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AS/Mon (2023) 05 REV

21 March 2023

amondoc05 REV_2023

or. English

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

The honouring of obligations and commitments by Armenia

Information note following the visit in Armenia from 17 to 19 February 2023

Co-rapporteurs: Mr Kimmo Kiljunen, (Finland, SOC) and Ms Boriana Åberg (Sweden, EPP/CD)

1. Introduction

1. On 14 December 2022, the Monitoring Committee held a hearing on the relations between Armenia and Azerbaijan with the participation of Mr Brice Roquefeuil, Special Envoy for the South Caucasus, Ambassador for the Eastern Partnership and French Co-Chair of the OSCE Minsk Group and Mr Toivo Klaar, European Union Special Representative for the South Caucasus. It appeared that Armenia and Azerbaijan disagreed on two sets of issues, the first was the ongoing occupation of Armenian territories by Azerbaijani armed forces and the second the situation in Nagorno-Karabakh.² It was extremely difficult to assess the respective positions as the reality of facts on the ground was not agreed upon.

2. To help de-escalate tensions and provide a fact-based assessment of the situation, the Chair of the Monitoring Committee proposed to organise a fact-finding mission to both Armenia and Azerbaijan including the territory of Nagorno-Karabakh. This format was not deemed suitable by one of the hosting countries and such a fact-finding visit could not be organised.

3. On 26 January 2023, the Assembly held a current affairs debate on: “Addressing the humanitarian consequences of the blockade of the Lachin corridor”. Since the 12 December 2022, the flow of goods and persons between Armenia and Nagorno-Karabakh was allegedly interrupted due to a demonstration on the road by some Azerbaijani eco-activists. Once again, the factual reality was disputed. The Armenian delegation invited PACE to send a fact-finding mission to assess the situation.

4. The European Court on Human Rights decided interim measures on 21 December 2022; noting that the extent to which the government of Azerbaijan was currently in control of the situation in the “Lachin Corridor” was disputed and unclear at this stage, noting in addition the obligation of Azerbaijan under Article 6 of the Trilateral Statement signed on 9 November 2020 to “guarantee the security of persons, vehicles and cargo moving along the Lachin Corridor in both directions” and reminding them of their obligations under the

¹ Document declassifié by the Monitoring Committee at its meeting on 21 March 2023.

² Nothing in this document can be interpreted as being contrary to the full respect of the sovereignty and territorial integrity of Armenia and Azerbaijan within their internationally recognised borders, the provisions of the 1993 UN Security Council Resolutions and the Statement by the President of the Republic of Azerbaijan, the Prime Minister of the Republic of Armenia and the President of the Russian Federation of 9 November 2020.

Convention, the Court decided to indicate to the Government of Azerbaijan to take all measures that are within its jurisdiction to ensure safe passage through the “Lachin Corridor” of seriously ill persons in need of medical treatment in Armenia and others who are stranded on the road without shelter or means of subsistence.

5. In this context, we decided to accept the invitation of the Armenian authorities and carry-out a fact-finding visit on the territory of Armenia to assess the situation on the border between Armenia and Azerbaijan, the alleged presence of Azerbaijani armed forces inside Armenian territory and the situation along the Lachin corridor. This visit took place from 17 to 19 February³. We wish to express our sincere gratitude to the Armenian authorities for their warm welcome and for their extremely efficient assistance in organising this visit in a very short time. On returning from this fact-finding visit, we issued the following [statement](#) : The situation in the Lachin corridor requires immediate action, PACE monitors for Armenia say⁴.

6. Given the seriousness and the urgency of the situation, we considered that it was our duty, as PACE rapporteurs, to share more detailed information with the members of our Assembly. Of course, a clearer and comprehensive view of the situation would require another fact-finding mission to be undertaken in Armenia and Azerbaijan, including in the region of Nagorno-Karabakh and in the Lachin corridor, which is placed under the control of Russian armed forces according to the Trilateral Statement. We hope that such a visit will be organised as soon as possible.

2. Provisions of the 2020 ceasefire agreement (the “Trilateral Statement”)

7. The 2020 war between Armenia and Azerbaijan ended following a ceasefire agreement signed on 9 November 2020 by President of the Republic of Azerbaijan Ilham Aliyev, Prime Minister of the Republic of Armenia Nikol Pashinyan and President of the Russian Federation Vladimir Putin, referred to as the Trilateral Statement⁵.

8. Following the 2020 war, and the terms of the ensuing Trilateral Statement, the Kalbajar district and the Lachin district were returned to Azerbaijan after being under Armenian control since 1993. It resulted in a need to clearly establish the exact delimitation of the border between Armenia and Azerbaijan. It also resulted in the region of Nagorno-Karabakh no longer having direct contact with an area under the control of the Armenian military, requiring specific provisions on access through the Lachin corridor

9. This was the object of specific provisions in section 6 of the Trilateral Statement :

“6. The Republic of Armenia shall return the Kalbajar district to the Republic of Azerbaijan by November 15, 2020, and the Lachin District by December 1, 2020. The Lachin Corridor (5 km wide), which will provide a connection between Nagorno-Karabakh and Armenia while not passing through the territory of Shusha, shall remain under the control of the Russian Federation peacemaking forces.

As agreed by the Parties, within the next three years, a plan will be outlined for the construction of a new route via the Lachin Corridor, to provide a connection between Nagorno-Karabakh and Armenia, and the Russian peacemaking forces shall be subsequently relocated to protect the route.

The Republic of Azerbaijan shall guarantee the security of persons, vehicles and cargo moving along the Lachin Corridor in both directions.”

3. Situation on the border between Armenia and Azerbaijan

10. Following the implementation of the Trilateral Statement, Armenian forces evacuated the districts of Kelbajar and Lachin. From then on, clashes occurred regularly along the internationally recognized border, with both parties blaming the other of provocation. Unfortunately, it seems that no channel of communication was introduced to allow military commanders to communicate and help alleviate the tensions.

11. From May 2021 on, several incursions of Azerbaijani troops into Armenian territory occurred. In some cases, these were localised incidents in zones where the exact delimitation could arguably be unclear. In other cases, however, the fighting occurred well inside Armenian territory and could not be classified as border incidents.

³ See programme of the visit in Appendix 1.

⁴ See text of the statement in Appendix 2.

⁵ The English text of the Statement can be found in Appendix 3.

12. These tensions culminated in September 2022, when a full-scale Azerbaijani offensive occurred along the border, implying artillery, heavy weapons and drones and resulting in 204 Armenian servicemen killed or missing and 80 Azerbaijani fatalities. As result of those clashes, the Azerbaijani army occupied a number of important strategic positions and heights on the territory of Armenia, including those overlooking the main road linking the capital Yerevan to the Iranian border.⁶

13. The Armenian Defence Ministry stated that Azerbaijan had attacked Armenian positions near the cities of Vardenis, Goris, Sotk, and Jermuk and that it had occupied certain areas of its territory. During our visit in Armenia, we went to the cities of Jermuk and Vardenis and in nearby villages. In Jermuk, a spa resort which had never been a theatre of conflict, we were shown Azerbaijani military positions overlooking the city, causing significant difficulties for the normal economic activity of the community⁷. We noticed signs of shelling consistent with the inhabitants' testimonies of an attack on civilian infrastructure. We were shown other military positions near Vardenis. Although the conditions of our visit did not allow for a thorough inquiry of the allegations, what we saw was consistent with the statement from the Armenian authorities.

14. After this outbreak of violence, the President of Azerbaijan and the Prime Minister of Armenia met in Prague on 6 October 2022 at the invitation of the President of the French Republic and the President of the European Council.⁸ It was decided that a civilian EU mission would be dispatched for two months on Armenian territory to monitor the border. This mission has been active from 20 November to 19 December 2022 and no incidents were reported during its mandate. Our interlocutors in Armenia highly praised the presence of the EU civilian mission. This short-term mission was followed by another, the European Union Mission in Armenia⁹ (EUMA). This non-armed civilian mission was created by a decision of EU Foreign Affairs Council on 23 January 2023, in response to an official request made by the Armenian authorities in December 2022. It has a two-year mandate, renewable.

15. The deployment of this EU civilian mission on the border is very important. Its presence should help to decrease the tensions and provide neutral and unbiased information for precise border delimitation. As both countries have recognized each other's territorial integrity according to 1991 Alma-Ata declaration, the only disagreements regarding the delimitation of the border should be of a technical nature and should not have large-scale territorial consequences. Discussions are taking place within border delimitation commissions with the assistance of the European Union. Both parties are committed to a negotiated peace and a neutral, trusted international presence is dispatched. In light of this, maintaining troops in such close contact, without providing them with any direct means of communication, represents a permanent threat that incidents might arise which could easily lead to escalation. We invite both parties to consider applying gradual mirror withdrawal of their troops to create a buffer zone on the border until the precise delimitation is agreed upon, according to peaceful settlement mechanisms.

4. Situation on the Lachin corridor

16. The situation in the Lachin corridor has been an issue of serious concern since December and was the subject of interim measures from the European Court of Human Rights, a current affairs debate of the PACE during the January session and an order for provisional measures from the International Court of Justice on the basis of the International Convention of the Elimination of all forms of Racial Discrimination.

17. The Lachin corridor is the only open communication route between the region of Nagorno-Karabakh and Armenia. For this reason, the Trilateral Statement made special provision concerning the status of this road: as Azerbaijan restored its control over the district of Lachin, this corridor would be under the control of the Russian peacemaking forces and Azerbaijan "shall guarantee the security of persons, vehicles and cargo moving along the Lachin Corridor in both directions." The Trilateral Statement contains no provision limiting explicitly the use of this road to humanitarian needs.

18. On 12 December 2022, a group of Azerbaijani persons started to occupy the road as part of an organised protest. On 21 December 2022, the European Court of Human Rights issued interim measures indicating that Azerbaijani authorities should "take all measures that are within their jurisdiction to ensure safe passage through the "Lachin Corridor" of seriously ill persons in need of medical treatment in Armenia and others who are stranded on the road without shelter or means of subsistence." Since then, two contradictory assessments of the situation have been presented. According to Azerbaijan, the road is open and civilians can use it without problem. According to the inhabitants of Nagorno-Karabakh and to the authorities of Armenia, the road is

⁶ [Aze Media](#) (13 September 2022).

⁷ Pastures used by cattle would be occupied and the military positions control the sources of water.

⁸ [Statement](#) (7 October 2022).

⁹ [Website](#) of the EU mission in Armenia.

closed and the population of the territory is under blockade. These contradictions appeared clearly during the current affairs debate held by our Assembly in January^{10,11}.

19. Our visit was limited to the territory of the Republic of Armenia, hence we could not enter the Lachin corridor itself. We nevertheless did our best to gather information on the situation. We have been able to talk to inhabitants of Nagorno-Karabakh blocked in Armenia because they were not able to return to the territory. We have also spoken with various Armenian and international officials on the situation. We were present on the Armenian side of the last checkpoint on the Lachin Corridor road.

20. Based on our observations, the movement of persons, vehicles and cargo along the Lachin corridor is severely obstructed. There is a checkpoint when leaving the territory of Armenia and several other checkpoints managed by Russian armed forces before even reaching the place of the alleged eco-activist protest. Only vehicles from the International Committee of the Red Cross and the Russian peacemakers are passing.

21. In our opinion, it is absolutely clear that if only ICRC vehicles and Russian forces can travel along this road, there is some kind of obstruction to the circulation of the vast majority of traffic. It must be stressed that restricting the use of this road to food and medical supplies would go beyond the provisions of the Trilateral Statement and would cause a humanitarian crisis in a matter of weeks. Such a restriction would be very insufficient to allow normal daily life for the more than a hundred thousand people living in the territory. Normally, 400 tonnes of cargo would pass this road daily.

22. Unfortunately, it is not possible to rely on an independent assessment of the situation, as no independent journalists have been allowed to work freely. According to Reporters Without Borders, “Only Azerbaijani journalists from state or pro-government media can cover the demonstrations on the corridor. The few independent local media are not allowed through the checkpoints.¹²” More troubling is the fact that the Azerbaijan State news agency Azertac grossly misquoted one of the few foreign journalists who was allowed to visit the site of the demonstration: his article was titled “The false ecologists who besiege a city and don’t let anyone enter¹³” but the State news agency claimed he declared: “Vehicles pass here without any problems. You just see people demonstrating to protect nature.¹⁴” Such conflicting reports on the situation and the refusal to allow an independent third-party fact-finding mission on the site of the demonstration can only fuel defiance and mistrust and hinder the search for a negotiated solution.

23. On 22 February 2023, the International Court of Justice issued an order in the case Armenia v. Azerbaijan¹⁵. The Court considered it to be plausible that the situation could violate the right of everyone to equality before the law in the enjoyment of a non-exhaustive list of rights, in particular the “right to freedom of movement and residence within the border of the State”, the “right to leave any country, including one’s own, and to return to one’s country”, and the “right to public health, medical care, social security and social services¹⁶”. The ICJ further observed that “the disruption on the Lachin Corridor has impeded the transfer of persons of Armenian national or ethnic origin hospitalized in Nagorno-Karabakh to medical facilities in Armenia for urgent medical care. The evidence also indicates that there have been hindrances to the importation into Nagorno-Karabakh of essential goods, causing shortages of food, medicine and other life-saving medical supplies.¹⁷”

24. The ICJ noted that the government of Azerbaijan undertook to: “take all steps within its power to guarantee the safety of movement of persons, vehicles and cargo along the Lachin road, including continued and regular engagement with the ICRC, communicating with and facilitating communications with Russian peacekeepers, taking steps to engage with local residents in Garabagh” but nevertheless considered that this

¹⁰ Mr Armen Gevorgyan (Armenia, EC/DA) declared: “The Azerbaijani government has imposed a 46 day –and counting– siege on Nagorno-Karabakh, depriving its people of their right to live in dignity, freedom of movement, import of food supplies, medicine, and other essential goods.” Ms Nigar Arpadarai (Azerbaijan, EC/DA) declared: “About the Lachin road. There is no humanitarian catastrophe in Karabakh, and there is no risk of it happening in the future for a simple reason: it is open. Every day we have trucks going back and forth through the corridor. Azerbaijan is providing all access to food, medicine, pharma, to civilians and all this.” Cf. Verbatim of the 26 January 2023 sitting of PACE.

¹¹ According to the Azerbaijan State News Agency: “The unimpeded passage of the various types of vehicles, including ambulances and humanitarian convoys are being ensured and the road is open for humanitarian purposes.”

¹² [RSF](#).

¹³ [Epe.es](#).

¹⁴ [Azertag](#) (27.02.2023).

¹⁵ Application of the International Convention on the Elimination of all forms of racial discrimination (Armenia v. Azerbaijan) – [International Court of Justice](#).

¹⁶ ICJ, Application of the International Convention on the Elimination of all forms of racial discrimination (Armenia v. Azerbaijan), Order of 22 February 2023, §36.

¹⁷ *Idem*, §54.

statement did “not remove entirely the imminent risk of irreparable prejudice created by the disruption in movement along the Lachin Corridor.¹⁸”

25. The ICJ therefore ordered: “The Republic of Azerbaijan shall (...) take all measures at its disposal to ensure unimpeded movement of persons, vehicles and cargo along the Lachin corridor in both directions.”

26. The authorities of Azerbaijan argued that they were complying with the order since it was not the Azerbaijani authorities that were impeding the movement along the corridor. The right to peaceful protest, as protected under articles 10 and 11 of the ECHR, deserves respect but it is a qualified right, not an absolute right. Moreover, it cannot trump the State’s obligations, including its positive obligations, to secure the human rights to everyone within its territory. Some have questioned the genuine nature of these eco-activists, noting that the protest is taking place in an area that is inaccessible to the public and the independent press, some have claimed that the obstruction to the circulation was the act of the Russian peacemakers, or of the *de facto* authorities acting in Nagorno-Karabakh. In this case, we urge the Azerbaijani authorities to authorise an independent fact-finding visit and to allow independent journalists to operate freely in the whole area.

27. We, as PACE co-rapporteurs, have the genuine desire to help both member States in finding a lasting and fair solution to their disputes. We understand the deep historical roots of the conflict between them and the huge political courage needed for leaders of both countries to stop the language of hate and confrontation and work toward peace. We believe that neutral, impartial and objective assessments are necessary, based on fact-based observation and the principle of transparency, to gradually lift the mistrust between these two neighbouring countries whose populations would enormously benefit from improved land connections.

¹⁸ *Idem*, §56.

Appendix 1: Programme of the visit

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

The honouring of obligations and commitments by Armenia

Country visit
17-20 February 2023
Final programme

Delegation: **Mr Kimmo Kiljunen** (Finland, SOC), co-rapporteur
Ms Borianna Åberg (Sweden, EPP/CD), co-rapporteur

Secretariat: **Mr Matthieu Monin**, Secretary of the Monitoring Committee

Friday, 17 February

- 12.45 Departure for the National Assembly of the Republic of Armenia
- 13.00 Meeting with **Mr Alen Simonyan**, Speaker of the National Assembly of the Republic of Armenia
- 14.00 Working lunch hosted by **Mr Ruben Rubinyan**, Vice-President of the National Assembly of the Republic of Armenia, Chairperson of the delegation to PACE
- 15.15 Meeting with **Mr Paruyr Hovhannisyan**, Deputy Minister of Foreign Affairs
- 16.20 Meeting with **Ms Anna Karapetyan**, Head of the International Cooperation Department, Human Rights Defender of Armenia
- 17.20 Meeting with **Mr Arman Sargsyan**, Deputy Minister of Defense
- 18.15 Meeting with **Mr Jan Plesinger**, Deputy Ambassador, delegation of EU to Armenia
- 19.15 Dinner with participation of the PACE delegation members

Saturday, 18 February

- 08.30 Departure for the city of Jermuk
- 12.00 Tour at Jermuk, meeting with officers
Meeting with **Mr Ararat Grigoryan**, Governor of Vayots Dzor Marz /region/
- 11.30 Departure for Syunik Marz /region/
- 13.00 Visit to the positions of Ishkhanasar, meeting with officers
- 14.20 Arrival to the city of Goris
- 14.30 Working lunch
Meeting with **Mr Robert Ghukasyan**, Governor of Syunik Marz /region/
- 15.30 Meeting with inhabitants of Nagorno-Karabakh staying in Goris
- 16.15 Departure for the Republic of Armenia checkpoint on Goris-Stepanakert highway
- 18.00 Departure for Yerevan
- 21.30 Arrival to Yerevan

Sunday, 19 February

- 10.00 Meeting with the ICRC representatives
- 11.00 Departure for Gegharkunik Marz /region/
- 12.30 Arrival to the city of Vardenis, tour, meeting with officers
Meeting with **Mr Karen Sargsyan**, Governor of Gegharkunik Marz
- 14.00 Working lunch
- 16.00 Departure for Yerevan
- 19.00 Arrival to Yerevan

Appendix 2 : “The situation in the Lachin corridor requires immediate action, PACE monitors for Armenia say”

24/02/2023

Following their visit to Armenia on 17-19th of February to assess the situation on the border with Azerbaijan and at the entrance of the Lachin Corridor, the co-rapporteurs of the Parliamentary Assembly of the Council of Europe (PACE) for the monitoring of Armenia Kimmo Kiljunen (Finland, SOC) and Boriána Åberg (Sweden, EPP/CD) today made the following statement:

“The situation in the Lachin corridor requires immediate action. As of today, inhabitants of Nagorno-Karabakh cannot travel freely out of the region and, as we were informed, 954 are still stranded on either side of the corridor. Only International Committee of the Red Cross and Russian peacekeepers’ vehicles are allowed to travel along this corridor, which is clearly insufficient to fulfill the needs of the population. Moreover, it is vitally important that goods can get through in time for the sowing season. The free circulation of all vehicles must be restored urgently in accordance with the Trilateral Statement of 10 November 2020.

Furthermore, the repeated disruption of gas and electricity supply to the territory has resulted in serious violations of the rights of the inhabitants: many people have already lost their jobs and children are deprived of education since schools had to close.

We recall our joint statement with co-rapporteurs for Azerbaijan of 16 December 2022 which urged the restoration of freedom of movement along the Lachin corridor, and the European Court of Human Rights’ decision of 21 December 2022 calling on the authorities of Azerbaijan to take all measures to ensure safe passage through the “Lachin Corridor” of seriously ill persons in need of medical treatment in Armenia and others who were stranded on the road. We also take note of the International Court of Justice’s order of 22 February 2023 indicating that “Azerbaijan shall (...) take all measures at its disposal to ensure unimpeded movement of persons, vehicles and cargo along the Lachin corridor in both directions.” We invite all members of the Assembly to bring this situation to the attention of their respective national parliaments and join our call for the immediate cessation of the unlawful and illegitimate obstruction of the Lachin corridor.

Regarding the situation on the border between Armenia and Azerbaijan, we observed the consequences of attacks from Azerbaijani troops on civilian infrastructures in the city of Jermuk and the village of Sotk. We noted that evidence of the use of cluster ammunitions in civilian zones had been collected and kept for further expertise. We were shown the presence of Azerbaijani military positions within Armenian sovereign territory, sometimes well beyond any disputed border line.

We commend the deployment of a civilian mission from the European Union at the border, noting the significant tangible effects of the previous mission in reducing tensions. We call on both parties to advance discussions on border delimitation and to agree on a mirror withdrawal of troops from the border as an immediate confidence-building move.

We will report our findings to the PACE Monitoring Committee during its next meeting. We remain extremely alert to future developments and reiterate our readiness to provide, at the parliamentary level, all political support needed to reach a long-lasting peace settlement.”

During their visit, the co-rapporteurs visited the cities of Jermuk, Goris and Vardenis and their surroundings, as well as the entrance of the Lachin Corridor on the Armenian side. They met local officials and inhabitants of Nagorno-Karabakh blocked in Goris due to the ongoing obstruction of the Lachin Corridor.

Appendix 3 : Statement by President of the Republic of Azerbaijan, Prime Minister of the Republic of Armenia and President of the Russian Federation¹⁹

On 9 November 2020

We, President of the Republic of Azerbaijan Ilham Aliyev, Prime Minister of the Republic of Armenia Nikol Pashinyan and President of the Russian Federation Vladimir Putin, state the following:

1. A complete ceasefire and termination of all hostilities in the area of the Nagorno-Karabakh conflict is declared starting 12:00 am (midnight) Moscow time on November 10, 2020. The Republic of Azerbaijan and the Republic of Armenia, hereinafter referred to as the "Parties," shall stop in their current positions.
2. The Agdam District shall be returned to the Republic of Azerbaijan by November 20, 2020.
3. The peacemaking forces of the Russian Federation, namely, 1,960 troops armed with firearms, 90 armoured vehicles and 380 motor vehicles and units of special equipment, shall be deployed along the contact line in Nagorno-Karabakh and along the Lachin Corridor.
4. The peacemaking forces of the Russian Federation shall be deployed concurrently with the withdrawal of the Armenian troops. The peacemaking forces of the Russian Federation will be deployed for five years, a term to be automatically extended for subsequent five-year terms unless either Party notifies about its intention to terminate this clause six months before the expiration of the current term.
5. For more efficient monitoring of the Parties' fulfilment of the agreements, a peacemaking centre shall be established to oversee the ceasefire.
6. The Republic of Armenia shall return the Kalbajar District to the Republic of Azerbaijan by November 15, 2020, and the Lachin District by December 1, 2020. The Lachin Corridor (5 km wide), which will provide a connection between Nagorno-Karabakh and Armenia while not passing through the territory of Shusha, shall remain under the control of the Russian Federation peacemaking forces.

As agreed by the Parties, within the next three years, a plan will be outlined for the construction of a new route via the Lachin Corridor, to provide a connection between Nagorno-Karabakh and Armenia, and the Russian peacemaking forces shall be subsequently relocated to protect the route.

The Republic of Azerbaijan shall guarantee the security of persons, vehicles and cargo moving along the Lachin Corridor in both directions.

7. Internally displaced persons and refugees shall return to the territory of Nagorno-Karabakh and adjacent areas under the supervision of the United Nations High Commissioner for Refugees.
8. The Parties shall exchange prisoners of war, hostages and other detained persons, and dead bodies.
9. All economic and transport connections in the region shall be unblocked. The Republic of Armenia shall guarantee the security of transport connections between the western regions of the Republic of Azerbaijan and the Nakhchivan Autonomous Republic in order to arrange unobstructed movement of persons, vehicles and cargo in both directions. The Border Guard Service of the Russian Federal Security Service shall be responsible for overseeing the transport connections.

Subject to agreement between the Parties, the construction of new transport communications to link the Nakhchivan Autonomous Republic with the western regions of Azerbaijan will be ensured.

¹⁹ <https://undocs.org/Home/Mobile?FinalSymbol=S%2F2020%2F1104&Language=E&DeviceType=Desktop&LangRequested=False>