parties. On 21 April 2023, Azerbaijan raised two preliminary objections to the jurisdiction of the Court (see press release No. [2023/22](#)). Public hearings on those preliminary objections were held from 15 to 19 April 2024 (see press release No. [2024/33](#)).

In the Judgment rendered today, the Court rejects the two preliminary objections raised by Azerbaijan.

In its first preliminary objection, Azerbaijan argued that the Court lacked jurisdiction under Article 22 of CERD because the precondition of negotiation set out in that provision had not been satisfied. In today's Judgment, having considered the correspondence exchanged and the meetings that took place between the Parties between November 2020 and October 2021, the Court concludes that Armenia made a genuine attempt to engage in discussions with Azerbaijan with a view to resolving the dispute, and that the negotiations had become futile by 16 September 2021, the date on which Armenia filed its Application. Accordingly, the Court finds that the precondition of negotiation is satisfied in the present case and that Azerbaijan's first preliminary objection must be rejected.

In its second preliminary objection, Azerbaijan contended that some of Armenia's claims were not within the scope of the Court's jurisdiction *ratione materiae* under Article 22 of CERD, because they were not based on one of the prohibited grounds of racial discrimination enumerated in Article 1, paragraph 1, of the Convention. In its Judgment, the Court underscores that while the protection

against racial discrimination provided by CERD continues to apply in armed conflict, its jurisdiction in the present case is limited to Armenia's claims under CERD. In light of this, the Court must ascertain whether the specific acts complained of by Armenia are capable of establishing discriminatory treatment based on the victims' Armenian national or ethnic origin.

With respect to Armenia's claims that Azerbaijan has subjected ethnic Armenians who are civilians or members of Armenia's armed forces to acts of murder, torture and inhuman treatment on the basis of their Armenian national or ethnic origin, the Court recalls that CERD does not distinguish between members of armed forces and civilians. It concludes that the acts alleged by Armenia are capable of constituting discrimination against members of armed forces and civilians "based on" their Armenian national or ethnic origin, carried out with the purpose or effect of interfering with rights protected under Articles 2 (1), 4 (a) and 5 (b) of CERD.

Further, taking into account the reasons set forth in its analysis of Armenia's claims regarding murder, torture and inhuman treatment, the Court finds that the acts alleged by Armenia in relation to arbitrary detention and enforced disappearance of ethnic Armenian civilians are also capable of constituting discriminatory treatment "based on" Armenian national or ethnic origin, carried out with the purpose or effect of interfering with rights protected under Article 2 and Article 5 (a) of CERD.

The Court thus concludes that Armenia's above-mentioned claims fall within the scope of CERD and that Azerbaijan's second preliminary objection to the Court's jurisdiction must be rejected.

In the operative clause of its [Judgment](#), which is final, without appeal and binding on the Parties, the Court:

"(1) By sixteen votes to one,

*Rejects* the first preliminary objection raised by the Republic of Azerbaijan;

IN FAVOUR: *President* Salam; *Vice-President* Sebutinde; *Judges* Tomka, Abraham, Yusuf, Xue, Bhandari, Iwasawa, Nolte, Charlesworth, Brant, Gómez Robledo, Cleveland, Aurescu, Tladi; *Judge ad hoc* Daudet;

AGAINST: *Judge ad hoc* Koroma;

(2) By fifteen votes to two,

*Rejects* the second preliminary objection raised by the Republic of Azerbaijan;

IN FAVOUR: *President* Salam; *Vice-President* Sebutinde; *Judges* Tomka, Abraham, Xue, Bhandari, Iwasawa, Nolte, Charlesworth, Brant, Gómez Robledo, Cleveland, Aurescu, Tladi; *Judge ad hoc* Daudet;

AGAINST: *Judge* Yusuf; *Judge ad hoc* Koroma;

(3) By fifteen votes to two,

*Finds* that it has jurisdiction, on the basis of Article 22 of the International Convention on the Elimination of All Forms of Racial Discrimination, to entertain the Application filed by the Republic of Armenia on 16 September 2021.

IN FAVOUR: *President* Salam; *Vice-President* Sebutinde; *Judges* Tomka, Abraham, Xue, Bhandari, Iwasawa, Nolte, Charlesworth, Brant, Gómez Robledo, Cleveland, Aurescu, Tladi; *Judge ad hoc* Daudet;

AGAINST: *Judge* Yusuf; *Judge ad hoc* Koroma.”

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Judge YUSUF appends a dissenting opinion to the Judgment of the Court; Judge IWASAWA appends a separate opinion to the Judgment of the Court; Judge *ad hoc* KOROMA appends a dissenting opinion to the Judgment of the Court.

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A summary of the Judgment appears in the document entitled “[Summary 2024/9](#)”, to which the summaries of the opinions are annexed. This summary and the full text of the Judgment are available on the [case page](#) on the Court’s website.

Earlier [press releases](#) relating to this case are also available on the Court’s website.

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*Note:* The Court’s press releases are prepared by its Registry for information purposes only and do not constitute official documents.

The French version of this press release will be issued in due course.

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The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was established by the United Nations Charter in June 1945 and began its activities in April 1946. The Court is composed of 15 judges elected for a nine-year term by the General Assembly and the Security Council of the United Nations. The seat of the Court is at the Peace Palace in The Hague (Netherlands). The Court has a twofold role: first, to settle, in accordance with international law, legal disputes submitted to it by States; and, second, to give advisory opinions on legal questions referred to it by duly authorized United Nations organs and agencies of the system.

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