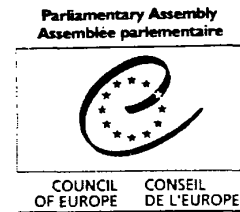


**Parliamentary Assembly**  
**Assemblée parlementaire**



**Doc. 10364**  
29 November 2004

**The conflict over the Nagorno-Karabakh region  
dealt with by the OSCE Minsk Conference**

Report  
Political Affairs Committee  
Rapporteur: Mr David Atkinson, United Kingdom, European Democrat Group

*Summary*

More than a decade after the armed hostilities started, the conflict over the Nagorno-Karabakh region remains unsolved. Hundreds of thousands of people are still displaced and live in miserable conditions. Considerable parts of the territory of Azerbaijan are still occupied by Armenian forces. The military action, and the widespread ethnic hostilities which preceded it, led to large-scale ethnic expulsion and the creation of mono-ethnic areas which resemble the terrible concept of ethnic cleansing. Separatist forces are still in control of the Nagorno-Karabakh region.

The Parliamentary Assembly reiterates that the occupation of foreign territory by a member state constitutes a grave violation of that state's obligations as a member of the Council of Europe and reaffirms the right of displaced persons from the area of conflict to return to their homes safely and with dignity. The Assembly also supports the OSCE Minsk process for a peaceful resolution of the conflict and calls on Armenia and Azerbaijan to pursue a path of reconciliation.

## I. Draft resolution

1. The Parliamentary Assembly regrets that, more than a decade after the armed hostilities started, the conflict over the Nagorno-Karabakh region remains unsolved. Hundreds of thousands of people are still displaced and live in miserable conditions. Considerable parts of the territory of Azerbaijan are still occupied by Armenian forces and separatist forces are still in control of the Nagorno-Karabakh region.
2. The Assembly expresses its concern that the military action, and the widespread ethnic hostilities which preceded it, led to large-scale ethnic expulsion and the creation of mono-ethnic areas which resemble the terrible concept of ethnic cleansing. The Assembly reaffirms that independence and secession of a regional territory from a state may only be achieved through a lawful and peaceful process based on democratic support by the inhabitants of such territory and not in the wake of an armed conflict leading to ethnic expulsion and the de facto annexation of such territory to another state. The Assembly reiterates that the occupation of foreign territory by a member state constitutes a grave violation of that state's obligations as a member of the Council of Europe and reaffirms the right of displaced persons from the area of conflict to return to their homes safely and with dignity.
3. The Assembly recalls Resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993) of the United Nations Security Council and urges the parties concerned to comply with them, in particular by refraining from any armed hostilities and by withdrawing military forces from any occupied territories. The Assembly also aligns itself with the demand expressed in Resolution 853 (1993) of the United Nations Security Council and thus urges all member states to refrain from the supply of any weapons and munitions which might lead to an intensification of the conflict or the continued occupation of territory.
4. The Assembly recalls that both Armenia and Azerbaijan committed themselves upon their accession to the Council of Europe in January 2001 to use only peaceful means for settling their conflict over the Nagorno-Karabakh region. Therefore, the Assembly urges both governments to refrain from using armed forces against each other as well as from propagating military action.
5. The Assembly recalls that the Council of Ministers of the Conference for Security and Co-operation in Europe (CSCE) agreed in Helsinki in March 1992 to hold a conference in Minsk in order to provide for a forum for negotiations for a peaceful settlement of the conflict. Armenia, Azerbaijan, Belarus, the former Czech and Slovak Federal Republic, France, Germany, Italy, the Russian Federation, Sweden, Turkey and the United States of America agreed at that time to participate in this Conference. The Assembly calls on these states to step up their efforts to achieve the peaceful resolution of the conflict and invites their national delegations to the Assembly to report annually to the Assembly on the action of their governments in this respect. For this purpose, the Assembly asks its Bureau to create an Ad hoc Committee with inter alia the heads of these national delegations.
6. The Assembly pays tribute to the tireless efforts of the Co-Chairs of the Minsk Group and the Personal Representative of the OSCE Chairman-in-Office, in particular for having achieved a cease-fire in May 1994 and having monitored the observance of this cease-fire since then. The Assembly calls on the OSCE Minsk Group Co-Chairs to take immediate steps to conduct speedy negotiations for the conclusion of a political agreement on the cessation of the armed conflict, the implementation of which will eliminate major consequences of the conflict for all parties and permit the convening of the Minsk Conference. The Assembly calls on Armenia and Azerbaijan to make use of the OSCE Minsk Process and actively submit to each other via the Minsk Group their constructive proposals for the peaceful settlement of the conflict in accordance with the relevant norms and principles of international law.
7. The Assembly recalls that Armenia and Azerbaijan are signatory parties to the Charter of the United Nations and, in accordance with Article 93, paragraph 1 of the Charter, *ipso facto* parties to the Statute of the International Court of Justice. Therefore, the Assembly suggests that if the negotiations under the auspices of the Co-Chairs of the Minsk Group fail, Armenia and Azerbaijan should consider using the International Court of Justice in accordance with Article 36, paragraph 1 of the Court's Statute.
8. The Assembly calls on Armenia and Azerbaijan to foster political reconciliation among themselves by stepping up bilateral inter-parliamentary co-operation within the Assembly as well as in other forums such as the meetings of the Speakers of the Parliaments of the Caucasian Four. It recommends that both delegations should meet during each part-session of the Assembly to review progress on such reconciliation.

9. The Assembly calls on the Government of Azerbaijan to establish contacts with the political representatives of both communities from the Nagorno-Karabakh region regarding the future status of the region. It is prepared to provide facilities for such contacts in Strasbourg, recalling that it did so in the form of a hearing on previous occasions with Armenian participation.

10. Recalling its Recommendation 1570 (2002) on the situation of refugees and displaced persons in Armenia, Azerbaijan and Georgia, the Assembly calls on all member and observer states to provide humanitarian aid and assistance to the hundreds of thousands of people displaced as a consequence of the armed hostilities and the expulsion of ethnic Armenians from Azerbaijan and ethnic Azerbaijanis from Armenia.

11. The Assembly condemns any expression of hatred portrayed in the media of Armenia and Azerbaijan. The Assembly calls on Armenia and Azerbaijan to foster reconciliation, confidence-building and mutual understanding among their peoples through schools, universities and the media. Without such reconciliation, hatred and mistrust will prevent stability in the region and may lead to new violence. Any sustainable settlement must be preceded by and embedded in such reconciliation processes.

12. The Assembly calls on the Secretary General of the Council of Europe to draw up an action plan for specific support to Armenia and Azerbaijan targeted at mutual reconciliation processes and to take this resolution into account in deciding on action concerning Armenia and Azerbaijan.

13. The Assembly calls on the Congress of Local and Regional Authorities of the Council of Europe to assist locally elected representatives of Armenia and Azerbaijan in establishing mutual contacts and inter-regional co-operation.

14. The Assembly resolves to analyse the conflict settlement mechanisms existing within the Council of Europe, in particular the European Convention for the Peaceful Settlement of Disputes, in order to provide its member states with better mechanisms for the peaceful settlement of bilateral conflicts as well as internal disputes involving local or regional territorial communities or authorities which may endanger human rights, stability and peace.

15. The Assembly resolves to continue monitoring on a regular basis the peaceful resolution of this conflict and decides to revert to considering this issue at its first part-session in 2006.

## II. Draft recommendation

1. The Parliamentary Assembly refers to its Resolution .... (2005) on the conflict dealt with by the OSCE Minsk Conference and recommends that the Committee of Ministers:

- i. urge the parties concerned to comply with the United Nations Security Council Resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993), in particular by refraining from any armed hostilities and by *withdrawing military forces from all occupied territories of Azerbaijan*;
- ii. monitor the compliance by Armenia and Azerbaijan with the United Nations Security Council Resolutions and the decisions of the OSCE Council of Ministers on this conflict;
- iii. report to the Assembly on the efforts undertaken by member states for the peaceful settlement of the conflict in accordance with the Resolutions of the United Nations Security Council including whether member states refrain from the supply of any weapons and munitions which might lead to an intensification of the conflict or the continued occupation of territory in violation of Resolution 853 (1993) of the United Nations Security Council;
- iv. recalling its Recommendation 1251 (1994) on the conflict in Nagorno-Karabakh, place experts at the disposal of Armenia and Azerbaijan who could help draw up a political status for Nagorno-Karabakh, if they so wish;
- v. allocate resources for an action plan of specific confidence-building measures for Armenia and Azerbaijan;
- vi. allocate resources for specific training programmes for teachers and journalists from both countries aimed at *better mutual understanding, tolerance and reconciliation*;
- vii. allocate resources for specific action by the European Commission against Racism and Intolerance concerning both countries, in particular with regard to educational institutions and the public media;
- viii. instruct its competent steering committee to analyse how far the European Convention for the Peaceful Settlement of Disputes reflects the current requirements of conflict settlement among member states of the Council of Europe and where it should be revised in order to provide an adequate instrument for the peaceful settlement of disputes between the member states of the Council of Europe;
- ix. take Resolution .... (2005) into account when deciding on action concerning both countries;
- x. forward Resolution .... (2005) and this Recommendation to the governments of member states with a view to supporting them nationally, bilaterally and internationally.

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## III. Explanatory memorandum by the Rapporteur

### *Introduction*

1. Until 31 August 2004, Mr Terry Davis was rapporteur on this subject. On 1 September, Mr Davis took up his duties as Secretary General of the Council of Europe and left the Parliamentary Assembly. After several meetings with the parties concerned and several visits to the region, he had submitted a draft report to the Committee before that date, which was discussed at the meeting of the Political Affairs Committee in Paris on 14 September 2004. On 14 September 2004, I was appointed to succeed Mr Davis as rapporteur. This document contains the draft report together with my changes.

2. The title of this report is the "conflict dealt with by the OSCE Minsk Conference" and concerns the armed conflict between Armenians and Azerbaijanis over the Nagorno-Karabakh<sup>1</sup> region and its surrounding districts which are under occupation by Armenian forces.

3. The conflict area comprises the territory of the former Autonomous Region of Nagorno-Karabakh as well as the total or partial territory of eight surrounding districts of Azerbaijan. The former Autonomous Region of Nagorno-Karabakh is not adjacent to the territory of Armenia and is separated from Armenia by other districts. (see Appendix I – map used by the United Nations).

4. For most of the past 15 years, the attention of European states has been focused on conflicts in other regions, and the conflicts in the South Caucasus have not received enough attention and understanding. During the preparation of this report, this situation has changed. Several governments outside the region have launched programmes which can be described as confidence building measures. However, some people in the region have expressed their concern that these efforts need to be coordinated by an international organisation such as the Council of Europe.

5. The conflict concerning the Nagorno-Karabakh region is really a conflict between two principles: territorial integrity and self-determination. On the one hand, the borders of Azerbaijan were internationally recognised at the time of the country being recognised as independent state in 1991. The territory of Azerbaijan included the Nagorno-Karabakh region. On the other hand, the Armenian population of Nagorno-Karabakh (the majority even before "ethnic cleansing" in 1992-1994) claim the right of self-determination. They are supported by Armenia.

6. According to the information given to me, Armenians from Armenia had participated in the armed fighting over the Nagorno-Karabakh region besides local Armenians from within Azerbaijan. Today, Armenia

<sup>1</sup> The word "nagorno" means mountainous in the Russian language.

has soldiers stationed in the Nagorno-Karabakh region and the surrounding districts, people in the region have passports of Armenia, and the Armenian government transfers large budgetary resources to this area.

7. The conflict is long-standing and rooted in history. It became an armed conflict in 1992, and the fighting between Armenians and Azerbaijanis did not stop until 1994.

8. During the conflict and preceding events, hundreds of thousands of people were displaced. More than a decade has passed, and they have not been able to return to their homes. These people often live under miserable conditions. Beyond this pressing humanitarian need, there is also the latent danger of a new outbreak of armed hostilities. This report, the draft Resolution and draft Recommendation are intended to raise awareness of the conflict and assist the efforts for its peaceful settlement.

9. The OSCE<sup>2</sup> started dealing with this conflict in 1992 and decided to hold a conference in Minsk on the terms of the final settlement of the conflict. In May 1994, it succeeded in obtaining a cease-fire agreement which stopped the war. Although the subsequent negotiations have not yet succeeded in obtaining a settlement, I pay tribute to the Co-Chairs<sup>3</sup> of the OSCE Minsk Group for their tireless efforts. This Rapporteur has great respect for their work.

10. In preparation of this report, the Rapporteur has visited Armenia and Azerbaijan twice and met the Co-Chairs of the OSCE Minsk Group and the Personal Representative of the OSCE Chairman-in-Office on four separate occasions. Thanks are due to all the authorities involved in these visits and meetings for their good will and co-operation. The programmes of these visits are attached (Appendix II).

#### *Historical background*

11. To understand this conflict, it is helpful to look briefly at the history of the area and the situation before the fighting broke out. In fact, history is an important factor. It has frequently been painful for both Armenians and Azerbaijanis, and historic events have been widely used in order to justify ethnic hatred, violence and claims over territories in this region. However, this report does not attempt to report exhaustively on the history. It is rather intended to draw attention to a few key facts.

12. From 1987 onwards, ethnic violence increased and coincided with bilateral tensions between Armenia and Azerbaijan within the USSR. With the dissolution of the USSR, the hostilities developed into large-scale military actions, which resulted in the death of thousands and the displacement of hundreds of thousands of people. Following these events, the Committee of Ministers of the Council of Europe made a Declaration on 11 March 1992 condemning the violence and attacks directed against the civilian population. After Armenia and Azerbaijan had become participating states in the OSCE in 1992, the OSCE began to deal with this conflict.

13. In the meantime, ethnic Armenians had established a "government" in the Nagorno-Karabakh region with its "capital" in Stepanakert (or Khankendi in Azerbaijani). This "government" is not recognised by any of the Council of Europe member states, nor by the OSCE, European Union and the United Nations. Armenia maintains close political, economic and military relations with them, but does not recognise the area as an independent state and hence has not established diplomatic relations with this "government".

14. A more detailed explanation of the background and history of this region is reproduced in a separate Appendix (Appendix IV *in English only*) to this document. This Appendix consists of a background paper which was prepared by the Directorate General of Political Affairs of the Council of Europe and was used for a Council of Europe seminar on "Youth and Conflict Resolution" organised in Strasbourg in April 2003. Also attached for information is the written response by the Permanent Representative of the Republic of Azerbaijan to the Council of Europe.

<sup>2</sup> At the time, the OSCE was known as the CSCE (Conference on Security and Co-operation in Europe). It changed its name to OSCE at its Budapest Summit in 1994.

<sup>3</sup> The current Co-Chairs of the OSCE Minsk Group are France, the Russian Federation and the United States of America.

*The efforts of the OSCE Minsk Group*

15. Unfortunately, but understandably, the OSCE Minsk process has been confidential and limited to the governments of Armenia and Azerbaijan. Therefore, very little information is available to the public in both countries. However, some positions discussed at the bilateral meetings under the OSCE Minsk Group have become the subject of rumour and speculation. It is thus widely believed that the negotiations of the two governments were close to an agreement following the initiatives by the Co-Chairs in 1997, 1998 and 2001, with meetings of the Presidents of Armenia and Azerbaijan in Paris and Key West (USA). The proposed settlements differed from each other, but covered the status of the Nagorno-Karabakh region, the withdrawal of military forces and subsequent security guarantees, as well as the return of refugees and displaced persons.

16. The year 2003 saw virtually no progress in the bilateral negotiations under the Minsk Group as a result of parliamentary and presidential elections in both Armenia and Azerbaijan ending with the presidential election in Azerbaijan in October 2003.

17. At the time of the Rapporteur's visit to the region in February 2004, the situation could only be described as stalemate. A meeting between President Kocharyan and President Aliyev in November 2003 had not even resulted in a date to meet again. However, there has been a lot of activity since February with another meeting of the Presidents in Warsaw on 28 April 2004 and several meetings of the Foreign Ministers in Bratislava on 18/19 March, Prague on 16 April, Strasbourg on 12/13 May, Prague on 21 June and Istanbul on 28/29 June 2004. At separate meetings with the Foreign Ministers and the Co-Chairs of the Minsk Group in Strasbourg on 13 May, the Rapporteur had the impression that, although an agreement could not be described as imminent, the negotiations had gained a new momentum.

18. The current population of the Nagorno-Karabakh region is not included in the negotiation process under the auspices of the OSCE Minsk process. The President of Armenia, President Kocharyan, was the first "president" of the self-declared but internationally not recognised "Nagorno-Karabakh Republic" and thus may have the confidence of the ethnic Armenian population in that region. However, his successor and the other representatives of the political forces in the region regard themselves as the representatives of the people there and thus want to be involved in any settlement agreement. During the Rapporteur's visits to Baku, it became clear that the Azerbaijani authorities were only willing to include representatives of the political forces in the Nagorno-Karabakh region if they renounced their desire for secession. The exclusion of these political forces is a weakness of the current process, because in the end, a solution cannot be imposed on them against their will.

*Other efforts to settle the conflict*

19. During the armed conflict, the United Nations Security Council passed Resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993) (see Appendix III). These Resolutions called upon Armenia and Azerbaijan to restore peace, protect civilians and liberate the territories occupied in the course of the conflict. The latter applied in particular to Armenia. Regrettably, major parts of these Resolutions have not yet been implemented.

20. Some people argue that the United Nations should become more active in dealing with this issue because it damages the authority of the Security Council for its Resolutions to be ignored. However, the Security Council has resisted all suggestions of becoming more involved and has simply supported the mediation activity of the OSCE.

*International legal dispute*

21. There is another UN route which could be used by the parties to the conflict if the negotiations sponsored by the Minsk Group do not result in an agreed settlement. Article 36 of the United Nations Charter clearly states that legal disputes should, as a general rule, be referred by the parties to the International Court of Justice. As member states of the United Nations, Armenia and Azerbaijan are ipso facto parties to the Statute of the International Court of Justice under Article 9, paragraph 1 of the UN Charter. Both states could, therefore, take their case to the International Court of Justice as another way of achieving a peaceful settlement of a conflict.

22. There is another option. As has already been noted, the conflict resulted in the expulsion of ethnic Azerbaijanis from the occupied territories and the expulsion of ethnic Armenians from Azerbaijan and ethnic Azerbaijanis from Armenia, a large number of refugees and internally displaced persons are living far away from their homes. These people have the right to enjoy their property or receive compensation for the

deprivation of this right under Article 1 of the first Protocol to the European Convention on Human Rights. In the case of *Loizidou v Turkey*, the European Court of Human Rights awarded compensation to an applicant who was judged to have been unlawfully displaced from her home in the course of an armed conflict. Parallels with the persons displaced from the Nagorno-Karabakh region and the surrounding territories are obvious.

*Essential conditions for a sustainable settlement*

23. A sustainable settlement of the conflict must, of course, go beyond a legal settlement. It must be emphasised that this dispute has a second dimension: a conflict between legality and reality. The majority population of the Nagorno-Karabakh region is ethnic Armenian, and this was the case before the conflict. The Azerbaijani population of this region was a minority, and a future Azerbaijani population would probably remain a minority. In addition, there is wide-spread, deeply rooted and strongly propagated and developed distrust between Armenians and Azerbaijanis. This distrust cannot be overcome by a court judgment or legal settlement alone.

24. Any settlement would also face the democratic dilemma, which requires the political leadership of both countries to respond to public opinion. The current public opinions in both countries may not yet be ripe for a settlement based on compromise.

25. The often terrible humanitarian conditions of the refugees and displaced persons must also be addressed. These people have a right to return to their homes, but many people do not want to return (especially ethnic Azerbaijanis formerly living in Armenia and ethnic Armenians formerly living in Azerbaijan). The former population of Nagorno-Karabakh and the adjacent districts is more likely to want to return because these areas had only been populated by ethnic Azerbaijanis and are nearly depopulated at present. Those refugees who do not want to go back need the means to integrate into the communities in which they have been living since their flight. Where displaced persons want to go back, large efforts are needed for the reconstruction of their destroyed homes. The reconstruction of houses will have to go hand in hand with economic reconstruction and development. In this respect, the international community will be called upon to provide support.

26. If the eventual settlement of this dispute does not envisage immediate secession of Nagorno-Karabakh from Azerbaijan, everyone accepts that Nagorno-Karabakh must have a high level of autonomy. In this connection, the Rapporteur draws attention to the Assembly's Resolution 1334 (2003) and Recommendation 1609 (2003) on positive experiences of autonomous regions as a source of inspiration. In a detailed report on this subject, Mr Andreas Gross comes to the conclusion that regional autonomy with a high degree of self-government may be a better solution than secession and independence.

27. The conflict has exacerbated a widespread and deeply rooted ethnic hatred and even fear. The historic feelings of distrust and fear have been made worse by the personal experiences of many people on all sides during the armed conflict and the preceding events. For Armenians and Azerbaijanis to live peacefully together, or at least side by side, requires a certain degree of reconciliation. The Council of Europe has developed confidence building programmes and guidelines for action against racism, intolerance and ethnic hatred through its European Commission against Racism and Intolerance as well as in the media and education sectors. Successful events have been launched by the Council of Europe against hate language in the media in other regions. Such action in this region is desperately needed.

28. A peaceful cohabitation of both ethnic groups will also require a high presence of security and police forces at the initial stage. In the Rapporteur's opinion, it will require an international presence which takes into account the experience of such efforts in other parts of Europe.

*Possible action by the Council of Europe and its member states*

29. For the Assembly, the key question will be how the Council of Europe and its member states can contribute to the settlement of the conflict and its humanitarian consequences.

30. The Council of Europe has great experience in promoting and pursuing confidence building measures. The confidence of everyone living in Armenia and Azerbaijan is essential for positive political progress in the future. Confidence-building measures should therefore become a priority for the Council of Europe.

31. In its country-by-country analysis, the European Commission against Racism and Intolerance (ECRI) is responsible for dealing with Armenia and Azerbaijan. In addition, various sectors of the Council of Europe

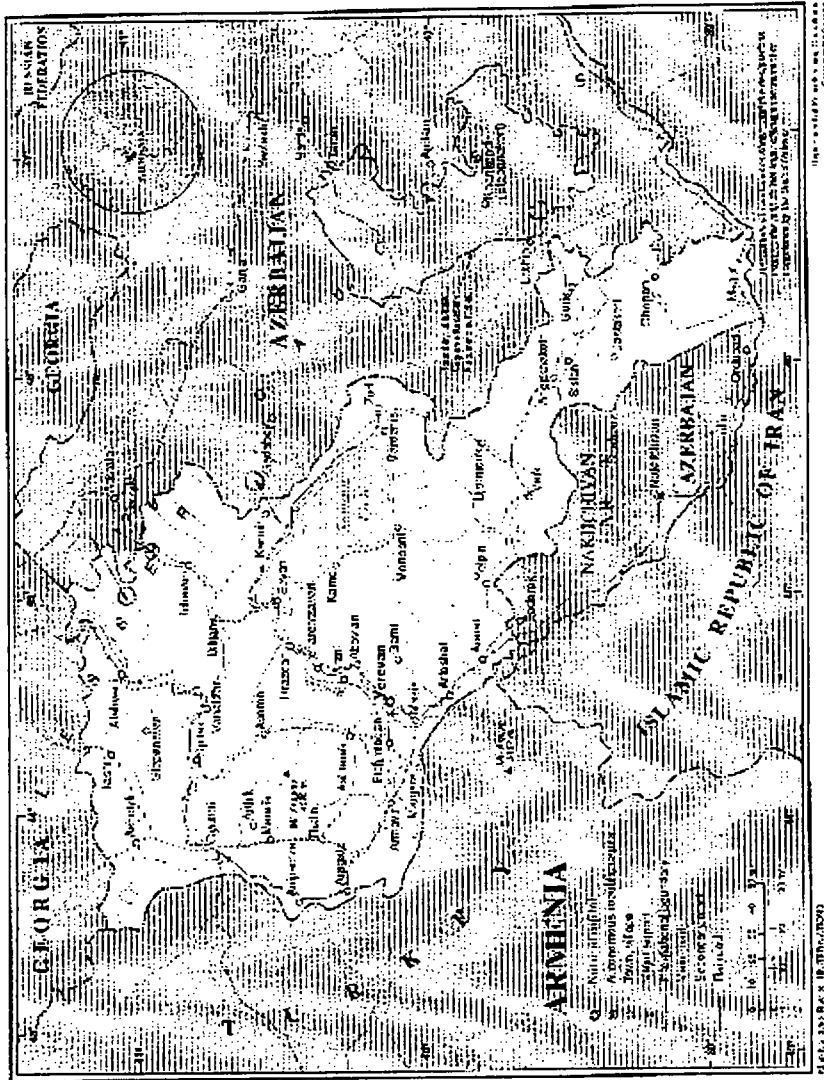


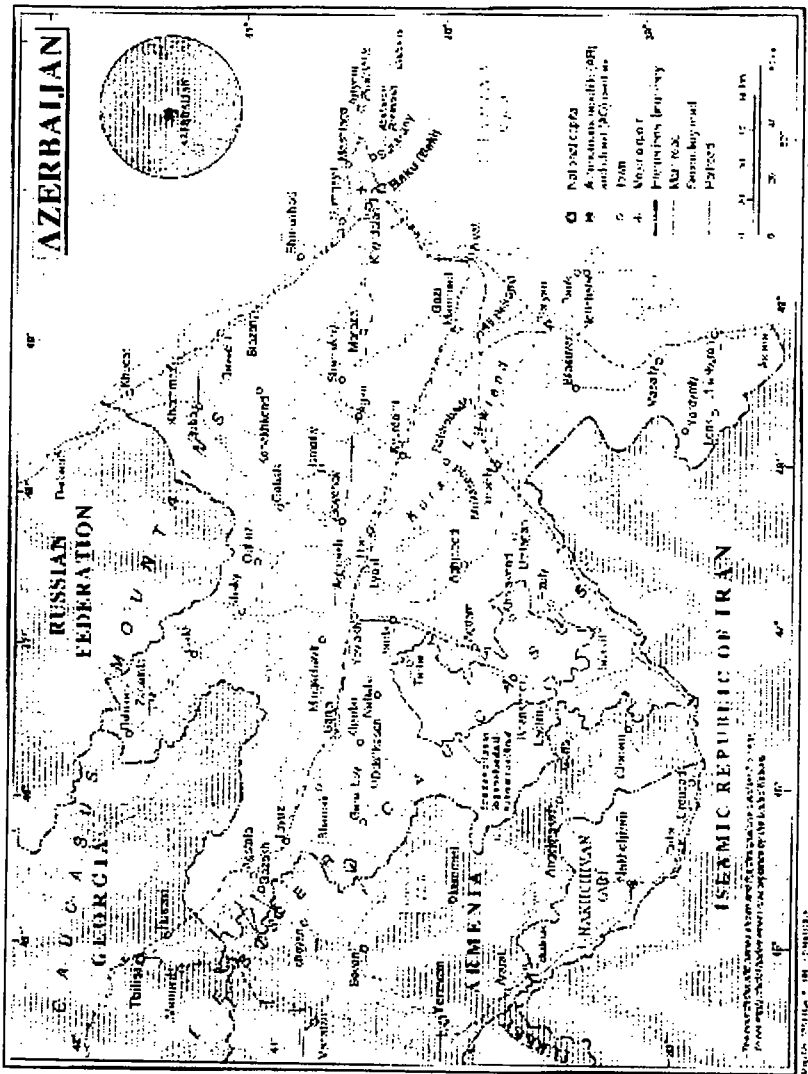
have developed guidelines and action programmes for more tolerance and mutual understanding. The work of ECRI and the assistance and co-operation programmes of the Council of Europe should be coordinated and reinforced.

32. The Council of Europe is not a humanitarian aid organisation. However, the Council of Europe Development Bank can give loans for projects required for the peaceful settlement of the conflict as well as Armenia and Azerbaijan. In addition, member states of the Council of Europe could coordinate their bilateral support through the Committee of Ministers of the Council of Europe.

APPENDIX I

Maps of the conflict area used by the United Nations





**APPENDIX II**

**Programmes of visits in preparation of the report**

***Warsaw, 22 February 2003***

Meeting with the Co-Chairs of the OSCE Minsk Group:  
Ambassador Nikolai Gribkov (Russian Federation),  
Ambassador Henry Jacolin (France),  
Ambassador Rudolf V. Perina (USA),  
and  
Ambassador Andrzej Kasprzyk, Personal Representative of the OSCE Chairman-in-Office

***Baku, 14 April 2003***

Meeting with the Deputy Minister of Foreign Affairs and Personal Representative of the President of the Republic, Mr Araz Azimov

Meeting with the Minister of Foreign Affairs, Mr Vilayat Guliyev

Meeting with the Head of the Azerbaijani delegation to the PACE, Mr Ilham Aliyev, and members of the delegation

Meeting with the Chairman of the Parliament (Milli Mejlis), Mr Murtuz Aleskerov

Meeting with the Minister of Defence, Mr Safar Abiyev

Meeting with the Minister for National Security, Mr Namig Abbasov

Meeting with representatives of the Azerbaijani community of Nagorno-Karabakh

Meeting with representatives of opposition parties represented in the Parliament

***Baku, 15 April 2003***

Meeting with the Chairman of the State Committee on Refugees and IDPs, Mr Ali Hasanov

Departure to the refugee and IDP camp in Bilasuvar

Meeting with the President of the Republic of Azerbaijan, Mr Heydar Aliyev

Meeting with Members of the National Academies of Sciences

Press conference

Meeting with Ambassador Andrzej Kasprzyk, Personal Representative of the OSCE Chairman-in-Office on the conflict dealt with by the OSCE Minsk Conference

***Tbilisi, 16 April 2003***

Meeting with the Special Representative of the Secretary General of the Council of Europe in Tbilisi, Mr Plamen Nikolov

Meeting with the Dutch Ambassador to Georgia and Armenia and the Representative of the European Commission in Tbilisi

**Yerevan, 17 April 2003**

Meeting with the UK Ambassador in Yerevan, Ms Thorda Abbott-Watt

Meeting with the Head of the Armenian delegation to the PACE, Mr Hovhannes Hovhannisyan

Meeting with the heads of parliamentary factions and groups

Meeting with the Chairman of the National Assembly, Mr Armen Khachatryan

Meeting with the Minister of Defence, Mr Serzh Sargsyan

Meeting with the Minister of Foreign Affairs, Mr Vardan Oskanyan

**Yerevan, 18 April 2003**

Visit to areas settled by refugees and meeting with refugees

Meeting with a representative from Nagorno-Karabakh

Meeting with the Personal Representative of the President of the Republic, Mr Tatul Margaryan

Meeting with the President of the Republic of Armenia, Mr Robert Kocharyan

Press conference

**Amsterdam, 11 June 2003**

Meeting with the Co-Chairs of the OSCE Minsk Group:

Ambassador Nikolai Gribkov (Russian Federation),

Ambassador Henry Jacolin (France),

Ambassador Rudolf V. Perina (USA),

and

Ambassador Andrzej Kasprzyk, Personal Representative of the OSCE Chairman-in-Office

**Nagorno-Karabakh region, 23 February 2004**

Visit to Shushi/Shusha and meeting with refugees

Visit to Stepanakert/Khankendi

Meeting with Mr Oleg Yesayan and political parties

Meeting with Mr Arkady Ghokassyan

**Yerevan, 24 February 2004**

Meeting with Mr Tatoul Margaryan, the Personal Representative of the President of the Republic

Meeting with Head of the State Department for Migration and Refugees and refugees in the former dormitory of Yerevan University

Meeting with the Armenian Delegation to the Parliamentary Assembly and the political parties represented in the National Assembly of Armenia

Meeting with Mr Robert Kocharyan, President of the Republic of Armenia, and Mr Vardan Oskanyan, Minister of Foreign Affairs

**Baku, 25 February 2004**

Meeting with displaced persons in Baku

**Baku, 26 February 2004**

Meeting with Mr Namig Abbasov, Minister for National Security

Meeting with Mr Ilham Aliyev, President of the Republic of Azerbaijan

Meeting with the Azerbaijan Delegation to the Parliamentary Assembly

Meeting with political parties represented in the National Assembly of Azerbaijan

Meeting with Mr Murtuz Aleskerov, Chairman of the National Assembly

Meeting with Mr Safar Abiyev, Minister of Defence

Meeting with Mr Vilayat Guliyev, Minister of Foreign Affairs

**Strasbourg, 13 May 2004**

Meeting with Mr Vardan Oskanyan, Minister of Foreign Affairs of Armenia

Meeting with Mr Elmar Mammadyarov, Minister of Foreign Affairs of Azerbaijan

Meeting with the Co-Chairs of the OSCE Minsk Group:

Ambassador Henry Jacolin (France),

Ambassador Yuri Merzlyakov (Russia)

Ambassador Stephen Mann (USA),

and

Ambassador Andrzej Kasprzyk, Personal Representative of the OSCE Chairman-in-Office

## APPENDIX III

## RESOLUTIONS OF THE UNITED NATIONS SECURITY COUNCIL

UNITED  
NATIONS**S**

## Security Council

Distr.  
GENERALS/RES/822 (1993)  
30 April 1993

## RESOLUTION 822 (1993)

Adopted by the Security Council at its 3205th meeting,  
on 30 April 1993

The Security Council,

Recalling the statements of the President of the Security Council of 29 January 1993 (S/25199) and of 6 April 1993 (S/25539) concerning the Nagorny-Karabakh conflict,

Taking note of the report of the Secretary-General dated 14 April 1993 (S/25600),

Expressing its serious concern at the deterioration of the relations between the Republic of Armenia and the Republic of Azerbaijan,

Noting with alarm the escalation in armed hostilities and, in particular, the latest invasion of the Kelbadjar district of the Republic of Azerbaijan by local Armenian forces,

Concerned that this situation endangers peace and security in the region,

Expressing grave concern at the displacement of a large number of civilians and the humanitarian emergency in the region, in particular in the Kelbadjar district,

Reaffirming the respect for sovereignty and territorial integrity of all States in the region,

Reaffirming also the inviolability of international borders and the inadmissibility of the use of force for the acquisition of territory,

Expressing its support for the peace process being pursued within the framework of the Conference on Security and Cooperation in Europe and deeply concerned at the disruptive effect that the escalation in armed hostilities can have on that process,

1. Demands the immediate cessation of all hostilities and hostile acts with a view to establishing a durable cease-fire, as well as immediate

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/...

S/RES/822 (1993)

Page 2

withdrawal of all occupying forces from the Kelbadjar district and other recently occupied areas of Azerbaijan;

2. Urges the parties concerned immediately to resume negotiations for the resolution of the conflict within the framework of the peace process of the Minsk Group of the Conference on Security and Cooperation in Europe and refrain from any action that will obstruct a peaceful solution of the problem;

3. Calls for unimpeded access for international humanitarian relief efforts in the region, in particular in all areas affected by the conflict in order to alleviate the suffering of the civilian population and reaffirms that all parties are bound to comply with the principles and rules of international humanitarian law;

4. Requests the Secretary-General, in consultation with the Chairman-in-Office of the Conference on Security and Cooperation in Europe as well as the Chairman of the Minsk Group of the Conference to assess the situation in the region, in particular in the Kelbadjar district of Azerbaijan, and to submit a further report to the Council;

5. Decides to remain actively seized of the matter.

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UNITED  
NATIONS**S****Security Council**Distr.  
GENERALS/RES/853 (1993)  
29 July 1993**RESOLUTION 853 (1993)**Adopted by the Security Council at its 3259th meeting,  
on 29 July 1993The Security Council,Reaffirming its resolution 822 (1993) of 30 April 1993,Having considered the report issued on 27 July 1993 by the Chairman of the Minsk Group of the Conference on Security and Cooperation in Europe (CSCE) (S/26184),Expressing its serious concern at the deterioration of relations between the Republic of Armenia and the Azerbaijani Republic and at the tensions between them,Welcoming acceptance by the parties concerned of the timetable of urgent steps to implement its resolution 822 (1993),Noting with alarm the escalation in armed hostilities and, in particular, the seizure of the district of Agdam in the Azerbaijani Republic,Concerned that this situation continues to endanger peace and security in the region,Expressing once again its grave concern at the displacement of large numbers of civilians in the Azerbaijani Republic and at the serious humanitarian emergency in the region,Reaffirming the sovereignty and territorial integrity of the Azerbaijani Republic and of all other States in the region,Reaffirming also the inviolability of international borders and the inadmissibility of the use of force for the acquisition of territory,

1. Condemns the seizure of the district of Agdam and of all other recently occupied areas of the Azerbaijani Republic;
2. Further condemns all hostile actions in the region, in particular attacks on civilians and bombardments of inhabited areas;

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/...

3. Demands the immediate cessation of all hostilities and the immediate, complete and unconditional withdrawal of the occupying forces involved from the district of Agdam and all other recently occupied areas of the Azerbaijani Republic;
4. Calls on the parties concerned to reach and maintain durable cease-fire arrangements;
5. Reiterates in the context of paragraphs 3 and 4 above its earlier calls for the restoration of economic, transport and energy links in the region;
6. Endorses the continuing efforts by the Minsk Group of the CSCE to achieve a peaceful solution to the conflict, including efforts to implement resolution 822 (1993), and expresses its grave concern at the disruptive effect that the escalation of armed hostilities has had on these efforts;
7. Welcomes the preparations for a CSCE monitor mission with a timetable for its deployment, as well as consideration within the CSCE of the proposal for a CSCE presence in the region;
8. Urges the parties concerned to refrain from any action that will obstruct a peaceful solution to the conflict, and to pursue negotiations within the Minsk Group of the CSCE, as well as through direct contacts between them, towards a final settlement;
9. Urges the Government of the Republic of Armenia to continue to exert its influence to achieve compliance by the Armenians of the Nagorny-Karabakh region of the Azerbaijani Republic with its resolution 822 (1993) and the present resolution, and the acceptance by this party of the proposals of the Minsk Group of the CSCE;
10. Urges States to refrain from the supply of any weapons and munitions which might lead to an intensification of the conflict or the continued occupation of territory;
11. Calls once again for unimpeded access for international humanitarian relief efforts in the region, in particular in all areas affected by the conflict, in order to alleviate the increased suffering of the civilian population and reaffirms that all parties are bound to comply with the principles and rules of international humanitarian law;
12. Requests the Secretary-General and relevant international agencies to provide urgent humanitarian assistance to the affected civilian population and to assist displaced persons to return to their homes;
13. Requests the Secretary-General, in consultation with the Chairman-in-Office of the CSCE as well as the Chairman of the Minsk Group, to continue to report to the Council on the situation;
14. Decides to remain actively seized of the matter.

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UNITED  
NATIONS

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## Security Council

Distr.  
GENERALS/RES/874 (1993)  
14 October 1993

## RESOLUTION 874 (1993)

Adopted by the Security Council at its 3292nd meeting,  
on 14 October 1993

The Security Council,

Reaffirming its resolutions 822 (1993) of 30 April 1993 and 853 (1993) of 29 July 1993, and recalling the statement read by the President of the Council, on behalf of the Council, on 18 August 1993 (S/26326),

Having considered the letter dated 1 October 1993 from the Chairman of the Conference on Security and Cooperation in Europe (CSCE) Minsk Conference on Nagorny Karabakh addressed to the President of the Security Council (S/26522),

Expressing its serious concern that a continuation of the conflict in and around the Nagorny Karabakh region of the Azerbaijani Republic, and of the tensions between the Republic of Armenia and the Azerbaijani Republic, would endanger peace and security in the region,

Taking note of the high-level meetings which took place in Moscow on 8 October 1993 and expressing the hope that they will contribute to the improvement of the situation and the peaceful settlement of the conflict,

Reaffirming the sovereignty and territorial integrity of the Azerbaijani Republic and of all other States in the region,

Reaffirming also the inviolability of international borders and the inadmissibility of the use of force for the acquisition of territory,

Expressing once again its grave concern at the human suffering the conflict has caused and at the serious humanitarian emergency in the region and expressing in particular its grave concern at the displacement of large numbers of civilians in the Azerbaijani Republic,

1. Calls upon the parties concerned to make effective and permanent the cease-fire established as a result of the direct contacts undertaken with the assistance of the Government of the Russian Federation in support of the CSCE Minsk Group;

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S/RES/874 (1993)

Page 2

2. Reiterates again its full support for the peace process being pursued within the framework of the CSCE, and for the tireless efforts of the CSCE Minsk Group;

3. Welcomes and commends to the parties the "Adjusted timetable of urgent steps to implement Security Council resolutions 822 (1993) and 853 (1993)" set out on 28 September 1993 at the meeting of the CSCE Minsk Group and submitted to the parties concerned by the Chairman of the Group with the full support of nine other members of the Group, and calls on the parties to accept it;

4. Expresses the conviction that all other pending questions arising from the conflict and not directly addressed in the "Adjusted timetable" should be settled expeditiously through peaceful negotiations in the context of the CSCE Minsk process;

5. Calls for the immediate implementation of the reciprocal and urgent steps provided for in the CSCE Minsk Group's "Adjusted timetable", including the withdrawal of forces from recently occupied territories and the removal of all obstacles to communications and transportation;

6. Calls also for an early convening of the CSCE Minsk Conference for the purpose of arriving at a negotiated settlement to the conflict as provided for in the timetable, in conformity with the 24 March 1992 mandate of the CSCE Council of Ministers;

7. Requests the Secretary-General to respond favourably to an invitation to send a representative to attend the CSCE Minsk Conference and to provide all possible assistance for the substantive negotiations that will follow the opening of the Conference;

8. Supports the monitoring mission developed by the CSCE;

9. Calls on all parties to refrain from all violations of international humanitarian law and renews its call in resolutions 822 (1993) and 853 (1993) for unimpeded access for international humanitarian relief efforts in all areas affected by the conflict;

10. Urges all States in the region to refrain from any hostile acts and from any interference or intervention which would lead to the widening of the conflict and undermine peace and security in the region;

11. Requests the Secretary-General and relevant international agencies to provide urgent humanitarian assistance to the affected civilian population and to assist refugees and displaced persons to return to their homes in security and dignity;

12. Requests also the Secretary-General, the Chairman-in-Office of the CSCE and the Chairman of the CSCE Minsk Conference to continue to report to the Council on the progress of the Minsk process and on all aspects of the situation on the ground, and on present and future cooperation between the CSCE and the United Nations in this regard;

13. Decides to remain actively seized of the matter.

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UNITED  
NATIONS

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Security Council

Distr.  
GENERAL

S/RES/884 (1993)  
12 November 1993

RESOLUTION 884 (1993)

Adopted by the Security Council at its 3313th meeting,  
on 12 November 1993

The Security Council,

Reaffirming its resolutions 822 (1993) of 30 April 1993, 853 (1993) of 29 July 1993 and 874 (1993) of 14 October 1993,

Reaffirming its full support for the peace process being pursued within the framework of the Conference on Security and Cooperation in Europe (CSCE), and for the tireless efforts of the CSCE Minsk Group,

Taking note of the letter dated 9 November 1993 from the Chairman-in-Office of the Minsk Conference on Nagorny Karabakh addressed to the President of the Security Council and its enclosures (S/26718, annex),

Expressing its serious concern that a continuation of the conflict in and around the Nagorny Karabakh region of the Azerbaijani Republic, and of the tensions between the Republic of Armenia and the Azerbaijani Republic, would endanger peace and security in the region,

Noting with alarm the escalation in armed hostilities as consequence of the violations of the cease-fire and excesses in the use of force in response to those violations, in particular the occupation of the Zangelan district and the city of Goradiz in the Azerbaijani Republic,

Reaffirming the sovereignty and territorial integrity of the Azerbaijani Republic and of all other States in the region,

Reaffirming also the inviolability of international borders and the inadmissibility of the use of force for the acquisition of territory,

Expressing grave concern at the latest displacement of a large number of civilians and the humanitarian emergency in the Zangelan district and the city of Goradiz and on Azerbaijan's southern frontier,

1. Condemns the recent violations of the cease-fire established between the parties, which resulted in a resumption of hostilities, and particularly condemns the occupation of the Zangelan district and the city of Goradiz,

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S/RES/884 (1993)  
Page 2

attacks on civilians and bombardments of the territory of the Azerbaijani Republic;

2. Calls upon the Government of Armenia to use its influence to achieve compliance by the Armenians of the Nagorny Karabakh region of the Azerbaijani Republic with resolutions 822 (1993), 853 (1993) and 874 (1993), and to ensure that the forces involved are not provided with the means to extend their military campaign further;
3. Welcomes the Declaration of 4 November 1993 of the nine members of the CSCE Minsk Group (S/26718) and commends the proposals contained therein for unilateral cease-fire declarations;
4. Demands from the parties concerned the immediate cessation of armed hostilities and hostile acts, the unilateral withdrawal of occupying forces from the Zangelan district and the city of Goradiz, and the withdrawal of occupying forces from other recently occupied areas of the Azerbaijani Republic in accordance with the "Adjusted timetable of urgent steps to implement Security Council resolutions 822 (1993) and 853 (1993)" (S/26522, appendix) as amended by the CSCE Minsk Group meeting in Vienna of 2 to 8 November 1993;
5. Strongly urges the parties concerned to resume promptly and to make effective and permanent the cease-fire established as a result of the direct contacts undertaken with the assistance of the Government of the Russian Federation in support of the CSCE Minsk Group, and to continue to seek a negotiated settlement of the conflict within the context of the CSCE Minsk process and the "Adjusted timetable" as amended by the CSCE Minsk Group meeting in Vienna of 2 to 6 November 1993;
6. Urges again all States in the region to refrain from any hostile acts and from any interference or intervention, which would lead to the widening of the conflict and undermine peace and security in the region;
7. Requests the Secretary-General and relevant international agencies to provide urgent humanitarian assistance to the affected civilian population, including that in the Zangelan district and the city of Goradiz and on Azerbaijan's southern frontier, and to assist refugees and displaced persons to return to their homes in security and dignity;
8. Reiterates its request that the Secretary-General, the Chairman-in-Office of the CSCE and the Chairman of the CSCE Minsk Conference continue to report to the Council on the progress of the Minsk process and on all aspects of the situation on the ground, in particular on the implementation of its relevant resolutions, and on present and future cooperation between the CSCE and the United Nations in this regard;
9. Decides to remain actively seized of the matter.

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APPENDIX IV

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8 September 2004

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ENGLISH ONLY

## **The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference**

**NOTE:** This appendix reproduces the background paper prepared by the Directorate General of Political Affairs for the seminar "Youth and Conflict Resolution" (Strasbourg, 31 March - 2 April 2003). It also contains a letter by the Permanent Representative of Azerbaijan to the Council of Europe as a response to parts of it which were equally reproduced in an information document for the Committee of Ministers.

The views expressed in this document do not necessarily reflect those of the Rapporteur or the Assembly.

*Cette annexe reprend le document d'information préparé par la Direction générale des Affaires politiques pour le séminaire "Jeunesse et Résolution des conflits (Strasbourg, 31 mars – 2 avril 2003). Elle comprend également une lettre du Représentant permanent de l'Azerbaïdjan auprès du Conseil de l'Europe répondant à des parties de ce texte qui étaient intégrées dans un document d'information du Comité des Ministres.*

*Les opinions exprimées dans ce document ne reflètent pas nécessairement celles du Rapporteur ou de l'Assemblée.*

January 2003

## The Nagorno-Karabakh Conflict

This background paper is prepared for the seminar "Youth and conflict resolution", where participants with personal conflict experience are expected to discuss other, lesser known to them conflicts. To serve its purpose, the paper seeks to present fairly the official positions, but also the historic and psychological burdens, the fears and aspirations of the sides in the conflict. In describing the position of one side, the paper contains textual and graphic information, which is not necessarily acceptable and may be offending to the other side. The views are clearly attributed throughout the text. Presenting them does not imply endorsement by the Council of Europe Secretariat. Where Secretariat views are given, they are clearly marked as "Comment".

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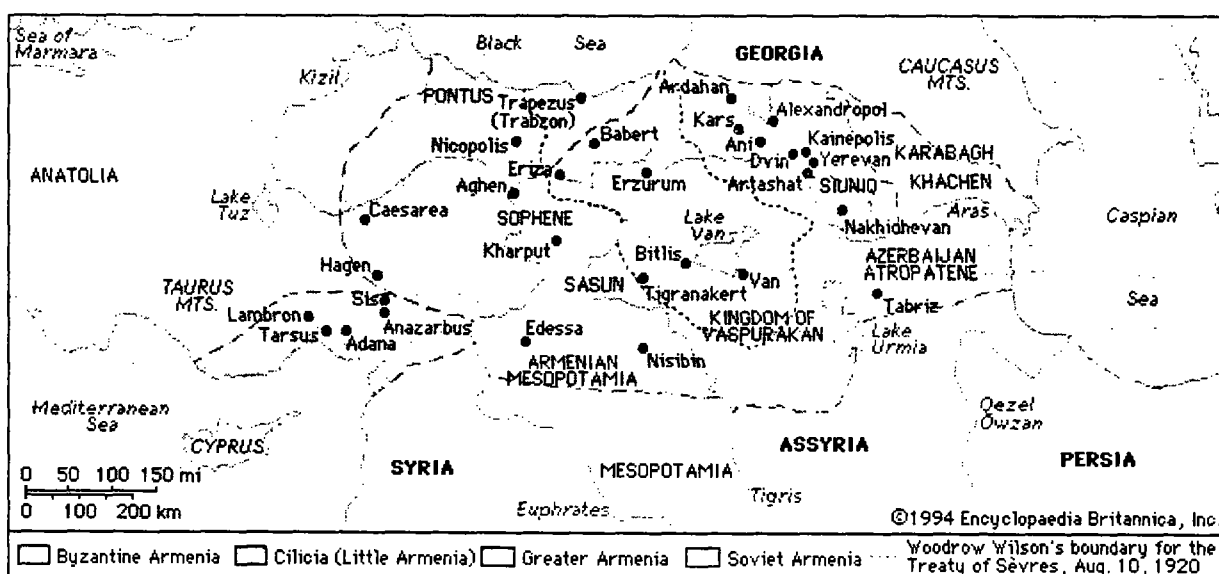


**Basic facts**

The name Nagorno-Karabakh is a relatively recent combination of the Russian word *Nagorno*, meaning *mountainous*, and the Turkic-Persian word *Karabakh*, meaning *black garden*. The de-facto authorities of Nagorno Karabakh (hereinafter: N-K) as well as most Armenian sources use the historical name of the region: Artsakh, meaning *strong forest*. The origin of both names seems to be linked to geographical features: elevation, cooler climate and, in ancient times, forests rich in game and fruit.



Armenian historiographers indicate that present-day N-K comprises one-third of the historic Artsakh territory, just as present-day Armenia covers about one-tenth of traditionally Armenian lands.



For this paper and for conflict-resolution purposes N-K means the territory of the former N-K Autonomous Oblast (NKAO) of the USSR.

N-K has an area of 4.400 square kilometres - for comparison, about twice the size of Luxembourg or half that of Cyprus. There are lowlands, hills and peaks as high as 3724 m. Vineyards, orchards, silkworm and grains are the major agricultural activities. According to the 1989 USSR census, N-K had 186.100 inhabitants of whom 138.600 (73.5%) were Armenians and 47.500 (25.3%) Azerbaijanis. Estimates about today's population vary from less than 100.000 to 130.000. There are no Azerbaijanis left.

The N-K conflict left estimated 30.000 dead and twice as many wounded combatants and civilians. Over one million people, some 800.000 from them Azerbaijanis, have fled their homes to live refugee lives in tents, railway carriages and mud brick homes.

The "line of contact" between the ethnic Armenian and Azerbaijani forces is heavily mined; much of the infrastructure is destroyed or dismantled. Nine years after the 1994 cease-fire, the yearly death toll along the line of contact has diminished, but young persons continue to die in mine blasts or occasional skirmishes.

Because of the conflict, Armenia has no diplomatic relations with two out of its four neighbours, Azerbaijan and Turkey. Prospects for regional co-operation are bleak.

The N-K conflict is the longest-running one in the former Soviet Union. It is a strong barrier to economic development and democratic reform in the whole region.

Hundreds of thousands of broken lives will take at least a generation to heal.

### Ancient history

Two largely opposite versions of history shape present-day Armenian and Azerbaijani perceptions as regards the N-K conflict.

The Armenian view is that Artsakh is the cradle of Armenian identity. Back in the 5<sup>th</sup> century, the first Armenian school was open at the *Amaras Church* in present-day *Martuni District* of N-K. Earlier, in 301 Armenia had adopted Christianity and in 405 scholar, preacher and military leader *Mesrop Mashtots* had created – or according to other sources, revived the forgotten Armenian alphabet.

The Azerbaijani view is that from 4<sup>th</sup> century B.C. to 8<sup>th</sup> century A.D. present-day N-K belonged to *Caucasian Albania*, the most ancient state of Northern Azerbaijan, which adopted Christianity in 313 and had its unique alphabet composed of 52 letters.

In the centuries that followed, the region was subject to influence and conquest by Persians, Arabs, Mongols, Turks and Russians. Armenian historiographers consider this long period essentially as Christian or Armenian resistance against foreign, largely Muslim domination. The Azerbaijani view is fundamentally different: the region was populated by Caucasian Albanian and Turkic tribes ruled by Albanian *Mikhranid* princes and later by descendants of *Hassan-Jalal - Jalalids*. In the 15<sup>th</sup> century, after they lost political and secular power, the *Jalalids* became spiritual leaders – Patriarch-Catolicos of the Albanian autonomous Church. Under this interpretation, the Albanian Autocephalous Church was subordinated to the Armenian Church only in 1836, resulting in the Grigoriniasation (Armenisation) of the Albanian population.



According to Armenian sources, in the 17<sup>th</sup>-18<sup>th</sup> centuries, the Artsakh medieval princes, or *Meliks* ("crowned heads") of the five principalities *Varanda, Khachen, Disak, Djraberd* and *Gullistan* sought the support of Russia against Persian domination.

However, the *melikhs* strength was sapped by constant internecine strife and in the late 18<sup>th</sup> century, as the hold of the Ottoman Empire on the South Caucasus weakened, the leader of one of the Turkish-speaking tribes, *Panakh* settled (with the help of *Melik Shakhnazar II*) in the fortress of Shusha and proclaimed the *Karabakh khanate*.

Armenian historiography views the establishment of the khanates – *Karabakh, Erivan, Nakhichevan* and some 17 others, as the beginning of the penetration of a Turkic ethnic element in Artsakh.

For their part, Azerbaijani historiographers trace the beginning of Islamisation back to 705 when Arabic tribes conquered *Albania* lowlands. According to Azerbaijani sources, the *Meliks* were descendants of the clan of *Jalalids*, granted the title of *Melik* by the *Jahanshah* of Persia in the 15<sup>th</sup> century; none of them were of Armenian descent. The Albanian title of "*Melik*" differs from Armenian titles "*Ishkhan*", "*Tar*" etc. In their letters to the Russian czar, Karabakh *Meliks* call themselves "descendants of the *Albanian Arshakids*".

In the early 1800s, in the wake of Russian-Persian and Russian-Turkish wars, the Karabakh khanate and much of the South Caucasus were transferred to Russia. Azerbaijani historiography considers that migration of Armenians to the South Caucasus began after the *Turkmanchay Treaty* between Russia and Iran (1828) and *Adrianopol treaty* between Russia and Turkey (1829), both of which included special clauses allowing for migration of Armenians into the Caucasus. This is when first compact Armenian settlements appeared in Karabakh and *Zangezur* (the present-day area between Azerbaijan proper and Nakhichevan). Further to the *Turkmanchay treaty*, Russia created, for the first time in history, an Armenian *Oblast* (district). It comprised *Erivan*, *Nakhichevan* and *Ordubad* areas.

Comment: Depending on the viewpoint taken on ancient history, N-K can probably be seen as traditionally either Armenian or Azerbaijani land – or both.

### Recent history

Comment: the recent history of the South Caucasus is replete with tragic events, which have become powerful myths dominating popular mindsets and political decisions. In this context, the term "myth" does not imply that historic events are questioned - it is used to identify the extent of the influence of these events on current thinking as well as the need to address related perceptions in the conflict resolution process.

For centuries, the Ottoman Empire ruled over numerous Christian minorities, which lived as second-class subjects ("infidels"), a mixed existence of conformism and resistance. In the 19<sup>th</sup> Century, Christians asserted their identity and struggled for independence - against severe punishment inflicted by the decaying Ottoman power and against the political turbulence resulting from the dispute amongst European Powers over how to divide the Empire.

Unlike other Christian Minorities, who lived mostly on the outskirts of the Empire, there were large groups of Armenians in the big cities of Turkey as well as a sizeable compact population in Asia Minor. Altogether, at the beginning of the 20<sup>th</sup> century there were some 2.5 million Armenians in Turkey. In the late 19<sup>th</sup> century, Armenian political movements emerged to claim reform and autonomy: the oldest *Ramkavar* (1885), the socialist-oriented "*Hnchak*" (1887) and the biggest party, the only one surviving to this day, "*Dashnaksutyun*" (1890), also known as *the Armenian Revolutionary Federation*.

Armenian historiographers indicate that in the 1890's, Sultan *Abdul Hamid II* (1876-1909) encouraged the first massive anti-Armenian pogroms. The Armenian community welcomed the "Young Turks revolution", which introduced Constitutional rule in 1909. As the Young Turks saw their pro-liberal reforms stall, they turned to pan-Turkic nationalist ideas. Towards 1915, the Young Turk "Committee for Union and Progress", dominated by *Mehmed Talat Pasha*, *Ismail Enver Pasha* and *Ahmed Djemal Pasha* masterminded a plan to take advantage of the First World War events to deport the Armenian population from Asia Minor with a view to "consolidate" Turkey. In this context, historiographers point out, on 24 April 1915, hundreds of Armenian community leaders were rounded up and later murdered. As the Armenians were asked to turn in their weapons to assist the war effort, anti-Armenian xenophobia was fanned. The able-bodied Armenians were drafted and disappeared. The women, children and white-bearded men were told they would be "relocated". Most of the future victims co-operated with the Government programme.

The Armenian view is that, in effect, the "relocation" turned out to be an unpitied death march towards the Mesopotamian deserts amidst murder, rape and starvation. Under the scorching sun, deportees died by the thousands of dehydration and disease. Armenian sources put the death toll at 1.5 million. This tragedy remains burnt forever in the collective Armenian memory. The Armenians refer to it as *The Genocide*.



Armenian deportees: women, children and elderly men  
Ottoman Empire, region Syria, 1915.  
Photos: A Wegner

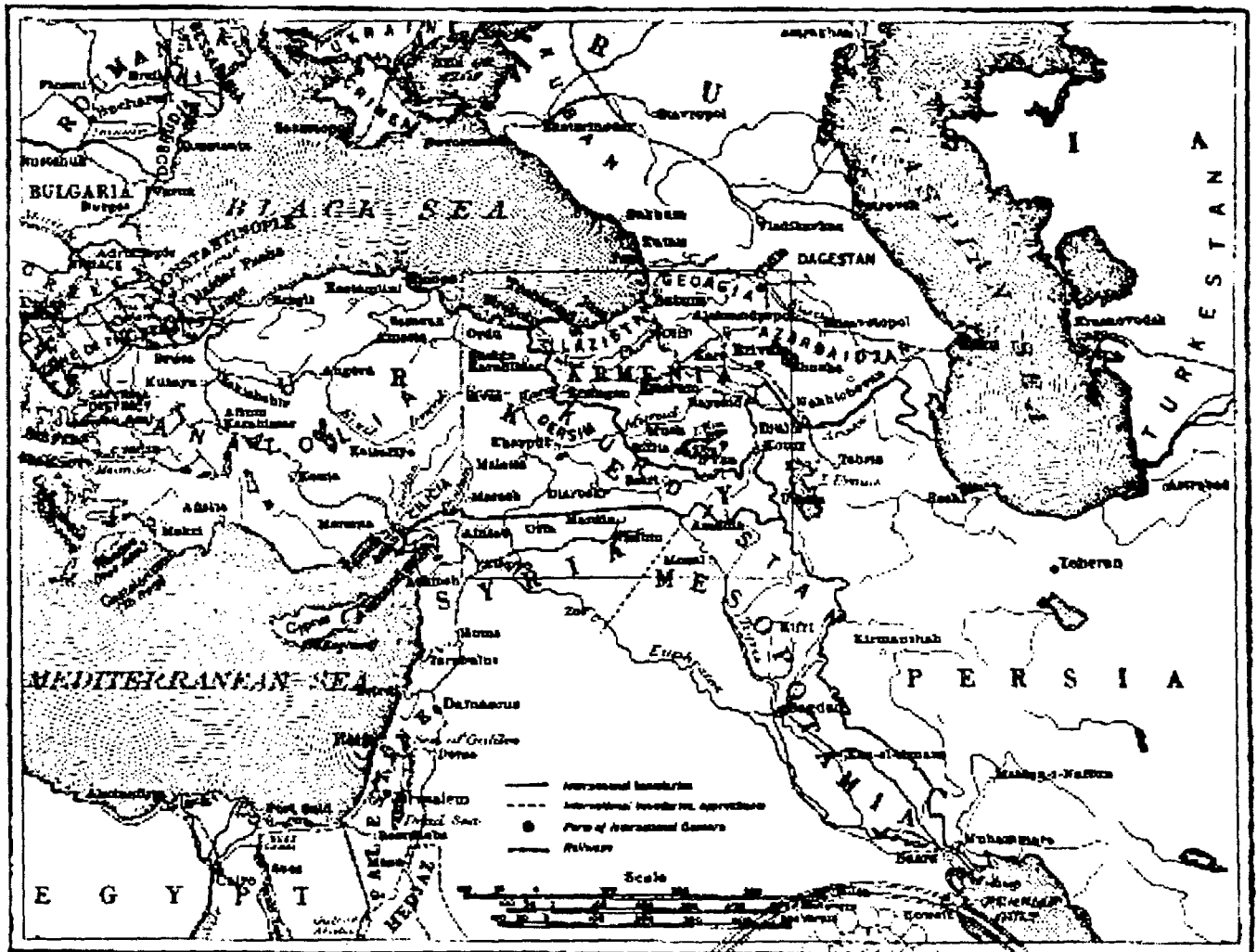


Three generations of deportees sharing a tent  
Ottoman Empire, region Syria, 1915  
Source: Armenian National Institute

The Turkish view is that there was no Genocide. What happened was a bitter civil war started by Armenian nationalists, in which both Armenians and Muslims died. The figure of 1.5 million Armenian victims is exaggerated; the number of Muslims who died in the same period is close to 3 million.

Comment: the bitter debate about events in 1915 is one of the most difficult issues between Armenia and Turkey. Progress towards reconciliation with this period of their common past would undoubtedly have a beneficial effect on prospect for solving of the N-K conflict.

Map showing the boundaries of Armenia as awarded by PRESIDENT WILSON.



- Turkish-Armenian boundary
- Other international boundaries
- Unsettled international boundaries
- Old Turkish-Russian boundary
- Vilayet boundaries
- Sanjak boundaries
- Kaza boundaries
- Railways, broad gauge

**ERZERUM** ..... Names of the vilayets of Erzerum, Trabzon, Van, and Bitlis are given in the map.



Map compiled under the direction of Major Lawrence Martin, General Staff, U. S. Army, by the topographic branch U. S. Geological Survey, in cooperation with the Department of State, from field observations by the Harbord Mission and from maps of the Turkish General Staff, scale 1:200,000, German maps prepared during the war, scale 1:400,000, and British maps of Persian and Transcaucasian territory, scale 1:1,000,000.

*Woodrow Wilson*

The post-war Turkish government held criminal trials and found the Young Turks triumvirate guilty *in absentia*. Turkey agreed to let US President Wilson draw the border with the newly-born Republic of Armenia. The US-proposed solution, known as "Wilsonian Armenia" was to include most of the six western Ottoman provinces as well as a large coastline on the Black Sea. Cilicia, or "Little Armenia", a separate region on the Mediterranean (North of Cyprus) was to be a French mandate.

Turkey did not accept the US proposal. During the brief Turkish-Armenian War of 1920, the army of Mustafa Kemal-Attaturk drove the returning Armenians out of "Wilsonian Armenia". In agreement with Soviet Russia, the *Kars* and *Ardahan* provinces of Armenia went to Turkey. Thus the present-day borders of Armenia were drawn.

In the Armenian perception, the Genocide and the lost Wilsonian dream merged into a lasting feeling of injustice done to the Armenian people. The "restoration of historic justice" is enshrined in the acting Constitution of Armenia.

The Armenian Revolutionary Federation turned radical. In 1919, its 9<sup>th</sup> World Congress in Yerevan adopted a sweeping platform, which has remained essentially unchanged - "integral Armenia repopulated by Armenians". The Dashnaks focused on pressuring Turkey into admitting and apologizing for crimes of the past. In this context, a radical's view, will make little or no distinction between "Turkey" and "the Turks" - including the Azerbaijanis.

In this broad context, Azerbaijani sources trace the first Dashnak anti-Azeri pogroms back to 1905 - when nine Azeri villages in the *Echmiadzin* region, as well as the villages of *Khalaj*, *Saldashy*, *Injevan* and *Gatar* were pillaged and burnt. Azerbaijani and Turkish sources maintain that the Dashnaks are responsible for terrorist attacks against Turkish interests, all over Europe throughout the 20<sup>th</sup> century.

In October 1917, the Bolshevik Revolution ended the involvement of Russia in the First World War and Russia withdrew its troops from the South Caucasus. In May 1918, after a brief spell in the short-lived *Transcaucasian Federation*, Azerbaijan and Armenia declared independence. Several chaotic and violent years followed, with episodes of the Russian civil war, the Turkish-British military enmity for control of the region and ethnic strife where Armenia and Azerbaijan sought, unsuccessfully, to control N-K. This is also the time when ethnic pogroms, on both sides, took place.

From May 1918 to April 1920, the *Azerbaijan Democratic Republic (ADR)* existed. Azerbaijani historiographers are proud of this 23-month period. They underline that ADR was the first secular state in the Orient, with the first European-like Parliament, Cabinet of Ministers and other democratic institutions. The ADR was represented at the Paris Peace Conference and at the League of Nations.



The ADR delegation in Versailles, 1919

Armenian sources underline that, at the time, the international community did not recognize N-K as part of ADR. Present-day Armenian politicians find in these events what they see as one of their strongest arguments: *N-K has never been (and will never be) part of independent Azerbaijan.*

Azerbaijani sources attach great importance to the short-lived Batum Treaty of 4 June 1918 between the Ottoman Empire and Armenia, Azerbaijan and Georgia. The treaty accorded to Armenia only the Erivan and Echmiadzin districts, some 10 000 sq. km.

From July to September 1918, ethnic conflict raged in Nakhichevan, Karabakh and Zangezur. Azerbaijanis fled the area of Zangezur (according to Azerbaijani sources, their number was 50 000). Subsequently the ADR fought the Soviet Commissars for control of Baku. The takeover of Baku was followed by anti-Armenian pogroms in what some Azerbaijanis viewed as retaliation for earlier anti-Azeri violence.



Source: MFA ADR, 1920

In 1920, the Bolsheviks took over the South Caucasus or, as seen from Moscow, the Transcaucasus. In November 1920, the Azerbaijan Revolutionary Committee recognized the disputed regions of Zangezur and Nakhichevan as integral parts of Soviet Armenia and granted N-K the right to self-determination. The resolution, which some historians ascribe to a wish to help the Armenian Bolsheviks to take power, was never put into practice. However, N-K Armenians will often quote this episode, as they believe it gives historic legitimacy to their claim to unity with Armenia or sovereignty.

In July 1921, the Bolshevik Party Caucasus Bureau reversed the above decision. N-K was granted a broad autonomy within the newly created Azerbaijan Soviet Socialist Republic. In 1923, the N-K Autonomous Oblast (NKAO) was established. Russian analysts believe that the final decision was made to appease the Muslim population of the region: in the Bolshevik mindset Azerbaijan, with its larger population and oil resources was assigned the role of a beacon of the revolution in the East and was therefore more important than Armenia.

Armenian historiographers generalize the Soviet period as the time of determined policy of the Azerbaijan SSR to under-fund N-K and prevent the growth of the Armenian population in the region. They point out that, if in 1921 Armenians were 96% of the N-K population, in 1979 the percentage dropped to 75%.

For their part, Azerbaijani historiographers stress that, due to Stalinist ethnic-territorial gerrymandering, the 114.000 sq km of ADR territory (1918-1920) were reduced to the present-day 86.600 sq km. They particularly point out that in 1947, Moscow ordered the resettlement "on a voluntary basis" of one hundred thousand Azerbaijanis from Armenian SSR to the *Kura-Araz* lowland of the Azerbaijan SSR.

Late in the Soviet epoch, in the winter of 1987-1988, Yerevan re-launched the move for ethnic homogeneity of the Armenian SSR by driving 165 000 Azerbaijanis out of Armenia.

### The demise of the USSR and the slide into war

Comment: the early stages of the N-K conflict developed against complex and rapid political changes in the USSR, but also in Soviet Azerbaijan and Armenia. Without a deep knowledge of the epoch, many of the positions taken by key decision-makers of the time may seem unconvincing or irresponsible. The perception problem should be kept in mind, as this paper can only give the briefest of sketches about this period.

During Gorbachev's "glasnost" times, N-K renewed its drive for a change of status. On the basis of a popular petition<sup>4</sup>, in February 1988, the N-K Supreme Soviet appealed to the Supreme Soviets of Armenia, Azerbaijan and the USSR to allow N-KAO to join the Armenian SSR. In June 1988, the Armenian lawmakers approved the request; two days later their Azerbaijani counterparts rejected it. Such a clash between Union Republics was without precedent in the USSR. In July 1988, Moscow decided to maintain the disputed region within Azerbaijan, but adopted "special measures for the accelerated development of N-KAO". As the situation seemed to get worse, in January 1989, Moscow established direct governance over N-K.

The Azerbaijani view is that these were unjustified measures taken by Moscow under the influence of hard Armenian lobbying (in particular, of Mr Gorbachev's family) as part of a sinister plan to wrench N-K away from Azerbaijan.

On 24 February 1988, a direct confrontation between Azerbaijanis and Armenians near *Askeran* (in N-K, on the road *Stepanakert-Agdam*)<sup>5</sup> degenerated into a skirmish. During the clashes, which left about 50 Armenians wounded, a local policeman, reportedly an Armenian, shot dead two Azerbaijanis - Bakhtiyar Uliyev, 16 and Ali Hajiyev, 23.

On 27 February 1988, while speaking on Central TV, the USSR Deputy Prosecutor General mentioned the nationality of those killed. Within hours, a pogrom against Armenian residents began in the city of *Sumgait*, 25 km North of Baku, where many Azerbaijani refugees resided. The pogrom lasted for three days. According to reports, phone calls for help to the local police and ambulance services went unanswered. Later, Moscow covered up the Sumgait affair as "hooliganism".

The Armenian view is that the Sumgait pogroms were prepared months in advance and implemented with the tacit approval, if not covert assistance, by the authorities. The *Sumgait events* conjured up ever-present memories of "Turks killing Armenians". In Yerevan, the "Karabakh Committee" was formed, soon to be headed by future President Levon Ter-Petrosian. In N-K, its counterpart was the "*Krunk Committee*" - from the Armenian word for crane, a symbol of longing for the homeland.

The Azerbaijani view is that, against the background of the expulsion of thousands of Azerbaijanis from the *Meghri* and *Kafan* districts of Armenia, the killing of the two young men triggered the outburst of violence in Sumgait. The violence was two-way: the official investigation reported 32 deaths - 6 Azerbaijanis and 26 Armenians.

In 1988-1989, the Azerbaijani Popular Front (APF) emerged as an alternative to the Communist Party. The Azerbaijani Communist Party, increasingly unable to govern, allowed APF to stage giant meetings in Baku in the summer of 1989 - also as a means to impress on Moscow the need to bring back N-K under Azerbaijani control. The APF used nationalism and the N-K issue to stir up popular support.

By end-1989, the N-K crisis, the Azerbaijani refugee problems and an assortment of local grievances had brought the situation in Baku close to explosion. When the Armenian and N-K legislatures adopted the joint resolution "*On the reunification of N-K with Armenia*" (1 December 1989), many in Azerbaijan thought that was the last straw.

In January 1990, the sporadic pogroms in Baku took on an organized character. Azerbaijani sources point out that the local militia was disarmed on orders from Moscow, thus preventing it from keeping law and order. The Armenian view is that the city was being cleared of Armenians house by house. The number of fatalities is not known. The Soviet Army Baku garrison, under Moscow commandment, stayed in the barracks.

On 15 January 1990, Moscow lawmakers imposed a state of emergency in N-K. Their Baku counterparts did not give approval, as required by the procedure. A week later Soviet tanks rolled out in Baku. The Soviet Army reportedly used armour and random fire to remove barricades, killing over 130 mostly very young civilians and wounding many times more. In Azerbaijan, this tragedy is known as the "*Black January*".

By the autumn of 1990, elections had taken place in all three South Caucasian Soviet Socialist Republics. The communists retained power only in Azerbaijan. Russian analysts note that support for

<sup>4</sup> According to N-K sources, 80 000 signed, i.e., half of the N-K population, two thirds of the ethnic Armenians.

<sup>5</sup> Stepanakert, after the Bolshevik leader Stepan Shaumian, was the name given to the N-K regional capital in 1923. Today this name is used by de facto authorities and Armenia. The official Azerbaijani name is Xankandi.



Azerbaijan was acquiring added significance for the Kremlin, which aimed at safeguarding the Soviet Union. Indeed in March 1991, Azerbaijan voted "in favour" of the preservation of the USSR.

Starting in April 1991, Soviet forces and Azerbaijani militia stepped up the pressure on ethnic Armenian paramilitaries operating in N-K. Russia had already deployed troops to Yerevan, too. The Armenian side holds Moscow responsible for conducting deportations of Armenians of northern N-K in the spring of 1991. Twenty-six N-K villages were reportedly surrounded and ethnically cleansed by USSR and Azerbaijani forces in operations known as "*Kaltso*" (Ring), resulting in the killing of more than 150 civilians and the deportation of some 10,000 ethnic Armenians.

For their part, the Azerbaijani side holds Russia responsible for the decisive military assistance to Armenia as well as for episodes of anti-Azeri ethnic cleansing (notably, the role of the Russian 366<sup>th</sup> motorized regiment in the *Khojali massacre*).

### The Nagorno-Karabakh war

After the August 1991 putsch failed, in September Moscow ordered the Soviet Army units to cease military actions and return to their barracks. On 2 September 1991, the "Nagorno-Karabakh Republic" was declared. The newly emerged entity had its own "self-defense forces", which quickly swelled to some 15 000. Violence in N-K increased dramatically. In November 1991, Azerbaijan adopted a law "On Abolishing NKAO". In 1992, the N-K conflict escalated into a full-scale war, which saw episodes of aerial bombardments of Stepanakert, tank battles in the north and trench war along the Iranian border.

In February 1992, almost day-to-day four years after the Sumgait events, the ethnic Armenian forces attacked the only airport in N-K, in *Khojali*, to the North of the local capital. At the time, the population of Khojali was 7000. The Azerbaijani view is that the taking of Khojali, which left some 150 defenders of the airport dead, was followed by unprecedented brutalities against the civilian population. In one day, reportedly 613 unarmed people were massacred and close to 1300 were captured – many of them while trying to flee through an alleged humanitarian corridor. The Armenian side contests this view and the number of casualties.

The *Khojali massacre* sparked an exodus of Azerbaijanis and precipitated a political crisis in Baku. Five years later, in 1997, President Aliyev issued a Decree referring to the tragedy as the "Khojali genocide". In May 1992, Armenian forces overtook *Shusha* (or *Shushi*, in Armenian) and the Lachin district of Azerbaijan, establishing a link between N-K and Armenia proper – the so-called "Lachin corridor". The fall of traditionally Azerbaijani Shusha, a fortress reputed for its strong defences, is one of the most controversial events in the war. Azerbaijani political forces and individuals have been accused by their opponents but also by regional actors (Iran) of willingly surrendering Shusha for political reasons of the moment.

In June 1992, the Azerbaijani Popular Front (APF) Chairman Ebulfez Elcibey won the presidential election. Born in N-K, a former dissident having spent time in Soviet prisons, Mr Elcibey became a prominent nationalist. Under his presidency, Azerbaijan launched a fresh military offensive, which eventually turned unsuccessful. In June 1993, the APF was ousted from power by the forces of rebel army colonel Suret Guseinov. Mr Geidar Aliyev replaced Elcibey.

By October 1993, ethnic Armenian forces succeeded in occupying almost all of N-K, as well as large areas in south-western Azerbaijan. Hundreds of thousands of refugees fled to other parts of Azerbaijan. The map on the next page represents the official position of Azerbaijan as regards occupied territories and refugees.

In May 1994 Azerbaijan, N-K and Armenia, with the mediation of Russia, Kyrgyzstan and the CIS Inter-Parliamentary Assembly signed the *Bishkek Protocol* and a few days later, the *1994 Moscow cease-fire*, which holds to this day.

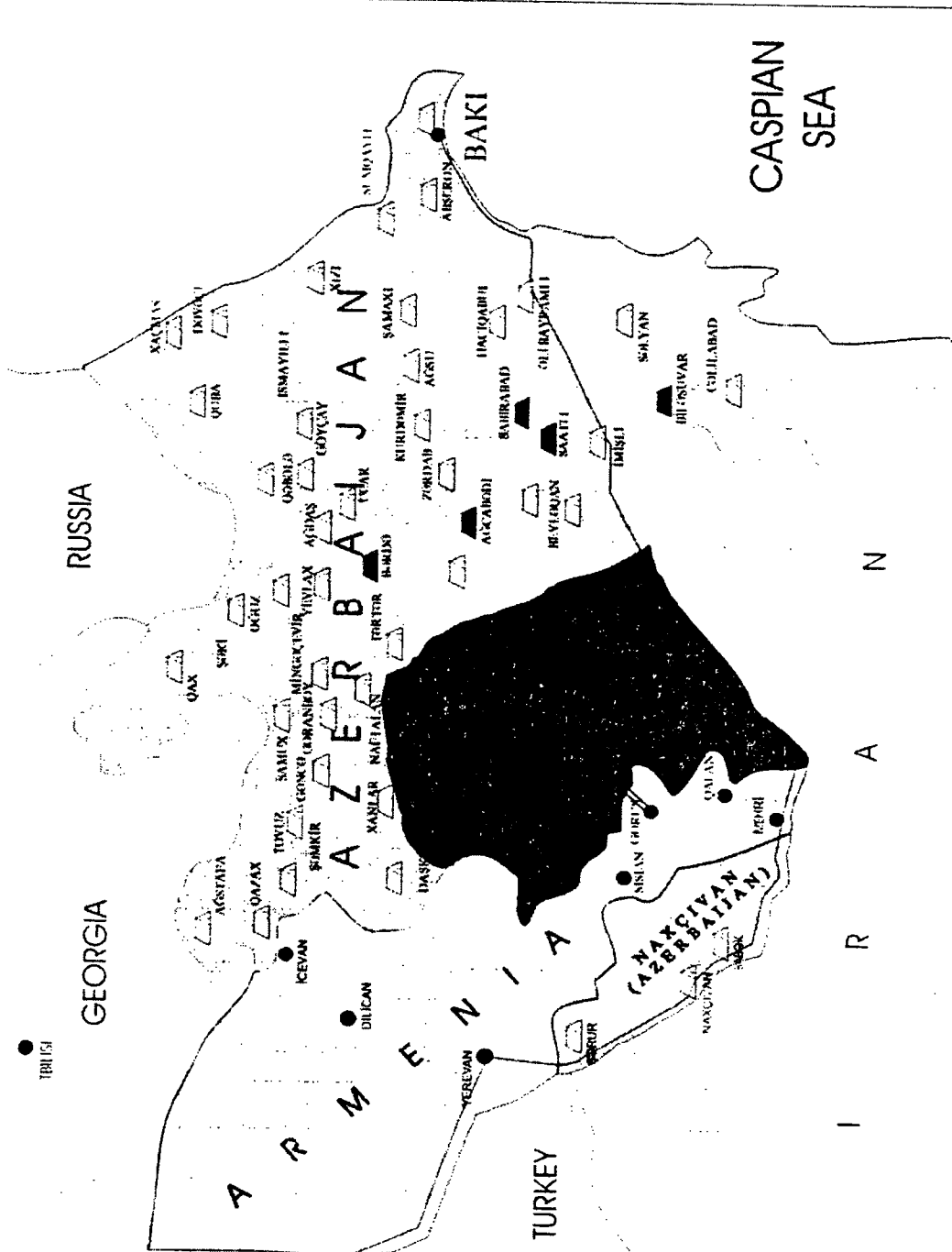


Armenian refugee – living in makeshift shelter  
Photo Onnik Krikorian



Azerbaijani refugee - burning sheep manure  
for heating, Sabical Camp No 1, 1997  
Photo Betty Blair

# THE RESULTS OF ARMENIAN AGGRESSION



Refugees and internally displaced persons in Azerbaijan

Refugees from Armenia	- 245 682
Internally displaced persons from the occupied territories of Azerbaijan	- 611 239
<b>Total</b>	<b>- 856 921</b>

The Armed Forces of Armenia deployed in the occupied territories of Azerbaijan

Tanks	- 336
ACV	- 524
Artillery	- 322
Personnel	- 56 000

- Temporary refugee settlements
- Tent camps
- Borders of former NKAO
- Road
- Railway
- Baku-Horadiz-Mehri-Naxevan-Yerevan-Gumri
- Road Goris-Jayin-Susa-Nankondi

The occupied territories of Azerbaijan

The Nagorno-Karabakh area

Territory	- 1388 sq km
Population (1989)	- 186 610
Armenians	- 138 600 (73.5%)
Azerbaijanis	- 17 500 (23.3%)

Territory	- 290 sq km
Population	- 21 156
Azerbaijanis	- 21 726 (93.8%)
Armenians	- 1150 (5.3%)
Occupied	- May 8, 1992

The regions outside the Nagorno-Karabakh area

Region	Occupied	Date
Kalbak region	Occupied	- May 18, 1992
Agdam region	Occupied	- April 2, 1993
Agdaran region	Occupied	- July 23, 1993
Cebrayir region	Occupied	- August 23, 1993
Qubadli region	Occupied	- August 31, 1993
Lachin region	Occupied	- October 23, 1993
Zangilan region	Occupied	- October 27, 1993

Victims of aggression

Killed	- 26 000
Disabled	- 50 000

Destructions caused by the aggression of Armenia against Azerbaijan

Settlements	- 800
Houses	- 150 000
Public Buildings	- 7000
Schools	- 692
Kinderntens	- 855
Health care facilities	- 695
Libraries	- 92*
Temples	- 41
Mosques	- 9
Historical Palaces	- 9
Historical Monuments and Museums	- 164
Museum Exhibits	- 10 000
Industrial and Agricultural Enterprises	- 6000
Motorways	- 800 km
Bridges	- 160
Water Pipelines	- 2300 km
Gas Pipelines	- 2000
Electricity Lines	- 15 000 km
Forests	- 350 000 ha
Sowing Area	- 1 000 000 ha
Irrigation Systems	- 1200 km

The total damage is estimated as exceeding 60 billions US\$

Figures about refugees and internally displaced persons are disputed on both sides. Therefore the numbers given below are of indicative value. The total number of Armenians who left their homes in Azerbaijan is estimated at 300.000. Around 30.000 of them were resettled in N-K and the Lachin district. The total number of exiled Azerbaijanis is estimated at 800 000, including some 200.000 refugees from Armenia and around 600.000 internally displaced persons from the zone of conflict. The latter figure counts practically all 50.000 Azerbaijanis from N-K.

### Perceptions of the military conflict

The official line of Armenia and the N-K *de facto* authorities is that Azerbaijan had the stronger army, formed on the basis of the military equipment of the 4<sup>th</sup> Soviet Army stationed in the Azerbaijani SSR<sup>6</sup>. Nevertheless, N-K forces won the victory because their soldiers were fighting for their own homes. The Armenian logic is: *we won the war because our cause is just. Azerbaijan lost the war and must come to terms with this reality.*



N-K men carrying their dead

Azerbaijan will vigorously protest this logic which leaves out the Azerbaijanis who fled their homes in N-K as well as the seven occupied districts of Azerbaijan proper.

The Azerbaijani view is that, with the combined populations of Armenia and N-K less than half of the Azerbaijani population, ethnic Armenian victories were made possible by huge arms shipments from Russia often in violation of the Treaty of Conventional Forces in Europe (CFE). In support of this view, Azerbaijani sources quote a 1997 report on illegal deliveries of Russian arms to Armenia by Mr Lev Rohlin, then Chair of the Duma Defense Committee.

In addition, while there are Russian military bases in Armenia and Russian troops guard its borders with Turkey and Iran, Azerbaijan was unfairly placed in 1992 under a "US embargo" under *Section 907 of the Freedom Support Act* - because of Armenian lobbying<sup>7</sup>. The continuing Armenian occupation of Azerbaijani land creates a strong perception of injustice done to Azerbaijan, further aggravated by the feeling that the international community tolerates the *status quo*.

The Azerbaijani logic is reversely identical to the Armenian one: *we will never accept Armenia's war gains. Our cause is just therefore we will prevail.*

### The legal side of the dispute

National aspirations. On 1 December 1989, the Supreme Soviet of the Armenian SSR and the N-K legislature adopted a joint resolution "*On the reunification of N-K with Armenia*". The resolution has not been withdrawn or otherwise invalidated.

On 23 August 1990, the Supreme Soviet of the Armenian SSR referred to the above document in the "*Declaration of Independence of Armenia*". Two out of the six preambular paragraphs of the Declaration read as follows:

*"Aware of its historic responsibility for the destiny of the Armenian people engaged in the realization of the aspirations of all Armenians and the restoration of historical justice";*

<sup>6</sup> Reviewing the process of the formation of the armed forces in of N-K, independent Armenia and Azerbaijan is not within the remit of this paper. Most analysts agree that all these were formed much in the same way, with part of the Soviet officer corps forming the backbone of the new armies, the bulk of the weapons "privatized" or outright stolen from Soviet warehouses and with an important role for paramilitary militias. In Armenia, the process started earlier than in Azerbaijan.

<sup>7</sup> The prohibition, under Section 907 of the US Freedom Support Act was lifted in 2001.

*"Based on the December 1, 1989 joint decision of the Armenian SSR Supreme Council and the Artsakh National Council on the "Reunification of the Armenian SSR and the Mountainous Region of Karabakh,"...*

For the Armenian founding fathers, the independence of Armenia is inseparable from the restoration of historic justice and the unification of N-K with Armenia. The acting Constitution of Armenia, adopted on 5 July 1995, elevates these to the rank of national aspirations, in the following reference to the Declaration of Independence:

*"Recognizing as a basis the fundamental principles of Armenian statehood and the national aspirations engraved in the Declaration of Independence of Armenia..."*

The Azerbaijani side in the conflict points a finger to the Constitution of Armenia to prove that "Greater Armenia" aspirations are at the core of the Armenian domestic and foreign policy. They underscore that Yerevan has never really renounced the *territorial claims* to its neighbours.

Legal history. On 30 August 1991, the Supreme Council of the Azerbaijani SSR declared "*the restoration of the state independence of the Republic of Azerbaijan in 1918-1920*". According to Armenian lawyers, this act legally nullifies the USSR set-up. Moreover, N-K was not internationally recognized as part of the Azerbaijani Democratic Republic of 1918-1920. Therefore, in the Armenian view, *Azerbaijan has no legal claim over N-K.*

Validity of referendum. On 2 September 1991 the Regional Councils of NKAO and of the *Shahumian* district (on the Northern tip of N-K) proclaimed a new state - the N-K Republic. On 10 December 1991, a "referendum" on independence took place. On 6 January 1992, the "Parliament" of N-K officially declared independence.

The Armenian side maintains that the N-K independence referendum was conducted in accordance with the USSR law on the "*Procedure for Solving Issues of Secession of a Soviet Republic from the USSR*" of 3 April 1990. Article 3 of this law provided autonomous regions within the Soviet republics with the right to determine independently, by referendum, whether they wished to remain within the USSR or join the republic seceding from the USSR<sup>8</sup>. It would however seem that according to this law N-K would have the choice of two options – to remain within the USSR or to join independent Azerbaijan; N-K independence does not seem possible.

The Azerbaijani side points to the USSR Constitution of 1977, namely Article 78 stipulating: "*The territory of Union Republics may be altered by mutual agreement of the Republics concerned, subject to ratification by the Union of Soviet Socialist Republics*".

Unlike the 15 Soviet Socialist Republics, the Autonomous Regions in the former USSR had neither constitutions, nor the right of secession from the USSR.

International law. In their legal disputes, both sides often refer to recognized principles of International Law, such as the right to self-determination and the respect for territorial integrity. Council of Europe experts, in providing legal assistance in a different conflict have examined arguments based on the Soviet legal doctrine, which traditionally treated self-determination outside of its legal context, in effect - much as a political concept. For information, Appendix I contains the relevant excerpts of Document CM/Inf (94) 27 of 2 September 1994 "Expertise on a Special Legal Status for the Gagauzes in Moldova".

### **The broader geopolitical context**

The Caspian basin, very rich in oil and extremely rich in natural gas, has traditional problems in bringing the energy to the consumer markets. The shortest and cheapest route is to the South through Iran. This route (both existing pipelines and projects) is opposed, mainly by the US, on political and strategic grounds. Idem for the (more recent) Eastern route through Afghanistan. All Westward pipelines bring the oil and gas to Black Sea terminals, notably Novorossiysk. Novorossiysk also serves the bigger part of the oil coming from Northern Russian energy fields. The figure on the next page gives *the main pipelines and their capacity in thousands of barrels per day.*

<sup>8</sup> References to legal texts are taken from various sources without independent check against the original legal texts – except where explicitly presented as quotations.

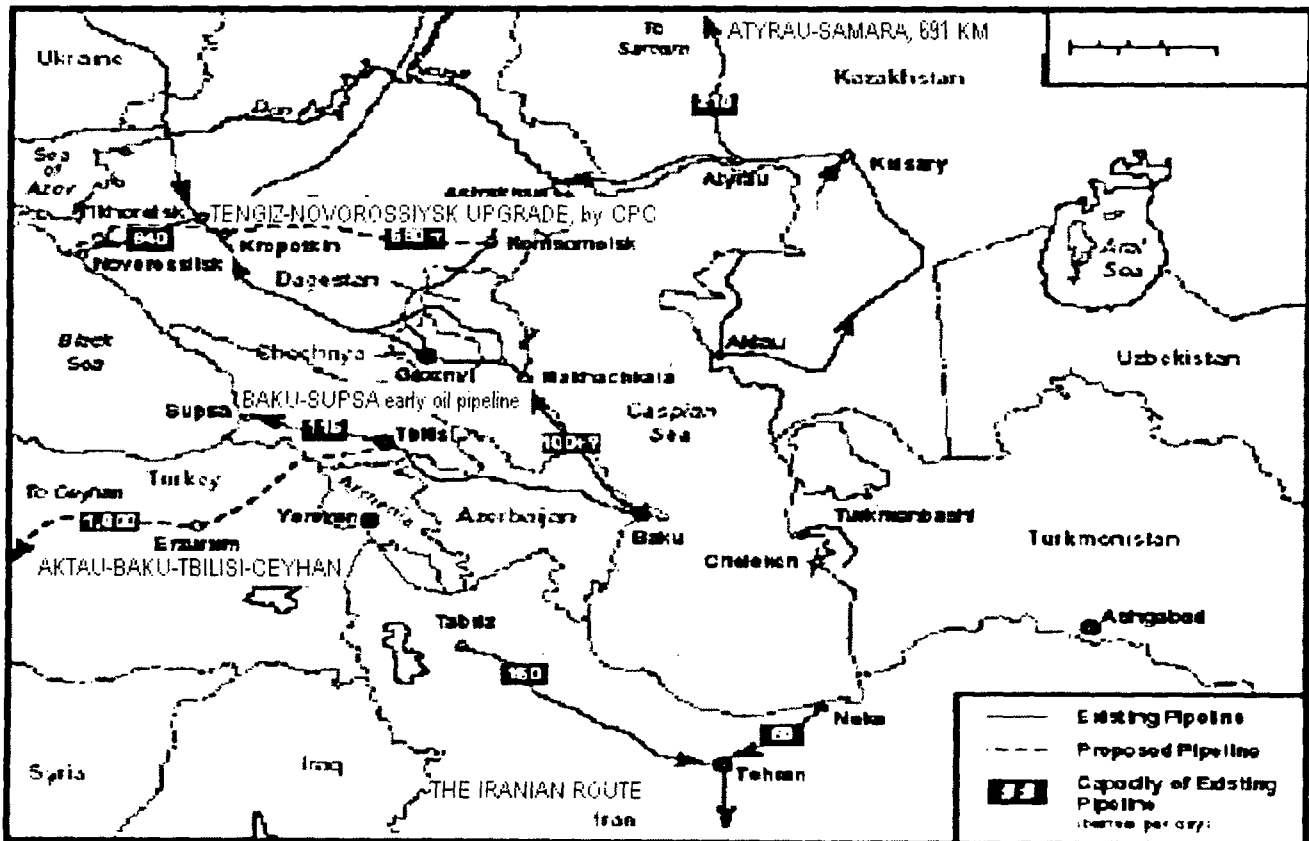


From the Black Sea, the route to consumer markets passes through the Bosphorus Straits - a narrow, congested channel, more akin to a river. Upwards of 100 vessels per day (some 15 of them tankers), take an average of 16 hours to pass. Turkey closes the Straits to two-way traffic whenever a ship longer than 200 m is to pass. Maritime incidents are inevitable and the risk of environmental damage is high. A major catastrophe could lead to the closure of this route altogether.

Analysts agree that Russia has both an economic and a strategic interest to keep control over the Westward flow of Caspian energy. A project named Blue Stream is underway to lay a 24-inch gas pipeline on the bottom of the Black Sea to link Novorossiysk with the Turkish coast in order to bypass the Bosphorus.

The pipeline project, which has given rise to most controversy during its 10 years of gestation, is the Baku-Tbilisi-Ceyhan project (BTC). Construction is now scheduled to begin in March 2003 and the first oil is to flow in 2005. BTC consists of a 1777 km-long, 42 inch-oil pipeline and a 700 km-long gas pipeline, also known as the South Caucasus Gas Pipeline. The gas will run parallel to the oil, but the pipeline is shorter as it will link to the existing Turkish gas distribution system.

The main problem of the BTC project is instability in the region. The energy route will pass some 60 km from Chechnya and 10-15 km from Armenia and N-K. The pipeline was also seen as too long and costly, but that was largely offset with the confirmation of the commercial viability of the huge Shah Deniz gas site (400 billion m<sup>3</sup>, 100 km South of Baku).

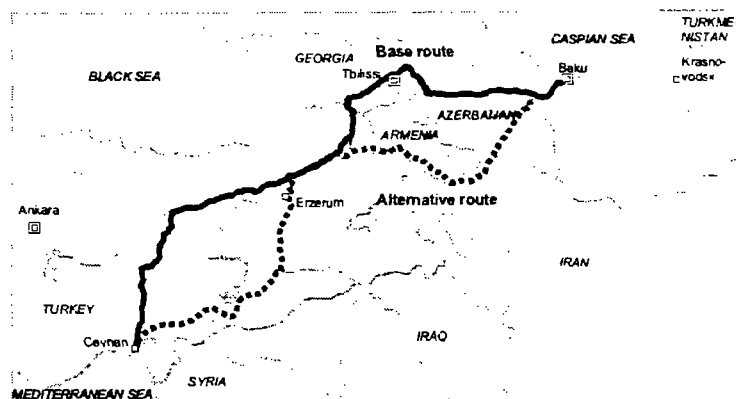


Source: Cambridge Energy Research Associates

The BTC carrying capacity will be one million barrels per day. That is double the size of any of the existing pipelines. The gas pipeline will carry 7 bn m<sup>3</sup> per year by 2006 and later - double that volume. To give an idea of the scale of what is at stake: the projected oil demand of OECD countries (minus Mexico) by 2020 is close to 50 million barrels per day, with the countries in question producing

themselves around 20 million barrels per day. In other words, BTC capacity will be equal to 1/30 of the oil needs of the industrialized world.

Georgia supports the BTC, from which it stands to gain yearly some 70 million usd. in transit fees. As long as the present stalemate in relations of Armenia with Azerbaijan and Turkey continues, the BTC stands to isolate further Armenia.



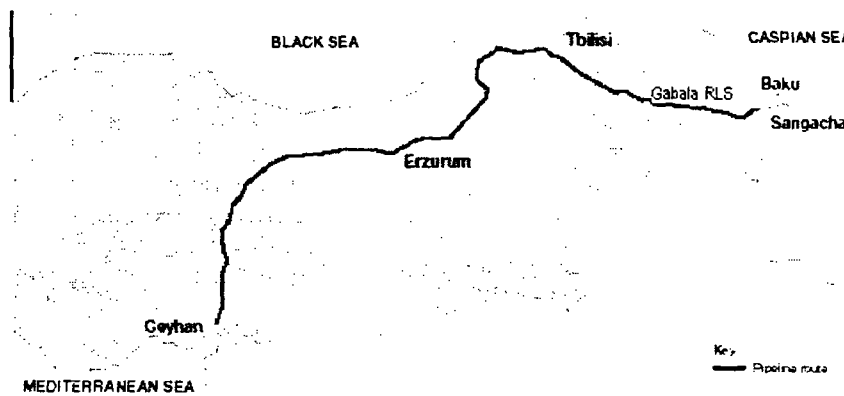
Because of the N-K conflict, the BTC will bypass Armenia

Turkey and Azerbaijan obviously favour the project. However, the BTC will bypass two regional powers with compelling interest in oil and gas – Russia and Iran.

Whereas Iran has direct access to Asian oil markets, whose forecast growth exceeds tenfold the projected oil demand increase in Europe and the US, Russia will be particularly affected. Most of its energy exports come to Novorossiysk from oil fields in Northern Russia, increasingly expensive to exploit, through aging pipelines with lesser debit. Experts predict that several years after BTC becomes operational, market forces will squeeze smaller the Russian share of the energy trade, itself a major income source for the budget of Russia.

Pundits recall that back in 1993, Russia supported Mr Aliyev against Mr Elcibey, who was seen as much more anti-Russian. In June 1993, the month Mr Aliyev came to power, he suspended a deal with a Western consortium (BP, Amoco, Pennzoil and others) to develop three Azerbaijani oil deposits. This agreement was crucial for the Baku-Ceyhan project. Fifteen months later, on 20 September 1994, when President Aliyev had consolidated his power, he signed "the deal of the century", prompting a failed coup d'etat attempt in Baku and Ganja (where supporters of the ousted 1<sup>o</sup> Minister Suret Gusseinov took part). Russia opposed the deal, quoting the unresolved delimitation of the Caspian Sea bed.

According to US analysts, after September 2001, Moscow realised Russia cannot rely only on close relations with Armenia to guarantee its regional interests against growing US presence. Five days after the Baku-Ceyhan launching ceremony, Presidents Putin and Aliyev signed a treaty on the division of the Caspian Sea bed. Russian companies are considering participation in the Baku-Tbilisi-Ceyhan project. In January 2002, Baku rented to Russia the Gabala radiolocation station (RLS), close to the city of Mingacevir in central Azerbaijan. The Gabala RLS was the last but one of nine facilities the Soviet Union built to ensure its early warning capability. Put in operation in 1988, the up to 350 MW station is capable of monitoring the Persian Gulf, much of Africa and can "see" as far as Australia.



The Baku-Tbilisi-Ceyhan project

### **Mediation efforts in the N-K conflict**

Iranian mediation. Iran made a short-lived effort in March - May 1992, when two meetings took place in Tehran, the second one on presidential level. In March, the first ever cease-fire between the belligerents was achieved, but it only lasted days.

According to Iranian analysts, the effort failed for a number of reasons, one of them being that Tehran was not perceived as impartial. Iran, a traditional rival of Russia and Turkey in the region, was thought to have an interest that the newly emerging Armenia, Azerbaijan and Georgia survive as independent "buffer states" between itself and Russia, while keeping them in balance by pressuring the stronger side. In the N-K conflict, this would imply constraining Armenian military advances.

Iran shares the same religion with all neighbouring countries except Armenia, but has the greatest affinity with the Azerbaijanis who, like the vast majority of Iranians, are Shiite Muslims (until Azerbaijani independence, Iran was the only State representing Shiite Muslims). On the other hand, Armenians are traditionally hostile to Iran's rival Turkey, while Iran and Armenia have not had problems in recent history.

Iran has a sizeable Azerbaijani minority – the second largest in the country. The Azerbaijani Popular Front had a pro-Turkish orientation. At one point the APF openly appealed to Iranian Azerbaijanis to secede and join Azerbaijan. While allegations that Iran provided arms to Armenia were not proven, it is certain that Yerevan today enjoys very good relations with the Iranian neighbour.

In a little known episode, in September 1993, when Armenians launched an attack on Nakhichevan, Iranian troops crossed the border, with the official purpose to guarantee the security of the jointly managed dams on the *Araz* river and to establish camps for Azerbaijani refugees (Iran says it hosts over 4 million refugees from Azerbaijan and Iraq). After this event, there was no further military action in Nakhichevan.

Russian mediation. In October 1993, President Yeltsin of Russia proposed to his counterparts from the three South Caucasian states to adopt a declaration calling for the unblocking of lines of communication, joint protection of the borders of Georgia, Armenia and Azerbaijan with Turkey and Iran and setting up of Russian military bases for this purpose. Presidents Ter-Petrosian and Shevardnadze agreed, but President Aliyev maintained that a declaration of this type could not be adopted until the Armenian forces had withdrawn from the occupied Azeri territories.

Earlier, in September 1991, President Yeltsin and President Nazarbayev of Kazakhstan visited Baku, Stepanakert and Yerevan. Following the visit, the first direct negotiations took place in Zheleznovodsk, Russia, with the participation of the Presidents of Armenia and Azerbaijan as well as the N-K leadership.

### **Negotiating mechanisms**

The UN Security Council adopted, in 1993, four resolutions on the N-K conflict<sup>9</sup>. They called for cessation of military activities and hostile acts, withdrawal of forces and resumption of negotiations, condemned the violation of the then established cease-fire and the excessive use of force in response thereto. The UN Security Council also referred to the forces that overtook the *Kelbajar* district of Azerbaijan as "local Armenian forces" and urged the Armenian government "to exert its influence" on the Armenians of N-K.

The Minsk process goes back to March 1992, when the CSCE Helsinki Meeting requested the Chairman-in-Office to convene a conference in Minsk on N-K peaceful settlement. The meeting named eleven States to participate in the conference. The conference never took place, but the name of the Belarusian capital remained attached to the process and the would-be participants became known as the Minsk Group. N-K was to be invited to the conference as an interested party. The formula "*elected and other representatives of N-K*" refers to the de facto authorities and the Azerbaijani refugees.

<sup>9</sup>

Resolutions 822/30.04.1993, 853/30.06.1993, 874/14.10.1993 and 884/12.11.1993.



In 1994, the OSCE Budapest Summit "strongly endorsed the mediation efforts of the CSCE Minsk Group and expressed appreciation for the crucial contribution of the Russian Federation and the efforts by other individual members of the Minsk Group". In order to harmonize these into a single co-ordinated effort, a Co-Chairmanship for the process was established – Russia and Finland. In 1997, the Co-Chairmanship was revised to its current composition: the United States, Russian Federation and France.

The Minsk Group receives assistance from the Personal Representative of the Chairman-in-Office, who resides in the region and a High-Level Planning Group made up of military experts seconded by OSCE participating States. The latter is a dormant body, which would come into action if and when the multinational OSCE peacekeeping force recommended by the Budapest Summit is established.

The Minsk Group has put forward several peace plans, which have been rejected as they were not seen to deal acceptably with major concerns of one or another party to the conflict,

Direct negotiations between Armenia and Azerbaijan at the highest level go back to the Zheleznovodsk meeting mentioned above. President Aliyev and Kocharyan have met nearly 20 times, with no breakthrough or decisive step forward in sight.

In December 2002, the OSCE Porto Ministerial meeting "welcomed the continuing meetings of the Presidents of Armenia and Azerbaijan and of their Special Representatives" and "encouraged the parties to continue their efforts, with the active support of the Co-Chairmen, aimed at reaching a just and enduring settlement".

### Positions of the sides

Comment: the viewpoints of the parties to the conflict remain opposed as to the causes of the conflict, the way in which it should be resolved and which problems should be addressed first.

The key elements of the positions can be summarized as follows:



- Armenia is the aggressor;
- the international community/participants in the negotiations must give an appropriate political evaluation of the conflict;

- occupied territories must be liberated as a precondition for serious negotiations;
- with territories occupied, there can be no regional co-operation or "business as usual";
- the return of the refugees must be addressed at an early stage of the negotiations;
- Azerbaijan is prepared to grant N-K "the highest level of autonomy known in the world", or "in concrete terms – the status of Tatarstan in the Russian Federation";
- as the conflict is settled, Azerbaijan will re-establish normal relations with Armenia - (In Armenian terms – will lift the blockade).



- Azerbaijan must come to terms with reality - Baku lost the war, Azerbaijan legal claim on N-K is not valid;
- N-K has never been/will never be part of independent Azerbaijan;

- the blockade of Armenia by Azerbaijan and Turkey is illegal and must be lifted;
- Armenia has no territorial claims to Azerbaijan;
- N-K must be recognised as a party to the conflict and of the negotiating process;
- The occupied territories will be returned to Azerbaijan once the conflict is settled;
- The Lachin corridor must remain under Armenian sovereignty but will be compensated to Azerbaijan by equal territory from other parts of N-K;
- Armenia stands ready to develop regional co-operation and confidence-building measures.



- the position of the N-K de facto authorities is largely identical with that of Armenia, as aptly symbolized by the flag - an arrow yearning to merge with the Motherland, also hinting of traditional N-K carpets

- N-K has already covered its part of the road to compromise by renouncing the claim to union with Armenia and agreeing to be independent;
- N-K sovereign existence does not depend on international recognition, because N-K has (1) a territory and (2) population as well as (3) elected, organized and functioning authorities and is (4) capable of assuming and fulfilling international obligations.

### Settlement options

The content of the proposals for settlement officially remains a secret. Nevertheless it is not difficult to see that any solution has to be one of or a mix of elements from the following main options:

- (1) restitution of the status quo ante;
- (2) self-rule of N-K within Azerbaijan;
- (3) "common state" or a confederal/federal set-up (this option remains very unclear);
- (4) independence or merging with Armenia for N-K with either
- (5) a swap of territories or
- (6) exchange of corridors in order to ensure continuity between Armenia and N-K on one side and Azerbaijan and its exclave Nakhichevan on the other side.

In 1996, the *OSCE Lisbon summit* elaborated three principles for settling the N-K conflict:

- territorial integrity of Armenia and Azerbaijan;
- N-K legal status to be based on self-determination and highest degree of self-rule within Azerbaijan;
- guaranteed security for N-K and its whole population.

The above principles could not be adopted by consensus due to Armenian disagreement.

According to Azerbaijani sources, in 1997, on the margins of the Second Council of Europe Summit, Presidents Aliyev and Kocharyan reached an understanding based on a swap of territories. Subsequently Armenia allegedly rejected the arrangement, which had also become known as the *Sadarak agreement*. The Armenian view is that a swap of territories is not possible as it would cut Armenia off its border with Iran.

In April 2001, further to their travel to Strasbourg on the occasion of the joint accession of Armenia and Azerbaijan to the Council of Europe, the two presidents met in Paris upon the invitation of President Chirac of France. Reportedly, an agreement was reached, referred to as *the Paris principles*. Subsequently, in a weeklong negotiation in a proximity format<sup>10</sup> in Key West, US, the Paris agreement was put on paper. The bargaining seems to be about exchange of corridors, the *Lachin corridor* linking Armenia with N-K and the *Meghri corridor* linking Azerbaijan with Nakhichevan.

<sup>10</sup> "Proximity format" implies that the two sides do not negotiate directly and remain in separate premises, with the third mediator side shuttling to and fro with proposals and messages.



According to Azerbaijan, the exchange would be symmetrical, with Baku and Yerevan establishing full control over their respective corridors.

Armenia says the agreement was asymmetrical, with Yerevan gaining full sovereignty over the Lachin corridor and Baku having the right of passage through Meghri corridor, much along the lines of the Berlin corridor of the past.

In October 2002, there were vague press reports about new Azerbaijani proposals – notably, to divide contested lands with international mediation, with some localities choosing by referendum whether they belong to Armenia or to Azerbaijan. The same reports indicated that Baku had reiterated it would never accept that N-K become a new sovereign state.

### Problems of Conflict Settlement

Comment: the following summary is based on writings by experts in conflict-prevention and negotiation.

The extent of historical mistrust between Azerbaijanis and Armenians is difficult to evaluate. Whereas both sides may be exaggerating at present, serious violent episodes date back at least to the end of the 19<sup>th</sup> century. At the same time, as recently as 1990, far more Armenians lived in Baku than in N-K. During the N-K war, Armenians maintained life-saving relations with Iranian Azerbaijanis.

Some experts argue that, generally speaking, in the South Caucasus the definition of ethnicity as well as the link between ethnicity and territory may be not so strong as in other regions where nation-building took place earlier and in different circumstances.

Armenians are mistrustful of all Turkic-speaking Muslims, whom they tend to view as a single people ("Turks"). Most Azerbaijanis and Armenians seem to believe that the N-K conflict is not simply between Governments or the military, but between their two peoples.

The internally displaced persons, in particular in Azerbaijan and especially those from N-K are known to be a bitter and intensely radicalised force, and have been responsible for attacks on Armenians in Baku. Here again, the problem may be exaggerated. Some observers believe that Baku is not doing enough to help refugees integrate – as integration would mean accepting the Armenian war gains.

Security problems. Azerbaijan cannot feel secure while Armenians occupy seven of its provinces. However, if Baku forces were to re-establish control of Azerbaijani territories, the Armenian perception about the south-eastern part of their country would be one of vulnerability. In addition, Yerevan has particular worries about its long border with Turkey. Last October, Armenian Defence Minister Sarkisian told the press that the newly created joint Russian- Armenian military unit is to serve, *inter alia* as a deterrent against a possible Turkish incursion. Generally, security perceptions are a particular concern for Armenia and represent one of the main stumbling blocks in the attempts to find a settlement.

The state of democratic reform. Ethnic Armenians find it difficult to trust a government in Baku that they may perceive as authoritarian, corrupt, and intolerant of minorities; Azerbaijanis, for their part, cannot bring themselves to trust the government of a state they believe is constructed on a strictly ethnic basis - a state that acts as if it believes Armenia is for ethnic Armenians alone.

Domestic politics. The way the N-K conflict has interlocked the actors in internal political life both in Yerevan and Baku may be the single biggest obstacle to solution. President Kocharyan, himself native of N-K, came to power after his predecessor Ter-Petrosian was forced to resign by N-K hardliners opposing his moves towards settlement. Some analysts note that, against the background of economic difficulties, Yerevan has little to deliver for the time being, except a war that was won and a national dream. In Azerbaijan, the predecessors of President Aliyev are seen to have lost the war. Partly for this reason, the present-day political opposition in Baku often takes a harder line on the conflict than the Government. President Aliyev, a native of the Azerbaijani exclave of Nakhichevan, can hardly afford to be seen to give in to Yerevan.

Once, a high-ranking official from the region put the political problem in a nutshell: both in Armenia and Azerbaijan, N-K is both a source of power and a threat to power.

Guarantees. N-K is very sensitive to the question of guarantees. N-K recalls the British guarantees of 1918-1920, which did not prevent the application of force by the first Azerbaijani Republic, and the "guarantees" of the Soviet Union, which permitted what Stepanakert sees as the *de-Armenianization of Nakhichevan*.

Regional issues. Several analysts indicate that the conflict is unlikely to find a lasting settlement before the regional powers – Russia, Turkey and Iran – adapt to geo-political changes. In the post - 11 September world, these geo-political shifts are not necessarily a zero sum game where gain by one side is another side's loss.

Common interest in settlement. From 1988 to 1994, the GDP of Azerbaijan fell 73%. Azerbaijan needs to have the N-K conflict solved to gain stability for development based on oil wealth. According to experts, Azerbaijan has enough energy deposits to finance two generations of economic growth. There would be the immediate economic gain of a large segment of the population – the refugees and IDPs – returning to regular economic activity. Experts also caution that oil-based development is only guaranteed in a country with stable democratic institutions ("will Azerbaijan develop like Norway or like Nigeria").

From 1988 to 1994 Armenia saw its GDP fall by 60%. Particularly in Armenia, the economic situation was further aggravated by the 1999 Russian financial system crisis. For Armenia, not having diplomatic relations with two out of four neighbours is clearly an abnormal situation. Restoring regular relations with the outside world would not only bring transport costs back to normal but would also enable Armenia's longer-term comparative advantages – the Diaspora support with its networking and lobbying power and capability to raise investment. There are expert calculations suggesting that Armenia could experience a short term increase of up to 40% of GDP. Some analysts broadly compare the Armenian "Diaspora factor" to the Azerbaijani "oil factor". In this context, the "Norway vs. Nigeria dilemma" is also valid for Yerevan.

### **The Council of Europe position**

Armenia and Azerbaijan joined the Council of Europe simultaneously on 25 January 2001. For the first time in its history, the Organisation invited two new members with a bitter unresolved conflict between them. This was made possible by the prevailing understanding, both in the Parliamentary Assembly and in member States' Governments that the accession of Azerbaijan and Armenia could help to establish the climate of trust needed for a solution to the N-K conflict.



Back in 1992, the Committee of Ministers had concluded that a closer relationship of Armenia and Azerbaijan with the CoE "would demand not only the implementation of substantial democratic reforms, but also their commitment to resolve conflicts by peaceful means".

Armenia and Azerbaijan were granted the special guest status with the Assembly in 1996.

The Political Affairs Committee held hearings on the N-K in 1998 and 1999. While voting positively on their accession demands, the Parliamentary Assembly asked Armenia and Azerbaijan to commit themselves, with regard to the N-K conflict:

- to continue efforts to settle the conflict by peaceful means only;
- to settle international and domestic disputes by peaceful means and according to the principles of international law (an obligation incumbent on all Council of Europe member states), resolutely rejecting any threatened use of force against its neighbours;
- (for Armenia) to use its considerable influence over the Armenians in N-K to foster a solution to the conflict;

The Presidents, Speakers of parliaments, Prime Ministers and the chairmen of the political parties represented in Parliaments of Armenia and Azerbaijan confirmed these commitments in writing.

The Presidents of Armenia and Azerbaijan wrote separately to reiterate their countries' commitment to a peaceful negotiated settlement of the N-K on the basis of a compromise acceptable to all concerned. President Aliyev stressed that Azerbaijan's accession to the Council of Europe would be a major contribution to the negotiations process and stability in the region.

Comment: the commitments regarding N-K are spelled out in less detail compared to domestic law and human rights obligations. Nevertheless, the Organisation regards them as seriously as any other commitments. They are subject to monitoring procedures.

In September 2002, the Parliamentary Assembly adopted Resolutions 1304 and 1305(2002) on the honouring of obligations by Armenia and Azerbaijan, where it:

- recognized that Armenia and Azerbaijan maintained regular high-level contacts with a view to reach a suitable and peaceful solution to the conflict,
- acknowledged in particular the positive influence of Armenia on the Armenians in N-K,
- voiced concern with the prevailing frustration in Azeri society at the deadlocked negotiations on the conflict, which is more and more frequently expressed,
- expressed hope that the negotiation process - including a recent meeting of the Presidents would soon lead to an acceptable settlement of the territorial conflict in line with the principles of the Council of Europe and international law,

The Assembly has appointed Mr Terry Davis (UK, Soc) Rapporteur on N-K.

The Committee of Ministers monitoring Group, also known as "GT-Suivi Ago" follows regularly N-K conflict settlement efforts. It asks questions in writing, urges Yerevan and Baku to build confidence and, generally, impresses on the two countries the position of the member States' Governments.

In April 2002, the Chairman of the Committee of Ministers, further to a visit to the South Caucasus region, reported, "the most difficult challenge the member States face are their unresolved conflicts. Indeed, the conflicts of Nagorno-Karabakh and Abkhazia undermine the European efforts to assist

Armenia, Azerbaijan and Georgia and threaten to effectively put limits on the process of democratisation”.

In January 2003, the Enlarged Bureau of the Committee of Ministers' Deputies held an exchange of views with the Co-Chairmen of the Minsk Group and the Special Representatives of the two Presidents.

Within the framework of its assistance activities, the Council of Europe can bring to the sides in the conflict the European experience of post-conflict reconciliation and “work on the past”. It can also promote regional co-operation as one of the means of post-conflict rehabilitation, and it can apply the Organisation know-how in working with the civil society for awareness raising and confidence-building. If a solution requires legal expertise, the Council of Europe, through the Venice Commission, remains prepared to help the Minsk Group work out the legal aspects of N-K status and protection of minorities.

Comment: In the end, Nagorno-Karabakh is part of the shared history and common suffering of the Armenian and Azerbaijani people. A common solution must be found for a better future.

Map of Nagorno-Karabakh



Source:OSCE

**Excerpts from Document CM/Inf (94) 27 of 2 September 1994 "Expertise on a Special Legal Status for the Gagauzes in Moldova".**

**"International Covenant on Civil and Political Rights (ICCPR)**

It must be noted that the ICCPR makes no attempt to define who are a "people". The term "people" is often used with different meanings. Sometimes it is used to mean all the citizens, regardless of their ethnic origin, of a particular State. For example, somebody might refer to "the people of France" or "the people of Germany". On other occasions it is used for the purpose of designating a particular ethnic group and without any intention to indicate any legal status. For example, a person might refer to "the Welsh people" or "the Scottish people". Such references are sometimes made by persons in the United Kingdom who would be quick to contradict any suggestion that they were implying that the Welsh or the Scottish people have any right to an independent State or that Article 1 of the ICCPR confers any such right on Wales or Scotland. Government Ministers in the United Kingdom who are committed to the continued existence of the United Kingdom have sometimes referred to "the Welsh nation" or "the Scottish nation".

It must also be noted that the Charter of the United Nations does not provide any definition of the term "people". The charter begins with a statement by "the peoples of the United Nations" in which it is stated that "our respective Governments" (i.e. the Governments of those peoples) have agreed to the Charter and thereby establish an international organisation to be known as the United Nations. Article 1(2) of the Charter provides that one of the purposes of the UN is "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace". Because of the tendency in many parts of the Charter to equate "nation" with "State" this does not appear to be a reference to any entitlement to have the borders of a State changed except, possibly, in the case of colonial territories of the colonial powers. In the "Charter of the United Nations; Commentary and Documents" by Goodrich, Hambro and Simons, it is stated that questions regarding the difference, if any, between the terms "nations", "peoples" and "states" were left unresolved at the San Francisco Conference of 1945 at which the Charter was signed, see page 30 of the 3<sup>rd</sup> edition. Two of the authors attended that Conference.

It must be noted that the ICCPR does not contain any provisions, which set out the type of measures to be taken by a State Party under Article 1. There is no provision that statehood must be granted to all the peoples within its territory by a State Party. This omission would appear to be deliberate.

Lack of any definition of a "people" and the omission to state how States Parties are to implement Article 1 have the consequence that Article 1 cannot be regarded as having any clear legal consequences, except in the case of the people of a State. The preamble to the Covenant contains a number of paragraphs, which clearly relate to the rights of individuals but it does not contain any clear statement about the self-determination of peoples. The reference in the first paragraph of the preamble to "the equal and inalienable rights of all members of the human family" appears to be ambiguous insofar as the question of whether a reference is being made to all peoples as members of the human family is concerned.

The Human Rights Committee has considered Article 1 of the ICCPR but in a General Comment on this Article it avoided giving any opinion on whether the right to self-determination applied to any people in a sovereign State. Some individual members of the Committee appear to have suggested that it is so applicable but those individual views do not seem to represent any generally accepted view.

The optional Protocol, adopted by the General Assembly of the UN on 16 December 1966, to the ICCPR provides, see Article 1, that a State Party to the ICCPR which becomes a party to the protocol recognises the competence of the Human Rights Committee set up by Part IV of the ICCPR to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set forth in the ICCPR. Article 7 of that Protocol provides that pending the achievement of the objectives of Resolution 1514 (xv) of the UN General Assembly of 14 December 1960 concerning the Declaration on the granting of independence to colonial countries and peoples, the provisions of the Protocol shall in no way limit the right of petition granted to these peoples by the Charter of the United Nations and other international conventions and instruments under the United Nations and its specialised agencies. The fact that the protocol gives no right of petition to peoples and that Article 7 only preserves the right of petition of colonial peoples suggests that Article 1 of the ICCPR was not intended to give any right of self-determination to other peoples. It would seem that the only clear conclusions are that Article 1 of the ICCPR is intended to oblige States Parties to it to promote the realisation of the right of self-determination of

the people of each State, i.e. of all the inhabitants of each State, and, probably, to colonial peoples. The cases of the dissolution of the USSR and Yugoslavia do not seem to give any useful guidance on the interpretation of Article 1 of the ICCPR.

If Article 1 of the ICCPR had been considered to confer on all groups with a separate ethnic identity forming the majority in a particular area a right to independence then it seems most unlikely that a number of the Parties, such as Spain, France and the United Kingdom, would have become parties to a convention which could have led to the break-up of their States".

...

"Article 27 of the ICCPR protects the rights of persons belonging to ethnic, religious or linguistic minorities. The term "minority" should not be regarded as having any derogatory implications. It merely refers to certain numerical and ethnic realities. The Gagauz clearly have an ethnic identity and the term "ethnic" is used with reference to the Gagauz identity in a number of places in the document attached to the letter from Mr S. Topal. Article 27 provides that in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language. The word "culture" in Article 27 was interpreted by the Human Rights Committee established by Part IV of the ICCPR in the case of Ominayak and the Lubicon Lake Band (i.e. Tribe) -v- Canada, see the Annual Report of the Human Rights Committee 1990, UN Document A/45/40, Volume 2, Appendix A (1990). In that case the Human Rights Committee said that the rights protected by Article 27 "include the rights of persons, in community with others, to engage in economic and social activities which are part of the culture of the community to which they belong". This is clearly a wide interpretation of the word "culture". Presumably such economic and social activity must be necessary for the preservation of the ethnic minority in question. The Committee did not deal with the question of what would happen if such activities conflicted with the general social and economic policies of the State in question. However, it would seem likely that the mere fact that such activities by a minority in some way contradicted general economic policy of the State in question would not be held to justify interference by the State. There would seem to be good ground for thinking that a State could only interfere with such activities in order to prevent serious consequences of an economic nature. Definite opinions cannot be expressed on this point because the views of the Committee in the Lubicon Lake Band Case will require further development in other cases. Reference is made to an Article in the International Comparative and Law Quarterly, 1991, page 658, by Dominic McGoldrick".



**RESPONSE LETTER BY THE PERMANENT REPRESENTATIVE OF AZERBAIJAN  
TO THE COUNCIL OF EUROPE**



Strasbourg

« 22 » Février 2003

No. 177-024

Azərbaycan Respublikasının  
Avropa Şurası yanında  
Daimi Nümayəndəsi

Représentant Permanent  
de la République d'Azerbaïdjan  
auprès du Conseil de l'Europe

Dear Chairman,

Referring to the document CM/Inf(2003)3 on the Nagorno-Karabakh conflict prepared by the Directorate of Political Affairs, apparently with a view to the Enlarged Bureau meeting of 23 January 2003, I have to stress a several inaccuracies, as well the use of some points, in one case because of the irrelevancy to the matter, in another case those of being taken out of the context. As a result of uncareful treatment of the history of the countries of the regions, and the process they have been engaged in, the document distorted the reflection of the routes, reasons and realities of the conflict. Suffice to say most outstanding issue of the conflict which is the occupation by Armenian forces of N-K region and 7 adjacent regions of Azerbaijan has not been mentioned.

The attention should be paid also to the next part of the document which deals with not so long past of the history, but the current activities of the Minsk Group. Not dwelling on the errors with the composition of the Minsk Group, I wish readers refer to the decision of the First additional Helsinki meeting of the CSCE Council, held on 24 March 1992. Moreover according to this decision, Chairman would invite as interested parties "elected and other representatives of N-K" and consequently, representatives might be appointed by both Armenian and Azerbaijani communities of N-K.

The convocation of the conference has been blocked not by the refusal of Azerbaijan but the Armenian occupation of the Lachin region.

Mr Joseph LICARI  
Chairman of the Deputies' Ministers  
Council of Europe

Cc: Mr Leonard G. DAVIES, Secretary to the Committee of Ministers

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Decision of Budapest Summit of 1994, besides it established the co-chairmanship of the Minsk Group, had another two major accomplishments:

1. Approval of the stage-by-stage approach to the settlement in accordance with which co-chairmen were tasked to speed up the conclusion of an agreement on the cessation of the armed conflict, the implementation of which will eliminate major consequences of the conflict thus permitting of the convocation of the Conference.
2. Heads of the CSCE States agreed to deploy multinational CSCE peacekeeping force, as an essential element for the implementation of the agreement itself.

Regarding the principles of the OSCE Lisbon Summit, they were not only elaborated but declared and officially issued, and also, adopted by all countries, except Armenia. The exact wording of the second principle is the following: "Legal status of Nagorno-Karabakh defined in an agreement based on self-determination confers on Nagorno-Karabakh the highest degree of self-rule within Azerbaijan".

In fact the Minsk Group has put forward several proposals, the implementation of which have been blocked by occupation of Azerbaijani territories. On 18-21 May 1992 was elaborated decision on Minsk Conference, but blocked by the occupation Lachin region. The peace timetable elaborated in November 1992 was also blocked by occupation of 15 villages of Zengilan region, in the frontier between Armenia and Azerbaijan. Actually the occupation had been conducted directly from Armenia. Next attempt to elaborate timetable for withdrawal from the occupied territories and return of refugees was turned down by the occupation of Kalbadjar region of Azerbaijan in March 1993. The visit of Mario Raffaelelli, Chairman of the Minsk Conference, to the region in June 1993 was marked by occupation of Agdam region. In August 1993 Armenia replied to the statement by the Chairman of the UN Security Council Madeline Albright, urging them to stop the hostilities, by the occupation of Jabrail and Fizuli regions. Chairman-in-office of CSCE, Swedish Minister of Foreign Affairs Margareta Ugglass, during visit to Azerbaijan, desperately tried to stop the ongoing occupation of Zangilan and Gubadli, but her demands were not met by Armenia.

The negotiations of 1995/1996 aimed at elaboration of the agreement on cessation of the armed conflict mandated by the Budapest Summit of 1994 were blocked by Armenian side putting preconditions on defining the legal status of N-K.

Among the proposals one should be mentioned specifically that is a plan proposed by the co-chairmen on the basis of stage-by-stage approach which has been approved by both Presidents of Azerbaijan and Armenia. It is symbolic that this event took place at 1997 Summit of the Council of Europe.

The matter of the so-called blockade has been discussed in depth in this Organisation, thus there is no need in further comments on irrelevance of the word "blockade" applying to the stance of lack of any relations between Azerbaijan and Armenia resulting from war. Major communications passing through conflict zone were vastly destroyed, the most important among which is the railway between Bakty-Nakhichevan-Yerevan. The Council of Europe is aware of the proposal on the withdrawal of Armenian forces from 4 regions thus enabling the rehabilitation of the region and restoration of the mentioned road. But Armenia rejected this proposal making instead irresponsible statement implying possibility for secured passage of Azerbaijani people and goods through occupied territories. Refusal of Armenia proves the

only thing (thus this country has no intention to act in good faith and to withdraw its forces from Azerbaijani lands.

The given document ignores also the very nature of the conflict, which is based on territorial claims by Armenia to Azerbaijan. Having occupied N-K region and 7 adjacent regions of the territory of Azerbaijan, Armenia now insists on the secession of the part of Azerbaijani territory. Azerbaijan will under no circumstances agree with loss of territory and with a *fait accompli*- based settlement. Azerbaijan is aimed at peaceful solution in accordance with the norms and principles of the international law.

It should be noted as well that compromises might not be unilateral by definition – as they are naturally of mutual character. Azerbaijani government has paved its part of the way.

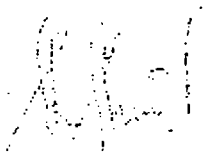
Some issues were discussed by Presidents of Azerbaijan and Armenia in the consequent meetings in January, February and April 2001 in Paris and in Key West. No agreement was achieved and nothing known as Paris principles or Key West agreement does exist. The same goes as well for alleged new Azerbaijani proposal.

It's worth to stress once more the legal basis for the settlement of the conflict established by the relevant UN Security Council Resolutions and OSCE decisions. Any solution will be possible only in full respect of territorial integrity of Azerbaijan.

I believe that above observations will be helpful in understanding of the existing situation on this conflict.

I would appreciate, Mr Chairman, your consent to circulation of this letter at the meeting of the Bureau enlarged to all interested delegations on the honouring of commitments by Armenia and Azerbaijan regarding the resolution of the Nagorno-Karabakh conflict, to be held on 23 January 2003.

Yours sincerely,



Ambassador Agshin MEILDİYEV

*Reporting Committee:* Political Affairs Committee.

*Reference to Committee:* Doc. 9239, Reference 2659 of 8 November 2001 and Doc. 9257, Reference 2674 of 8 November 2004

*Draft Resolution and draft Recommendation* unanimously adopted by the Committee on 17 November 2004

*Members of the Committee:* MM. Roman Jakic (Chairman), Mikhail **Margelov** (Vice-Chairman), Michael Spindelegger, (Vice-Chairman), Abdülkadir **Ateş** (Vice-Chairman), Mrs Manuela Aguiar, MM. Giuseppe Arzilli, David **Atkinson**, Claudio Azzolini, Miroslav **Beneš**, Radu-Mircea Berceanu, Gerardo Bianco (alternate: Mrs Tana **de Zulueta**), Haakon Blankenborg, Giorgi Bokeria, Luc **Van den Brande**, Mrs Beáta **Brestenská**, MM. Jonas Čekuolis, Enrique Curiel Alonso, Noel **Davern**, Michel Dreyfus-Schmidt, Mrs Ina Druviete, Mr Adri Duivesteijn, Mrs Josette Durrieu, MM. Mikko **Elo**, Charles Goerens, Daniel **Goulet**, Andreas **Gross**, Klaus-Jürgen Hedrich, Jean-Pol Henry, Joachim Hörster, Tadeusz **Iwinski**, Elmir Jahić, Ljubiša Jovašević, Lord **Judd**, Ivan Kalezić, Oleksandr Karpov, Petro Koçi, Konstantin **Kosachev**, Yuriy Kostenko, Göran **Lindblad**, René **van der Linden**, Tony Lloyd, Younal **Loutfi**, Göran Magnusson, Dick Marty (alternate: Maximilian **Reimann**), Frano Matušić, José Medeiros Ferreira, Evangelos Meimarakis (alternate: Mrs Elsa **Papadimitriou**), Murat Mercan, Jean-Claude Mignon, Marko **Mihkelson**, Mrs Natalia Narochnitskaya (alternate: Victor **Kolesnikov**), Mrs Miroslava Němcová, MM. Zsolt Németh, Boris Oliynyk, Theodoros Pangalos, Mrs Eleonora **Petrova-Mitevsk**a, Mrs Sólveig Pétursdóttir, Mrs Clara Pintat Rossell, MM. Christos Pourgourides, Gordon Prentice, Dumitru Prijmireanu, Gheorghe **Prisăcaru**, Gabino Puche, Lluís Maria de Puig, Jeffrey Pullicino Orlando (alternate: Leo **Brincat**), Umberto **Ranieri**, Michael Roth, Jan Rzymekka, Adrian Severin, Mrs Hanne Severinsen, MM. Samad **Seyidov**, Leonid **Slutsky**, Zoltán Szabó, Mehmet **Tekelioğlu**, Tigran **Torosyan**, Latzechar Toshev, Mrs Marianne Tritz, MM. Vagif Vakilov (alternate: Azim **Mollazade**), Andrzej **Wielowieyski**, Mrs Renate Wohlwend, Mrs Gisela Wurm, Mr Marco **Zacchera**.

*Ex-officio:* MM. Mátyás Eörsi, Mats Einarsson, Lord Russell-Johnston

**N.B. : The names of the members who took part in the meeting are printed in bold**

*Head of the Secretariat :* Mr Perin

Secretaries to the Committee: Mrs Nachilo, Mr Chevtchenko, Mr Dossow