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International Court of Justice

THE HAGUE

Cour internationale de Justice

LA HAYE

YEAR 2024

Public sitting

held on Friday 26 April 2024, at 10 a.m., at the Peace Palace,

President Salam presiding,

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

VERBATIM RECORD

ANNÉE 2024

Audience publique

tenue le vendredi 26 avril 2024, à 10 heures, au Palais de la Paix,

sous la présidence de M. Salam, président,

***en l'affaire relative à l'*Application de la convention internationale sur l'élimination de toutes les formes de discrimination raciale (Azerbaïdjan c. Arménie)**

COMPTE RENDU

Present:	President	Salam
	Vice-President	Sebutinde
	Judges	Tomka
		Abraham
		Xue
		Bhandari
		Iwasawa
		Nolte
		Charlesworth
		Brant
		Cleveland
		Aurescu
		Tladi
	Judges *ad hoc*	Daudet
		Koroma
	Registrar	Gautier

Présents : M. Salam, président
M^me^ Sebutinde, vice-présidente
MM. Tomka
Abraham
M^me^ Xue
MM. Bhandari
Iwasawa
Nolte
M^me^ Charlesworth
M. Brant
M^me^ Cleveland
MM. Aurescu
Tladi, juges
MM. Daudet
Koroma, juges *ad hoc*

M. Gautier, greffier

The Government of the Republic of Azerbaijan is represented by:

HE Mr Elnur Mammadov, Deputy Minister for Foreign Affairs, Republic of Azerbaijan,

as Agent;

HE Mr Rahman Mustafayev, Ambassador of the Republic of Azerbaijan to the Kingdom of the Netherlands,

as Co-Agent;

Mr Vaughan Lowe, KC, Emeritus Chichele Professor of Public International Law, University of Oxford, member of the Institut de droit international, Essex Court Chambers, member of the Bar of England and Wales,

Mr Samuel Wordsworth, KC, Essex Court Chambers, member of the Bar of England and Wales, member of the Paris Bar,

Ms Laurence Boisson de Chazournes, Professor of International Law and International Organization at the University of Geneva, member of the Institut de droit international, member of Matrix Chambers,

Mr Stefan Talmon, Professor of International Law, University of Bonn, Barrister, Twenty Essex Chambers,

as Counsel and Advocates;

Mr Stephen Fietta, KC, Fietta LLP, Solicitor Advocate of the Senior Courts of England and Wales,

Ms Oonagh Sands, Fietta LLP, member of the Bars of the State of New York and the District of Columbia, Solicitor Advocate of the Senior Courts of England and Wales,

Mr Luke Tattersall, Essex Court Chambers, member of the Bar of England and Wales,

Ms Eileen Crowley, Fietta LLP, member of the Bar of the State of New York, solicitor of the Senior Courts of England and Wales,

Mr Gershon Hasin, JSD, Fietta LLP, member of the Bar of the State of New York,

Ms Mercedes Roman, Fietta LLP, member of the Bar of the Bolivarian Republic of Venezuela,

Mr Sean Aughey, Essex Court Chambers, member of the Bar of England and Wales,

Mr Aditya Laddha, PhD candidate and assistant, Faculty of Law, University of Geneva,

Ms Miglena Angelova, Fietta LLP, member of the Paris Bar, Solicitor Advocate of the Senior Courts of England and Wales,

as Counsel;

Mr Nurlan Aliyev, Counsellor, Embassy of the Republic of Azerbaijan in the Kingdom of the Netherlands,

Le Gouvernement de la République d'Azerbaïdjan est représenté par :

S. Exc. M. Elnur Mammadov, ministre adjoint aux affaires étrangères de la République d'Azerbaïdjan,

comme agent ;

S. Exc. M. Rahman Mustafayev, ambassadeur de la République d'Azerbaïdjan auprès du Royaume des Pays-Bas,

comme coagent ;

M. Vaughan Lowe, KC, professeur émérite de droit international public (chaire Chichele) à l'Université d'Oxford, membre de l'Institut de droit international, Essex Court Chambers, membre du barreau d'Angleterre et du pays de Galles,

M. Samuel Wordsworth, KC, Essex Court Chambers, membre du barreau d'Angleterre et du pays de Galles, et du barreau de Paris,

M^me^ Laurence Boisson de Chazournes, professeure de droit international et organisation internationale à l'Université de Genève, membre de l'Institut de droit international, membre de Matrix Chambers,

M. Stefan Talmon, professeur de droit international à l'Université de Bonn, *barrister*, Twenty Essex Chambers,

comme conseils et avocats ;

M. Stephen Fietta, KC, cabinet Fietta LLP, avocat et *solicitor* près les juridictions supérieures d'Angleterre et du pays de Galles,

M^me^ Oonagh Sands, cabinet Fietta LLP, membre des barreaux de l'État de New York et du district de Columbia, avocate et *solicitor* près les juridictions supérieures d'Angleterre et du pays de Galles,

M. Luke Tattersall, Essex Court Chambers, membre du barreau d'Angleterre et du pays de Galles,

M^me^ Eileen Crowley, cabinet Fietta LLP, membre du barreau de l'État de New York, *solicitor* près les juridictions supérieures d'Angleterre et du pays de Galles,

M. Gershon Hasin, JSD, cabinet Fietta LLP, membre du barreau de l'État de New York,

M^me^ Mercedes Roman, cabinet Fietta LLP, membre du barreau de la République bolivarienne du Venezuela,

M. Sean Aughey, Essex Court Chambers, membre du barreau d'Angleterre et du pays de Galles,

M. Aditya Laddha, doctorant et assistant à la faculté de droit de l'Université de Genève,

M^me^ Miglena Angelova, cabinet Fietta LLP, membre du barreau de Paris, avocate et *solicitor* près les juridictions supérieures d'Angleterre et du pays de Galles,

comme conseils ;

M. Nurlan Aliyev, conseiller, ambassade de la République d'Azerbaïdjan au Royaume des Pays-Bas,

Ms Sabina Sadigli, First Secretary, Embassy of the Republic of Azerbaijan in the Kingdom of the Netherlands,

Mr Vusal Ibrahimov, First Secretary, Embassy of the Republic of Azerbaijan in the Kingdom of the Netherlands,

Mr Badir Bayramov, Second Secretary, Ministry of Foreign Affairs of the Republic of Azerbaijan,

Mr Shahriyar Hajiyev, Second Secretary, Ministry of Foreign Affairs of the Republic of Azerbaijan,

*as Adviser*s.

The Government of the Republic of Armenia is represented by:

HE Mr Yeghishe Kirakosyan, Representative of the Republic of Armenia on International Legal Matters,

as Agent;

Mr Lawrence H. Martin, Attorney at Law, Foley Hoag LLP, member of the Bars of the District of Columbia and the Commonwealth of Massachusetts,

Ms Alison Macdonald, KC, Barrister, Essex Court Chambers, London,

Mr Constantinos Salonidis, Attorney at Law, Foley Hoag LLP, member of the Bars of the State of New York and Greece,

Mr Linos-Alexandre Sicilianos, Professor of International Law, Dean of the Faculty of Law of the University of Athens, member of the Institut de droit international, member of the Permanent Court of Arbitration,

Mr Pierre d'Argent, Full Professor, Université catholique de Louvain, member of the Institut de droit international, Foley Hoag LLP, member of the Bar of Brussels,

as Counsel and Advocates;

Mr Sean Murphy, Manatt/Ahn Professor of International Law, The George Washington University Law School, associate member of the Institut de droit international, member of the Bar of Maryland,

Mr Joseph Klingler, Attorney at Law, Foley Hoag LLP, member of the Bars of the District of Columbia and the State of New York,

Mr Peter Tzeng, Attorney at Law, Foley Hoag LLP, member of the Bars of the District of Columbia and the State of New York,

Ms Iulia Padeanu Mellon, Attorney at Law, Foley Hoag LLP, member of the Bars of the District of Columbia and Illinois,

Mr Amir Ardelan Farhadi, Attorney at Law, Foley Hoag LLP, member of the Bar of the State of New York,

Ms Yasmin Al Ameen, Attorney at Law, Foley Hoag LLP, member of the Bar of the State of New York,

M^me^ Sabina Sadigli, première secrétaire, ambassade de la République d'Azerbaïdjan au Royaume des Pays-Bas,

M. Vusal Ibrahimov, premier secrétaire, ambassade de la République d'Azerbaïdjan au Royaume des Pays-Bas,

M. Badir Bayramov, deuxième secrétaire, ministère des affaires étrangères de la République d'Azerbaïdjan,

M. Shahriyar Hajiyev, deuxième secrétaire, ministère des affaires étrangères de la République d'Azerbaïdjan,

comme conseillers.

Le Gouvernement de la République d'Arménie est représenté par :

S. Exc. M. Yeghishe Kirakosyan, représentant de la République d'Arménie chargé des affaires juridiques internationales,

comme agent ;

M. Lawrence H. Martin, avocat au cabinet Foley Hoag LLP, membre des barreaux du district de Columbia et du Commonwealth du Massachusetts,

M^me^ Alison Macdonald, KC, barrister, Essex Court Chambers (Londres),

M. Constantinos Salonidis, avocat au cabinet Foley Hoag LLP, membre des barreaux de l'État de New York et de Grèce,

M. Linos-Alexandre Sicilianos, professeur de droit international, doyen de la faculté de droit de l'Université d'Athènes, membre de l'Institut de droit international, membre de la Cour permanente d'arbitrage,

M. Pierre d'Argent, professeur titulaire à l'Université catholique de Louvain, membre de l'Institut de droit international, cabinet Foley Hoag LLP, membre du barreau de Bruxelles,

comme conseils et avocats ;

M. Sean Murphy, professeur de droit international titulaire de la chaire Manatt/Ahn à la faculté de droit de l'Université George Washington, membre associé de l'Institut de droit international, membre du barreau du Maryland,

M. Joseph Klingler, avocat au cabinet Foley Hoag LLP, membre des barreaux du district de Columbia et de l'État de New York,

M. Peter Tzeng, avocat au cabinet Foley Hoag LLP, membre des barreaux du district de Columbia et de l'État de New York,

M^me^ Iulia Padeanu Mellon, avocate au cabinet Foley Hoag LLP, membre des barreaux du district de Columbia et de l'Illinois,

M. Amir Ardelan Farhadi, avocat au cabinet Foley Hoag LLP, membre du barreau de l'État de New York,

M^me^ Yasmin Al Ameen, avocate au cabinet Foley Hoag LLP, membre du barreau de l'État de New York,

Ms Diem Huong Ho, Attorney at Law, Foley Hoag LLP, member of the Bars of England and Wales and the State of New York,

Mr Harout Ekmanian, Attorney at Law, Foley Hoag LLP, member of the Bar of the State of New York,

Ms María Camila Rincón, Attorney at Law, Foley Hoag LLP, member of the Bar of Colombia,

as Counsel;

HE Mr Viktor Biyagov, Ambassador of the Republic of Armenia to the Kingdom of the Netherlands,

HE Mr Andranik Hovhannisyan, Permanent Representative of the Republic of Armenia to the United Nations Office and other international organizations in Geneva,

Mr Liparit Drmeyan, Head of the Office of the Representative of the Republic of Armenia on International Legal Matters, Office of the Prime Minister of the Republic of Armenia,

Mr Aram Aramyan, Head of the Department of Protection of the Interests of the Republic of Armenia in Interstate Disputes, Office of the Representative of the Republic of Armenia on International Legal Matters, Office of the Prime Minister of the Republic of Armenia,

Ms Kristine Khanazadyan, Head of the Department for Representation of the Interests of the Republic of Armenia before International Arbitral Tribunals and Foreign Courts, Office of the Representative of the Republic of Armenia on International Legal Matters, Office of the Prime Minister of the Republic of Armenia,

Ms Zoya Stepanyan, Head of the International Human Rights Cooperation Division, Department for Human Rights and Humanitarian Issues, Ministry of Foreign Affairs,

Ms Viviana Kalaejian, Third Secretary, Embassy of the Republic of Armenia in the Kingdom of the Netherlands,

Ms Nanami Hirata, Attorney at Law, Foley Hoag LLP,

as Advisers;

Ms Jennifer Schoppmann, Foley Hoag LLP,

Ms Deborah Langley, Foley Hoag LLP,

as Assistants.

M^me^ Diem Huong Ho, avocate au cabinet Foley Hoag LLP, membre du barreau d'Angleterre et du pays de Galles ainsi que du barreau de l'État de New York,

M. Harout Ekmanian, avocat au cabinet Foley Hoag LLP, membre du barreau de l'État de New York,

M^me^ María Camila Rincón, avocate au cabinet Foley Hoag LLP, membre du barreau de Colombie,

comme conseils ;

S. Exc. M. Viktor Biyagov, ambassadeur de la République d'Arménie auprès du Royaume des Pays-Bas,

S. Exc. M. Andranik Hovhannisyan, représentant permanent de la République d'Arménie auprès de l'Office des Nations Unies et des autres organisations internationales à Genève,

M. Liparit Drmeyan, chef du bureau du représentant de la République d'Arménie chargé des affaires juridiques internationales, cabinet du premier ministre de la République d'Arménie,

M. Aram Aramyan, directeur du département de la protection des intérêts de la République d'Arménie dans les différends interétatiques, bureau du représentant de la République d'Arménie chargé des affaires juridiques internationales, cabinet du premier ministre de la République d'Arménie,

M^me^ Kristine Khanazadyan, directrice du département chargé de la représentation des intérêts de la République d'Arménie devant les tribunaux arbitraux internationaux et les juridictions étrangères, bureau du représentant de la République d'Arménie chargé des affaires juridiques internationales, cabinet du premier ministre de la République d'Arménie,

M^me^ Zoya Stepanyan, cheffe de la division de la coopération internationale en matière des droits de l'homme, département des droits de l'homme et des affaires humanitaires, ministère des affaires étrangères,

M^me^ Viviana Kalaejian, troisième secrétaire, ambassade de la République d'Arménie au Royaume des Pays-Bas,

M^me^ Nanami Hirata, avocate au cabinet Foley Hoag LLP,

comme conseillers ;

M^me^ Jennifer Schoppmann, cabinet Foley Hoag LLP,

M^me^ Deborah Langley, cabinet Foley Hoag LLP,

comme assistantes.

The PRESIDENT: Please be seated. The sitting is open.

For reasons duly made known to me, Judges Yusuf and Gómez Robledo are unable to sit with us today. The Court meets this morning to hear the second round of oral argument of the Republic of Azerbaijan on the preliminary objections raised by the Respondent in the case concerning *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Azerbaijan* v. *Armenia)*. I shall now give the floor to Mr Vaughan Lowe. You have the floor, Sir.

Mr LOWE:

TEMPORAL JURISDICTION

Introduction

1. Mr President, Members of the Court, Armenia's request was spelled out in its initial formulation in paragraph 143 of its Preliminary Objections; and in its current formulation it was set out in the final submissions of its Agent on Wednesday afternoon[1].

2. The short answer to Armenia's case is that both Parties are agreed that there is no objection on grounds *either* of jurisdiction *ratione temporis or* of admissibility to Azerbaijan's claims concerning acts and omissions that had not been "completed" by September 1996.

3. There is no dispute that Azerbaijan has such post-1996 claims. Armenia addressed some of them on Wednesday — the claims concerning the laying of landmines and booby traps during the 2020s; the failure to act against hate speech; the obstruction of the return of Azerbaijanis and the looting and destruction of cultural artefacts, which indisputably occurred after 1996. The dispossession of property throughout the years of the occupation, which international courts have consistently treated as a continuing wrong, is another obvious example[2].

4. Therefore this case *must* go ahead to a hearing on the merits. The only question is whether *some* aspects of Azerbaijan's claims are excluded.

5. Azerbaijan agrees that the Court can and should make determinations now concerning, first, its jurisdiction over Azerbaijan's case *ratione materiae*, in so far as it relates to landmines, booby traps and environmental harm, and, second, the scope of its jurisdiction *ratione temporis*, that is on

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[1] CR 2024/23, pp. 46-47, para. 11 *(a)-(d)* (Kirakosyan).

[2] E.g. *Cyprus* v. *Turkey (Application no. 25781/94)*, GC, 10 May 2001, paras. 175, 189, 269.

the question whether in this case Armenia can in principle bear responsibility for any conduct completed after 23 July 1993 or only for conduct completed after 15 September 1996. These matters have a preliminary character that can be decided now, although their impact on Azerbaijan's case is, at most, marginal.

6. Those determinations will help the Parties focus their forthcoming written pleadings. The effect of the answers to these questions on Azerbaijan's claims is something to be addressed in the Counter-Memorial and subsequent written pleadings and at the hearing on the merits. But there is no doubt that Azerbaijan's CERD case will go ahead.

Azerbaijan maintains the claims outlined in its Application

7. Armenia has repeatedly mischaracterized Azerbaijan's case, and each time Azerbaijan explains what its case actually is, in the face of Armenia's misunderstanding, Armenia complains that Azerbaijan is changing its case.

8. In both rounds of its submissions this week, Armenia tried to reformulate Azerbaijan's CERD complaint in an attempt to bolster its *ratione materiae* and *ratione temporis* objections.

9. Armenia tried to convince you that Azerbaijan has failed to demonstrate that Armenia's landmines, booby traps and environmental destruction formed part of a campaign of ethnic cleansing and cultural eradication. But these are issues for the merits. Indeed, watching Armenia's slide presentation on Wednesday, with its multiplicity of maps and colourful overlays, it was hard to believe that this is a hearing on preliminary objections rather than on the merits.

10. Azerbaijan has not changed its case. Azerbaijan's case has always centred upon Armenia's 30-year campaign of ethnic cleansing and cultural erasure, including both the forcible and collective expulsion and displacement of Azerbaijanis *and* the prevention of their return. Azerbaijan has always presented Armenia's deployment of landmines and booby traps, and its destruction and pillage of the environment and resources of the formerly occupied areas, as being among the many elements of the 30-year campaign. This was made perfectly clear in Azerbaijan's letter of 8 December 2020

informing Armenia of its CERD complaint[3]; in Azerbaijan's Application to the Court in September 2021[4]; in Azerbaijan's Memorial in January 2023[5]; and in its submissions this week.

11. Azerbaijan has set out (i) the facts on which it relies, and (ii) the provisions of the CERD that it says are violated by those facts. As written and oral submissions have been exchanged, it has refined or clarified its case. That is what rounds of submissions and phases of proceedings are for: the clarification of the precise legal questions on which the parties disagree. But the allegation that sits at the heart of Azerbaijan's CERD complaint has not changed. This Armenia has long known, despite its claim that these proceedings took it completely by surprise even as it prepared its own CERD claim against Azerbaijan. Professor Talmon will say more on that shortly.

Azerbaijan's submissions this morning

12. Both Parties are agreed that this case will go forward to a merits hearing and the response by Azerbaijan could stop at this point. But Armenia made a number of further points to which it is convenient to respond at this stage.

(a) I shall address the *ratione temporis* objection.

(b) Professor Talmon will then address the objections to admissibility.

(c) The legal and factual aspects of Armenia's objection relating to landmines and booby traps will be addressed by Mr Wordsworth and Mr Aughey, respectively.

(d) Professor Boisson de Chazournes will address the *ratione materiae* objection concerning environmental harm.

Armenia's objection *ratione temporis*

13. Mr Martin repeated more than once that Armenia's assertion that the ethnic cleansing campaign had ended by 1994. It may become clearer at the merits stage why Armenia is so keen to exclude the First Garabagh War from the Court's view, but three points can be made at this stage:

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[3] Annex 6 to the Application of Azerbaijan, Letter *from* Jeyhun Bayramov, Minister of Foreign Affairs of the Republic of Azerbaijan, *to* Ara Aivazian, Minister of Foreign Affairs of the Republic of Armenia, dated 8 December 2020, ref. 0540/27/20/22.

[4] Application of Azerbaijan, para. 17.

[5] Memorial of Azerbaijan, para. 4.

(a) First, a campaign of ethnic cleansing is not over and done with the minute the last resident is pushed over the border. It continues when steps are taken to prevent or otherwise frustrate the residents' return, and to import and maintain new residents in their place. It continues as the occupying Power makes former cities, towns and villages uninhabitable, or destroys the infrastructure or the cultural buildings and artefacts, or the environment and natural resources that have sustained the community prior to its expulsion. Ethnic cleansing is not an "act": it is a strategy, a policy, a campaign, and in this case it continued after 1994, and after 1996, and up until recent months.

(b) Second, Azerbaijan's claim concerning a violation of the CERD by conducting a campaign of ethnic cleansing no more precludes or extinguishes Azerbaijan's separate claims relating, for example, to the promotion of racial hatred and incitement to violence, or to the failure to provide protection and remedies against racially discriminatory acts, than a claim concerning apartheid would extinguish claims concerning individual racially motivated murders. The ethnic cleansing claim stands alongside these other claims in this case.

(c) Third, it is indisputable that these other claims, such as deprivation of property, incitement of racial hatred, and the prevention of the return of displaced Azerbaijanis to the Garabagh region, continued for many years after 1994 or 1996, throughout the Armenian occupation and even beyond. This is the key point. Whatever questions Armenia may raise around the margins, Azerbaijan's case is essentially about the fact that Armenia has been violating its CERD obligations on a continuing basis throughout the past thirty years or so.

14. Armenia presented arguments as to what could and could not be part of a "composite breach" in this case[6], but it had very little to say about Azerbaijan's main point on jurisdiction, which relates to continuing breaches and the fact that the breaches in this case continued long after even Armenia's preferred critical date of 1996.

15. A detailed consideration of which specific aggregations of facts constitute "composite breaches" in the present case is a matter for the merits phase. So is the question of which specific conduct constitutes a continuing breach of the CERD. But what is important at this stage is that there

[6] CR 2024/23, p. 15, para. 25 (Martin).

is neither a basis, nor even a request from Armenia, for a ruling that composite and continuing claims extending beyond 1996 are outside the Court's jurisdiction, or inadmissible.

16. Mr Martin spent most of his time on Wednesday on his *erga omnes partes* argument, though it is of relatively minor importance to Azerbaijan's case because it only affects conduct completed between July 1993 and September 1996, and leaves continuing acts, including composite acts, unaffected.

17. There *is*, nonetheless, a real legal question here. Armenia says that a State party — Azerbaijan — can only pursue a dispute settlement procedure in respect of conduct occurring after the CERD enters into force for it, regardless of how much earlier the respondent State was bound by the Convention. Azerbaijan says that once the CERD enters into force for a State (i) it can pursue the procedure in respect of any question concerning the interpretation or application of the Convention, regardless of when the underlying conduct occurred, but (ii) no State party can be held in breach of the CERD for any conduct completed before the Convention entered into force for that party. It is a narrow and peripheral question, which has no bearing on Azerbaijan's ethnic cleansing claim and could only affect any isolated acts that were completed between July 1993 and September 1996. But it is at least a real question.

18. You have heard the Parties' submissions on the matter. Azerbaijan maintains that its understanding of the position fits with the ordinary meaning of the words of Article 22; and we note that even on Wednesday Armenia did not argue that the application of the rules on treaty interpretation in Article 31 of the Vienna Convention leads to any different conclusion. Armenia simply asserts that the drafters of the CERD could not have intended to establish a position contrary to that now advanced by Armenia, in which Azerbaijan cannot point to breaches of the CERD by Armenia between the dates of Armenia's ratification in 1993 and Azerbaijan's ratification in 1996.

19. Though Armenia sees things differently, Azerbaijan sees nothing unfair or irrational, let alone absurd[7], in a State that has accepted legal obligations being thenceforth expected to comply with them.

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[7] *Ibid.*, p. 12, para. 10 (Martin).

20. I should note two further points. First, in its Application, Azerbaijan does not ask the Court to say that Armenia breached *Azerbaijan's rights*, but rather that Armenia breached its obligations under the CERD. The distinction is important.

21. Second, Armenia seems to view the CERD as a network of bilateral contractual "package deal[s]" between these States parties[8]. This is at odds with the plain language of CERD, whose obligations to eliminate racial discrimination are not expressed as or limited to *inter partes* obligations, but rather — as its preamble repeatedly emphasizes — apply to "all human beings", with a view to eliminating racial discrimination "throughout the world in all its forms".

22. As we recalled on Tuesday, the Court itself explained many years ago that in conventions of this kind "one cannot speak of individual advantages or disadvantages to States, or of the maintenance of a perfect contractual balance between rights and duties"[9].

23. Armenia surely cannot seriously suggest that its obligation to eliminate racial discrimination as from 23 July 1993 applied only to the select nationals of those States parties who were also bound by the Convention as at that date — for example, looking at Armenia's table of CERD ratifications, that Armenia remained free to discriminate against South Africans, but not Ethiopians, or against Americans, but not French nationals, or against Japanese, but not Chinese nationals.

24. More fundamentally, the CERD is not all about us. Conventions such as the CERD are not only about States. They are designed for the protection of individuals: that is their purpose[10]. That is why the human rights instruments have — and emphasize the importance of having — collective enforcement mechanisms.

25. Mr Martin also referred to a 2005 resolution of the Institut de droit International. Interesting as the work of the Institut always is, there are many loose threads here. For example, Article 2 refers to "States to which the obligation *is* owed", not "States to which the obligation *was*

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[8] *Ibid.*, pp. 14-15, para. 24 (Martin).

[9] *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, I.C.J. Reports 1951*, p. 23.

[10] See *Jadhav (India* v. *Pakistan), Provisional Measures, Order of 18 May 2017, I.C.J. Reports 2017*, p. 243, para. 48: "The Court considers that these measures are aimed at preserving the rights of India *and of Mr. Jadhav* under Article 36, paragraph 1, of the Vienna Convention. Therefore, a link exists between the rights claimed by India and the provisional measures being sought." (*Emphasis added.*)

owed at the time of the act complained of"; and Article 6 says that this is all without prejudice to the rights and remedies pertaining to a State which is specially affected by the breach of an obligation *erga omnes* — as Azerbaijan is obviously "specially affected" here.

26. But because this argument is of such marginal importance, and the Institut text seems to have left no discernible footprint on the sands of State practice, Azerbaijan leaves the matter there and invites the Court to decide this question on the basis of the Parties' respective submissions, in so far as it considers that it needs to decide it at all.

27. That, Sir, brings my submission on behalf of Azerbaijan to an end. I thank the Court for its attention, and ask that you call Professor Talmon to the lectern.

The PRESIDENT: I thank Mr Vaughan Lowe for his statement. I now invite Mr Stefan Talmon to take the floor. You have the floor, Sir.

Mr TALMON:

ADMISSIBILITY OF AZERBAIJAN'S CLAIMS RELATING TO EVENTS PRIOR TO 15 SEPTEMBER 1996

1. Monsieur le président, Madam Vice-President, distinguished Members of the Court, my task is once again to respond to Armenia's admissibility objection.

2. The Parties agree that a delay, if any, is only relevant if it is detrimental to the respondent, and it is only detrimental if the respondent could have a reasonable expectation that a claim would no longer be pursued[11].

3. Armenia claims that it had a reasonable expectation that no claim would be brought by Azerbaijan with regard to Armenia's campaign of ethnic cleansing that allegedly took place only before 15 September 1996.

4. I would invite you, Members of the Court, to pause for a moment, take a step back and ask yourself this question: how can a State forcibly seize a fifth of the territory of another State; kill some 23,000 of its nationals; cause some 3,900 of its nationals to go missing; ethnically cleanse a whole area; drive one million people from their homes, deprive them of their property; destroy their cultural

[11] CR 2024/23, p. 18, para. 1 (d'Argent).

heritage; loot their natural resources; and then stand up and claim with a straight face that it has a reasonable expectation that no claim would be brought against it? It cannot, but that is exactly what Armenia has been doing the last few days.

5. Armenia bases its purported reasonable expectation on the fact that the latest letter to the United Nations referred in the transcript of my speech on Tuesday dates from 25 August 1997[12]. However, these letters to the United Nations were only given as examples to show that from 23 July 1993, when Armenia became a party to CERD, Azerbaijan had registered its grievances about Armenia's ethnic cleansing campaign with the United Nations and asked for these grievances to be made known to the international community, including Armenia. Numerous other letters could be provided. If one searches the UN Official Document System for the terms "Armenia", "ethnic cleansing" and "Karabakh", some 224 documents are shown for the period between July 1993 and September 2021[13].

6. For example, in January 1999, Azerbaijan wrote to the Human Rights Commission that "[a]s a result of the policy of the Republic of Armenia of aggression and ethnic cleansing against Azerbaijan, the rights and freedoms of 1 million Azerbaijanis . . . continue to be gravely violated on a daily basis"[14]. In 2005, Azerbaijan intervened in the case of *Chiragov and Others* v. *Armenia* before the European Court of Human Rights, submitting that there were "continuing violations" by Armenia of, *inter alia*, the prohibition on discrimination[15]. Azerbaijan based the violations on the fact that "Azerbaijani internally displaced persons . . . were physically prevented from returning home through the deployment of Armenian military forces and land mines on the Line of Contact"[16]. And in 2007 and 2012 Azerbaijan submitted extensive reports to the United Nations "on the international

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[12] CR 2024/23, p. 21, para. 5 (d'Argent).

[13] United Nations, Official Document System, https://documents.un.org/.

[14] Letter dated 4 January 1999 from the Permanent Representative of Azerbaijan to the United Nations Office at Geneva addressed to the Secretariat of the fifty-fifth session of the Commission on Human Rights, UN doc. E/CN.4/1999/116, 3 February 1999, p. 2.

[15] European Court of Human Rights, *Chiragov and Others* v. *Armenia* [Grand Chamber], application no. 13216/05, decision of 14 December 2011, para. 92.

[16] *Ibid.*

legal rights of the Azerbaijani internally displaced persons and the Republic of Armenia's responsibility"[17].

7. Armenia dismisses the letters and documents sent to the United Nations because they allegedly referred to "'ethnic cleansing' which took place and was already completed in 1994"[18]. Does this mean that claims with regard to ethnic cleansing can be made only during the time when the cleansing is actually underway? That cannot be correct. In any case, as Professor Lowe has shown, Armenia's ethnic cleansing campaign was by no means completed in 1994.

8. Armenia also tries to brush aside these constant reminders of its ethnic cleansing campaign by introducing the new admissibility requirement of "a proper legal claim"[19]. In Armenia's view, a claim is only to be admissible if a "legal claim" has been presented to the respondent without delay.

9. For such a proper legal claim, it is not enough that grievances are raised or that the factual situation is presented nor even that these facts are described in legal terms as ethnic cleansing. No — such a proper legal claim must, according to Armenia, mention the CERD, formulate a specific request for remedies and specifically invoke the international responsibility of the Republic of Armenia and not just its leaders.

10. This last point undoubtedly marks the height of legal sophistry in Armenia's argument. What more do you need to invoke the international responsibility of a State for ethnic cleansing than accuse its State organs of the act and ask for remedial action? In any case, there are numerous examples of Azerbaijan expressly accusing the Republic of Armenia of ethnic cleansing[20].

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[17] Report on the international legal rights of the Azerbaijani internally displaced persons and the Republic of Armenia's responsibility, annexed to Letter dated 30 April 2012 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, UN doc. A /66/787– S /2012/289, 3 May 2012; Military occupation of the territory of Azerbaijan: a legal appraisal, annexed to Letter dated 8 October 2007 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, UN doc. A /62/491– S /2007/615, 23 October 2007.

[18] CR 2024/23, p. 19, para. 4 (d'Argent).

[19] CR 2024/23, p. 20, para. 4 (d'Argent). See also *ibid.*, p. 18, para. 2 (d'Argent).

[20] See e.g. United Nations, Letter dated 9 July 1998 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, UN doc. A/53/172 – E/1998/86, 10 July 1998, Annex; Council of Europe, Committee of Ministers, Minutes, 114th Session, 12-13 May 2004, doc. CM(2004)PV1-final (Confidential) 3 May 2005, https://search.coe.int/cm/pages/result_details.aspx?objectid=09000016805da6d2.

11. While according to the Court in *Georgia* v. *Russia* raising grievances related to the subject-matter of the CERD is sufficient for there to be a dispute under CERD[21], this does not suffice for Armenia's new requirement of a proper legal claim.

12. Armenia, of course, did not tell the Court when exactly such a proper legal claim should have been made in order to prevent a reasonable expectation that no claim would be brought — on 15 September 1996, on 15 September 2006 or at any other date?

13. Such a proper legal claim was allegedly made in the *Nauru* case on four occasions[22], but all Nauru did was to state in general terms that it was Australia's "responsibility to rehabilitate one third of the island"[23]. No legal basis, no specific request.

14. Armenia's new admissibility requirement has no basis in the Court's jurisprudence or in the work of the ILC. It is not about whether or when a proper legal claim has been presented but whether the respondent State could have reasonably expected that a claim would no longer be presented. Armenia could not have developed such a reasonable expectation.

15. Armenia also submitted that there were no circumstances that could excuse Azerbaijan's delay in submitting its claim. The question of excuse, however, does not arise. As long as there was no reasonable expectation on the part of Armenia, Azerbaijan could bring its claim at any time.

16. But as I stated on Tuesday, there were good reasons for Azerbaijan to wait with the submission of its Application until it could gather evidence in the territories that had been under Armenian occupation for more than twenty-six years. Armenia asserted that "it was difficult to see why access to the territory to collect specific evidence was necessary"[24]. But it is precisely a campaign of ethnic cleansing — in contrast to the expulsion of a single Azerbaijani — that requires the collection and preservation of evidence in the ethnically cleansed area. It is the desecrated cemeteries, the booby-trapped private homes, the mines planted in the agricultural fields, the vandalized religious buildings and the cut-down ancient monument trees that prove the campaign —

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[21] *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia* v. *Russian Federation), Preliminary Objections, Judgment, I.C.J. Reports 2011 (I)*, p. 133, para. 161.

[22] CR 2024/23, p. 20, para. 4 (d'Argent).

[23] *Certain Phosphate Lands in Nauru (Nauru* v. *Australia), Preliminary Objections, Judgment, I.C.J. Reports 1992*, p. 254, para. 33.

[24] CR 2024/23, p. 22, para. 10 (d'Argent).

that evidence is, of course, only available in the territory from which the local population was cleansed.

17. Let me finally briefly turn to Armenia's argument that it was disadvantaged in mounting a defence to Azerbaijan's claims despite having had control for over twenty-six years. Armenia must surely have collected evidence to defend itself before the European Court of Human Rights in cases concerning violations of the European Convention on Human Rights with regard to the First Garabagh War[25].

18. Armenia's argument that it did not need to prepare its defence because it could reasonably expect that no claim would be made is purely self-serving. If it really thought that occupying and ethnically cleansing a fifth of the territory of Azerbaijan and proceeding to erase all signs of Azerbaijani culture in the area would not give rise to any claim, then this is entirely Armenia's fault and cannot prevent Azerbaijan from bringing a claim under CERD.

19. Members of the Court, I thank you for your kind attention.

20. Mr President, may I ask you to call on Mr Wordsworth to respond to Armenia's second preliminary objection.

The PRESIDENT: I thank Mr Talmon for his statement. I now invite Mr Samuel Wordsworth to take the floor. You have the floor, Sir.

Mr WORDSWORTH:

AZERBAIJAN'S RESPONSE TO ARMENIA'S PRELIMINARY OBJECTION CONCERNING "AZERBAIJAN'S CLAIMS AND CONTENTIONS CONCERNING LANDMINES AND BOOBY TRAPS" (LEGAL ISSUES)

1. Thank you, Sir. Mr President, Members of the Court, I have four short points to make in response to Armenia's misconceived objection *ratione materiae* to what it wishes still to portray as a discrete claim concerning landmines and booby traps[26]. There is by contrast nothing to respond to on Armenia's curious argument that landmines and booby traps cannot fall within a CERD claim as they are not themselves capable of discrimination, and likewise its incorrect interpretation of

[25] See European Court of Human Rights, *Chiragov and Others* v. *Armenia* [Grand Chamber], application no. 13216/05, decision of 14 December 2011; *Samadov* v. *Armenia* (dec.), application no. 36606/08, 26 January 2021.

[26] Preliminary Objections of Armenia, p. 41, heading, and para. 80; CR 2024/23, p. 23, para. 1 (Salonidis).

Article 1 (1) as a rigid two-step test[27]. This line of argument, it appears, quite correctly, has been abandoned.

A. Introduction

2. First, then, and by way of introduction, it is useful to recall the difference between the two Parties' jurisdictional objections *ratione materiae* concerning military force.

3. Azerbaijan objects to the assertion of jurisdiction over Armenia's claim concerning alleged killings and violence during the active hostilities phases of an armed conflict because this is put forward by Armenia as a free-standing claim of CERD, and Azerbaijan considers that alleged unlawful use of cluster bombs and indiscriminate shelling is, where presented as a free-standing claim, a matter for the rules of international humanitarian law. However, to the extent that Armenia wishes to rely on evidence of the use of cluster bombs and indiscriminate shelling as part of the evidence to support its separate and broader claim of breach of CERD through an alleged practice of ethnic cleansing, Azerbaijan has made no objection[28]. It considers that it would have no basis for doing so — it is up to Armenia to put forward the evidence it wishes to support a claim concerning a practice of ethnic cleansing, and all agree that such a claim is capable of engaging CERD.

4. Precisely the same applies to Azerbaijan's claim concerning Armenia's breach of CERD through its campaign of ethnic cleansing. It is up to Azerbaijan to put forward the evidence it wishes to support its claim, which includes evidence of the pursuit of this campaign through military means, including through the planting of landmines and booby traps to prevent the return of ethnic Azerbaijanis to the areas unlawfully occupied by the former illegal régime. This should be the end of the matter.

5. But, because of the obvious force of this point, Armenia seeks to recharacterize Azerbaijan's reliance on conduct and evidence with respect to landmines and booby traps as a free-standing claim, despite the fact that no such claim has been made.

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[27] Cf. CR 2024/22, pp. 38-39, paras. 2-5 (Wordsworth).

[28] Memorial of Armenia, para. 6.19 *et seq*.

B. The Court's correct characterization of Azerbaijan's claim

6. This leads me to my second point: the Court has correctly noted, in two separate Orders, that, as to Armenia's alleged conduct concerning landmines and booby traps, "Azerbaijan claims that this conduct is part of a longstanding campaign of ethnic cleansing"[29]. Armenia's response is to suggest that you should ignore your own past Orders[30], although the characterization in those Orders is also the only one that could be available from the wording of the submissions in Azerbaijan's Memorial[31].

7. The suggested basis for the Court ignoring its past characterization is a misapplication of the long-standing jurisprudence on the real nature of the dispute, through which the Court seeks "to determine on an objective basis the subject-matter of the dispute between the parties, by isolating the real issue in the case and identifying the object of the claim"[32]. But there is no issue here as to any of this.

(a) As correctly identified by the Court, the claim is of a campaign of ethnic cleansing, with the laying of landmines and booby traps being conduct presented as part of the evidence of that campaign.

(b) Armenia does not suggest that there is no genuine ethnic cleansing claim before you, and it would be absurd to suggest that the "real issue" in the case is not ethnic cleansing at all, but rather some discrete but disguised claim confined to landmines and booby traps.

8. I would also add that it is simply incorrect for Mr Salonidis to assert that Azerbaijan "did not address the *abundance* of evidence that I pointed to on Monday" (emphasis in original). Armenia is simply electing to ignore what we said in response on Tuesday, alongside the various references that we pointed the Court to[33].

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[29] *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Azerbaijan* v. *Armenia), Provisional Measures, Order of 7 December 2021, I.C.J. Reports 2021*, p. 425, para. 53. See also *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Azerbaijan* v. *Armenia), Provisional Measures, Order of 22 February 2023*, paras. 22-23.

[30] CR 2024/23, p. 24, para. 3 (Salonidis).

[31] Memorial of Azerbaijan, para. 591 (1) *(a)*.

[32] See e.g. *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine* v. *Russian Federation), Preliminary Objections, Judgment, I.C.J. Reports 2019 (II)*, p. 575, para. 24, relied on at CR 2024/23, p. 24, para. 3 (Salonidis).

[33] CR 2024/23, p. 24, para. 4 (Salonidis); cf. CR 2024/22, p. 42, para. 20, and fn. 103 (Wordsworth).

9. Finally, on this point, there was a brief but baffling reference to certain irrelevant lines of jurisprudence concerning the submissions of disputing parties:

(a) Reference was made to the Court's past cases concerning its power to exclude from a party's submissions contentions which are not indications of what the party is asking the Court to decide, but are rather "reasons advanced why the Court should decide in the sense contended for by that party"[34]. But it is Armenia, not Azerbaijan, that is quite bizarrely seeking to include within Azerbaijan's submissions what are indeed "reasons advanced why the Court should decide in the sense contended for" by Azerbaijan.

(b) Reference was also made to the *ICAO Council* case and the situation where a respondent State seeks to cast the submissions in its defence in such a way as to alter the nature of the dispute[35]. To recall the rather obvious point that Azerbaijan is the claimant, not the respondent, so there is no question of the Court being asked to characterize a claim by looking at submissions made in a defence.

C. Armenia's misplaced reliance on *Certain Iranian Assets* and *Diallo*

10. My third point concerns Armenia's misplaced reliance on the Court's rejection of certain of the claims made in *Certain Iranian Assets* and the *Diallo* case[36].

(a) In the former, Iran had a number of free-standing claims of breach of the Treaty of Amity expressly concerning the failure to accord sovereign immunity to Iran and Iranian companies[37]. The Court rejected those claims when it held that the Treaty did not offer protection with respect to sovereign immunity[38].

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[34] CR 2024/23, pp. 24-25, para. 5 (Salonidis), referring to *Fisheries Jurisdiction (Spain* v. *Canada)*, *Jurisdiction of the Court, Judgment, I.C.J. Reports 1998*, p. 449, para. 32 (and to related cases).

[35] CR 2024/23, pp. 24-25, para. 5 (Salonidis), referring to *Fisheries Jurisdiction (Spain* v. *Canada), Jurisdiction of the Court, Judgment, I.C.J. Reports 1998*, p. 449, para. 32 (and to related cases), and also referring to *Appeal Relating to the Jurisdiction of the ICAO Council (India* v. *Pakistan), Judgment, I.C.J. Reports 1972*, p. 61, para. 27.

[36] CR 2024/23, pp. 25-26, paras. 6-8 (Salonidis).

[37] *Certain Iranian Assets (Islamic Republic of Iran* v. *United States of America), Preliminary Objections, Judgment, I.C.J. Reports 2019 (I)*, pp. 17-18, para. 14 *(a)* (ii), *(d)* and *(e)*, and see also paras. 33 and 48-80.

[38] *Ibid*, pp. 25-35, paras. 48-80.

(b) In *Diallo*, likewise, Guinea made a number of claims, including an express claim with respect to deprivation of the rights of Mr Diallo as shareholder[39], and the Court accepted that this claim was admissible[40].

11. All the Court is doing in such cases is to identify, by reference to the claims actually made by the claimants, which claims are within jurisdiction and admissible, and which are not. Armenia has not pointed to, and cannot point to, any case where the Court has sought to strip out from a claim that is accepted to be within its jurisdiction, through I guess some form of unknown power of strike-out, an element of evidence and allegation of fact that a claimant considers relevant to the claim that it has in fact made.

D. Armenia's misplaced reliance on the Court's finding on plausibility

12. My final point concerns Armenia's continued reliance on the Court's past Orders in this case concerning plausibility.

13. Mr Salonidis sought to draw out a distinction in the different phases of the *Ukraine* v. *Russia* ICSFT case between statements of the Court concerning the plausibility of rights and the plausibility of claims[41]. If there is a relevant distinction, it is not one that assists Armenia. The point, if we understood it correctly, is that if the Court finds that there are no plausible rights at the provisional measures phase, it should generally not be accepting jurisdiction *ratione materiae* over claims based on those rights. But that is precisely what the Court did in the *Ukraine* v. *Russia* case, and on the express basis that an assessment of plausibility of claims was generally inappropriate at the jurisdictional stage[42].

14. Notably, it was also asserted that "the Court has already twice found that the alleged rights asserted by Azerbaijan with respect to landmines and booby traps are not plausible"[43]. There was again no attempt to look at what the Orders of December 2021 and February 2023 actually say, or to

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[39] *Ahmadou Sadio Diallo (Republic of Guinea* v. *Democratic Republic of the Congo), Preliminary Objections, Judgment, I.C.J. Reports 2007 (II)*, p. 588, para. 11 (1).

[40] *Ibid*, p. 607, para. 67.

[41] CR 2024/23, p. 27, para. 13 (Salonidis).

[42] *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine* v. *Russian Federation), Preliminary Objections, Judgment, I.C.J. Reports 2019 (II)*, p. 584, para. 58.

[43] CR 2024/23, p. 27, para. 14 (Salonidis).

address our point that there the Court was focused specifically on the plausibility of obligations with respect to the interim remedies then being sought by Azerbaijan.

15. As we explained on Tuesday, and as was not challenged, the Court expressly recognized in both Orders that "a policy of driving persons of a certain national or ethnic origin from a particular area, as well as preventing their return thereto, can implicate rights under CERD and that such a policy can be effected through a variety of military means"[44]. So the existence of potential rights was expressly recognized. What the Court did not accept was that the CERD plausibly imposed obligations on Armenia to provide assistance with de-mining and the like, and that concerns the plausibility of the interim remedies then being sought by Azerbaijan. The question of whether rights are engaged under a treaty, and the remedies that might then follow in a case of breach, are entirely separate matters.

16. As to Armenia's campaign of ethnic cleansing, so far as is relevant, Azerbaijan seeks declaratory relief. Such declaratory relief plainly can be ordered, and the conduct concerning landmines and booby traps is simply relevant evidence to the existence of the campaign. By contrast, Azerbaijan does not seek any relief with respect to de-mining or, of course, landmines or booby traps more generally.

17. Mr President, Members of the Court, that concludes my remarks, and I thank you for your attention. May I ask you to call on Mr Aughey, who will be making some short points on the presentation of facts that you heard on Wednesday.

The PRESIDENT: I thank Mr Wordsworth for his statement. I now invite Mr Aughey to take the floor. You have the floor, Sir.

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[44] *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Azerbaijan* v. *Armenia), Provisional Measures, Order of 7 December 2021*, *I.C.J. Reports 2021*, p. 425, para. 53. See also *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Azerbaijan* v. *Armenia), Provisional Measures, Order of 22 February 2023*, paras. 22-23.

Mr AUGHEY:

AZERBAIJAN'S RESPONSE TO ARMENIA'S PRELIMINARY OBJECTION CONCERNING "AZERBAIJAN'S CLAIMS AND CONTENTIONS CONCERNING LANDMINES AND BOOBY TRAPS" (AZERBAIJAN'S EVIDENCE ON ITS FACE)

Azerbaijan's evidence on placement of landmines and booby traps in civilian areas far from the contact line

1. Mr President, Members of the Court, it is common ground that, at this stage, the Court should assume that Armenia's armed forces planted mines and booby traps in civilian areas far from the line of contact[45].

2. Mr Salonidis continued to insist that all such explosives were set for "defensive purposes only"[46]. His conclusion was this: "Landmines planted to obstruct the progress of the enemy and protect the retreat of armed forces cannot possibly amount to racial discrimination"[47], and it was said that this was the only conclusion that can be reached "based on [the face of] Azerbaijan's own evidence and objective facts"[48].

3. Considerable time was also spent comparing Azerbaijan's updated map of mines found with a series of further maps. The big point was that the mines were laid by Armenia's military forces as they withdrew from the formerly occupied territories[49]. But all of this was to agree with a point that I made on Tuesday when introducing Azerbaijan's map[50].

4. And, just as on Monday, you heard not one word about Azerbaijan's detailed evidence of, for example, landmines placed in desecrated cemeteries or booby traps placed in civilian homes. There was no answer to my question of whether it was really being said that this could have been for defensive purposes only[51]. And plainly, it would have been nonsensical to say that, for example, the only reason for hiding landmines under toppled Azerbaijani gravestones in a desecrated cemetery

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[45] CR 2024/23, pp. 28-29, paras. 18-19 (Salonidis).

[46] CR 2024/23, p. 30, para. 26 (Salonidis).

[47] *Ibid.*

[48] *Ibid.*

[49] CR 2024/23, pp. 29-30, paras. 19-26 (Salonidis).

[50] CR 2024/22, p. 49, paras. 8 *(c)-(d)* (Aughey).

[51] CR 2024/22, p. 49, para. 6 (Aughey).

can have been to obstruct the progress of enemy advancing forces or to protect Armenian forces "retreating in haste"[52].

5. Perhaps Mr Salonidis was seeking to side-step Azerbaijan's evidence by focusing on the locations where mines have exploded — what he referred to as the "red dots" on Azerbaijan's map, on the screen — rather than where mines have been found[53].

6. As regards the landmines and booby traps laid by Armenia's forces in civilian areas in the districts of Kalbajar and Lachin, as well as Aghdam, there is the further obvious difficulty that Armenia's forces did not retreat hastily as Azerbaijani soldiers advanced. Rather, Armenia's forces withdrew by agreement after the cessation of hostilities.

7. Mr Salonidis also suggested that what he called the "sporadic dots to the left side of the map . . . are remnants of the First Nagorno-Karabakh War"[54]. That was an invitation carefully to assess and weigh Azerbaijan's map of where mines have been found against Azerbaijan's earlier belief as to where mines might have been laid, and that weighing can, of course, be done at the merits stage only.

8. Notably, Armenia has previously suggested to the Court other explanations for the location of certain mines shown on this map. In January 2023, Armenia's counsel told the Court that some of these mines were laid within Armenia's territory, but between 2021 and 2022 they were dug up by Azerbaijani forces who then transported those mines into Garabagh[55].

9. Further, by focusing on the top and the bottom of Azerbaijan's map only, Mr Salonidis avoided the area in the middle near Lachin city, now circled on the screen — including Azerbaijan's evidence of booby traps being set by Armenian forces long after the cessation of hostilities in the former homes of Azerbaijani civilians which were deliberately destroyed, by way of example, in the villages of Sus and Zabukh during the agreed withdrawal of the Armenian forces in August 2022[56].

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[52] CR 2024/23, p. 29, para. 21 (Salonidis).

[53] CR 2024/23, p. 29, paras. 21-23 (Salonidis).

[54] CR 2024/23, p. 30, para. 25 (Salonidis).

[55] CR 2023/4, pp. 12-14, paras. 3-9 (Murphy).

[56] See CR 2024/22, pp. 50-51, paras. 9-10 (Aughey).

10. Mr Salonidis claimed that Azerbaijan's evidence was "thoroughly addressed by Professor Murphy" at the hearing of Azerbaijan's second request for provisional measures[57]. But please note that the passages he referred to concerned only the alleged defensive purpose of certain landmines found in the smaller area now circled on the screen, which is not among the civilian areas that I highlighted on Tuesday[58].

11. As to the sources of Azerbaijan's evidence, Mr Salonidis could not suggest that ANAMA's findings are to be disregarded as this stage. Nor could he dispute that ANAMA is a very well-respected agency, supported by the United Nations Development Programme[59]. However, it was implied that ANAMA's announcements "after the scheduling of this hearing" should be dismissed as self-serving[60]. There is no basis whatsoever for that suggestion. And to note, the December 2020 United Nations report, to which both Mr Salonidis and I referred[61], states: "The assessment team found ANAMA to be an experienced and highly competent national mine action centre well placed to manage, coordinate and execute [mine action]"[62].

12. Mr Salonidis was also wrong to say that the November 2021 report of the Organisation of Islamic Cooperation was "prepared solely on the basis of Azerbaijan's allegations"[63]. That report states: "The delegation received a comprehensive briefing at ANAMA and visited the vast tracts of lands in the Agdam district, heavily infested with lethal landmines."[64] The apparent suggestion that this report should be disregarded merely because Armenia is not a Member State of the OIC was perplexing[65].

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[57] CR 2024/23, pp. 30-31, paras. 27-28 (Salonidis).

[58] CR 2024/23, p. 31, para. 28 (Salonidis), citing CR 2023/4, pp. 20-21, paras. 28-31 (Murphy).

[59] CR 2024/22, p. 48, para. 4 (Aughey).

[60] CR 2024/23, p. 31, para. 30 (Salonidis).

[61] CR 2024/23, p. 31, para. 29 (Salonidis); CR 2024/22, p. 48, para. 43 (Aughey).

[62] United Nations, "Mine Action Assessment Mission to Azerbaijan, 10-16 December 2020", p. 11.

[63] CR 2024/23, p. 31, para. 30 (Salonidis).

[64] Independent Permanent Human Rights Commission (IPHRC) of The Organisation of Islamic Cooperation (OIC), Report of the OIC-IPHRC Fact Finding Visit to the Territories Previously Occupied by Armenia to Assess Human Rights & Humanitarian Situation, 22-26 September 2021 (14 November 2021), https://oic-iphrc.org/home/post/35, para. 24.

[65] CR 2024/23, p. 31, para. 30 (Salonidis).

Armenia's refusal to share comprehensive and accurate information

13. I turn to Armenia's refusal to hand over comprehensive and accurate information as to the placement of mines and booby traps after the cessation of hostilities. Mr Salonidis stated that there are "many possible justifications" for this[66]. He came up with just two.

14. His first possible justification was that perhaps the "information was not simply at Armenia's disposal" and it became available only later through so-called "Nagorno-Karabakh military personnel"[67], and it was said that Armenia's statement of 25 January 2024 supports this[68].

(a) Thus, an attempt was made to distinguish between Armenia's forces and the so-called "Nagorno-Karabakh's armed forces"[69]. This is to ignore the established fact that armed forces of the illegally installed régime were highly integrated in Armenia's forces[70].

(b) It is also to ignore Armenia's own statement that it has only now "resumed" its survey, and Mr Salonidis blanked the question of why on earth Armenia had ever stopped asking so-called "NK military personnel" for information which they were known to have[71]. He also blanked the Armenian Prime Minister's admission in July 2021 that only a "tiny part" of the maps in Armenia's possession had been handed over[72].

15. In this connection, it should be recalled, as should be obvious, that the United Nations report of December 2020 expressly stated:

> "The urgency to gather, analyse and disseminate EO [explosive ordnance] related data cannot be stressed enough . . . Information gathering is therefore by far the most important task for ANAMA at this stage and ANAMA must direct its focus towards this critical task"[73].

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[66] CR 2024/23, p. 32, para. 32 (Salonidis).

[67] *Ibid.*, para. 33.

[68] *Ibid.*

[69] CR 2024/23, p. 28, para. 18 (Salonidis).

[70] See Memorial of Azerbaijan, para. 408 referring to *Chiragov*, para. 180.

[71] CR 2024/22, p. 53, para. 21 (Aughey).

[72] See CR 2024/22, p. 52, para 14 (Aughey), citing Extract from Speech by Nikol Pashinyan, posted on YouTube channel of NEWS AM (13 June 2021), https://www.youtube.com/watch?v=7lbPymz14zQ (certified translation) (Annex 33 to Azerbaijan's Application and Request for provisional measures, 21 September 2021).

[73] United Nations, "Mine Action Assessment Mission to Azerbaijan, 10-16 December 2020", p. 9.

16. Armenia's second suggested justification was that "maybe" the landmines were used to "defend [the ethnic Armenian population and] military positions" in territory that continued to be held by the illegally installed régime[74].

(a) That could not explain the refusal to share such information after the cessation of hostilities in September 2023. Indeed, when Armenia previously deployed this supposed justification at the December 2021 hearing, it emphasized that "the military situation in the geographic area at issue remains active"[75].

(b) Nor could it explain why, after the November 2020 Trilateral Statement, Armenia did not share maps of landmines and booby traps set in areas away from the zone where the Russian peacekeepers were temporarily deployed. And, in this connection, Mr Salonidis also ignored Armenia's statement to this Court in October 2021 that "we stand ready to provide any more maps in our possession regarding minefields behind the lines currently held by Azerbaijani armed forces, which now present solely humanitarian concerns"[76].

17. Mr President, Members of the Court, there is plainly evidence that Armenia's forces planted landmines and booby traps with the purpose and effect of barring the return of Azerbaijani civilians. Armenia's preliminary objection asks that you either ignore or carefully weigh that evidence at this stage. The former is inconceivable, while the latter could only be for the merits. That concludes my submissions. I thank you for your attention and may I ask you to call on Professor Boisson de Chazournes.

The PRESIDENT: I thank Mr Aughey for his statement. Je donne maintenant la parole à M[me] la professeur Laurence Boisson de Chazournes.

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[74] CR 2024/23, p. 32, para. 34 (Salonidis).

[75] CR 2021/27, p. 17, para. 16 (Murphy).

[76] CR 2024/22, p. 53, para. 20 (Aughey), referring to CR 2021/25, p. 13, para. 9 (Kirakosyan).

M^me^ BOISSON DE CHAZOURNES :

L'EXCEPTION PRÉLIMINAIRE DE L'ARMÉNIE CONCERNANT LA DESTRUCTION ET LA DÉGRADATION DIFFÉRENTIELLES DE L'ENVIRONNEMENT NATUREL DANS LES ZONES OÙ LES AZERBAÏDJANAIS RÉSIDAIENT AVANT LE NETTOYAGE ETHNIQUE ET L'OCCUPATION PAR L'ARMÉNIE DOIT ÊTRE REJETÉE

I. Introduction

1. Monsieur le président, Madame la vice-présidente, Mesdames et Messieurs les Membres de la Cour, je traiterai de quelques questions qui permettront de répondre à des assertions erronées faites par l'Arménie. Cela montrera une nouvelle fois que les revendications de l'Azerbaïdjan portant sur des actes de destruction et de dégradation de l'environnement sont constitutives de racisme environnemental[77]. En 2002, le Comité CIEDR a reconnu que le racisme environnemental est une forme de discrimination couverte par la CIEDR[78].

2. Je dois toutefois faire quelques remarques préliminaires. Tout d'abord, s'agissant de la compétence de la Cour, l'Arménie reconnaît que le test des deux éléments tel que formulé par votre juridiction en l'affaire *Ukraine c. Russie*[79] est celui qui doit être satisfait au stade du fond. Mais là où le bât blesse, c'est que le conseil de l'Arménie s'empresse ensuite de réinterpréter l'article premier, paragraphe 1, de la CIEDR en ajoutant un troisième élément qui devrait être satisfait, à savoir celui d'une « "differentiation of treatment" of human beings »[80]. Outre le caractère artificiel de cette condition, il est intéressant de noter que l'Arménie n'a pas invoqué cette condition supplémentaire la semaine dernière dans ses allégations de détention et de disparition forcée.

3. En outre, l'Arménie convient que, à ce stade de la procédure, elle doit accepter que ce sont les éléments de preuve présentés par l'Azerbaïdjan dans ses écritures qui doivent être pris en compte[81]. Et ceux-ci démontrent que la destruction de l'environnement est bien « fondée sur »

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[77] Voir mémoire de l'Azerbaïdjan (ci-après « MA »), p. 237-275, par. 291-344.

[78] Voir Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Sixtieth (4-22 March 2002) and Sixty-first session (5-23 August 2002), Decisions, Statements and General Recommendations: Statement by the Committee to the World Summit on Sustainable Development, U.N. Doc. A/57/18.

[79] *Application de la convention internationale pour la répression du financement du terrorisme et de la convention internationale sur l'élimination de toutes les formes de discrimination raciale (Ukraine c. Fédération de Russie), arrêt du 31 janvier 2024*, par. 195.

[80] CR 2024/23, p. 37, par. 13 (Macdonald).

[81] CR 2024/23, p. 34-35, par. 6 (Macdonald).

l'origine ethnique ou nationale des Azerbaïdjanais et donc « capable » de relever du champ d'application de la CIEDR.

4. Enfin, l'Arménie semble finalement admettre que des déductions fondées sur des preuves peuvent être faites[82]. Les déductions sont un élément essentiel de l'établissement judiciaire des faits. La question de savoir si elles sont correctes ou non sera examinée au stade du fond.

5. Permettez-moi maintenant de passer à la première question que je souhaite aborder.

II. L'Arménie a toujours su que les Azerbaïdjanais d'origine ethnique retourneraient sur leurs terres d'origine mais a empêché leur retour

6. L'Arménie est encore une fois revenue sur le fait que les Azerbaïdjanais d'origine ethnique ne vivaient pas dans la zone où les dommages environnementaux ont eu lieu et que l'Azerbaïdjan aurait déclaré que ces personnes n'avaient pas l'intention de retourner sur leurs terres d'origine[83]. La raison pour laquelle l'Arménie continue d'avancer cet argument fallacieux laisse perplexe.

7. L'intention de l'Arménie a toujours été celle d'empêcher le retour des Azerbaïdjanais d'origine ethnique sur leurs terres d'origine.

8. Les Azerbaïdjanais, quant à eux, ont toujours eu l'espoir et la volonté de retourner dans leurs foyers ainsi que l'agent de l'Azerbaïdjan l'a rappelé[84].

9. Comme l'Azerbaïdjan l'a établi dans son mémoire, la campagne brutale de nettoyage ethnique de l'Arménie a si bien réussi que les Azerbaïdjanais n'ont jamais été autorisés, et n'ont pas été en mesure de revenir sur leurs terres d'origine pendant les 30 années d'occupation, et cela malgré plusieurs négociations et efforts internationaux.

10. Dans le cadre de sa campagne de nettoyage ethnique contre les Azerbaïdjanais d'origine ethnique, l'Arménie a détruit l'environnement naturel des districts azerbaïdjanais, en surexploitant et négligeant la gestion des ressources naturelles.

11. Le fait que les Azerbaïdjanais d'origine ethnique n'aient pas pu rentrer chez eux ne signifie pas qu'ils n'ont pas été discriminés ou que leurs droits n'ont pas été violés ainsi qu'a voulu le prétendre à nouveau l'Arménie. Trois remarques doivent être faites à ce sujet. Tout d'abord, ces

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[82] CR 2024/23, p. 34-35, par. 5 et 6 (Macdonald).

[83] CR 2024/23, p. 35, par. 7 et p. 40, par. 27 (Macdonald).

[84] CR 2024/22, p. 13-14, par. 16-20 (Mammadov).

personnes n'ont pas été autorisées à retourner dans les sept districts parce qu'*elles étaient des Azerbaïdjanais d'origine ethnique*. Deuxièmement, leurs droits ont été violés du fait, notamment, que la destruction et la dégradation de l'environnement naturel de leurs territoires constituent une violation fondamentale de leur droit au retour. En troisième lieu, à l'heure actuelle, leurs droits d'accès, d'utilisation et de jouissance de leurs biens, de leurs terres et de leurs ressources sont effectivement atteints parce que ces territoires sont désormais dans un état non soutenable et insalubre.

12. Parmi les exemples de l'intention de l'Arménie de détruire et de dégrader l'environnement naturel des territoires azerbaïdjanais, les rapports de mission de l'OSCE, auxquels l'Azerbaïdjan s'est référé en détail dans son mémoire, doivent être évoqués. Le rapport de 2011 note que « the seven occupied territories of Azerbaijan [around] Nagorno-Karabakh … are generally in ruins »[85].

13. Cette situation explique que l'Azerbaïdjan prenne de manière active des mesures pour réparer les dommages environnementaux causés par l'Arménie et faire en sorte que ces territoires redeviennent habitables. L'Arménie a fait valoir mercredi que l'Azerbaïdjan construisait une autoroute reliant Fuzuli et Shusha, mais cela n'a rien à voir avec les revendications présentées par l'Azerbaïdjan. Après la libération des territoires occupés, l'Azerbaïdjan doit relier ses anciens territoires pour les rendre accessibles et les restaurer.

III. Il y a un traitement différencié des sept districts azerbaïdjanais qui entourent la région du Garabagh avec celui que l'Arménie a réservé aux zones habitées par des personnes d'origine arménienne

14. L'Arménie a prétendu que l'ensemble des preuves présentées par l'Azerbaïdjan ne laissait pas apparaître de traitement différencié des sept districts azerbaïdjanais avec celui que l'Arménie a réservé aux zones habitées par des personnes d'origine arménienne, voulant ainsi réfuter l'existence d'un comportement de discrimination ciblée. Cette interprétation biaisée doit être rectifiée.

15. Les allégations de l'Azerbaïdjan sur les impacts discriminatoires directs et indirects sur les Azerbaïdjanais du fait de la dégradation et de la destruction de l'environnement nécessitent une comparaison entre les territoires concernés. Cependant, à ce stade, la Cour ne peut pas entreprendre

[85] MA, annexe 64, OSCE Minsk Group, Report of the OSCE Minsk Group Co-Chairs' Field Assessment Mission to the Occupied Territories of Azerbaijan Surrounding Nagorno-Karabakh (2011), p. 1-3.

cette analyse. Une analyse comparative est clairement un exercice réservé à la phase du fond, lorsque les deux Parties auront présenté leurs arguments et leurs preuves. Il est également important de noter que l'affirmation de l'Azerbaïdjan selon laquelle l'Arménie a dégradé et détruit de manière discriminatoire l'environnement naturel des territoires de l'Azerbaïdjan est fondée à la fois sur le but et sur l'effet au sens de l'article premier de la CIEDR.

16. L'Arménie est restée silencieuse sur l'impact discriminatoire sur le couvert arboré et forestier dans les territoires azerbaïdjanais. Les experts de *Industrial Economics* ont pourtant identifié une réduction de 8 899 hectares du couvert arboré et forestier en raison de l'exploitation forestière, des incendies, du développement de l'hydroélectricité, de la conversion de l'utilisation des terres et de l'extraction de minéraux[86]. Ils ont constaté que le district d'Aghdam, peuplé d'Azerbaïdjanais, a connu la plus grande réduction du couvert forestier et arboré en termes de superficie, affectant un total de 3 353 hectares[87]. De même, Fuzuli, un autre district peuplé d'Azerbaïdjanais, a perdu 56 % du total du couvert forestier et arboré du district[88].

17. On doit comparer cette perte de forêt et de couvert arboré avec les districts de Khojaly, Khojavand et Shusha, qui sont eux peuplés d'Arméniens. Permettez-moi d'insister à nouveau sur le fait que, dans les districts peuplés d'Arméniens, la perte n'était environ que de 1 %[89].

18. De même, jouant de la rhétorique, le conseil de l'Arménie a fait valoir que les installations hydroélectriques ne font que suivre le cours des rivières. Et le conseil de poser la question : « Is Azerbaijan's case that these rivers flow in a discriminatory manner? Or that the rain in [Garabagh] falls in a discriminatory way? »[90]. Il s'agit là, vous en conviendrez, d'un exemple de ce qui est dénommé « raisonnement par l'absurde ».

19. Comme vous pouvez le voir sur la carte à l'écran, des rivières coulent également à Khojali, Khankendi et Khojavand, trois districts peuplés d'Arméniens, mais il n'y a pas de centrales hydroélectriques. Les centrales n'ont été construites qu'à Kalbajar, Gubadly et Lachine, trois districts peuplés d'Azerbaïdjanais d'origine ethnique et occupés par l'Arménie. Comme l'ont noté les experts,

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[86] IEc Environmental Expert Report, p. ES-1.

[87] *Ibid.*, p. ES-2.

[88] *Ibid.*, p. ES-2.

[89] *Ibid.*, p. 13.

[90] CR 2024/23, p. 38, par. 19 (Macdonald).

le développement de l'énergie hydroélectrique est l'une des raisons de la disparition des forêts et du couvert végétal dans les territoires occupés[91].

20. Il y a une autre raison pour laquelle l'Arménie a construit des sites hydroélectriques dans des districts peuplés d'Azerbaïdjanais d'origine ethnique. Prenez, par exemple, le district de Kalbajar : comme vous pouvez le voir à l'écran, la rivière qui prend sa source à Kalbajar coule vers l'est, ce qui signifie qu'elle fournit, comme l'ont noté les experts[92], des ressources en eau douce aux utilisateurs, et au-delà des territoires occupés, c'est-à-dire aux Azerbaïdjanais. Mais comme vous pouvez le voir sur la carte à l'écran, environ 15 centrales hydroélectriques ont été construites pendant l'occupation pour empêcher l'accès, l'utilisation et la jouissance de ces ressources en eau par les Azerbaïdjanais.

21. Monsieur le président, Mesdames et Messieurs les Membres de la Cour, est-ce que ce traitement n'est pas un traitement discriminatoire ?

22. L'Arménie a également tenté de simplifier à l'extrême les arguments faits par l'Azerbaïdjan en suggérant que « mines can only be built where the deposits are [and that it certainly cannot be argued] that the mineral resources [have been] distributed in a discriminatory [manner] »[93]. Il s'agit là d'une tentative d'obscurcir les problèmes de discrimination soumis à la Cour. Il va sans dire que les mines sont construites là où il existe des gisements de minéraux. Cependant, la question cruciale ici n'est pas celle de la présence de mines, mais celle de leur exploitation excessive et celle des activités minières illégales menées par l'Arménie dans les territoires occupés, lesquelles privent les Azerbaïdjanais de leur accès légitime aux ressources naturelles. Les gisements d'or et d'autres ressources naturelles précieuses situés dans les territoires occupés ont été systématiquement pillés par des entreprises locales arméniennes[94].

23. En outre, le rapport du PNUE, rapport rédigé par des experts indépendants, n'en déplaise à l'Arménie, note que « [a] significant expansion of mining and quarrying activities reportedly took

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[91] IEc Environmental Expert Report.

[92] *Ibid.*, p. 456-458.

[93] CR 2024/23, p. 38, par. 20 (Macdonald).

[94] Voir "Illegal economic and other activities in the occupied territories of Azerbaijan", Report by the Ministry of Foreign Affairs of the Republic of Azerbaijan, 2016, accessible à l'adresse suivante : https://geneva.mfa.gov.az/files/MFA_Report_on_the_occupied_territories_1.pdf.

place during the conflict period ... [S]ite visits [indicate] that mining development has had one of the largest physical [impacts] on the [environment in] the region. »[95]

24. Il découle des propos précédents que l'Azerbaïdjan a raison de soutenir que les actes discriminatoires de destruction et de dégradation de l'environnement commis par l'Arménie ont été « fondés sur » l'origine ethnique ou nationale, car les actes illicites de l'Arménie ont été délibérément concentrés dans des zones qui étaient majoritairement peuplées et habitées par des Azerbaïdjanais d'origine ethnique avant leur occupation par l'Arménie.

25. S'agissant de l'atteinte aux droits des Azerbaïdjanais d'origine ethnique, l'Arménie affirme dans son mémoire que l'article 5 « extends to … all human rights [and] acts as a bridge to "the broader international [human rights'] canon to which it is organically [link]ed" »[96]. Toutefois, lorsqu'il s'agit des droits des Azerbaïdjanais d'origine ethnique, c'est une interprétation restrictive de l'article 5 que l'Arménie veut promouvoir[97]. Cette approche restrictive et partiale doit être rejetée.

26. L'article 5 ne fait place à aucune des limitations que l'Arménie invoque. Et dans sa recommandation générale XXIV concernant l'article premier de la convention, le Comité CIEDR a bien souligné que « la Convention englobe *toutes les personnes* qui font partie de races ou de groupes nationaux ou ethniques différents ou de populations autochtones »[98]. C'est cette interprétation qui doit prévaloir.

27. Le droit international reconnaît aux personnes déplacées le droit de retourner dans leurs foyers dans des conditions de sécurité et de dignité et le droit de se voir restituer les biens dont ils

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[95] United Nations Environment Programme, *Report of the UNEP Environmental Scoping Mission to the Conflict-Affected Territories of Azerbaijan* (April 2022), accessible à l'adresse suivante : http://eco.gov.az/frq-content/plugins/pages_v1/entry/20221223145000_59496900.pdf, p. 20.

[96] *Application de la convention internationale sur l'élimination de toutes les formes de discrimination raciale (Arménie c. Azerbaïdjan)*, mémoire de l'Arménie, p. 549-550, par. 6.13.

[97] CR 2024/23, p. 41-42, par. 29-32 (Macdonald).

[98] Voir General Recommendation 24, Information on the demographic composition of the population (Fifty-fifth session, 1999), U.N. Doc. A/54/18, Annex V at 103 (1999), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 213 (2003) (*les italiques sont de nous*).

ont été spoliés[99]. Monsieur le président, Mesdames et Messieurs de la Cour, comment ce droit peut-il être exercé lorsque les terres d'origine des personnes déplacées sont rendues inhabitables par la dégradation et la destruction de l'environnement naturel ?

28. De plus, comme l'Azerbaïdjan l'a déjà mentionné, le comportement illégal de l'Arménie implique des violations de l'article 2 ainsi que des violations d'autres droits de l'homme[100]. Ces droits doivent être interprétés de manière intégrée à la lumière des faits de la présente affaire.

29. Pour conclure, les faits et arguments juridiques présentés par l'Azerbaïdjan ont bien démontré que l'objection préliminaire de l'Arménie relative à la destruction de l'environnement doit être rejetée.

30. Monsieur le président, Mesdames et Messieurs les Membres de la Cour, je vous remercie de votre bienveillante attention. Monsieur le président, puis-je vous demander de donner la parole à M. l'ambassadeur Rahman Mustafayev, coagent de la République d'Azerbaïdjan ?

Le PRÉSIDENT : Je remercie M[me] Boisson de Chazournes de son intervention. I now call upon the Co-Agent of Azerbaijan, His Excellency Mr Rahman Mustafayev. You have the floor, Excellency.

M. MUSTAFAYEV :

1. Monsieur le président, Madame la vice-présidente, Mesdames et Messieurs les Membres de la Cour, je suis honoré de me présenter devant vous, encore une fois, en tant que coagent de mon pays, la République d'Azerbaïdjan, afin de présenter ses conclusions finales.

2. Prenant en compte les plaidoiries que vous avez entendues cette semaine, l'Azerbaïdjan est convaincu que la Cour rejettera chacune des exceptions préliminaires présentées par l'Arménie en ce qui concerne la compétence de la Cour et la recevabilité de la plainte de l'Azerbaïdjan au titre de la convention internationale sur l'élimination de toutes les formes de discrimination raciale.

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[99] Art. 13, UN General Assembly, Universal Declaration of Human Rights, 217 A (III), 10 December 1948 ; Art. 12, UN General Assembly, International Covenant on Civil and Political Rights, United Nations, Treaty Series, vol. 999, p. 171, 16 December 1966 ; Art. 5, UN General Assembly, International Convention on the Elimination of All Forms of Racial Discrimination, United Nations, Treaty Series, vol. 660, p. 195, 21 December 1965 ; voir Report of the Representative of the Secretary-General, Mr Francis M. Deng, submitted pursuant to Commission resolution 1997/39, Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add.2, UN Commission on Human Rights, 22 July 1998 ; UN General Assembly, The situation in the occupied territories of Azerbaijan (25 April 2008), UN Doc. A/RES/62/243, par. 3.

[100] Voir MA, p. 353.

3. Mr President, it was notable yesterday that Armenia's counsel spent much time addressing you with detailed factual rebuttals relating to its placement of landmines and booby traps, and its environmental destruction, as part of its ethnic cleansing and cultural eradication campaign in the formerly occupied territories. Azerbaijan has identified some basic flaws in Armenia's factual narrative today, but will respond in detail at the merits phase. The same can be said of Armenia's self-serving and clearly incorrect assertion that its racist campaign was all over by 1994[101]. As Azerbaijan has explained, Armenia's campaign continued relentlessly for almost another two decades, until the final liberation of the occupied territories in 2023.

4. Yesterday the Agent of Armenia labelled Azerbaijan's comments with regard to the racist ideology which underpinned Armenia's breaches of the CERD as "not the proper province of this phase"[102]. Such matters may cause Armenia discomfort, but they are absolutely relevant to this preliminary objections phase because they will assist the Court's understanding of the singular nature and scope of Azerbaijan's CERD complaint, the material jurisdiction over which has been questioned by Armenia.

5. Yesterday, remarkably, the Agent of Armenia repeated its charade that Armenia was never the occupying Power in Azerbaijan's sovereign territories[103]. He quoted selectively from UN Security Council resolutions[104]. He misrepresented the European Court of Human Rights' jurisprudence[105]. Counsel to Armenia faithfully followed suit, alluding to the so-called "Nagorno-Karabakh's armed forces" in an effort to convey that they were somehow separate from Armenian armed forces[106]. All of this was a vain attempt to evade the simple reality: in violation of international law, Armenia invaded, occupied and ethnically cleansed Garabagh and the adjacent seven districts over a period of nearly thirty years.

6. Armenia's assertions are easily disproven with reference to Security Council resolutions 822 and 853 of 1993, which demanded the "withdrawal of all occupying forces" from the

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[101] CR 2024/23, p. 11, para. 5 (Martin).

[102] CR 2024/23, p. 42, para. 1 (Kirakosyan).

[103] CR 2024/23, p. 44, para. 7 (Kirakosyan).

[104] *Ibid*.

[105] CR 2024/23, p. 44, para. 6 (Kirakosyan).

[106] CR 2024/23, p. 28, para. 18 (Salonidis).

Kalbajar and Aghdam districts and other recently occupied areas of Azerbaijan[107]. These are the same Kalbajar and Aghdam districts of Azerbaijan from which Armenia finally and officially undertook to withdraw its troops, 27 years later.

7. I draw the Court's attention to the Trilateral Statement of 10 November 2020 which ended the Second Garabagh War[108]. This statement was made jointly by the President of the Russian Federation, the President of the Republic of Azerbaijan and the Prime Minister of the Republic of Armenia. The statement proclaims "a complete cease fire and cessation of all military operations"[109] between two States — the Republic of Azerbaijan and the Republic of Armenia.

8. Specifically, the Trilateral Statement proclaims that "the Aghdam region shall be returned to" Azerbaijan and "[t]he Republic of Armenia shall return the Kalbajar region to the Republic of Azerbaijan by 15 November, 2020, and the Lachin region by 1 December 2020". The conclusions to be drawn are obvious. Armenia was, throughout the relevant period, the sole occupying Power in then sovereign territories of Azerbaijan.

9. The Agent for Armenia refused to acknowledge a misleading statement made by Armenia's counsel on Monday. But her statement was clear: "discrimination against an ethnic group which was, on its [that is, Azerbaijan's] own case, not located in the relevant territory and *never intended to return there*"[110]. "Never intended to return." I will not explain again why it is simply inconceivable that Azerbaijanis never intended to return to their homes in the occupied areas and why all parties knew that such return would happen.

10. Armenia's Agent seemed to say that his counsel might have misspoken and intended to say that *Armenia* did not intend Azerbaijanis to return. But, even if that is the case, it is irrelevant. Whatever Armenia "intended", the relevant issue is that it "expected" that Azerbaijanis would return, including to districts where they had previously constituted 99 per cent of the population. Not only did Azerbaijanis intend to return, but this was always a fundamental precondition to any resolution

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[107] UN Security Council resolution 822 of 30 April 1993; UN Security Council resolution 853 of 19 July 1993 (reaffirming resolution 822).

[108] The Prime Minister of the Republic of Armenia, "Statement by the Prime Minister of the Republic of Armenia, the President of the Republic of Azerbaijan and the President of the Russian Federation", 10 November 2020, https://www.primeminister.am/en/press-release/item/2020/11/10/Announcement/.

[109] *Ibid.*

[110] CR 2024/21, p. 61, para. 44 (Macdonald) (emphasis added).

of the conflict between Armenia and Azerbaijan. And yet, Armenia intentionally pillaged *those* districts, rather than those where Armenians lived, with the intention to frustrate the ability of Azerbaijanis to return.

11. Armenia's Agent made three additional assertions yesterday. First, he claimed that "neither Armenia nor the local representatives in Nagorno-Karabakh ever prevented the United Nations from accessing Nagorno-Karabakh"[111].

12. As the Court can see on the screen, in 2005, responding to a request of the Azerbaijani side to send a fact-finding mission to occupied areas to verify the state of Azerbaijani cultural heritage, UNESCO explained that it had been prevented from accessing the territories occupied by Armenia:

> "[h]owever, the Secretariat has been prevented from sending a mission to verify the state of cultural property in the area, as other specialized agencies of the United Nations have not been able to enter these territories since their occupation by Armenian military forces"[112].

Again, in disregard of the clear documentary evidence, the Agent of Armenia asserted that "[i]n reality, it was Azerbaijan that impeded UN access"[113]. This is absurd. Members of the Court, how could Azerbaijan have physically prevented access to the territories that were, at the time, occupied militarily by Armenia?

13. Second, Armenia's Agent asserted twice that Azerbaijan, in his words, "abandoned the Minsk Group" negotiations[114]. Again, this was not correct. It is well known that, in 2019, Armenia's Prime Minister, Nikol Pashinyan, proclaimed to the world that "Karabakh is Armenia, and that's it"[115]. It was that belligerent statement from the leadership of Armenia that brought the negotiations to a halt.

14. Third, Armenia's Agent asserted that the Court denied Azerbaijan's preliminary measures request in 2021 based on Armenia's racial incitement through Twitter accounts[116].

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[111] CR 2024/23, p. 46, para. 10 (Kirakosyan).

[112] UNESCO, Report on the Implementation of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its Two 1954 and 1999 Protocols, Report on the Activities from 1995 to 2004 (2005), p. 7, para. 54.

[113] CR 2024/23, p. 46, para. 10 (Kirakosyan).

[114] CR 2024/23, pp. 44-45, paras. 7-8 (Kirakosyan).

[115] President of the Republic of Azerbaijan Ilham Aliyev, "Ilham Aliyev attended Forum titled 'Karabakh: Back Home After 30 Years. Accomplishments and Challenges'", 6 December 2023, https://president.az/en/articles/view/62400.

[116] CR 2024/23, p. 43, para. 4 (Kirakosyan).

15. As the Court can see on the screen, the Court unanimously ordered that

> "[t]he Republic of Armenia shall . . . take all necessary measures to prevent the incitement and promotion of racial hatred, including by organizations and private persons in its territory, targeted at persons of Azerbaijani national or ethnic origin"[117].

16. Azerbaijan secured this order based on evidence of racial hatred emanating from Armenia, an element of which was the extensive use by Armenia of fake Twitter accounts to stoke such hatred on both sides[118].

17. Mr President, Members of the Court, you have heard much over the past two weeks about hate speech. These included multiple misrepresentations by Armenia of the speeches of Azerbaijan's Head of State, President Aliyev.

18. Although these misrepresentations were systematically corrected by Azerbaijan's counsel[119], I want to close my remarks by reiterating that, from the Head of State down, Azerbaijan has consistently stated that it has never had any complaint with the minority ethnic Armenian population of Garabagh. An example of President Aliyev's statement is on the screen. You can see, as he said, "[i]f they want to live in Azerbaijan as citizens of Azerbaijan, of course, they can" [120].

19. To conclude, I would like to inform the Court of some recent, and most welcome, developments in the relations between our two countries. For the first time since Armenia's 1991 invasion, Azerbaijan has recovered some remaining parts of its occupied sovereign territory without bloodshed. Last week, Armenia agreed to demarcate part of the land boundary and return to Azerbaijan four villages occupied since 1992. This development shows that genuine negotiations between the Parties can result in meaningful and positive outcomes.

20. Mr President, Madam Vice-President, Members of the Court, I thank you for your kind attention. I will now read out Azerbaijan's final submissions:

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[117] *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Azerbaijan* v. *Armenia), Provisional Measures, Order of 7 December 2021, I.C.J. Reports 2021*, pp. 430-431, para. 76 (1).

[118] Twitter Safety, "Disclosing networks of state-linked information operations", Twitter, Inc. (23 February 2021), https://blog.twitter.com/en_us/topics/company/2021/disclosing-networks-of-state-linked-information-operations-.html; Memorial of Azerbaijan, para. 350.

[119] *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia* v. *Azerbaijan)*, CR 2024/19, pp. 11-15, paras 4-14 (Aughey).

[120] President of the Republic of Azerbaijan Ilham Aliyev, "Ilham Aliyev was interviewed by Euronews channel, 9 December 2023", Official website of President of Azerbaijan Republic; President of the Republic of Azerbaijan Ilham Aliyev, "Ilham Aliyev attended Forum titled 'Karabakh: Back Home After 30 Years. Accomplishments and Challenges'", 6 December 2023, https://president.az/en/articles/view/62400.

"The Republic of Azerbaijan requests that the Court:

1. dismiss each of the preliminary objections that Armenia sets forth in its final submission of 24 April 2024 on the ground that none of them is a valid objection to the Court's jurisdiction or to the admissibility of Azerbaijan's claims; and

2. in the alternative, dismiss each of those preliminary objections on the ground that each raises issues that should be deferred to the hearing on the merits."

21. Enfin, Monsieur le président, je voudrais remercier le greffier et son personnel pour leurs services avant et pendant cette procédure. Je voudrais également remercier les interprètes pour leur professionnalisme au cours de cette semaine. Et, bien sûr, nous vous remercions encore une fois, distingués Membres de la Cour, pour votre attention bienveillante. Je vous remercie, Monsieur le président.

The PRESIDENT: I thank the Co-Agent of Azerbaijan. The Court takes note of the final submissions which you have just read on behalf of your Government. This brings the present series of sittings to an end. I would like to thank the Agents, counsel and advocates of the two Parties for their statements. In accordance with the usual practice, I shall request both Agents to remain at the Court's disposal to provide any additional information the Court may require. With this proviso, I declare closed the oral proceedings in the case concerning *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Azerbaijan* v. *Armenia)* on the preliminary objections raised by the Respondent. The Court will now retire for deliberation. The Agents of the Parties will be advised in due course as to the date on which the Court will deliver its Judgment. Since the Court has no other business before it today, the sitting is declared closed.

The Court rose at 11.30 a.m.

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