

NAGORNO KARABAGH

LEGAL ASPECTS

SHAHEN AVAKIAN

“TIGRAN METS” Publishing House
Fourth Edition
Yerevan 2013

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The study covers the legal aspects of Nagorno Karabagh problem.
It examines the issues of Law as they affected the legal status of
Nagorno Karabagh.

The author is an expert of International Law.
He has graduated from the Paris Sorbonne University and
is specialized in International Public Law and
International Organizations law.

This study is the fourth revised edition
and contains additional information and updates.
The publications of the earlier editions of this research are also
available in Armenian, French, Russian, Arabic and Greek.

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Foreword

This is a study of legal issues on Nagorno Karabagh - Artsakh. It does not intend to cover the political and historical aspects: it will instead cover issues of Law as they affected Karabagh in pre-Soviet period, in the period of Sovietization and under Perestroika.

It will also examine the issues of sovereignty of Nagorno Karabagh according to the Laws of the former USSR, the compliance of Azerbaijan's domestic legislation on Nagorno Karabagh and Azerbaijan's policy of ethnic cleansings with the principles and norms of International Law, as well as the establishment of the Republic of Nagorno Karabagh under International Law.

Since a proper understanding of Nagorno Karabagh problem is complicated both by geopolitical changes and by frequent and deliberate misinterpretation and misrepresentation of Karabagh's history and legal status, we aim at presenting a brief overview of the issue from a legal point of view and demonstrate that Nagorno Karabagh has never been part of the Republic of Azerbaijan.

Even a brief study of the legal background of the problem provides a basis to believe that Nagorno Karabagh, apart from its historic and cultural rights, also has full legal foundations for its independence.

Basic Facts

Name	The Nagorno Karabagh Republic or Republic of Artsakh (Artsakh)
Capital	Stepanakert
Language	Armenian
Population	143,574*
Ethnic Composition	95% Armenian, 5% minorities (Greeks, Russians, Ukrainians, Assyrians, Georgians, Azerbaijanis, etc.)
Religion	Christian, 95% of the population are adherents of the Armenian Apostolic Church
Location	Situated in the South-Eastern part of the Armenian highland, from the West it borders with Armenia, from the North and the East - with Azerbaijan, from the South – with Iran. It includes the eastern part of the Karabagh Plateau and extends from the West to the East running into the Lowland Karabagh that forms the major part of the Kura-Arax wide plain.
Relief	Mountainous
Area	12 thousand sq. km, out of which 1041 sq. km are under the Azerbaijani occupation**
Main Law	Constitution of the Republic of Nagorno Karabagh***
Flag	Three equal horizontal stripes of red, blue and orange colours (from top to the bottom). From both edges of the right side of the colour cloth a white five-toothed stepped rug pattern starts and joins at the one third of the flag. The National Flag was adopted on June 2, 1992, by the Supreme Council of the Republic.
National Emblem	The National Emblem depicts an eagle spreading its wings upward with sunrays emerging from it. The eagle is crowned with the crown of the Artashesid Dynasty. In the centre is the “We Are Our Mountains” monument against the background of the National Flag and Mount Big Kirs. Beneath, in the claws of the eagle are cluster of grapes, mulberries and ears of wheat. In the upper semicircle of the National Emblem there is an inscription in Armenian “Nagorno Karabagh Republic - Artsakh”. The National Emblem was adopted by the Supreme Council of the Republic on November 17, 1992.
National Anthem	The National Anthem is the symbol of independent statehood of the Nagorno Karabagh Republic. The National Anthem was adopted by the Supreme Council of the Nagorno Karabagh Republic on November 17, 1992.
Administrative division	Includes 7 regions and the Capital of the Republic
Largest towns	Martuni, Martakert, Askeran, Hadrut, Shushi
Currency	Armenian Dram
Time Zone	GMT+ 04:00

* As of January 1, 2011, NKR National Statistical Service Data.

** According to the Constitution of the Nagorno Karabagh Republic

*** Adopted on December 10, 2006 via nation-wide referendum

1. Pre-Soviet Status

Karabagh (Artsakh) is an integral part of Historic Armenia. It was the 10th province of the Ancient Kingdom of Armenia. In Urartian inscriptions (9th-7th Centuries B.C.) the name Urtekhini is used for the region. Ancient Greek sources called the area Orkhistene¹. After the division of Greater Armenia (387 A.D.), Artsakh became part of the Eastern Armenian Kingdom, which soon fell under the Persian rule. Under the Persian rule Artsakh was a part of the Armenian Province, and in the period of Arabic rule it was part of the Armenian Region. Artsakh was part of the Armenian Kingdom of Bagratids (9th-11th CC.), then – part of Zakarid Armenia (12th-13th CC.). In following Centuries, Artsakh fell under the rule of various conquerors, thus remaining Armenian and possessing a semi-independent status. In the mid 18th Century the invasion of Turkic tribes to the North of Artsakh led to clashes with local Armenians. The Five Armenian Princedoms of Artsakh (Melikdoms of Khamsa) had reached the peak of their power in the late 18th Century.

After the Russian-Persian war (1804-1813) Karabagh, along with the other North Eastern provinces of Armenia, was transferred from Persian to Russian dominion under the terms of the Treaty of Gulistan (1813). In 1840, as a result of the implementation of an administrative reform

in the Caucasus, which divided the region into two administrative districts, Karabagh was incorporated into the Caspian District. The next administrative reform of 1867 incorporated Karabagh into the Elizavetpol District. The area then remained undisturbed until the beginning of World War I.

The dispute over Nagorno Karabagh dates from the period of the Russian Empire's disintegration after the 1917 October Revolution. Under Lenin's "National Policy Doctrine", peoples leaving Russia were recognized in their right for self-determination though no special procedure was settled for the secession from Russia².

During 1918-1920 the legislative power in Nagorno Karabagh was exercised by the Assemblies of Armenians of Karabagh.

The First Assembly of Armenians of Karabagh was convened on July 22, 1918, which declared Nagorno Karabagh as an independent administrative and political entity. The Assembly elected a National Council and a democratic Government comprised of seven ministers. The objectives of the newly formed state authorities were endorsed by the Declaration of the democratic Government of July 24, 1918.

1. Works of:

Strabo - <http://www.archive.org/stream/geographyofstrab05strauoft#page/n5/mode/2up>, p. 320-323

Pliny the Elder - <http://www.archive.org/stream/naturalhistory02plinuoft#page/354/mode/2up>, p. 355-357

Claudius Ptolemy - <http://www.archive.org/details/PtolemysGeographyBook5>, p. 122-123

Plutarch - <http://www.archive.org/stream/plutarchslives05plutuoft#page/206/mode/2up>, p. 204-207

Dio Cassius - <http://www.archive.org/stream/diosromanhistory03cassuoft#page/92/mode/2up>, p. 92-95

2. V. I. Lenin, "Complete Publications of Works", (Moscow: 1963, in Russian), v. 31, at 436.

Soon after the convocation of the First Assembly, the Government of the Democratic Republic of Azerbaijan, backed by the Turkish army, attempted to include Nagorno Karabagh within its borders. However, the Second and Third Assemblies of Armenians of Karabagh, convened in September 1918, refused to obey the ultimatums of both the Turkish Command and the Government of the Democratic Republic of Azerbaijan.

On February 19, 1919, the Fourth Assembly of Armenians of Karabagh convened in Shushi, decisively refused Azerbaijan's ultimatum and expressed a protest on the appointment of Khosrov bek Sultanov as a Governor-General of Nagorno Karabagh by the approval of the British Command. The Assembly Resolution reads as follows:

*“Definitely insisting on the peoples’ right for self-determination, Armenian population of Karabagh respects the right of self-determination of the neighboring Turkish people, and decisively protests before the whole world those attempts of the Government of Azerbaijan that are aimed to abolish this principle regarding Nagorno Karabagh, which will never accept the authority of Azerbaijan”*³.

The Assembly of Armenians of Karabagh, in a protest note addressed to the British Command, stated that Nagorno Karabagh had never recognized and would never accept the authority of the Government of Azerbaijan within Armenian Karabagh's territory. Relaying

on the fact that the British Command had recognized Armenian Karabagh as a territory not under the control of any state, especially Azerbaijan, until the Paris Peace Conference, the Assembly of Armenians of Karabagh considers the appointment of a British Governor-General as the only acceptable option for the governance of Armenian Karabagh. This refusal to recognize Azerbaijan's authority was reaffirmed by the Fifth Assembly of Armenians of Karabagh, convened on April 23, 1919.

The Sixth Assembly of Armenians of Karabagh convened on June 28, 1919, considering the fact of occupation of the five Armenian villages near the Karabagh's borders by Azerbaijani armed forces, decided to enter into official negotiations with the Government of the Democratic Republic of Azerbaijan with the view to draft a provisional agreement comprised of 25 points. The Assembly formed a commission for the political settlement of this issue.

The Seventh Assembly of Armenians of Karabagh on its fourth session of August 15, 1919 decided to conclude a Provisional Agreement with the Government of the Democratic Republic of Azerbaijan in order to avoid armed conflict. The Provisional Agreement comprised of 26 points was signed on August 22, 1919. Both sides agreed that the problem of Karabagh must be considered and finally resolved at the Paris Peace Conference. The fact that the Government of the Democratic Republic of Azerbaijan entered into agreement with the Seventh Assembly

3. Nagorno Karabagh in 1918-1923: Collection of Documents and Materials, (Yerevan, 1992, p.79, Document №49).

of Armenians of Karabagh is evidence that Karabagh was considered a distinct legal entity.

On November 23, 1919, in Tbilisi, the Prime Minister of the Republic of Armenia Alexander Khatisyan and the Prime Minister of the Democratic Republic of Azerbaijan Nazim Bek Usubekov, in the presence of the Allied High Commissioner, Colonel of the US army James Rey and the Minister of Foreign Affairs of the Republic of Georgia, Acting President Evgeni Gegechkori, signed an Agreement stating that *“The Governments of Armenia and Azerbaijan undertake the commitment to solve all disputed issues, including the border issue, by peaceful negotiations...”*⁴.

The efforts of the Government of Azerbaijan to solve the Karabagh problem by military means, in March 1920, provoked the organization of Karabagh’s self-defense. Soon after, the military units of the Republic of Armenia came to rescue the oppressed population of Karabagh and fully liberate Karabagh.

On April 23, 1920, the Ninth Assembly of Armenians of Karabagh declared Nagorno Karabagh as an inalienable part of the Republic of Armenia. The Assembly Summary Document reads as follows:

“1. The Provisional Agreement signed between the Seventh Assembly of Armenians of Karabagh and the Government of the Democratic Republic of Azerbaijan is pronounced violated due to the continued

aggression of the Azerbaijani troops against peaceful Armenian population and massacres of the population of Shushi and the Armenian villages.

2. Nagorno Karabagh is declared as an inalienable part of the Republic of Armenia”.

The telegram of the Chairman of the Assembly of Armenians of Karabagh of June 9, 1920, addressed to the Chairman of the Armenian delegation in Moscow, stated that the Ninth Assembly of Armenians of Karabagh had adopted a resolution according to which the Provisional Agreement of 1919 was pronounced violated due to the attack of Azerbaijani forces on Shushi; and the Armenian delegation was requested to so inform the Russian Soviet Government.

Thus, during the initial phase of the creation and determination of the borders of the three national states of Transcaucasia, Nagorno Karabagh had never been an integral part of the Democratic Republic of Azerbaijan. From May 1918 until April 1920, when the Democratic Republic of Azerbaijan became Sovietized, Nagorno Karabagh was regarded as a distinct legal entity and all attempts of the Government of the Democratic Republic of Azerbaijan to subjugate Karabagh failed.

As for the position of the international community regarding this issue, the Democratic Republic of Azerbaijan of 1918-1920 has never been formally recognized by the international community,

4. State Historical Central Archive of the Armenian SSR, file. 200, list I, case. 282, pp. 35-36.

and by the League of Nations, in particular. The League not only refused to officially recognize the Democratic Republic of Azerbaijan, but also its application for membership. At its fourth meeting on December 1, 1920, the Fifth Committee of the Assembly of the League of Nations, having examined the request for admission of the Democratic Republic of Azerbaijan, arrived at the following conclusion:

*A. Within the content of Article 1 of the Covenant of the League of Nations, Azerbaijan cannot be regarded as de jure a "full self-governing State", as it had not been recognized de jure by any member of the League of Nations. Moreover, it was stated that the territory of the Republic of Azerbaijan, "occupying a superficial area of 40,000 square miles, appears to have never formerly constituted a State, but has always been included in larger groups such as the Mongol or Persian and since 1813, the Russian Empire. The name Azerbaijan which has been chosen for the new Republic is also that of neighboring Persian province". Furthermore, the ability of the Government of Azerbaijan was questioned as to whether it could undertake international obligations and give guarantees required by membership*⁵ (See Annex 2).

B. "...it is difficult to ascertain the exact limits of the territory within which the Government of Azerbaijan exercises its authority. Owing to the disputes with neighboring States concerning its frontiers,

*it is not possible to determine precisely the present frontiers of Azerbaijan. The provisions of the Covenant did not allow the admission of Azerbaijan to the League of Nations under present circumstances*⁶" (See Annex 3).

The decision of the Fourth Committee was adopted unanimously in the following terms: "*The Committee, after having considered the Report of the Sub-Committee with regard to Azerbaijan's request for admission to the League of Nations, reports unfavorably with regard to its admission and refers the question back to the Assembly*⁷" (See Annex 4).

On August 10, 1920, Soviet Russia and the Republic of Armenia signed an Agreement stating that "*the regions of Karabagh, Zanghezour and Nakhichevan should be occupied by the Soviet troops, but that would not predetermine the final possession of these regions. The solution of the issue was subject to determination by a Pact to be signed between Armenia and Soviet Russia*".

Thus, at that time, Nagorno Karabagh was not recognized as part of Soviet Azerbaijan. Like the position taken by the League of Nations, Soviet Russia, by this Agreement, recognized Nagorno Karabagh as a disputed territory between Soviet Azerbaijan and the Republic of Armenia.

5. Admission of Azerbaijan to the League of Nations, Memorandum by the Secretary-General (November 1920, 20/48/108).

6. League of Nations: Journal N 17 of the First Assembly (Geneva 1920, page 139).

7. League of Nations, The Records of the First Assembly, The Meetings of the Committees, Fourth Committee, page 173.

2. Sovietization Period

On November 30, 1920, the now-Soviet Government of Azerbaijan adopted a Declaration on recognition of Nagorno Karabagh, Zanghezour and Nakhichevan as part of Soviet Armenia as a welcome act towards the victory of Sovietized forces in Armenia. According to this Declaration, the borders previously accepted between Armenia and Azerbaijan were abrogated and Nagorno Karabagh, Zanghezour and Nakhichevan were recognized as an integral part of the Soviet Armenia⁸ (See Annex 5).

In its Declaration on “The Establishment of the Soviet Power in Armenia” of December 2, 1920, the Azerbaijani Revolutionary Committee recognized only Nagorno Karabagh’s right for self-determination⁹. Nonetheless, this recognition was equivalent to the proclamation of Nagorno Karabagh as an integral part of Soviet Armenia, as the will of its people could not be distrusted.

On December 2, 1920, Sergo Ordjonikidze, Extraordinary Commissar for the South Russia, in his telegram addressed to the leadership of the Soviet Russia referred to the Declaration of Soviet Azerbaijan on the transfer of Nagorno Karabagh, Zanghezour and Nakhichevan to Soviet Armenia¹⁰. This fact of transfer was also mentioned in the Statement of Joseph Stalin of December 4, 1920, which affirmed that “*on the 1st of December*

*Soviet Azerbaijan voluntarily refused to have any claims on the disputed regions and declared the transfer of Nagorno Karabagh, Zanghezour and Nakhichevan to Soviet Armenia*¹¹ .

On June 12, 1921, Alexander Miasnikyan, Chairman of the Council of People’s Commissars of the Armenian SSR, issued the following Decree: “*On the basis of the Declaration of the Revolutionary Committee of the Soviet Socialist Republic of Azerbaijan, and the Agreement between the Socialist Republics of Armenia and Azerbaijan, it is declared, that from now on Nagorno Karabagh is an inseparable part of the Soviet Socialist Republic of Armenia*”¹².

The Central Committee of Communist Party-Bolsheviks of Armenia by its Decree of June 15, 1921, declared Nagorno Karabagh as an inseparable part of the Armenian SSR. It was also decided to delegate representatives to Nagorno Karabagh headed by Askanaz Mravyan authorizing him with a right to act on the name of the Council of People’s Commissars of the Armenian SSR on the all issues concerning Karabagh.

In July 1921, the Azerbaijan SSR insisted on examining Nagorno Karabagh issue at the Plenary Session of the Caucasian Bureau (Kavbureau)

8. Newspaper “Communist”, December 7, 1920, Yerevan (Armenian publication).

9. Newspaper “Communist”, December 2, 1920 (Russian publication).

10. Newspaper “Izvestia”, N 273, December 4, 1920 (Russian publication); G.Ordjonikidze: Articles and Speeches, V. I, Moscow, 1956, p. 140.

11. J.V. Stalin “Collected Works”, Volume 4, p. 414.

12. Newspaper “Khorhrdain Hayastan”, Yerevan, June 19, 1921 (Armenian publication); “Bakinski Rabochi”, Baku, June 22, 1921 (Russian publication).

of the Central Committee of the Russian Communist Party-Bolsheviks (RCP-B).

On July 4, 1921, in Tbilisi, Georgia, the members of the Caucasian Bureau of the RCP-B declined a formula suggested by the Azerbaijani representative, Nariman Narimanov, to *“leave Karabagh in the Azerbaijan SSR” and decided to “include Nagorno Karabagh in the Armenian SSR, and to conduct a plebiscite in Nagorno Karabagh only”*. However, during the nights of July 4 and 5, 1921, a new decision was drafted, dictated by Moscow. The first paragraph of the new decision stated: *“Proceeding from the necessity of establishing peace between Muslims and Armenians... leave Nagorno Karabagh in the Azerbaijan SSR, granting it wide regional autonomy with an administrative centre of Shushi, included in the autonomous region”*. During that night J.Stalin, Moscow’s representative, failed to succeed in getting approval of the majority of the members of the Plenary Session. Decision of July 5, 1921, can thus be considered null and void as it was neither discussed nor voted upon. De jure, only the previous decision of July 4, 1921, to *“include Nagorno Karabagh in the Armenian SSR, and to conduct a plebiscite in Nagorno Karabagh only”* was the last legal document on the status of Nagorno Karabagh to be legally adopted without procedural violations¹³.

As these facts demonstrate, Nagorno Karabagh did not belong to the Azerbaijan SSR, neither during the Sovietization of Azerbaijan, nor after the establishment of the Soviet power in Armenia, when Baku recognized all disputed territories as Armenian. On the other hand, with or without procedural violations, the legitimacy of this forum is seriously questioned. Decision of the Caucasian Bureau of the Central Committee of the Russian Communist Party-Bolsheviks is an unprecedented legal act in the history of International Law: the political party of a third country, with no legal power or jurisdiction, decided the status of the territory of Nagorno Karabagh.

On December 25, 1921, the IX Conference of Soviets (All-Russian) approved the Annual report of the People’s Commissariat for Foreign Affairs of the RSFSR for 1920-1921. In Chapter 3 (“The Caucasus”) it was stated that: *“In July, an agreement is being signed with Azerbaijan on Nagorno Karabagh, which is being included in the Soviet Armenia”*¹⁴. This record can serve as another evidence of illegality of the July 5, 1921, decision of the Caucasian Bureau of the Central Committee of the Russian Communist Party on the transfer of Nagorno Karabagh to the Azerbaijan SSR.

13. Knowing that the July 5 Decision could be disputed because of procedural errors, Baku decided to “fix” the true story. In 1989, a publication of documents and materials on the history of the creation of the Nagorno Karabagh Autonomous Region the following text was included as an addition to the decision: “Vote: Yes-4, Abstentions-3 “. In their haste, the “editors” in Baku had forgotten that the Plenary Session had nine members and that, according to its own voting rules, four votes were not enough to pass a decision.

14. USSR Foreign Policy Documents, Volume IV, Moscow, 1960.

On July 7, 1923, the Azerbaijan SSR's Central Executive Revolutionary Committee established the Nagorno Karabagh Autonomous Oblast/Region (NKAO) only on the Armenian populated part of its territory, thus artificially isolating NKAO from the Armenian SSR and deprived of a common border.

On November 24, 1924 decision "On the Status of the Autonomous Region of Nagorno Karabagh" was issued.

During the Sovietization period the issue of the legal status of the NKAO was discussed in 1977 in the framework of the nation-wide discussions of the new USSR Constitution. In the Session Protocol of the Presidium of the Council of Ministers of the USSR of November 23, 1977, it was mentioned that "As a result of a number of

historic circumstances, Nagorno Karabagh was artificially annexed to Azerbaijan several decades ago. In this process, the historic past of the oblast [region], its ethnic composition, the will of its people and economic interests were not taken into consideration. Decades passed, and the Karabagh problem continues to raise concern and cause moments of animosity between the two peoples, who are connected with ages-old friendship. Nagorno Karabagh (Armenian name - Artsakh) should be made part of the Armenian Soviet Socialist Republic. In this case everything will take its legal place¹⁵" (See Annex 6).

15. Newspaper "Communist", April 13, 1990.

3. Nagorno Karabagh Under Perestroika

On February 20, 1988, a session of the Regional Council of Delegates of the NKAO adopted a Resolution making an appeal to the Supreme Soviets of the Azerbaijan SSR and the Armenian SSR to withdraw the Nagorno Karabagh Autonomous Oblast/Region from the Azerbaijan SSR and transfer it to the Armenian SSR¹⁶. At the same time, an appeal was sent to the Supreme Soviet of the USSR for the approval of this Resolution.

On June 13, 1988, the Supreme Soviet of the Azerbaijan SSR denied the application of the Regional Council of Delegates of the NKAO¹⁷. While, on June 15, 1988, the Supreme Soviet of the Armenian SSR approved Karabagh's request and decided to appeal to the Supreme Soviet of the USSR for the resolution of the issue.

In response to the peaceful appeal of the Regional Council of Delegates of the NKAO to discuss and decide the issue of the transfer of NKAO from the Azerbaijan SSR to the Armenian SSR, which was not an act of unilateral secession, but rather a political appeal made in accordance to the existing USSR legislation and the norms of International Law, the authorities of the Azerbaijan SSR, used the ambivalent stance of the Soviet leadership to launch a ferocious media campaign in order to shift the whole problem into the inter-

ethnic domain; and in 1988-1992, instead of finding a peaceful solution to the issue, provoked violence, massacres and forced deportations of Armenians throughout Azerbaijan¹⁸.

The European Parliament in its Resolution on "The Situation in Soviet Armenia" of July 1988, taking into consideration the historic status of the Nagorno Karabagh Autonomous Oblast/Region as an integral part of Armenia, the arbitrary inclusion of the area within Soviet Azerbaijan and the massacre of Armenians in the Azerbaijani town of Sumgait in 1988, condemned the violence employed against Armenians in the Azerbaijan SSR and supported the demand of the Karabagh Armenians for the reunification with the Soviet Socialist Republic of Armenia. It also called on the Supreme Soviet of the USSR to study the compromise proposals from the Armenian delegates suggesting that Nagorno Karabagh be temporarily governed by the central administration in Moscow, temporarily united to the Russian Federation or temporarily placed under the authority of a "Presidential Regional Government" (See Annex 7).

On July 18, 1988, the Supreme Soviet of the USSR, citing Article 78 of the 1977 Soviet Constitution, which prohibited any territorial changes to a Union Republic

16. Newspaper "Soviet Karabagh", February 20, 1988, Stepanakert (Russian publication).

17. Newspaper "Bakinski Rabochi", June 14, 1988, Baku (Russian publication).

18. Sumgait massacres of February 1988; the Armenian pogroms throughout Azerbaijan, particularly in Baku, Kirovabad, Shemakh, Shamkhor, Mingechaur, in the Nakhichevan ASSR in November-December 1988; the major massacre of Baku in January 1990; the forced deportation of 24 Armenian villages in 1990 as a result of the "Operation Ring": 2 villages in the Khanlar region of Azerbaijan, 3 in the Shahumian district, 15 in the Hadrout region and 4 in the Shushi region; and the Maragha massacre of April 1992.

without its consent¹⁹, decided to leave Nagorno Karabagh within the Azerbaijan SSR. By the Resolution of the Central Committee of the Communist Party of the Soviet Union of March 24, 1988, and according to subsequent implementation directives of the government, an authorized representative of Moscow was appointed to the territory.

With a view to regulating the existing situation, on January 20, 1989, the Supreme Soviet of the USSR, by its Decision of January 12, 1989, established the NKAO Special Administration Committee which was under direct supervision of the Soviet Central Government. Thus, the USSR Central Government ascertained Azerbaijan's inability to exercise formal control over the territory of Nagorno Karabagh. As a result, the overall supervision of the economy, internal governance bodies, cultural and educational institutions of Nagorno Karabagh was transferred to the appropriate institutions of the Soviet Union and the Armenian SSR. By the end of 1989, Nagorno Karabagh was therefore no longer under Azerbaijan's administrative control and de facto not within the Azerbaijan SSR.

On July 19, 1989, the US Senate passed a Resolution entitled "The US assistance in peaceful regulation of the Nagorno Karabagh dispute at the basis of the desire of the people of the Soviet Armenia".

In the summer of 1989, the authorized representatives of the people of Nagorno Karabagh formed a National Council.

On November 19, 1989, the US Senate in its Joint Resolution №178 expressed its support for the fair resolution of the Nagorno Karabagh dispute: *"Whereas 80 percent of Armenian majority in the region of Nagorno Karabagh has continually expressed its desire for self-determination and freedom... promote in its bilateral discussions with the Soviet Union an equitable settlement to the dispute over Nagorno Karabagh, which fairly reflects the views of the people of the region"* (See Annex 8).

On November 28, 1989, the Supreme Soviet of the USSR dissolved the NKAO Special Administration Committee and, on January 15, 1990, decided to replace it with a "Republican Organizational Committee" (Orgkom) of the Azerbaijan SSR.

On December 1, 1989, the Supreme Soviet of the Armenian SSR adopted a Resolution calling for the reunification of the Armenian SSR and Nagorno Karabagh.

On November 23, 1991, the Supreme Soviet of Azerbaijan, having already declared its own independence from the USSR, adopted a Law on "Abolition

19. Article 78 of the USSR Constitution stated: "The territory of a Union Republic may not be altered without its consent. The boundaries between Union Republics may be altered by mutual agreement of the Republics concerned, subject to ratification by the Union of Soviet Socialist Republics".

of the Nagorno Karabagh Autonomous Oblast”²⁰ (See Annex 9). Also, the Law called for renaming of certain Armenian cities, including Stepanakert. Such measures violate international practice, because, in such cases, the opinion of the local population is required via referendum. In doing so, Azerbaijan violated its own Law of June 16, 1981, which was adopted to regulate relations between the Azerbaijan SSR and Nagorno Karabagh Autonomous Oblast. This Law prohibited infringement of Nagorno Karabagh Autonomous Oblast’s borders without the latter’s explicit consent.

On November 28, 1991, the USSR Constitutional Oversight Committee Resolution found the USSR Supreme Soviet’s November 28, 1989, Decision on “Measures to normalize the situation in the Nagorno Karabagh Autonomous Oblast”²¹ unconstitutional, as well as Azerbaijan’s Decision of November 23, 1991, abolishing the Nagorno Karabagh Autonomous Oblast/Region. It also revoked the December 1, 1989 Armenian Resolution on “Reunification of the Armenian SSR and the Nagorno Karabagh Autonomous Oblast”. Thus, this Resolution restored Nagorno Karabagh’s pre-1988 status.

20. Law on Abolition of Nagorno Karabagh Autonomous Region was based on the second paragraph of Article 104 and the third paragraph of Article 68 of the 1978 Constitution of the Republic of Azerbaijan and on Article 4 of the Constitutional Act on State Independence of the Republic of Azerbaijan (adopted on October 18, 1991).

21. The USSR Constitutional Oversight Committee found that the decision of November 28, 1989, hindered the restoration of the constitutional bodies of authority and government in the Nagorno Karabagh Autonomous Oblast/Region and hindered the realization of the rights of people of Nagorno Karabagh as provided by Articles 39 and 48 of the Constitution of the USSR, which determine the principle of general, equal and private electoral right.

4. Rejection of Soviet Legal Heritage by the Republic of Azerbaijan

On August 30, 1991, the Azerbaijan SSR's Supreme Soviet adopted a Declaration on "Re-establishment of the State Independence of the Republic of Azerbaijan" as it existed in 1918-1920²².

On October 18, 1991, the Republic of Azerbaijan confirmed its independence by the adoption of a "Constitutional Act on State Independence", which politically and legally meant that the Azerbaijan SSR withdrew from the USSR. This Constitutional Act forms an inseparable part of the 1995 Constitution of the Republic of Azerbaijan (amended by the August 24, 2002 referendum). The same Constitutional Act considered the establishment of the Soviet power in Azerbaijan as "annexation by Soviet Russia" which "overthrew Azerbaijan's legal Government". Thus, the Republic of Azerbaijan declared the establishment of the Soviet power in Baku illegal, and rejected the whole Soviet political and legal heritage. The Constitutional Act reads as follows:

"(...) Article 2. The Republic of Azerbaijan is the successor of the Azerbaijani Republic, which existed from May 28, 1918 till April 28, 1920.

Article 3. The Treaty on the establishment of the USSR of December 30, 1922 is considered not valid in the part related to Azerbaijan from the moment of signing it.

All questions arising from the relations with sovereign states included in the Union SSR are subject to regulation by treaties and agreements.

Article 4. The Constitution of Azerbaijan of 1978 is in force so far as it does not contradict the provisions of this Constitutional Act.

All previous acts that were in force in Azerbaijan before the proclamation of the state independence will be in force so far as they do not contradict the sovereignty and territorial integrity of Azerbaijan and are not abolished or changed by the order determined by law. Until the adoption of appropriate laws of the Republic of Azerbaijan, the list of the USSR laws being in force in the territory of Azerbaijan is subject to determination by the Parliament of the Republic of Azerbaijan.

(...) Article 15. On the Territory of the Republic of Azerbaijan, Azerbaijan's Constitution and laws have exclusive legal force.

The legislative power is limited to the Constitution of the Republic of Azerbaijan; the executive and judicial powers are limited to the Constitution of the Republic of Azerbaijan and law. The Constitution of the Republic of Azerbaijan should be adopted via referendum held by the decision of the Parliament of the Republic of Azerbaijan among the whole population of the Republic²³.

22. Newspaper "Bakinski Rabochi", August 31, 1991 (Russian publication).

23. Constitutional Act on the State Independence of the Republic of Azerbaijan, Baku, 7.11.1991.

Baku clearly understood that if it were to accept the Soviet legal heritage (1920-1991), it would have to accept the status of the Nagorno Karabagh as legal. In that case, the USSR Law on “The Procedures of the Resolution of Problems on the Secession of a Union Republic from the USSR” could be applied²⁴ (See Annex 10).

The Azerbaijan SSR was the only Soviet Republic whose borders were determined by International Treaties (the Treaty of Moscow of March 16, 1921 and the Treaty of Kars of October 13, 1921), which were never denounced by Azerbaijan. It is the only Soviet Republic whose territorial integrity loses its basis without these Treaties and outside of the Soviet legal heritage.

When the Republic of Azerbaijan rejected the Soviet legal heritage in 1991, the international subject to which the territories were passed in 1920 ceased to exist. By rejecting the legal heritage of the Azerbaijan SSR of 1920-1991, the Republic of Azerbaijan has lost all claims to the territories passed to Soviet Azerbaijan in July, 1921 - namely Nagorno Karabagh - even if the latter’s act of transfer was legitimate²⁵.

As for the norm of Article 4, paragraph 2, of the Constitutional Act on State Independence of the Republic of Azerbaijan, stipulating that all previous acts being in force in Azerbaijan before gaining state independence will be in force as far as they do not contradict the sovereignty and territorial integrity of Azerbaijan, it can be regarded as an abstract and discriminatory norm, which is a legal fiction. Also, this norm contradicts the provisions of Article 15 proclaiming that the Constitution and Laws of Azerbaijan have exclusive legal force on the territory of the Republic of Azerbaijan.

Furthermore, from spring 2008 until fall 2009, the Republic of Azerbaijan conducted an international celebration of the 90th anniversary of the establishment of the Democratic Republic of Azerbaijan, the creation of Azerbaijani armed forces and the parliament, the 90 year achievements of Azerbaijani diplomacy, etc. These celebrations were devoted to affirming the fact that the Republic of Azerbaijan is the legal and political successor of the Democratic Republic of Azerbaijan of 1918-1920.

24. See Chapter 5. “Sovereignty of Nagorno Karabagh Under Domestic Legislation of the Former USSR”.

25. See Chapter 2. “Sovietization Period”.

5. Sovereignty of Nagorno Karabagh Under Domestic Legislation of the Former USSR

In the USSR, the legal status of the Nagorno Karabagh Autonomous Oblast/Region was determined within a unique legal framework under the absolute legal force of the USSR Constitution. It was demonstrated by the primary references to the USSR Constitution in all Laws concerning the NKAO. Particularly, the Law on “The Nagorno Karabagh Autonomous Oblast/Region” of June 16, 1981 (amended as of July 22, 1982, June 27, 1985 and April 14, 1986) of the Azerbaijan SSR (Articles 1 and 2) defined the status of the NKAO first of all in compliance with the USSR Constitution, then in accordance to the Constitution of the Azerbaijan SSR. According to the provisions of this Law the National Deputies’ Council of the NKAO was assigned as the only state authority delegated to exercise state, economic, social, and cultural activities in the territory of the NKAO (Articles 10 to 13).

The issue of the borders of the NKAO was guaranteed by the same principle as that holding in the case of a Union Republic; specifically, Article 3 of the Law stated that: *“the territory of the Autonomous Oblast may not be altered without the consent of the National Deputies’ Council of the Nagorno Karabagh Autonomous Oblast”*. Legally, it means that the NKAO had the same degree of jurisdiction over its territory and borders as the Azerbaijan SSR had over its territory and borders. There is, however, an important difference between the two respective entities in terms of their ability to make territorial changes.

Jurisdiction of the NKAO over its territory was exclusive since the authority to change the territory or the borders was granted solely to the National Deputies’ Council of the NKAO; neither the authorities of the USSR, nor those of the Azerbaijan SSR had any jurisdiction to interfere. In contrast, any changes to the borders of the Azerbaijan SSR were dependent on the votes of the Armenian deputies elected to the Supreme Soviet of the Azerbaijan SSR.

Likewise the Union Republics, representatives of the NKAO, within fixed quotas, were also engaged in the works of the highest bodies of the Soviet Union: according to the provisions of Article 110 of the USSR Constitution, five deputies from the NKAO were elected to the Council of Nationalities of the USSR. Thus, within the USSR legal system, the NKAO and the Azerbaijan SSR were entities having extremely similar legal status in terms of the key attributes of statehood.

On September 2, 1991, Nagorno Karabagh, in compliance with domestic Soviet Law, initiated the process of independence through the adoption by the Local Councils of Nagorno Karabagh of the “Declaration of Independence of the Republic of Nagorno Karabagh”²⁶. This act was not only in full conformity with the existing Soviet Legislation, but once again endorsed the fact that on the territory of Nagorno Karabagh only the Laws of the USSR were being in force. The Soviet Law of April 3, 1990 on “The Procedures of the

26. This Declaration proclaimed the Republic of Nagorno Karabagh within the present borders of Nagorno Karabagh Autonomous Oblast/Region and adjacent Shahumian region.

Resolution of Problems on the Secession of a Union Republic from the USSR”- particularly Articles 1, 3, 4, 5, 6, 7, 8, 13, 14, 15 and 16 - provided that the secession of a Soviet Republic from the body of the USSR allows an Autonomous Region within the territory of the same Republic to trigger its own process of independence. In fact, this Law defined the legal scope for the possible collapse of the USSR and endorsed the supremacy of the principle of self-determination of peoples in relation to the principle of territorial-administrative boundaries within the USSR.

Laws adopted by the Supreme Soviet were at the highest level in the Soviet normative hierarchy and had an absolutely binding character for all the members of the USSR. At the time of adoption of this Law, and for more than a year thereafter, Azerbaijan was a member of the Union and thus still bound by its provisions.

On December 10, 1991, the Republic of Nagorno Karabagh held its own referendum on independence in the presence of international observers and media representatives²⁷. This referendum was in conformity with Article 3 of the Soviet law on “The Procedures of the Resolution of Problems on the Secession of a Union Republic from the USSR”, which stipulated that Referendum on independence in a Union Republic that “*includes Autonomous Republics, Autonomous Regions or any type of similar distinct territories within*

its borders, referendums may be conducted separately in each of the autonomies... ”.

A total of 82.2 percent of Karabagh’s registered voters participated in the elections and overwhelmingly (99 percent in favor of independence, 107,648 persons) supported Nagorno Karabagh’s independence from the already seceded Republic of Azerbaijan. As a result, Nagorno Karabagh was the only Autonomous Region of the USSR that gained independence according to existing domestic legislation.

Following the results of the referendum, on December 12, 1991, an Act on “The Results of the Referendum on Independence of the Republic of Nagorno Karabagh” was adopted and signed by independent observers, which confirmed the fact that the preparatory, organizational and implementation procedures were carried out in conformity with the previously adopted “Interim Provisions on Organization of a Referendum in Nagorno Karabagh Republic”. According to this Act, no violations were recorded by the observers during voting, delivery of bulletins and vote count.

On December 10, 1991, the Central Electoral Committee of the Nagorno Karabagh Republic adopted an “Act on Referendum”, which confirmed the fact that 22,747 persons of Azerbaijani origin, who did not participate in the referendum, were previously notified and given the appropriate documents on

27. The observers were the representatives of the former Union Republics, deputies of Supreme Soviets of the USSR, RSFSR, MosSoviet and representatives of various international organizations and foreign states.

the referendum. It also stated that the military units of Stepanakert, because of political considerations, did not participate in the referendum. The Act recorded no grievances regarding any violations in the organization of the referendum.

On December 28, 1991, Parliamentary elections were held in the Republic of Nagorno Karabagh.

On January 6, 1992, the Supreme Council of the Republic of Nagorno Karabagh adopted the Declaration on “State Independence of the Republic of Nagorno Karabagh” with a view to regulating relations between the Azerbaijani and Armenian nations, ensuring the right of people for self-determination and reiterating Nagorno Karabagh’s experience of self-governance as it existed during 1918-1920. This Declaration and the Universal Declaration of Human Rights formed the basis for the elaboration of the Constitution and Legislation of the Nagorno Karabagh Republic.

On January 8, 1992, the National Assembly of the Nagorno Karabagh Republic adopted the Constitutional Law on “Basic Principles of the State Independence of the Nagorno Karabagh Republic”, which proclaimed the Nagorno Karabagh Republic an independent,

democratic state, that independently defines the forms of cooperation with other states. According to the provisions of this Law, the territory of the Nagorno Karabagh Republic may not be altered without the consent of the National Assembly of the Nagorno Karabagh Republic based on the free will of its population expressed via Referendum. The borders of the Nagorno Karabagh Republic with other states may be changed by mutual Agreements of the concerned sides. The constitutional and legal status of the Nagorno Karabagh Republic may not be altered without the consent of the National Assembly of the Nagorno Karabagh Republic.

On September 20, 1992, the National Assembly of the Republic of Nagorno Karabagh petitioned the United Nations, the Commonwealth of Independent States, and individual countries to recognize the Nagorno Karabagh Republic.

The Resolution of the European Parliament on “Support for the Peace Process in the Caucasus” of June 21, 1999, recognizes the fact that “... the Autonomous Region of Nagorno Karabagh declared its independence following similar Declarations by former Soviet Socialist Republics after the collapse of the USSR in September, 1991”²⁸ (See Annex 11).

28. Official Journal of the European Communities, C 175/251.

6. Azerbaijan's Policy of Ethnic Cleansings as a violation of International Law

Throughout the history of Azerbaijani rule over Nagorno Karabagh, Baku's policy has always been characterized by xenophobia, persistent and continuous violation of basic rights and discrimination of the Armenian population. Baku carried out systematic ethnic cleansings that hampered the demographic image of Karabagh.

Considering the Nagorno Karabagh Autonomous Oblast/Region only as a supplier of raw materials in the course of 70-80th of the 20th century the authorities of the Azerbaijan SSR allocated almost no funds for the development of road infrastructure in the NKAO, thereby making it fully dependent upon the infrastructures of the surrounding Azerbaijani regions²⁹. Measures hampering the social and economic development of the NKAO were combined with a policy of discrimination against Armenians: obvious and brutal interventions into spiritual and cultural life of Armenians, systematic insults and harassment of their national dignity. Many Armenian schools, churches, and monasteries were shut down, and priests were prosecuted³⁰. Historical records proving Armenians as being the native population of Karabagh were intentionally altered. Radio and television broadcasts from Yerevan were banned. Quotas allocated to the Union Republics for seats in higher education institutions were never granted to the NKAO, and Karabagh

Armenians who had received higher education in the Armenian SSR, were denied employment anywhere within the entire territory of the Azerbaijan SSR.

Azerbaijan's discrimination towards Nagorno Karabagh had its impact on the welfare of its Armenian population and became a major migration factor. As a result, the Armenian population declined: while Armenians constituted 94.4 percent of the entire population of Nagorno Karabagh in 1923, their numbers dropped down to 76.9 percent of the population by 1989. Meanwhile, the Azerbaijani population of Nagorno Karabagh increased several times as its growth was predominantly sustained by the influx from Azerbaijan: in 1923, Azerbaijanis constituted 3 percent of the population of the area, and by 1989 their number increased up to 21,5 percent³¹.

An obvious example of the discriminatory policy of the Azerbaijan SSR was the July 7, 1923 Decision of Soviet Azerbaijan's Central Executive Revolutionary Committee on "The Creation of the Autonomous Oblast/Region of Nagorno Karabagh" which breached the geographical and ethnic borders of the Autonomous Oblast that had been determined by the July 4, 1921 Decision of the Caucasian Bureau of the Central Committee of the Russian Communist Party-Bolsheviks, and formed the Autonomous Oblast of Nagorno

29. "The People's Economy of the Azerbaijan SSR" confirms that per capita investments in Nagorno Karabagh in 1981-1985 were 2 times less than the average in Azerbaijan, and in 1986, this number declined to 2.7 times less than the average.

30. In comparison to 1931 when there were 112 churches and 18 monasteries operating in the NKAO, from 1932 to 1989 there was no single functioning church or monastery. Between 1955-1988, numerous appeals by His Holiness Vazgen I, Supreme Patriarch and Catholicos of All Armenians, to the authorities of the Azerbaijan SSR to have a single operating monastery in Nagorno Karabagh were rejected. (See Newspaper "Communist", 30 March 1990, Interview with the Bishop Pargev Martirosian of Artsakh diocese).

31. See V.Khojabekyan: "Reproduction and Migration of the Population of Armenia in XIX-XX Centuries", Yerevan, 2002.

Karabagh only on the Armenian populated part of its territory.

Furthermore, under the terms of Item 2 of the November 24, 1924 Decision on "The Status of the Autonomous Region of Nagorno Karabagh", the official language for executive functions, judicial processes, and education within the region was declared to be an undefined "native language" rather than Armenian (the language of the vast majority of the population).

Discriminatory policy of the authorities of the Azerbaijan SSR was carried out in breach of the domestic legislation. Particularly the Law of the Azerbaijan SSR on "Nagorno Karabagh Autonomous Oblast" of June 16, 1981 (amended as of July 22, 1982, June 27, 1985 and April 14, 1986) guaranteed the equality of all citizens of the NKAO in economic, political, cultural and social spheres regardless of their educational, linguistic, sexual, racial, religious, ethnic particularities, and social origin. It also allowed citizens to freely use their native language or any other language of the nations of the USSR. In addition, the Law laid out clear responsibilities for the planning and execution of a social and economic development program for the

NKAO that was an integral part of the State Development Plan of the Azerbaijan SSR.

Azerbaijan's policy of ethnic cleansings violated the main principles of modern International Law. The forced displacement of the population contradicts many international human rights documents that provide direct and indirect protection against ethnic cleansings³², including the right of everyone to life and freedom, to maintain property, liberty of movement, etc. These rights have been also endorsed by the decisions of the European Court of Human Rights. Moreover, many international documents consider mass deportation as a demonstration of racial, religious and other discrimination. Particularly, the Committee on the Elimination of Racial Discrimination (CERD)³³ in its Decision 2 (47) on "The Situation in Bosnia and Herzegovina" of 17 August 1995 declared that "*any attempt to change or to uphold a changed demographic composition of an area, against the will of the original inhabitants, by whichever means is a violation of International Law*"³⁴. Ethnic cleansings were also condemned by the Tokyo and Nuremberg Trials, as well as in accusations laid against Serb leaders by the UN. In the framework of the UN,³⁵ forced mass displacement is considered a crime against humanity and falls under the

32. The Universal Declaration of Human Rights of 1948 (Articles 1, 2, 7), the International Covenant on Civil and Political Rights of 1966 (Articles 2 and 26).

33. The Committee monitors implementation of the International Covenant on Elimination of All Forms of Racial Discrimination (1966); examines the initial and periodic reports of the State Parties and makes relevant recommendations. On 27 September 2001 the Government of the Republic of Azerbaijan declared that it recognized the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation of any of the rights set forth in the above-mentioned Convention.

34. A/50/18, 1995, para. 26.

35. See the UN Security Council 771 (1992), 780 (1992), 808 (1993), 820 (1993), 941 (1994) and General Assembly 46/242 and 47/80 Resolutions.

jurisdiction of the International Criminal Court.³⁶

Thus, references made in all documents forming the legal basis for the creation of the Republic of Nagorno Karabagh, particularly in the "Declaration of Independence of the Republic of Nagorno Karabagh" of September 2, 1991, to the policy of apartheid and discrimination carried out by the authorities of Azerbaijan, which have resulted in creation of an atmosphere of hate and intolerance against Armenians all over the country, and caused armed conflict, human losses and forced displacement are the most important arguments for the independence of the Republic of Nagorno Karabagh.

Armenian cultural and historical heritage of Karabagh was also subject to a discriminatory policy. Armenian monuments of Karabagh comprised a vast majority in the territory of the Azerbaijan SSR (accounted almost 11,000 monuments)³⁷. However, Decision of the Council of Ministers of the Azerbaijan SSR of April 2, 1968, that affirmed the list of 591 monuments being under the state protection, contained only 25 Armenian monuments and solely from the territory of the NKAO and without having mentioned

their distinguishing national belonging³⁸.

Discriminatory policy of the authorities of the Azerbaijan SSR towards the cultural and historical heritage of Karabagh was carried out in the following ways³⁹:

- *Armenian monuments intentionally were not mentioned in all official publications, directories and guidebooks;*

- *National, cultural and religious belonging of Armenian monuments was misrepresented⁴⁰;*

- *Armenian cultural and historical monuments were systematically and deliberately obliterated, all forms of vandalism were encouraged⁴¹ (several Armenian masterpieces were demolished, particularly the Complex of Dadivank, Monasteries of Amaras and Khalankhatuik, caves of Azokh and Major Taghlar, the Church of Kazanchetsots of Christ the Savior of Shushi three times was set to fire, etc.);*

- *During renovation works Armenian monasteries were turned into Muslim buildings or buildings for a public use (as in 1970s the Church of St. Sargis of Andcak, the Church of Kanach-Zham turned into gallery of mineral waters, the Church of*

36. See the Rome Statute of the ICC of July 17, 1998, Article 7.

37. Newspaper "Communist", "The Stance on the Past as a Pledge for the Future" L.Barsegyan, A.Grigoryan, October 7, 1989.

38. "Haykakan Banber" Periodical, № 3/17/, February 1991.

39. See Arsen Melik-Shakhnazarov "Nagorno Karabagh:Facts against false", Moscow, 2009, p. 163.

40. In 1960-1970 the unscientific theory elaborated by the National Academy of Sciences of the Azerbaijan SSR "proved" the belonging of all Christian monuments of the country to the "Caucasian Albanians". Decision N 145 of the Council of Ministers of the Azerbaijan SSR of April 27, 1988, affirmed the list of the cultural and historical monuments of the Nagorno Karabagh Autonomous Oblast describing them as Albanian and consequently of Azeri origin.

41. Barbaric destruction of the Armenian monuments of Karabagh were witnessed by various researchers, particularly in the works of the outstanding researcher of the Armenian architecture Samvel Karapetian's "Armenian Cultural Monuments in the Region of Karabagh" (Yerevan, 2000) and the British researcher Tomas de Waal's "Black Garden" (Moscow, 2005).

Meghretsots turned into summer cinema, etc.);

- Soviet and foreign expeditions examining Armenian historical and cultural monuments were hindered or denied at a state level.

Azerbaijan's policy of vandalism also violated the USSR legislation, particularly the Article 27 of the 1977 USSR Constitution, which guaranteed the protection, augmentation and extensive utilization of society's cultural wealth for the moral and aesthetic education of the Soviet people, for raising their cultural level, and encouraged the development of the professional, amateur and folk arts in every way.

Besides, Azerbaijan violated international instruments recognizing the duty of a state to ensure the identification, protection, conservation, presentation, and transmission to future generations of the cultural and natural heritage situated on its territory, in times of peace and war. The protection of cultural property, comprised of safeguarding and respecting such property, is provided for in the following international documents:

- 1899 and 1907 Hague Conventions and, in particular, Articles 27 and 56 of the Regulations of 1907 Fourth Hague Convention⁴²;

- Roerich Pact on Protection of Artistic and Scientific Institutions and Historic Monuments (April 15, 1935)⁴³;

- Article I (2) of the UNESCO Constitution that entrusts the organization with the task of maintaining, increasing and diffusing knowledge by "assuring the conservation and protection of the world's inheritance of books, work of art and monuments of history and science, and recommending to the nations concerned the necessary international conventions"⁴⁴;

- UNESCO Convention for the Protection of Cultural Property in the Event of Armed Conflict (May 14, 1954, Hague Convention) and its two Protocols⁴⁵ (May 14, 1954 and March 26, 1999) and the Additional Protocols I and II to the Four 1949 Geneva Convention⁴⁶;

- European Cultural Convention (May 5, 1955)⁴⁷;

- UNESCO Recommendation on International Principles Applicable to Archaeological Excavations (December 5, 1956);

- UNESCO Recommendation concerning the Preservation of Cultural Property Endangered by Public or Private Works (November 19, 1968);

- UNESCO Recommendation concerning the Protection, at National Level, of the Cultural and Natural Heritage (November 16, 1972);

- UNESCO Recommendation concerning the Safeguarding and

42. Azerbaijan is not a party to these Documents.

43. Azerbaijan is not a party to this Document.

44. Azerbaijan is a member of UNESCO since June 3, 1992.

45. Azerbaijan is a party to these Documents (to Convention and I Protocol since September 20, 1993, and to Protocol II since April 17, 2001).

46. Azerbaijan is a party to the Convention, but not to its two Protocols.

47. Azerbaijan acceded to this Convention on April 25, 1997.

Contemporary Role of Historic Areas (November 26, 1976);

- UNESCO Declaration of Principles of International Cultural Co-operation (November 4, 1966);

- Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Cultural Property (November 14, 1970)⁴⁸;

- European Convention on the Protection of the Archaeological Heritage (November 20, 1970; revised as of January 16, 1992)⁴⁹;

- UNESCO Convention concerning the Protection of World Cultural and Natural Heritage (November 16, 1972)⁵⁰;

- International Covenant on Economic, Social and Cultural Rights (Article 15) (January 3, 1976)⁵¹;

- Convention for the Protection of the Architectural Heritage of Europe (October 3, 1985)⁵²;

- European Convention on Offenses Relating to Cultural Property (June 23, 1985)⁵³;

- European Landscape Convention (October 20, 2000)⁵⁴;

- UNESCO Declaration concerning the Intentional Destruction of Cultural Heritage (October 17, 2003);

- Articles 8(2) (b) (ix) and 8 (2) (e) (iv) of the Rome Statute of the International Criminal Court, and, as appropriate, Article 3 (d) of the Statute of

the International Criminal Tribunal for the former Yugoslavia, related to the intentional destruction of cultural heritage;

- UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression (October 20, 2005)⁵⁵;

- Council of Europe Framework Convention on the Value of Cultural Heritage (October 27, 2005)⁵⁶;

- UN General Assembly Resolutions on "Culture and Development": 41/187 (December 8, 1986), 46/158 (December 19, 1991), 51/179 (December 16, 1996), 52/197 (December 18, 1997), 53/184 (December 15, 1998), 55/192 (December 20, 2000) and 57/249 (December 20, 2002);

- UN General Assembly Resolutions 53/22 on the United Nations Year of Dialogue among Civilizations (November 4, 1998) and 56/6 on the Global Agenda for Dialogue among Civilizations containing the Programme of Action (November 9, 2001);

- UN Declaration and Programme of Action on a Culture of Peace Resolutions 53/243 A and B (September 13, 1999);

- UN General Assembly Resolution 55/254 on the Protection of Religious Sites (June 11, 2001);

- UN General Assembly Resolution 56/8 to proclaim the year 2002 as the United Nations Year for Cultural Heritage to raise awareness of the importance of protecting

48. Azerbaijan ratified this Convention on August 25, 1999.

49. Convention entered into force for Azerbaijan from September 29 2000.

50. Azerbaijan is a party to the Convention since December 16, 1993.

51. Azerbaijan is a party to the Convention from November 13, 1992.

52. Convention entered into force for Azerbaijan from June 1, 2010.

53. Azerbaijan is not a party to this Convention.

54. Convention entered into force for Azerbaijan from December 1, 2011.

55. Azerbaijan is a party to this Convention from 2010.

56. Azerbaijan is not a party to this Convention.

the world cultural heritage (December 4, 2001).

Xenophobia has been raised to the state policy level in the independent Azerbaijani Republic. Through proclaiming Armenian nation as the “Enemy Number 1” of the Azerbaijani nation, Baku on the highest level keeps supporting all manifestations of xenophobia and intentionally feeds some Azerbaijani political parties and NGOs that collect political dividends via affronting the Armenians in Azerbaijan and worldwide.

The most blatant evidence of xenophobia was how the Azerbaijani society acted to its own member, the famous Azerbaijani writer Acram Ailisi who published a novel “Stone Dreams” in 2012, telling the truth about the massacres of Armenians in Azerbaijan. By the order of the Azerbaijani presidency, all his books were collected and publicly burned. The Azerbaijani president stripped out the author from all his titles granted him by the former Azerbaijani leaders.

Nevertheless the most odious manifestation of state xenophobia in Azerbaijan was the “Safarov case”. Azerbaijani leadership headed the negotiations with Hungarian authorities over extradition of the Azerbaijani Army

officer Ramil Safarov. The latter was convicted to life-term imprisonment in Hungary for hacking with axe Armenian Army officer Gurgen Margaryan while asleep (both were participants of an English language training course within the framework of the NATO’s “Partnership for Peace” programme held in Budapest in 2004). After Safarov’s extradition to his homeland, Azerbaijani president immediately granted him pardon and honored with other bounties, like career promotion, 9 years’ salary, etc.

These acts were flagrant violations of international norms and moralities.

The strongest argument for Nagorno Karabagh’s self-determination is the fact that the state of Azerbaijan, in all aspects, not only failed to provide any framework for Nagorno Karabagh’s free and democratic development, planned and systematically pursued a policy of ethnic cleansing, hampering the social and economic development of Nagorno Karabagh, but also, at a state level, persistently and unequivocally supports and seeds xenophobia, hate and murder.

7. Does Azerbaijan's internal Legislation on Nagorno Karabagh Comply with International Law?

On November 23, 1991, the Republic of Azerbaijan annulled Karabagh's Autonomy. In doing so, Azerbaijan violated its own Law on "Nagorno Karabagh Autonomous Oblast/Region" of June 16, 1981 (amended as of July 22, 1982, June 27, 1985 and April 14, 1986), which states that the territory of the NKAO may not be altered without the consent of National Deputies' Council of the NKAO. Furthermore, the Law clearly defines that the Law on "Nagorno Karabagh Autonomous Oblast/Region" should be adopted by the Supreme Soviet of the Azerbaijan SSR at the proposal of the National Deputies' Council of the NKAO. Azerbaijan, having once abolished the autonomous status of Nagorno Karabagh, has also restricted the scope of autonomy in its basic law - i.e. 1995 Constitution (amended as of August 24, 2002) - by requiring that the state should be "unitary".

Currently, protection of human rights, particularly the attitude of a government towards its people, does not constitute exclusively an internal affair of the respective state, but is a matter of a legitimate international concern.

The Republic of Azerbaijan, by abolishing the autonomous status of Nagorno Karabagh without its peoples' consent and stipulating in its Constitution that the Republic of Azerbaijan shall not yield its territory, or part of it, in any form, to anyone, and the borders can be specified only by the Parliament on the basis of the will of the Azerbaijani people, without the consent of ethno-territorial entities, violated the requirements of the basic international norms on the matters of the right of self-determination of peoples.

In doing so, the Republic of Azerbaijan has violated the Articles 1, 55, and 73 of the United Nations Charter which recognizes the fundamental principles of "*equal rights and self-determination of peoples*". This was also in contradiction with the whole spirit of Chapter XI of the "Declaration Regarding Non-Self-Governing Territories". The character of the right of self-determination was also recognized in the following United Nations Conventions and Documents:

- UN Resolution 1514 of December 14, 1960;

- UN Resolution 1541 of December 15, 1960;

- International Covenant on Civil and Political Rights of December 16, 1966;

- International Covenant on Economic, Social and Cultural Rights of December 16, 1966;

- UN General Assembly Declaration on "Principles of International Law Concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations" (October 24, 1970);

- International Court of Justice Advisory Opinions (Western Sahara Case on the Right for Self-determination of January 3, 1975; the Frontier Dispute Case (Burkina Faso V. Mali) of December 22, 1986; the Case concerning East Timor of June 30, 1995; legality of Kosovo's 2008 unilateral declaration of independence of July 22, 2010);

- General Comment No. 12 of the International Covenant on Civil and Political Rights⁵⁷;

- Vienna Declaration and Programme of Action, adopted by World Conference on Human Rights on June 25, 1993;

- UN General Assembly Declaration on "Universal Realization of the Right of Peoples to Self-Determination" (December 20, 1993);

- International Labor Organization (ILO) Conventions #107 and #169 (Article 1[3]), 1998⁵⁸;

- UN Resolution 55/85 of December 4, 2000;

- UN Resolution on "Universal Realization of the Right of Peoples to Self-Determination" of December 18, 2009⁵⁹.

In particular, based on the Declaration of October 24, 1970, the UN General Assembly indicated that the right of territorial integrity takes precedence over the right to self-determination only so long as the state possesses "*a government representing the whole people belonging to the territory without distinction as to race, creed or color*".

In the case of Quebec's unilateral secession from Canada, the Supreme Court of Canada stated that only the state whose

government represents the whole of the peoples lived within its territory, on a basis of equality and without discrimination and respects the principles of self-determination in its internal arrangements, has right to maintain its territorial integrity under International Law. People living in such states have no right to secede from the state without the agreement of the state's government. The Canadian Court found that the people of Quebec were not denied any such right of democratic self-government and respect for human rights, so unilateral secession from Canada would not have been permissible under International Law⁶⁰. Thus, the Supreme Court of Canada by its Decision on Quebec's unilateral secession legally affirmed those conditions, under which unilateral secession can be considered legitimate under International Law.

The case for secession becomes even stronger when the claimant group has attained *de facto* independence⁶¹ (the case of Aaland Islands).

The people's right of self-determination was also recognized in the CSCE Helsinki Final Act (August 1, 1975) and the OSCE Istanbul Charter on European Security (November 19, 1999).

The International Court of Justice (ICJ) by its Advisory opinion of July 22,

57. "The right to self-determination of peoples" not only recognizes that all peoples have the right of self-determination, but imposes specific obligations on States parties to promote the realization of the right of self-determination, and to respect that right, in conformity with the provisions of the Charter of the United Nations", General Comment No. 12: The right to self-determination of peoples (Art. 1)13/03/84.

58. Azerbaijan is not a party to these Conventions.

59. Azerbaijan was among 50 and more co-sponsor countries to this Resolution.

60. Secession of Quebec, [1998] 2 S.C.R. 217 (<http://scc.lexum.org/en/1998/1998scr2-217/1998scr2-217.html>)

61. See Chapter 8 "Independent State of Nagorno Karabagh under International Law".

2010, on the legality of Kosovo's 2008 unilateral declaration of independence ruled out that "*the adoption of the declaration of independence of 17 February 2008 did not violate general International Law, Security Council resolution 1244 (1999) or the Constitutional Framework. Consequently the adoption of that declaration did not violate any applicable rule of International Law*".⁶² Thus, the UN court considers that general International Law contains no applicable prohibition on declarations of independence. The ICJ Advisory opinion also underlined that the scope of the principle of territorial integrity provided in the Final Act of the Helsinki Conference on Security and Co-operation in Europe of 1 August 1975 is confined only to the sphere of relations between States⁶³.

The right of self-determination of the people of Nagorno Karabagh is also recognized within the framework of the peace negotiation process of the OSCE Minsk Group. Particularly the Statements of the Heads of Delegation of the Minsk Group Co-chairs Countries⁶⁴ (the Foreign Ministers of Russia, USA and France) of December 1, 2009 (Athens); of December 6, 2011 (Vilnius); of December 6, 2012 (Dublin); and the OSCE Ministerial Council Statements of Helsinki (2008), Athens (2009) and Astana (2010) endorsed the peaceful settlement of the Nagorno Karabagh conflict, based on the principles of the Helsinki Final Act and the elements outlined in Joint Statements on the Nagorno Karabagh Conflict, by the Presidents of the

OSCE Minsk Group Co-Chair Countries at the G-8 Summits in L'Aquila (July 2009); Muskoka (June 2010); Deauville (May 26, 2011); Enniskillen (June 18, 2013) and at G-20 Summit in Los Cabos (June 19, 2012) of "*Non-Use of Force or Threat of Force, Territorial Integrity, and the Equal Rights and Self-Determination of Peoples*".

In the modern world, there are more and more cases of the application of the right to self-determination in one form or another both by conflicting parties and by the international community to prevent or to settle the existing conflicts. Within just the last decade, this option has been chosen in the cases of East Timor, Northern Ireland, Southern Sudan, Serbia and Montenegro, Puerto Rico, Western Sahara, Namibia, Eritrea, Fiji, Bougainville and Papua New Guinea, Bosnia, Kosovo, and elsewhere.

The most recent cases of realization of people's right to self-determination were:

- The Bill overwhelmingly passed by Catalonia's Parliament on January 23, 2013, claiming the region's right to decide whether it seeks an independent state within the European Union, setting a 2014 timeframe to carry out a referendum on independence;

- The referendum on political status of Falkland Islands/Malvinas held on 10–11 March 2013 that was aimed at showing the world that the islanders' self-determination must be considered in any discussion about the future of the South Atlantic islands and

62. <http://www.icj-cij.org/docket/files/141/15987.pdf>

63. The Final Act of the Helsinki Conference on Security and Co-operation in Europe of 1 August 1975 (the Helsinki Conference) stipulated that "[t]he participating States will respect the territorial integrity of each of the participating States" (Art. IV).

64. On the occasion of the OSCE Ministerial Council Meetings.

that the protection of the islanders' political liberty - of their right to determine their own future - is not only the fundamental principle of democracy and the guiding principle of the United Nations, but also is a principle worth defending.

In case of Nagorno Karabagh, the right of self-determination was recognised by the legislative bodies of several entities:

- The Legislative Councils of four American State's - namely the House of Representatives of the State of Rhode Island (on May 17, 2012), the House of Representatives of the Commonwealth of Massachusetts (on August 6, 2012), the House of Representatives and Senate of the State of Maine (on April 10, 2013) and the Senate of Luisiana (on May 30, 2013), passed Resolutions that encouraged the NKR's efforts to develop as a free and independent nation and called on the US President and Congress to recognise the independence of the Republic of Nagorno Karabagh (See Annex 15).

- On October 25, 2012, the Legislative Council of New South Wales Parliament (Australia) adopted a Resolution recognising the Republic of Nagorno Karabagh and the right to self-determination of its Armenian people, who declared independence from an oppressive Azerbaijan 20 years ago (See Annex 15).

- On February 26, 2013 a group of parliamentarians from the Seimas of the Republic of Lithuania adopted a Resolution on setting up of a parliamentary friendship group with the Republic of Nagorno Karabagh. The Resolution in particular

stated that since Lithuania and Nagorno Karabagh have always been led by the international law and democratic values in their fight for liberation, taking into account the fact that the right to self-determination is the only guarantee to physical security and people's development, underlining Karabagh's efforts to create a free and democratic nation, the Lithuanian parliamentarians propose to set up a parliamentary friendship group with the Republic of Nagorno Karabagh (See Annex 15).

- On March 19, 2013, a group of French politicians, members of the National Assembly and senators representing the main political forces have established a friendship circle with Nagorno Karabagh Republic. In a special statement the members of the Circle appreciated the consistent efforts of the people and authorities of Nagorno Karabagh on building free and democratic society and called to put an end to political isolation of the Republic expressing support for the right to self-determination of the people of Nagorno Karabagh. They also called on other French politicians to join the initiative (See Annex 15).

- On April 23, 2013, the Board of Supervisors of Fresno County, California, passed a Resolution that officially recognizes the Nagorno Karabagh Republic and calls upon the California Legislature, the United States Congress and the President of the United States to support the self-determination and democratic independence of the Nagorno Karabagh Republic and its constructive involvement with the world community (See Annex 15).

8. Independent State of Nagorno Karabagh Under International Law

This study has demonstrated that the independence of the Republic of Nagorno Karabagh was conducted in conformity with the requirements of internal and international legal norms. Simultaneously, to this legal process, the Republic of Nagorno Karabagh has successfully established all attributes and structures necessary for the formation of an independent state.

The former Autonomous Oblast of the USSR has become an independent state with its own political structures and principles, executive and legislative authorities, armed forces, and emblems. During more than two decades of its existence, the Republic of Nagorno Karabagh has shown its capacity to maintain and strengthen the national security and economic development of the country, and has repeatedly demonstrated that it is ready, willing, and able to conduct wider international participation.

According to the principles of International Law, an entity can be considered an independent state if it possesses the following attributes:

- *a defined territory;*
- *permanent population;*
- *a permanent administration, organized under common political institutions, exercising exclusive jurisdiction on a defined territory and people;*
- *a government engaged in discussions with foreign states.*

According to “Declarative theory of statehood”, which was famously expressed in the 1933 Montevideo Convention, an entity’s statehood is independent of its recognition by other states. While “Constitutive theory of statehood” regards “state recognition” as another condition for the establishment of an independent state. However, is not a generally accepted norm; it can thus be considered a declarative statement, indicating the readiness of a state to recognize a self-declared state, and establish direct international and legal relations with it. This was demonstrated by the practices of several states, such as the United Kingdom and the United States of America.

Conditions on which an entity constitutes a state were also formulated by the Arbitration Commission of the European Community’s Conference for Peace in Yugoslavia (“the Badinter Arbitration Commission”⁶⁵). The Badinter Arbitration Commission found that a state was defined by having *a territory, a population, and a political authority*.

Defined territory: The Republic of Nagorno Karabagh has a “defined territory”. It exercises its sovereign jurisdiction on a defined territory with its borders and is capable of providing security and normal living conditions to its citizens. This also proves Nagorno Karabagh to be a politically independent factor in the region.

65. <http://www.ejil.org/pdfs/3/1/1175.pdf>; <http://207.57.19.226/journal/Vol3/No1/art12-13.pdf>

Permanent population: The vast majority of people of the Republic of Nagorno Karabagh constitute a homogenous group with historic ties to its territory. The population of the Republic of Nagorno Karabagh is about 143,574 with 95% Armenians and 5% minorities. On November 18, 1995, the President of NKR promulgated the Law on “The Main Principles of Nationality of the Republic of Nagorno Karabagh”.

Permanent administration organized under common political institutions: On September 9, 1996, the National Assembly of the Republic of Nagorno Karabagh established a Commission for the Elaboration of the Constitution presided by the President of the country. On December 10, 2006, in the presence of local and international observers, the Constitution of the Nagorno Karabagh Republic was adopted via a nation-wide referendum as a symbol of an independent statehood that guarantees the protection of individual and citizen’s rights and freedoms and regulates the state affairs⁶⁶. The Constitutional referendum was monitored by independent observers (See Annex 12). The Constitution proclaimed the Republic of Nagorno Karabagh as a sovereign, democratic state based on social justice and the rule of law, where the state power shall be exercised in accordance with the principles of division and balance of the three branches of the power and separation

of authorities between the state and local self-government.

Nagorno Karabagh is a Republic with a presidential governing system. This form of governance was introduced in November 1994. Universal direct Presidential Elections were held on November 24, 1996, and the Acting President, Robert Kocharyan, became the first democratically elected President of the Republic. On September 1, 1997, during extraordinary Presidential Elections, the Minister of Foreign Affairs of the Nagorno Karabagh Republic, Arkadi Ghukasyan, was elected as the second President of the Republic (by 89.32% of the votes). On August 11, 2002, Ghukasyan was re-elected (88.95% of the votes). On July 19, 2007, Bako Sahakyan was elected as a President of the Nagorno Karabagh Republic (by 85.1% of votes). During the most recent Presidential Elections, on July 19, 2012, Bako Sahakyan was re-elected (by 66,70% of votes). These elections were monitored by local and international observers (See Annex 13).

The National Assembly is the highest legislative body of the Nagorno Karabagh Republic. It is comprised of 33 deputies, elected to five-year terms. There are seven standing committees⁶⁷ and three fractions in the National Assembly of the Nagorno Karabagh Republic.

66. From 90,077 registered citizens of the Nagorno Karabagh Republic 78,369 (87,02%) participated in the Constitutional referendum. 77,279 voters or 98,58% of the participants voted in favor of the adoption of the Constitution.

67. Standing committees of issues of Defense, Security and Legality, Finance, Budget and Economic Management Affairs, Foreign Affairs, Industry and industrial infrastructures, Social issues, Legal and State Affairs, on the issues of Science, Education, Culture, Youth and Sports.

Regular Parliamentary Elections were held in December 1991, June 1995, June 2000, and June 2005. The electoral procedures have been improved, particularly following the adoption of the new “Electoral Code of the Nagorno Karabagh Republic” on December 8, 2004. The most recent elections of the National Assembly of the Nagorno Karabagh Republic took place on May 23, 2010. More than 100 international observers from 14 countries, including Canada, Russia, Armenia, Argentina, the Netherlands, Germany, the Czech Republic, Denmark, Ireland, France, and the United States, monitored these elections (See Annex 14). A dozen local observers also took part in the monitoring process.

Since 1991, the National Assembly of the Nagorno Karabagh Republic has adopted a series of Laws necessary for the foundation and functioning of the country’s political structures, executive, and judicial authorities. Among these are the Law on Education, Law on Military Service, Law on Police, Law on Television and Radio, Law on Tax Service, Law on NKR Budget System, Law on Civil Defense, Laws on the NKR Government, Law on Census, Law on Language, Law on Children’s Rights, Law on Local Governance, Law on Public Organizations, Law on Maintenance of Historic and Cultural Monuments and Historical Territories, Law on Freedom of Conscience and Religious Organizations, Law on Foreign Investments, Law on

Prosecutor’s Office, Law on Mass Media, Law on Defense, Law on Civil Service, Law on Diplomatic Service, Law on Consular Service, Law on Aviation, Law on Advocacy, Law on refugees, Law on Tourism, Law on Ombudsman, Electoral Code, Code of Administrative Procedure, Code of Civil Procedure, Code of Criminal procedure, Law on Judicial Service, etc.

Judicial Power in the Nagorno Karabagh Republic is exercised by courts. According to the Constitution and Laws of the Nagorno Karabagh Republic the judicial system is composed of the first instance court of general jurisdiction, the courts of appeal, and the Supreme Court. The Supreme Court is the highest judicial body of the Nagorno Karabagh Republic. It ensures constitutional justice and reviews decisions of the lower level courts. The Supreme Court ensures supremacy of the Constitution and equal application of law.

According to the provisions of the Constitution of the Nagorno Karabagh Republic (Chapter 4) the Government of the Nagorno Karabagh Republic is comprised of the Prime Minister, the Vice Prime Minister and the Ministers. By the Law on “The Organizational Structure of the Government of the Nagorno Karabagh Republic” of December 2, 2007 (amended as of July 10, 2010; March 4, 2011; September 19, 2012) the Government of the Nagorno Karabagh Republic is comprised of 11 Ministries⁶⁸ and 9 adjunct bodies to the Government⁶⁹.

68. Ministries of Healthcare; Justice; Foreign Affairs; Agriculture; Education and Science; Culture and Youth Affairs; Defense; Labour and Social Affairs; Finance and economy; Urban Planning; Industrial infrastructure.

69. National Security Service; State Committee of Real Estate and Cadastre; Department of Tourism and Historical Environment Protection; State Tax Service; Department of Environment and Natural Resources; NKR Police; State Committee of Sport; Rescue Service; Department of Civil Aviation.

Local governance has been operating in the Nagorno Karabagh Republic since the adoption of the Law on “Elections of Bodies of Local Governance” by the National Assembly on January 28, 1998. The first elections were held on September 27, 1998. Subsequent regular elections were held on September 5, 2001, August 22, 2004, October 14, 2007 and September 18, 2011.

The establishment and procedure of activities of the Office of Ombudsman are also provided for in the Constitution of Nagorno Karabagh Republic. The NKR Office of Ombudsman functions according to Paris fundamental principles on the status of national institutes dealing with human rights protection that are also enshrined in NKR Law on “Ombudsman”. The Office of Ombudsman started its activities from 2008.

The economy of the Nagorno Karabagh Republic has been developing since the ceasefire of 1994, with agriculture forming the largest sector. According to NKR National Statistical Service, during the last five years NKR secured more than 10% average annual economic growth, the gross agricultural product has doubled with 13,3 percent average annual growth. The country has its own budget system and currency (since 1993, the Armenian dram has been the official currency). A Law adopted by the National Assembly regulates the budget system of the country. The Law on “Property” of February 1995 regulates property issues.

The NKR state budget annually allocates large sums for the development of small and medium enterprise as the most important component for the social and economic development of the country.

Starting from 2000 the introduced tax reforms in the Nagorno Karabagh Republic significantly reduced tax and mandatory social security contributions, the share of the shadow economy, and created normal conditions for the promotion of foreign investments⁷⁰. Tax administration has been improved and in parallel with this the planned indicators on tax income were over fulfilled with 2,2 times increase during last five years.

Mining, telecommunication, construction, energy, tourism, food processing and agriculture are among the most attractive spheres for a business-activity in Nagorno Karabagh Republic.

Government engaged in discussions with foreign states: On September 20, 1992, the National Assembly of the Nagorno Karabagh Republic petitioned the United Nations, the Commonwealth of Independent States, and individual countries for recognition of the Nagorno Karabagh Republic.

The National Assembly of the Nagorno Karabagh Republic is determined to establish official and un-official ties with the members of the standing committees and friendship groups of the Parliaments

70. More than 50 billion AMD have been invested in Karabagh’s economy in January-June 2011.

of various countries, as well as with NGOs, analytical centers and international organizations. During the recent years such contacts had been established with France, Russian Federation, the Great Britain, the European Parliament, Uruguay, Swiss, Lithuania, etc.

Thus far, the Government of the Nagorno Karabagh Republic has also been engaged in discussions with foreign states. The Nagorno Karabagh Republic has representative offices in the United States of America, France, Russia, Lebanon, Germany, Australia and Armenia.

The Government of the Nagorno Karabagh Republic has also brought its constructive participation in negotiations for the peaceful settlement of the conflict. A series of Documents on the peaceful settlement of the conflict adopted in various international forums and numerous mediation efforts of individual States contain the signatures of officials of the Nagorno Karabagh Republic, while the Republic of Azerbaijan still rejects any direct talks with Nagorno Karabagh⁷¹.

Though, starting from 1992, the authorities of the Republic of Azerbaijan

held regular direct contacts with the authorities of the Nagorno Karabagh Republic, and also a series of trilateral negotiations under the Russian mediation took place in 1993-1994 in Moscow, between the top political leadership and representatives of the Defence Ministries of the Republic of Azerbaijan, the Nagorno Karabagh Republic and the Republic of Armenia⁷².

The active involvement of Nagorno Karabagh in the process of Peace negotiations within the CSCE/OSCE framework is witnessed by the First Additional Meeting of the CSCE Council held in Helsinki on March 24, 1992, which decided to convene a conference on Nagorno Karabagh and invited the legitimate authorities of Nagorno Karabagh to the Conference as an interested party: "Elected and other representatives of Nagorno Karabagh will be invited to the [Minsk] Conference as interested parties by the Chairman of the Conference after consultation with the States participating at the Conference"⁷³.

Participation of Nagorno Karabagh in the OSCE Minsk process also enshrined in other relevant OSCE documents: the

71. These documents include: the Zheleznovodsk Communiqué of September 23, 1991, issued after official talks held in Zheleznovodsk, Russia, at the initiative of the Russian and Kazakh Presidents; The Sochi Agreement of 19 September 1992, signed by the defense authorities of Azerbaijan, Nagorno Karabagh and Armenia, which calls for cessation of all military activities for two months; A military-technical protocol on the implementation of the Sochi Agreement signed on 25 September 1992, in Moscow; the Timetable of Urgent Steps proposed by the Chairman of the CSCE Minsk Group of September 1993, in which Nagorno Karabagh appears as a side to the conflict for the first time; the Bishkek Protocol of May 5, 1994, signed at negotiations of the Speakers of Parliaments of Armenia, Azerbaijan and Nagorno Karabagh; and the Agreement on cease-fire, mediated by the Russian Federation on 12 May 1994, and signed by the Ministers of Defense of Armenia and Azerbaijan and the Commander of the Nagorno Karabagh armed forces.

72. As a result, several Agreements were reached on reciprocal cessation of artillery bombardments and offensive military operations, prolongation of the ceasefire regime, mutual release of the detained women and children, and other issues.

73. Helsinki Additional Meeting of the CSCE Council – 24 March 1992 – Summary of Conclusions, p. 14 (<http://www.osce.org/mc/29121>)

OSCE Budapest Summit 1994 Document,⁷⁴ where the participating States welcomed the affirmation of the ceasefire agreement reached on May 12, 1994, by the parties to the conflict (Azerbaijan, Nagorno Karabagh and Armenia) and announced their readiness to deploy multinational CSCE peacekeeping force, and reached an agreement on the creation of the High-level Planning Group of the OSCE; and the March 31, 1995 Statement of the OSCE Chairman-in-Office,⁷⁵ which confirmed the previous OSCE decisions on the status

of the parties to the conflict, and provided for the participation of the two member States involved in the conflict and Nagorno Karabagh as a third party to the conflict, as well as the Minsk Conference in the whole process of negotiations.

In addition, the OSCE Minsk Group Co-Chairs, during their regional trips, travel to the Republic of Nagorno Karabagh and meet with the Karabagh authorities.

74. <http://www.osce.org/mc/39554>

75. http://www.osce.org/documents/cio/1995/03/16057_en.pdf

Concluding Remarks

This study has reached a number of conclusions:

- Never in history Azerbaijan had a complete and effective sovereignty over the whole region. At any given moment since 1918, when the first Azeri state was established, such sovereignty can be at least disputed. The international community- the League of Nations in particular- never recognized the Republic of Azerbaijan of 1918-1920, arguing that it was impossible to determine the frontiers of the territories within which the Government of Azerbaijan exercised its authority.

- Domestic legislation of Azerbaijan on Nagorno Karabagh, particularly the abolition of the autonomous status of Nagorno Karabagh without its people's consent, violates the basic international norms on the matter of the rights of peoples for self-determination.

- In 1991, Nagorno Karabagh initiated the process of its independence in compliance with the domestic legislation of the USSR. After the collapse of the Soviet Union, two states were formed: the Republic of Azerbaijan -on the territory of the Azerbaijan SSR- and the Republic of Nagorno Karabagh -on the territory of the Nagorno Karabagh Autonomous Oblast /Region/. The establishment of both States has a similar legal basis; therefore, the establishment of Nagorno Karabagh Republic, on the basis of its peoples' right to self-determination,

should not be considered within the scope of territorial integrity of the Republic of Azerbaijan.

- In 1991, Azerbaijan, rejecting the Soviet legal heritage of 1920-1991 and affirming the fact that the Republic of Azerbaijan is the successor of the Republic of Azerbaijan of 1918-1920, lost all pretensions to the territories passed to Soviet Azerbaijan in July 1921, namely Nagorno Karabagh, even if the latter's transfer was legitimate. Therefore, the Nagorno Karabagh Republic was formed on territories over which the Republic of Azerbaijan had no sovereignty.

- The establishment of the Nagorno Karabagh Republic was carried out in conformity with the principles and attributes required by International Law for the creation of an independent state. The Republic of Nagorno Karabagh has established itself as a free and democratic state with effective democratic governance, active civil society and developing market economy.

- The international community has repeatedly reaffirmed its vision of the settlement of Karabagh conflict, which has to be based on the three main and equal principles of the International Law: "Non-Use of Force or Threat of Force, Territorial Integrity, and the Equal Rights and Self-Determination of Peoples".

ANNEX 1

LIST OF LEGAL ACTS AND MATERIALS ON NAGORNO KARABAGH

1. Provisional Agreement on Nagorno Karabagh between the Seventh Assembly of Armenians of Karabagh and the Government of Democratic Republic of Azerbaijan (August 22, 1919);
2. Agreement between the Republic of Armenia and the Democratic Republic of Azerbaijan on Disputed Issues (November 23, 1919);
3. Telegram of the Chairman of the Assembly of Armenians of Nagorno Karabagh addressed to the Chairman of the Armenian delegation in Moscow (June 9, 1920);
4. League of Nations: Secretary-General's Memorandum on the Application for the Admission of the Republic of Azerbaijan to the League of Nations, 20/48/108 (November 1920);
5. Declaration of the Soviet Government of Azerbaijan on Recognition of Nagorno Karabagh, Zanghezour and Nakhichevan as part of Soviet Armenia (November 30, 1920);
6. League of Nations Assembly Document 206, Fourth Meeting (December 1, 1920);
7. Azerbaijan's Revolutionary Committee's Declaration Regarding the Establishment of Soviet Power in Armenia (December 2, 1920);
8. Letter from the President of the Peace Delegation of the Azerbaijan Republic (December 1920);
9. League of Nations, Record of the First Assembly, Meeting of the Committees II, Geneva, (1920);
10. Telegram of the Extraordinary Commissar for the South Russia addressed to the leadership of the Soviet Russia (December 2, 1920);
11. Newspaper "Communist" (December 2, 1920, Russian publication);
12. Newspaper "Izvestia" № 273 (December 4, 1920, Russian publication);
13. Newspaper "Communist" (December 7, 1920, Armenian publication);
14. Decree of the Chairman of the Council of People's Commissars of the Armenian SSR (June 12, 1921);
15. Decree of the Central Committee of Communist Party-Bolsheviks of Armenia (June 15, 1921);
16. Newspaper "Khorhrdain Hayastan" (June 19, 1921, Armenian publication);
17. "Bakinski Rabochi" (June 22, 1921, Russian publication);
18. Plenary Session Protocol of the Caucasian Bureau of the Russian Communist Party-Bolsheviks (July 4, 1921);
19. Letter from the President of the Peace Delegation of the Azerbaijan Republic, N-955 (September 4, 1921);

20. Declaration of the Central Executive Revolutionary Committee of Soviet Azerbaijan on Establishment of the Nagorno Karabagh Autonomous Oblast/Region (July 7, 1923);
21. Provision on Nagorno Karabagh Autonomous Oblast/Region (November 26, 1924);
22. The USSR Constitution (1924);
23. The USSR Constitution (1936);
24. State Historical Central Archive of the Armenian SSR (file. 200, list I, case. 282);
25. "G.Ordjonikidze: Articles and Speeches" (Vol. I, Moscow, 1956);
26. J.V. Stalin "Collected Works" (Vol. 4, Moscow, 1953);
27. USSR Foreign Policy Documents, Volume IV (Moscow, 1960);
28. V.I. Lenin, Complete Publications of Works (Moscow, 1963);
29. The USSR Constitution (October 7, 1977);
30. The Constitution of the Azerbaijan SSR (April 21, 1978);
31. Law of the Azerbaijan SSR on Nagorno Karabagh Autonomous Oblast/Region (June 16, 1981);
32. Resolution of the Regional Council of Delegates of NKAO addressed to the Supreme Soviets of the Azerbaijan SSR and Armenian SSR (February 20, 1988);
33. Newspaper "Soviet Karabagh" (February 20, 1988, Russian publication);
34. Newspaper "Bakinski Rabochi" (June 14, 1988, Russian publication);
35. The European Parliament Resolution on the Situation in Soviet Armenia (July 1988);
36. Resolution of the Presidium of the Supreme Soviet of USSR on the Establishment of the NKAO Special Administration Committee (January 20, 1989);
37. US Senate Resolution on the US assistance in peaceful regulation of the Nagorno Karabagh dispute at the basis of the desire of the people of the Soviet Armenia (July 19, 1989);
38. Newspaper "Communist" (October 7, 1989);
39. The US Senate Joint Resolution (S.J. Res. 178) (November 19, 1989);
40. Decision of the USSR Supreme Soviet Presidium on Abolishing Certain Provisions of the Azerbaijan SSR Supreme Soviet Decision on Measures to Normalize the Situation in Nagorno Karabagh Autonomous Oblast (December 4, 1989);
41. Soviet Law on the Competencies of Regional and District National Deputies Councils of USSR Autonomous Regions and District Deputy Councils;
42. Newspaper "Communist" (March 30, 1990);

43. Soviet Law on the Procedures of the Resolution of Problems on the Secession of a Union Republic from the USSR (April 3, 1990);
44. Newspaper “Communist” (April 13, 1990);
45. Periodical “Haykakan Banber”, № 3/17/ (February 1991);
46. Azerbaijan SSR Supreme Soviet Declaration on Re-establishment of the State Independence of the Republic of Azerbaijan (August 30, 1991);
47. Newspaper “Bakinski Rabochi” (August 31, 1991, Russian publication);
48. Declaration of Independence of the Republic of Nagorno Karabagh (September 2, 1991);
49. Zheleznovodsk Communiqué (September 23, 1991);
50. Constitutional Act on State Independence of the Republic of Azerbaijan (October 18, 1991);
51. Azerbaijan Supreme Soviet Law on the Abolition of the Nagorno Karabagh Autonomous Oblast (November 23, 1991);
52. Resolution of the USSR Constitutional Oversight Committee (November 28, 1991);
53. Act on Referendum in Nagorno Karabagh (December 10, 1991);
54. Declaration on State Independence of Nagorno Karabagh (January 6, 1992);
55. Nagorno Karabagh in 1918-1923: Collection of Documents and Materials (Yerevan, 1992);
56. Constitutional Law on Basic Principles of the State Independence of the Nagorno Karabagh Republic (January 8, 1992);
57. Helsinki Additional Meeting of the CSCE Council, Summary of Conclusions (March 24, 1992);
58. Sochi Agreement (September 19, 1992);
59. Military-technical protocol on the implementation of the Sochi Agreement (September 25, 1992);
60. Timetable of Urgent Steps proposed by the Chairman of the CSCE Minsk Group of (September 1993);
61. Bishkek Protocol (May 5, 1994);
62. Agreement on Cease-Fire (May 12, 1994);
63. Law of the Nagorno Karabagh Republic on President of Nagorno Karabagh (December 21, 1994);
64. Law of the Nagorno Karabagh Republic on Government of Nagorno Karabagh (December 22, 1994);
65. Law of the Nagorno Karabagh Republic on the Nagorno Karabagh Parliament (December 22, 1994);
66. Law of the Nagorno Karabagh Republic on Property (February 14, 1995);

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67. Law of the Nagorno Karabagh Republic on Foreign Investments (February 28, 1995);
68. Law of the Nagorno Karabagh Republic on Main Principles of Nationality of Nagorno Karabagh (November 18, 1995);
69. Constitution of the Republic of Azerbaijan (adopted on November 12, 1995, came into force on November 27, 1995, amended on August 24, 2002);
70. Law of the Nagorno Karabagh Republic on Language (March 20, 1996, amended as of May 15, 2013);
71. Law of the Nagorno Karabagh Republic on Children's Rights (July 19, 1996);
72. Decrees of the President of the Nagorno Karabagh Republic on the Composition of the Government (December 24, 1996, October 29, 1997, January 12, 2005; June 25, 2008 and September 19, 2012);
73. Law of the Nagorno Karabagh Republic on Elections of Bodies of Local Governance (January 28, 1998);
74. European Parliament Resolution on Support for Peace Process in the Caucasus (March 11, 1999);
75. Law of the Nagorno Karabagh Republic on Maintenance of Historic and Cultural Monuments and Historical Territories (May 20, 1999);
76. Samvel Karapetian, "Armenian Cultural Monuments in the Region of Karabagh" (Yerevan, 2000);
77. V. Khojabekyan, "Reproduction and Migration of the Population of Armenia in XIX-XX Centuries"(Yerevan, 2002);
78. Law of the Nagorno Karabagh Republic on Defense (November 30, 2002);
79. Law of the Nagorno Karabagh Republic on Public Organizations (December 30, 2002);
80. Criminal Code of the Nagorno Karabagh Republic (July 7, 2003);
81. Law of the Nagorno Karabagh Republic on Civil Service (December 27, 2003);
82. Law of the Nagorno Karabagh Republic on Refugees (December 29, 2003);
83. Law of the Nagorno Karabagh Republic on Mass Media (November 10, 2004);
84. Electoral Code of the Republic of Nagorno Karabagh (December 8, 2004, amended as of May 22, 2007);
85. Law of the Nagorno Karabagh Republic on Tourism (December 17, 2004);
86. Law of the Nagorno Karabagh Republic on Ombudsman (March 9, 2005, amended as of December 27, 2011);
87. Tomas de Waal "Black Garden" (Moscow, 2005);
88. Law on Diplomatic Service of the Nagorno Karabagh Republic (September 14, 2005);
89. Law on Consular Service of the Nagorno Karabagh Republic (September 14, 2005);

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90. Law on Advocacy of the Nagorno Karabagh Republic (October 19, 2005);
91. Constitution of the Nagorno Karabagh Republic (December 10, 2006);
92. Law on Judicial Service (May 22, 2008);
93. Law on Prosecutor's office of the Nagorno Karabagh Republic (December 17, 2008);
94. Code of Civil Procedure of the Nagorno Karabagh Republic (December 17, 2008);
95. Code of Administrative Procedure (December 17, 2008);
96. Law on Freedom of Conscience and Religious Organizations of the Nagorno Karabagh Republic (December 24, 2008);
97. Code of Criminal Procedure of the Nagorno Karabagh Republic (entered into force on January 1, 2009);
98. Law on Aviation of the Nagorno Karabagh Republic (entered into force on January 1, 2009);
99. Law on Local Governance of the Nagorno Karabagh Republic (January 29, 2009);
100. Arsen Melik-Shakhnazarov: "Nagorno Karabagh: Facts against false", (Moscow, 2009);
101. Resolution of Interparliamentary Assembly on Orthodoxy on Preservation of Armenian Christian Spiritual and Cultural Monuments in the Region and the Peaceful Resolution of the Nagorno Karabagh Issue (June 30, 2010);
102. OSCE Ministerial Council Statements (Helsinki 2008); (Athens 2009); (Astana 2010) ;
103. Statements of the Heads of Delegation of the Minsk Group Co-chairs Countries (December 1, 2009, Athens); (December 6, 2011, Vilnius); (December 6, 2012, Dublin);
104. Joint Statements of the Presidents of the OSCE Minsk Group Co-Chair Countries (L'Aquila, July 2009); (Muskoka, June 2010); (Deauville, May 26, 2011); (Los Cabos, June 19, 2012), (Enniskillen, June 18, 2013).

ANNEX 2

League of Nations Memorandum on the Application for the Admission of the Republic of Azerbaijan to the League of Nations

Memorandum by the Secretary General

By a letter dated 1st November 1920(1), the Secretary-General of the League of Nations was requested to submit to the Assembly of the League an application for the admission of the Republic of Azerbaijan to the League of Nations. This letter issues from the Azerbaijan Delegation attending at the Peace Conference, which has been in office at Paris for more than a year. The Members of the Delegation now at Geneva state that their mandate is derived from the Government which was in power at Baku down to the month of April last. It may be convenient to recall briefly the circumstances, which preceded the establishment of this Government.

Establishment of the State of Azerbaijan

The Transcaucasian territory in which the Republic of Azerbaijan has arisen appears to be the territory which formerly composed the Russian provinces of Baku and Elisabethopol. It is situated on the shore of the Caspian Sea, which forms its boundary towards the east. Its northern boundary is the frontier of the province of Daghestan; on the north-east it is coterminous with the area known as the Northern Caucasus, on the west with Georgia and Armenia and on the south with Persia. Its population according to the last Russian statistics, is estimated at 4.615.000 inhabitants, including 3.482.000 Musulman Tartars, 795.000 Armenians, 26.580 Georgians and scattered minorities of Russians, Germans

and Jews. It may be interesting to note that this territory, occupying a superficial area of 40.000 square miles, appears to have never formerly constituted a State, but has always been included in larger groups such as the Mongol or Persian and since 1813 the Russian Empire. The name Azerbaijan which has been chosen for the new Republic is also that of the neighbouring Persian province.

First Federal Period

On the collapse of the Russian power in the Caucasus in the month of October 1917, the people of this region, Tartars of Azerbaijan, Georgians and Armenians, united to form a sort of Federal Republic under common government with a Federal Chamber of representatives. In consequence of serious disagreements, this Transcaucasian Federation was dissolved on the 26th May 1918 at Tiflis, where its Parliament held its meetings.

Second Period: Independent Republic

On the following day, May 28th, the Republic of Azerbaijan was proclaimed at Tiflis. Fatali Khan Koiski was named President of the Government, and it appears to have been agreed at that time that the Musulman members of the former Federal Chamber, together with the members of the Musulman Council, should constitute the provisional Parliament. The Government of the new Republic thus composed was transferred from Tiflis to its own territory,

but was not able to take possession of its capital-Baku until the 14 September, 1918, after this town had been evacuated by the Bolshevik forces retreating before the Germano-Turk invasion. Ultimately a Parliament of 120 members was elected by universal suffrage and the executive power was entrusted to a responsible Ministry composed of notabilities of the district of Baku.

On the 17 of November, 1918, General Thomson, at the head of British troops, and representing the Allied and Associated Powers, entered Baku. He appears on his entry to have considered the Government in power in the town as only a local authority. He formally announced that he occupied the territory in perfect agreement with the new Russian Government and without prejudging the rights of Russia in the district. On the 28th December, 1918, however, General Thomson proclaimed that the Government of the Republic of Azerbaijan would henceforth constitute the sole regular local government and that the Allies would guarantee their support to it. The constitution of the Republic appears none the less to have been somewhat obscure during and after the British occupation.

The Government of Azerbaijan was at Paris during the Peace Conference and obtained on the 12th January, 1920, at the same time as the Republic of Georgia and Armenia, de facto recognition from the Supreme Council. It should be noted, however that the Government of the US didn't associate itself with this recognition.

Third Period: Dispersal of the Government

On the 25th April, 1920, Bolshevik disturbances occurred at Baku and compelled the authorities of the Republic of Azerbaijan to take fight. Certain members of the Government, who fell into the hands of the revolutionary forces, were put to death. The army of the Republic was dispersed. According to information furnished by the delegation now in Geneva, the territory traversed by the railways still continues to be in the possession of the Bolsheviks, with the exception of the district between Elisabethopol and the Georgian frontier. A considerable portion of the territory not so occupied is, however, understood to be still under the administration of the Government of the Republic of Azerbaijan, some departments of which are said to be at Elisabethopol, while others are said to have emigrated to Tiflis. The army is understood to be divided, certain units being in the Northern part and others in the Southern district of the country. Communication with Georgia is maintained, but communication between the Republic and its Persian and Armenian neighbours is understood to be suspended in consequence of the occupation on the Caspian side and the recent invasion of the Kemalists. The Republic of Azerbaijan is accordingly at the moment deprived of all the resources which it drew from the exploitation of petroleum, of the fisheries of the Caspian Sea and the transit trade. Its administration can only be carried on by precarious means, and its executive and control organs maintain connection with difficulty with the central Government, which is itself for the moment dispersed.

Juristic observations

The conditions governing the admission of the Members to the League of Nations are prescribed in Article 1 of the Covenant, which is in the following terms: “The original Members of the League shall be those of the Signatories which are named in the Annex to this Covenant and also such of those other States named in the Annex as shall accede without reservation to this Covenant. Such accession shall be effected by a Declaration deposited with the Secretariat within two months of the coming into force of the Covenant. Notice there of shall be sent to all other Members of the League. “Any fully self-governing State, Dominion or Colony not named in the Annex may become a Members of the League if its admission is agreed to by two-thirds of the Assembly, provided that it shall give effective guarantees of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval and air forces and armaments. “Any Member of the League may, after two years’ notice of its intention so to do, withdraw from the League, provided that all its international obligations and all its obligations under this Covenant shall have been fulfilled at the time of its withdrawal.”

The application made by the Azerbaijan Peace Delegation for the admission of Azerbaijan to the League of Nations appears to raise from the purely legal point of view two questions upon which it will be necessary for the Assembly

to pronounce. The territory of Azerbaijan having been originally part of the Empire of Russia, the question arises whether the declaration of the Republic in May 1918 and the recognition accorded by the Allied Powers in January 1920 suffice to constitute Azerbaijan de jure a “full self-governing State” within the meaning of Article 1 of the Covenant of the League of Nations. In this connection it should perhaps be noted that this recognition is only claimed by the Azerbaijan Delegation to have been given de facto and that it was given only by Great Britain, France, Italy and Japan, but was refused by the USA.

Should the Assembly consider that the international status of Azerbaijan as a “fully self-governing State” is established, the further question will arise whether the Delegation by whom the present application is made is held to have the necessary authority to represent the legitimate government of the country for the purpose of making the application, and whether that Government is in a position to undertake the obligations and give the guarantees involved by membership of the League of Nations.

ANNEX 3

League of Nations: Extract from the Journal № 17 of the First Assembly

(Geneva 1920, page 139)

“Azerbaijan. The Committee decided that though the request of Azerbaijan to be admitted was in order, it was difficult to ascertain the exact limits of the territory within which the Government of Azerbaijan exercised its authority. Frontier disputes with the neighbouring States did not permit of an exact definition of the boundaries of Azerbaijan. The Committee decided that the provisions of the Covenant did not allow of the admission of Azerbaijan to the League under present circumstances”.

League of Nations: Letter from the President of the Peace Delegation of the Republic of Azerbaijan.

Note by the Secretary-General:

The Secretary-General has the honour to forward herewith to the Members of the League of Nations the following letter dated the 7th December, which he has received from the President of the Azerbaijan Peace Delegation.

*Republic of Azerbaijan
Peace Delegation
Geneva
December 7th, 1920.*

To His Excellency M. Paul Hymans, President of the First Assembly of the League of Nations, Geneva.

Sir,

At its Fourth Meeting on December 1st, the Fifth Committee elected by the Assembly of the League of Nations arrived

at the conclusion that it was impossible to admit the Republic of Azerbaijan to the League of Nations.

This conclusion, as will be seen from the Report contained in № 17 of the Journal, page 139, is based upon the facts:

1. That it is difficult to determine precisely the extent of the territory over which the Government of this State exercises its authority.

2. That, owing to the disputes with neighbouring States concerning its frontiers, it is not possible to determine precisely the present frontiers of Azerbaijan.

The Committee decided that the provisions of the Covenant do not allow of Azerbaijan being admitted to the League of Nations under the present circumstances.

Will you allow me, on behalf of the Delegation of the Republic of Azerbaijan, of which Delegation I am the President, to present to the Assembly of the League of Nations, through your intermediary, the following observations relating to the two arguments brought forward by the Fifth Committee.

I

The Committee, in the first place, refers to the difficulty of defining the frontiers of the territory over which the Government of Azerbaijan exercises its authority. The Delegation takes the

liberty of pointing out to the Assembly of the League of Nations that the difficulty referred to by the Committee being only of a temporary and provisional nature, cannot and must not be considered to affect this question in any real or decisive sense. It is an undisputed fact that, until the invasion of the Russian Bolsheviks on April 28th, 1920, the legal Government of Azerbaijan exercised its authority over entire territory of the Azerbaijan Republic, without exception, within the present boundaries as indicated in the map submitted to the Secretary-General of the League of Nations. After this invasion, part of the territory was occupied by the Bolsheviks; and with their Government at their head, the Azerbaijani people, concentrated in the town of Gandja, began a bloody struggle against the Bolsheviks, thanks to which, the latter gradually evacuated almost all the territory which they had occupied. At the present time, they hold only the town of Baku and surrounding districts, and occupy but a small part of the railway as far as the station of Adji-Kaboul. All the rest of Azerbaijan, including part of the districts of the provinces of Baku and Kauba, as well as all the districts of the former province of Elisabetopol, is in the hands of the Government of Azerbaijan, which has its headquarters in the town of Gandja, where there is also a section of the Parliament which was dispersed by the Bolsheviks, and part of the Army. This is equivalent to nine-tenths of the territory of Azerbaijan, within its present boundaries; and the Government of Gandja, which is the legal Government of Azerbaijan, is able to give sufficient guarantees that it will fulfill all its obligations of an international

character, in conformity with the Covenant of the League of Nations. The Delegation makes bold to assure the Assembly of the League of Nations that the struggle carried on by the people of Azerbaijan, headed by their Government, against the Russian Bolsheviks, will be continued with unflagging energy until Baku and the surrounding districts are delivered from the invaders.

Our people will never come to terms with the Bolsheviks, whom they look upon as usurpers who must be swept away.

We may say in passing, that so obvious a peril as Bolshevism threatens not only Azerbaijan, but the whole of the Caucasus. It has overrun the whole of the Northern Caucasus and Kouban, as well as the bordering State of Armenia, which has just been declared a Soviet Republic.

II

The second objection raised by the Committee relates to disputes outstanding between Azerbaijan and the neighbouring States of Georgia and Armenia. With regard to this point, the delegation has the honour to draw the attention of the Assembly to the fact that it is almost impossible to name a new State whose frontiers are absolutely undisputed. On the contrary, we see that not only new States, but even States which have been in existence for centuries, have had, and still have, frontier disputes; but these disputes don't cause them to be deprived of their sovereign rights over their own territory. The Republic of Azerbaijan, in defending the integrity of her territory

against all aggressions is obliged to come into conflict with Georgia over the districts of Zakatal, and with Armenia over Karabagh and Zanghezour. These territories form part of Azerbaijan, and are administered by the Azerbaijan Government; the provinces of Karabagh and Zanghezour were left under Administration of Azerbaijan by the decision of a former Allied representative in the Caucasus. In any case, these disputes concern not only Azerbaijan but also the neighbouring States which on their part have caused these disputes. But the Republic of Azerbaijan has always taken the view that these frontier disputes with the neighbouring Republics of Georgia and Armenia were only questions of domestic interest for the Republics concerned, and that the interested Governments would find a way of settling these disputes by mutual concessions. If, however, this hope should not be realized and if the disputes can't be settled on the spot, the Delegation of Azerbaijan has no doubt but that the three Trans-Caucasian republics will apply to the League of Nations, as can be seen in the text printed by the Delegation of Azerbaijan in its political memorandum (Republic of Azerbaijan, page 44) which was submitted to the Peace Conference in September, 1919, and also in the seventh point of the Notes which the Delegation presented, of November 25th, 1920, (№ 697), to the Secretary-General of the League of Nations with reference to his memorandum No. 108 upon the admission of the Republic of Azerbaijan into the League of Nations. The Delegation firmly believes that, in spite of the aforesaid disputes which were thrust upon Azerbaijan, this country, so richly

favoured by nature, will be able to guarantee the fulfillment of all the obligations of an international character which are imposed by the Covenant upon Members of the League of Nations.

The Delegation of Azerbaijan, on behalf of the vital interests of its country, which has twice suffered from the attacks of the Russian Bolsheviks, has the honour to declare to Members of the League of Nations that the admission of the Republic of Azerbaijan to the League of Nations would furnish it with that moral support so urgently need by our people in their struggle against the Bolsheviks - a people which alone, without any foreign aid, has been engaged, for more than six months, in a bloody struggle in order to save the independence of Azerbaijan. In the hope that this appeal for moral support will attract the attention of the Honourable Representatives of the peoples taking part in the Assembly, I have the honour to beg you to be good enough to have the above statement read to the Assembly, at the time of the discussion of the above-mentioned conclusions of the Fifth Committee, with regard to the admission of the Azerbaijan Republic to the League of Nations.

I have the honour to be

*(signed) A.U. Toptchibacheff,
President of the Peace Delegation
of the Republic of Azerbaijan*

ANNEX 4

League of Nations: Extract from the Records of the First Assembly. The Meetings of the Committees. Fourth Committee

(Page 173)

20. APPLICATION OF AZERBAIJAN FOR ADMISSION TO THE LEAGUE

Dr. NANSEN (Norway) then read his Report upon the request for admission submitted by the Republic of Azerbaijan (page 219). The request for admission appeared to have been drawn up in due form. It was submitted by the Azerbaijan Delegation appointed by the Government, which had been in power at Baku until April last. It was next pointed out in the Report that it was difficult to form an opinion as to the extent of territory over which the Government, which had been exiled from Baku, still exercised authority. Another Government was in power at Baku. The frontier disputes with Georgia and Armenia made it impossible to ascertain with certainty whether the boundaries of the State of Azerbaijan could be considered as definitely established. This State obtained de facto recognition from England, France and Italy in January, 1920.

Finally, Dr. Nansen asked whether it would be possible to admit to the League of Nations a State which did not appear to fulfill all the conditions laid down in the Covenant, in particular, those concerning stability and territorial sovereignty, and which, further, had not been recognized de jure by any Member of the League of Nations.

M. BENES (Czechoslovakia) quite agreed. He thought it would be difficult under present circumstances to admit Azerbaijan to the League. The Government of this State was not stable, its frontiers appeared to be ill defined, and, further, formed the subject of disputes with its neighbours. The provisions of the Covenant did not permit the admission of Azerbaijan under present conditions.

The Czecho-Slovakian Delegate moved that Azerbaijan be not admitted under present conditions.

Lord Robert CECIL (South Africa), supported the motion of M. Benes. Azerbaijan did not appear to him as a State, which could be considered free and capable of giving the necessary guarantees.

The motion of M. Benes was unanimously adopted by the Committee in the following terms:

“That the Committee, after having considered the Report of the Sub-Committee with regard to Azerbaijan’s request for admission to the League of Nations, reports unfavourably with regard to its admission and refers the question back to the Assembly.”

ANNEX 5

Declaration of the Revolutionary Committee of the Azerbaijan SSR on Recognition of Nagorno Karabagh, Zanghezour and Nakhichevan as an Integral Part of the Armenian SSR

Unofficial translation

November 30, 1920
To ALL, ALL, ALL!

On behalf of the Soviet Socialist Republic of Azerbaijan, we declare to the Armenian people the Decision of the Revcom (Revolutionary Committee) of Azerbaijan of November 30:

“The Workers-Peasants Government of Azerbaijan, having received the message on the declaration of the Soviet Socialist Republic in Armenia on behalf of the rebelling peasantry, welcomes the victory of the brotherly people. From this day on, the former borders between Armenia and Azerbaijan are announced abrogated. Nagorno Karabagh, Zanghezour and Nakhichevan are recognized as an integral part of the Armenian Socialist Republic.

*Long live brotherhood and union of
the workers and peasants of Soviet Armenia
and Azerbaijan!*

Narimanov
Chairman of the Revcom of Azerbaijan

Guseinov
*the Peoples Commissar on Foreign
Affairs”.*

Newspaper “Communist”, December 7, 1920,
Yerevan (Armenian publication).

ANNEX 6

An Extract from the Session Protocol of the Presidium of the Council of Ministers of the USSR of November 23, 1977

(61:11-4133)

Unofficial translation

The Session of the Presidium of the Council of Ministers of the USSR included in its Protocol the following:

“... As a result of a number of historic circumstances, Nagorno Karabagh was artificially annexed to Azerbaijan several decades ago. In this process, the historic past of the oblast [region], its ethnic composition, the will of its people and economic interests were not taken into consideration. Decades passed, and the Karabagh problem continues to raise concern and cause moments of animosity between the two peoples, who are connected with ages-old friendship. Nagorno Karabagh (Armenian name - Artsakh) should be made part of the Armenian Soviet Socialist Republic. In this case everything will take its legal place.”

ANNEX 7

European Parliament Resolution on the Situation in Soviet Armenia

The European Parliament,

A. having regard to the recent public demonstrations in Soviet Armenia demanding that the Nagorno Karabagh region be reunited with the Republic of Armenia,

B. having regard historic status of the autonomous region of Nagorno Karabagh (80% of whose present population is Armenian) as part of Armenia, to the arbitrary inclusion of this area within Azerbaijan in 1923 and to the massacre of Armenians in the Azerbaijani town of Sumgait in February 1988,

C. whereas the deteriorating political situation, which has led to anti-Armenian pogroms in Sumgait and serious acts of violence in Baku, is in itself a threat to the safety of the Armenians living in Azerbaijan.

1. Condemns the violence employed against Armenian demonstrators in Azerbaijan;

2. Supports the demand of the Armenian minority for reunification with the Socialist Republic of Armenia;

3. Calls on the Supreme Soviet to study the compromise proposals from the Armenian delegates in Moscow suggesting

that Nagorno Karabagh be temporarily governed by the central administration in Moscow, temporarily united to the Federation of Russia or temporarily placed under the authority of a “presidential regional government”;

4. Calls also upon the Soviet authorities to ensure the safety of the 500 000 Armenians currently living in Soviet Azerbaijan and to ensure that those found guilty of having incited or taken part in the pogroms against the Armenians are punished according to Soviet law;

5. Instructs its President to forward this resolution to the Council, the Commission and the Government of the Soviet Union.

*(d) Joint resolution replacing Docs. B2-538
and 587 88*

*Source: Official journal of the European
Communities, № C 94/117, July, 1988*

ANNEX 8

101st CONGRESS, 2nd Session JOINT RESOLUTION (S. J. RES. 178)

To Express United States Support for the Aspirations of the People of Nagorno Karabagh for a Peaceful and Fair Settlement to the Dispute

Whereas the people of the United States have strong historical and cultural ties with the people of Armenia;

Whereas the 80 percent Armenian majority in the region of Nagorno Karabagh has continually expressed its desire for self-determination and freedom;

Whereas the current status of the region of Nagorno Karabagh is a matter of concern and contention for the people of the Armenian and Azerbaijani Soviet Republics;

Whereas the Soviet Government has termed the killings of Armenians on February 28-29, 1988, in Sumgait, Azerbaijan, "pogroms";

Whereas continued discrimination against Karabagh Armenians and the uncertainty about Nagorno Karabagh have led to massive demonstrations and to unrest that is continuing to this day in this area;

Whereas the people and government of the Soviet Union initially responded to the outbreak of violence in Nagorno Karabagh with the positive step of

creating an interim Special Administrative Committee to stabilize the situation;

Whereas the Administrative Committee has proven ineffective because its mission has been undermined by a number of factors, including organized violence against Armenians, Jews, and other ethnic groups, and blockades of Nagorno Karabagh, Armenia, and Georgia;

Whereas the three month blockade, theft and damage of goods in transit to Armenia have crippled the work of Armenians, Soviets, Americans, and the entire international community in rebuilding after the tragic December 7, 1988 earthquake in Armenia;

Whereas the Government and people of the United States strengthened their commitment to Armenia by assisting in the immediate relief effort and the overall reconstruction of those areas affected by the earthquake;

Whereas the United States maintains its resolve to assist the Armenians as they rebuild from the earthquake; and

Whereas the United States supports the fundamental rights and the aspirations of the people of Nagorno Karabagh for a peaceful and fair settlement to the dispute over Nagorno Karabagh: Now, therefore,

be it Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That it is the sense of the Congress that the United States should:

(1) continue to support and encourage the reconstruction effort in Armenia;

(2) urge Soviet President Gorbachev to restore order, immediately reestablish unrestricted economic and supply routes to the people of Armenia and Nagorno Karabagh, secure the physical safety of the people of Nagorno Karabagh from attacks and continue a dialog with representatives of Nagorno Karabagh regarding a peaceful settlement;

(3) promote in its bilateral discussions with the Soviet Union an equitable settlement to the dispute over Nagorno Karabagh, which fairly reflects the views of the people of the region;

(4) urge in its bilateral discussions with the Soviet Union that an investigation of the violence against the people of Nagorno Karabagh be conducted, and that those responsible for the killing and bloodshed be identified and prosecuted; and

(5) express the serious concern of the American people about the ongoing violence and unrest which interferes with international relief efforts.

SEC. 2. The Secretary of the Senate shall transmit a copy of this Resolution to the Secretary of State.

Passed the Senate November 19 (legislative day, November 6), 1989⁷⁶.

76. <http://thomas.loc.gov/cgi-bin/query/z?c101:S.J.RES.178>:

ANNEX 9

The Law of the Republic of Azerbaijan on “Abolition of Nagorno Karabagh Autonomous Oblast of the Republic of Azerbaijan”

Unofficial translation

The Supreme Soviet of the Republic of Azerbaijan, proceeding from the sovereign right of the Azerbaijan Republic to take decisions on issues concerning the formation of its own nation-state:

- Recognizing the illegitimacy of the creation of the Nagorno Karabagh Autonomous Oblast in 1923 as a factor contradicting the national interests of the Azerbaijani people and promoting a deepening ethnic dissension between the Azerbaijani and Armenian peoples; aimed at breaking the economic and communication infrastructure of the largest natural-ecological region of Azerbaijan - Karabagh, used by Armenian nationalists for violent eradication on the territory of all ethnic, historical, political, economic and spiritual attributes, which unconditionally gives evidence that Nagorno Karabagh is a genuine part of Azerbaijan;

- Thus, taking into account that for more than half a million ethnic Azerbaijanis residing in the Armenian SSR at the time of its formation, have created no ethnic-cultural autonomy; and in the succeeding years the population was deported in Armenia where, in fact, not a single Azerbaijani remained;

- Considering that the policy conducted by the Armenian authorities is directed at the annexation from Azerbaijan of its genuine historical territory and transformation of Nagorno Karabagh

Autonomous Oblast into the tool of such policy, which really threatens the sovereignty and territorial integrity of the Republic of Azerbaijan;

- Realizing that the further preservation of an ethnic-territorial entity for the small group of Armenian population in the Azerbaijan Republic entails escalation of violence towards the Azerbaijani population, reinforcement of criminal actions of the Armenian warlords, formed by the extremists, both local and delegated from the territory of Armenia, for mass murders, robberies, arsons, destruction of property of ethnic Azerbaijani population residing on their own territory;

- Understanding historical responsibility towards present and future generations of the Azerbaijani people for preservation and development of a sovereign Azerbaijani State and its integrity;

- Proceeding from the necessity of complete restoration of the sovereign rights of the Azerbaijan Republic in the mountainous area of Karabagh, disarmament of the illegally created armed groups, protection of the rights, freedom and dignity of the citizens of the Azerbaijan Republic, and the settlement of the inter-ethnic relations;

- Based on the will expressed by the peoples of Azerbaijan, hereby decides that:

1. According to the Article 3 (paragraph 2) and the Article 10 of the Constitution of the Azerbaijan Republic, the Article 4 of the Constitutional Act on “State Independence of the Azerbaijan Republic” the Nagorno Karabagh Autonomous Oblast of the Azerbaijan Republic is abrogated as an ethnic-territorial entity. The Decree on “The Establishment of the Nagorno Karabagh Autonomous Oblast” of the Central Executive Committee of Azerbaijan of July 7, 1923 and the Law of the Azerbaijan SSR on “The Nagorno Karabagh Autonomous Oblast” of June 16, 1981 are being annulled.

2. Historical names of the cities Stepanakert, Martakert, Martuni are restored and consequently renamed as follows: Stepanakert - into Khankendi, Martakert - into Agdere, and Martakert Region into the Agdere Region, city of Martuni - into the city of Khojavend, and the Martuni region - into the Khojavend Region.

3. Askeran and Hadrut Regions are abolished.

4. Khojali Region with Khojali administrative centre is formed; accordingly, the abrogated Askeran Region is being transferred into Khojali Region and the Hadrut Region- into Khojavend Region.

5. The cities of Khankendi and Shusha, as well as the Regions of Agdere, Khojavedi, Khojali and Shushi are included in the list of cities and regions [respectively] being under the jurisdiction of the Republic.

Ayaz Mutalibov
President of the Republic of Azerbaijan

Baku
November 23, 1991

ANNEX 10

An Extract from the USSR Law on “The Procedures of the Resolution of Problems on the Secession of a Union Republic from the USSR”

(April 3, 1990)

Unofficial translation

(...) Article 3.

In case the Soviet Republic has autonomous republics, autonomous regions or any type of similar distinct territories within its borders, referendums may be conducted separately in each of the autonomies. The people residing in the autonomies are given a right to independently decide whether to remain in the Soviet Union or in the seceding Republic, as well as to decide on their state legal status. Referendum results are to be considered separately for the territory of a Soviet Republic with a compactly settled ethnic minority population, which constitutes majority on that particular territory of the Republic.

Article 4.

For the purpose of organizing, deciding the dates, and reviewing the results of a secession referendum, the Supreme Soviet of the given Republic is to form a commission with participation of all interested parties, including the ones mentioned in the first and second parts of the Article 3 of this Law.

(...) Article 6.

Decision of a Soviet Republic to secede from the USSR must be made by means of a referendum if so voted by not less than two-thirds of the citizens of the

USSR, who permanently resided on the territory of the Republic and are eligible to vote in accordance with laws of the USSR by the time the decision was made to conduct a referendum on secession from the Soviet Union. The results of the referendum are to be reviewed by the Supreme Soviet of the Soviet Republic. In a republic, which has autonomous republics, autonomous regions, autonomous territories or territories with compactly settled national minority population as mentioned in Article 3 of the present Law within its borders, the results of the referendum are to be reviewed by the Supreme Soviet of the Soviet Republic jointly with the Supreme Soviet of the autonomous republic and respective Soviets of People’s Deputies. The Supreme Soviet of the Soviet Republic submits the results of the referendum to the Supreme Soviet of the USSR.

Article 7.

The Supreme Soviet of the Soviet Republic submits the results of the referendum to the Supreme Soviet of the USSR. The Supreme Soviet of the Soviet Republic which has autonomous republics, autonomous regions, autonomous territories or territories with a compactly settled national minority population within its borders as mentioned in second part of Article 3 of the present Law submits the results for each autonomous republic, autonomous region, autonomous territory

or territory with a compactly settled national minority population to the Supreme Soviet of the USSR separately along with necessary conclusions and suggestions made by respective state authorities. If it is verified that the referendum is conducted in accordance to the Law, the Supreme Soviet of USSR takes it to the Congress of the People's Deputies of USSR for review. In case the Law is violated during the course of the referendum, the Supreme Soviet of the USSR makes a decision to conduct a second referendum, not later than in the course of three months in a given Republic, or one of its parts, or an autonomous entity, or the territory with a compactly settled national minority population as mentioned in the second part of Article 3 of this Law.

Article 8.

The Supreme Soviet of the USSR forwards the results of the referendum on secession of a Soviet Republic from the USSR along with the suggestions made by the interested parties to the highest state authorities of all Soviet and autonomous republics as well as to the state authorities of autonomous entities for the purpose of study and evaluation of possible consequences for each Soviet and autonomous republic as well as autonomous entity in the event the actual secession of a respective Soviet Republic from the USSR takes place. (...)

ANNEX 11

European Parliament Resolution on “Support for the Peace Process in the Caucasus”

The European Parliament,

- having regard to its previous resolutions on the Caucasus, in particular those of 18 June 1987(1), 18 January 1990(2), 21 January 1993(3) and 27 May 1993(4),

A. whereas the autonomous region of Nagorno Karabagh declared its independence following similar declarations by former Soviet Socialist Republics after the collapse of the USSR in September 1991,

B. whereas the war has caused serious humanitarian problems, in particular as a result of the displacement of more than one million persons from Armenia, Nagorno Karabagh and Azerbaijan,

C. whereas the cease-fire has generally been respected since 1994,

D. whereas Armenia and Azerbaijan have both expressly applied to join the Council of Europe,

E. whereas the strengthening of democracy and respect for human rights are prerequisites for a peaceful solution to the conflict in Nagorno Karabagh,

F. whereas the presidential elections in Azerbaijan in October 1998 were marked by irregularities and fraud which have been condemned by international observers,

and whereas irregularities were also noted during the Armenian presidential elections in March 1998,

G. whereas so far the negotiations on a political solution to the conflict involving Nagorno Karabagh have not produced a positive outcome,

H. whereas an approach which takes account of all the problems and all the recent political developments in the region is likely to produce a lasting peace,

I. whereas the three Presidents in the Minsk Group representing Russia, the United States and France, who have been instructed by the OSCE to draw up a plan for a lasting peace, have proposed a fair basis for negotiations on a peaceful solution to the conflict;

1. Endorses the peace plan proposed by the Minsk Group;

2. Takes the view that these proposals constitute a basis for discussion likely to end the negotiating deadlock;

3. Calls on the OSCE's Minsk Group to continue its efforts to seek a lasting solution to this conflict;

4. Considers that a strong human rights component should be a part of any verification or observer mission under the auspices of the OSCE sent to Nagorno

Karabagh to ensure a lasting peace and to provide early warning of incidents that could lead to a resumption in the fighting;

5. Considers that aid provided by the European Union to this region must be linked to tangible progress in the areas of human rights and democracy in both countries;

6. Considers that the European Union should increase its assistance under the Tacis-Democracy programme to non-governmental organizations in Armenia and Azerbaijan interested in fostering discussion and political education on issues relating to conflict resolution;

7. Instructs its President to forward this resolution to the Council, the Commission, the Council of Europe, the Parliamentary Assembly of the OSCE, the Presidents in the OSCE’s Minsk Group, the parliaments of Armenia and Azerbaijan and the representatives of Nagorno Karabagh.

June 21, 1999

*Official Journal of the European
Communities, C 175/251*

ANNEX 12

Report on the Results of the Constitutional Referendum of the Republic of Nagorno Karabagh

(December 10, 2006)

SUMMARY

The referendum conducted on December 10, 2006 on the Nagorno Karabagh Republic (NKR) constitution meets most of the standards of the OSCE, the Council of Europe and other international structures in terms of democratic elections, equally used for the referenda as well.

The referendum followed the broad and open discussions of the draft Constitution, where the proposals of both local organizations and international experts of Constitutional Law were taken into account.

The broad public confidence, which is typical of an election in the NKR, has impressed greatly.

The campaign was of pluralistic nature and gave an opportunity to all the political parties and unions to show their stance towards the draft Constitution to their electorates. The campaign was exercised mainly via media by having relatively a few numbers of big meetings.

The Central Referendum Commission (CRC) has made praiseworthy efforts to conduct this election in a professional and trustworthy manner and the due respect and honor should be given to the election administration for their endeavors under tough conditions.

Transparent ballot-boxes were used during the referendum that ensured more transparency for the voting.

We have not fixed any significant violations on the very day of the referendum.

The remarks made by the observers and the shortcomings in the work of the referendum commissions, which were rather of a technical nature, were taken into account and the necessary steps were undertaken to eliminate them.

The counting of the votes in the polling stations visited by us was exercised effectively and transparently.

INTRODUCTION AND ACKNOWLEDGMENTS

The process of the referendum was observed by more than 100 international observers and journalists from Russia, the USA, France, Armenia, Italy, Croatia, Kosovo, Israel, Serbia, Georgia, the Ukraine, Denmark, the Republics of Abkhazia, South Ossetia, and the Trans-dnestrarian Moldavian Republic. There were also present a great number of correspondents of broadcasting companies like Russia Today, Channel 1 (Russia), Rustavi 2 (Georgia), BBC, France Press, Eurasia Net (USA), Regnum (Russia), Interfax, De-facto, Mediamax, ARKA, Arminfo (Armenia) news agencies and others. Some of them arrived upon the invitation of the NKR Parliament and the CRC.

In our work we have been guided by the Declaration of Principles for International Election Observation of the UN General Assembly, in particular, by the principles of impartiality and fairness.

The observers would like to express their gratitude to the Ministry of Foreign Affairs, to the Central Referendum Commission, as well as to all the ranks of the authorities for the cooperation and support given during the work of the observers' mission in the referendum. We are grateful also for the detailed information given about the referendum preparation.

LEGAL FRAMEWORK

The conduct of the referendum on the NKR Constitution is legally based on the NKR Election Code and the NKR Law on "Referendum". In accordance with the above mentioned laws, the Central Election Commission was entrusted with the functions of the Central Referendum Commission.

The draft Constitution was prepared by the Constitutional Commission. Later on two readings were held in the NKR National Assembly. The adoption of the draft Constitution in the first reading was followed by the public discussion of the draft, which resulted in getting a great number of proposals, including 127 proposals from the fractions and parliamentary groups, independent MPs, as well as from the NGOs and some citizens. Due to the regulation all the proposals within the fixed period of time were submitted to the head of the Working

Group of the Constitutional Commission and were discussed with the commission representatives. As a result, the finalized draft was submitted to the Parliament for a second reading. On November 1, 2006 the NKR Parliament adopted the draft Constitution in the second reading. The MPs made a decision to bring the document to referendum, the date of which was appointed by a corresponding decree of the President of the Republic.

On November 3, 2006 the NKR President Arkadi Ghukasyan signed the Decree on "Appointing a referendum on the NKR Draft Constitution", according to which the nation-wide voting on the draft Basic Law of the State was fixed for December 10, 2006.

90 thousand citizens of the NKR of 18 and more years old have the right to participate in the voting. The Constitution will be considered as adopted, if not less than a 1/3 of the suffrage-holders vote in favor of it, but more than the half of the ones, that took part in the referendum. Therefore, for a positive outcome, not less than 30 thousand voters are supposed to vote for the adoption.

MEDIA COVERAGE

The media took an active part in the work of clarifying some provisions of the NKR draft Constitution to the population. Films about the technical way of correct voting were periodically shown on the NKR Public TV. Some party representatives and public figures were invited to the studio to discuss the NKR draft Constitution. Broad

discussions were held practically among all the NKR publishing and electronic editions. The journalistic communities implemented public opinion polls about the attitude of the population towards the conduct of the referendum. According to these polls the overwhelming majority of them voted in favor of the adoption of the Constitution.

The NKR draft Constitution was printed in a special issue of the official newspaper of the NKR National Assembly “Azat Arstakh”, with a large circulation, at a statutory period, i.e. at least 25 days before the day of the Referendum.

REFERENDUM CAMPAIGN

Twenty two election districts and 277 polling stations were formed within the NKR. There was also one district in Yerevan for the NKR citizens, who were temporarily residing in the Republic of Armenia.

A corresponding preliminary campaign was carried out for familiarization of the population with the general provisions of the NKR draft Constitution via local mass media and television. About 30 thousand brochures with the text of the draft Constitution both in Armenian and Russian were printed and sent to all communities.

The parliamentary fractions “Democracy” and “Motherland” together with the oppositional parliamentary group “ARF Dashnaktsutyun-Movement-88” made a joint statement addressed to the public, and which conditioned the necessity for the adoption of the NKR Constitution

by the people of Karabagh. It particularly stated: *“The referendum on December 10, 2006 will make the logical conclusion of the stage of the political self-organization of the society, the start of which was set 15 years ago by the nation-wide will to be independent. The adoption of the NKR Constitution is a challenge of time. It will enable not only to constitutionally fix the basic principles of state power and to outline a new stage of the development of our Republic, but also to create an impulse in forming and developing new and more liberal principles of the government system and civil society building”*.

The representatives of the youth unions and the students in Karabagh took an initiative and made an agitation in favor of adopting the Constitution by covering all the communities within the NKR.

REFERENDUM OBSERVATIONS

On the very day of the referendum the observers, whose signatures come below, visited 137 polling stations and were present during the counting of the votes in 32 polling stations.

The list of the voters embraced 89044 people.

The observers were given the opportunity to familiarize themselves, without restriction, with documents, the samples of the ballots, the resolutions of referendum commissions, the journals, as well as receive copies and make extracts from them.

We have not faced any restrictions of our right as observers and mass media representatives, including freedom of movement.

The ballot-boxes were installed in places visible for the persons authorized to be present at the polling stations.

We have not fixed any serious violations either in the registration of voters and voting organization or in the processing the votes and transportation of the vote counting protocols from precincts to the regional (city) referendum commissions, and then - to the CRC.

At the polling stations we discovered no facts of administrative or law-enforcement bodies' interference in the work of the election commissions.

During the whole day of elections, the rate of attendance was reported every 3 hours. Finally, the participation of voters made up 87,02%.

There were all conditions and terms made to keep the secrecy of ballot. The voters, we had spoken with, expressed their satisfaction as to the information on preparation and conducting the referendum by the media.

In general, the voting was held in a cheerful, but quiet atmosphere. The attendance of the voters was high practically everywhere. Anyway, some problematic tendencies were observed on the very day of the referendum. Particularly, not every voter used the separation for confidential

voting. Some cases of family voting were observed. The majority of the polls were hardly reachable for the physically disabled and the aged. We have observed some queues of the voters in some districts. However, this cannot be regarded as a violation, but rather a positive moment.

RECOMMENDATIONS

- While the NKR Election Code and the Law on "Referendum" represented an improvement over previous legislation, further progress is desirable in terms of the full correspondence to the outstanding OSCE/ODIHR and CoE Venice Commission recommendations concerning elections.

- Efforts should be made to improve access to polling stations, particularly to ensure that physically disabled voters are not disenfranchised.

- Measures should be taken to enhance the secrecy of vote. The possibility for higher attendance of voters should be taken into account and the number of ballot-booths increased.

- The international community is recommended to support the democratic processes in NKR, including the conduct of the referendum.

Stepanakert
Signatures of international observers
December 11, 2006

ANNEX 13

Reports on the Results of Presidential Elections of Nagorno Karabagh Republic

(July 19, 2012)

A. INTERIM CONCLUSION OF THE ELECTORAL OBSERVATION MISSION OF THE NAGORNO KARABAGH PRESIDENTIAL ELECTIONS

Background

On 19 July 2012, Presidential Elections took place in Nagorno Karabagh (NK). While the NK Republic is internationally not recognised, European Friends of Armenia strongly welcomes the wish of the de-facto authorities to organise local self-government based on democratic principles. This wish has been underlined by inviting a large number of international observers, including a group of eight set up by ourselves. Our group was composed of three native speakers and five non-native speakers (in alphabetic order):

- Dr Ioannis Charalampidis (Journalist, Cypriot)
- Raffi Elliot (EuFoA staff, Canadian/Armenian)
- Poghos Geyikyan (Pediatric Surgeon, Armenian)
- Hovhannes Grigoryan (EuFoA director Armenian branch, Armenian)
- Olga Hetze (EuFoA staff, German)
- Dr Michael Kambeck (EuFoA Secretary General, German)
- Dr Eleni Theocharous (Member of the European Parliament, Cypriot)
- Dr Hans-Juergen Zahorka (Chief editor European Union Foreign Affairs Journal, ex-MEP and ex-MP, German).

We fully followed the official code of conduct of OSCE/ODIHR election observation missions.

Nature of our observation

Our observation mission was a short-term observation and included the Election Day, parts of the electoral counting procedures and interviews with candidates and other observers. Our mission did not include media monitoring, long-term observation before or after Election Day, monitoring of the complaints procedure and follow-up. To cover these important aspects of election observation, we recommend full OSCE-ODIHR missions for the future. Our mission included 23 of the 245 polling stations, stretching from Hadrout in the south to Martakert in the north, covering polling stations sizing from 1932 voters in Hadrout to 18 voters in the mountainous village of Mehmana.

Transparency for election observers

We strongly commend the local authorities for allowing us to move absolutely freely around Nagorno Karabagh (including the scarcely populated buffer zone around) and to question anyone directly or indirectly connected to the elections. The efforts made to allow us and other observer teams to gain full insights and transparency were considerable and we call upon the international community to appreciate these efforts.

Why do election observation in Nagorno Karabagh?

The solidarity of democrats demands that we prefer and promote the basic human right of democratic self-governance and it is in this context that our group carried out our mission here. We call in particular upon the OSCE ODIHR to provide technical assistance and election observation for future local-election, as part of a humanitarian development aid, even if this is done while underlining the non-recognition of the local state entity. This will provide for a real boost in local democratic culture and help prepare the local population for the time after the resolution of the so-called frozen conflict, as envisaged by the OSCE Minsk Group.

Positive observations in the polling stations observed:

- Proxies of at least two of the three candidates were present in all polling stations.
- All proxies questioned reported no violations of the electoral code, at the time of asking.
- In line with the electoral code, educational posters were visible in all polling stations.
- Official CVs of the three running candidates, with photographs, were posted in all polling stations.
- No political advertising was visible in the protected proximity of the polling stations.
- Voter lists were posted transparently in all polling stations.

- Voters were only permitted to vote in their designated polling station.
- Information gathered about the vote counting revealed solid procedures.
- Voting procedures in all polling stations made a solid and organised impression.
- No reports of violence or tensions were received throughout the observation and the general atmosphere was friendly and relaxed.
- Voters questioned at the polling stations reported no violations or intimidations.
- Polling station staff and proxies fully cooperated with all observers and provided full transparency.
- The Central Election Commission fully cooperated with all observers and provided full transparency.
- Voter turnout was visibly above average compared to European elections.

Negative observations in the polling stations observed:

- Ballot boxes were marked and sealed with inconsistent means. In more than half of the polling stations, at least some ballot boxes were sealed insufficiently.
- One of the candidates complained about the use of state resources by the incumbent.
- In one polling station, three proxies of one candidate were present simultaneously, in one other polling station two proxies of the same candidate were present.
- In 20% of the polling stations, more than 8 persons not related to the

voting administration were counted inside the polling stations. However, none of the proxies or voters connected this to any form of code violation.

- In 20% of the polling stations, persons not officially linked to the voting procedure were standing outside in the proximity of the polling station. However, none of the proxies or voters connected this to any form of code violation.

- Across Nagorno Karabagh, comparatively few billboard posters of any candidate were noticeable. The main form of visible campaign advertising consisted of A4 sized posters in shops and public places.

- Access to polling stations for people with impairments was often not facilitated and voting by correspondence was not possible.

Published on Friday 20 July 2012

B. REPORT OF THE INTERNATIONAL EXPERT CENTER FOR ELECTORAL SYSTEMS (ICES) ON NKR PRESIDENTIAL ELECTION

*July 20, 2012
Stepanakert*

The International Expert Center for Electoral Systems (ICES) mission consisting of 10 observers from Germany, Hungary, Czech Republic, and Israel submits this report on the NKR presidential elections 2012.

The members of the mission have been enabled to get acquainted with the NKR Constitution and Electoral Code. It should be stressed that the legislation framework and Electoral Code comply with the accepted international standards.

The members of the mission have not reported any facts of election advertising the day before the election, which is confirmed by the candidates running for presidency.

It is worth mentioning that the leadership of the NKR has been deeply concerned in holding democratic and transparent elections and the presence of a number of international observation missions from different countries of America, Europe and Asia testifies to the fact. We express our gratitude to the NKR CEC personnel for the Observers' Handbook issued by them.

On the election day, the members of the mission have visited 52 polling stations in Stepanakert, and the districts of Askeran, Martuni and Shushi.

We can state that the election results show that the candidates democratically competed for the NKR presidency, the voter turnout has been very high, and the elections have been held in line with the international electoral procedures. Nothing impeded the process of exercising the freedom of basic human rights; the procedures for vote counting have been solid.

The mission expresses its satisfaction with the fact that there have been no tensions or violations that could have interfered with the voting procedure and the counting of votes.

Despite certain technical issues and minor breaches related to the lack of clearly visible information in the proximity of a number of polling stations, accumulation of voters in certain polling stations, and attempts of some families to cast votes together, we are convinced that the reported technical deficiencies could not undermine the legitimacy of the voting results.

We can state that we have not found any falsifications of the election results at the polling stations we have visited. So, the official mission of the International Center for Electoral Systems considers the NKR presidential election process legitimate and in compliance with the international electoral legislation framework.

*Dr Alexander Tsinker
Head of Mission
President of the ICES*

**C. PRESIDENTIAL ELECTIONS IN
THE REPUBLIC OF
NAGORNO KARABAGH
July 19, 2012
REPORT OF THE INTERNATIONAL
OBSERVERS OF
URUGUAY AND ARGENTINA**

*Susana Pereyra, Deputy, Uruguay
Fabian Bosoer, Political scientist and journalist, Argentina*

**ON THE ORGANIZATION OF THE
ELECTIONS**

Our task began the day before the polls (18/7). We were received by the Electoral Commission and were given the necessary materials and were explained the conditions and regulations of that election. Accreditation and materials: Electoral Code, Constitution, information on the functioning of the political system, etc.

It gave us the infrastructure necessary to perform the work of observation of the polls. Freedom of movement was provided to conduct the observation. We visited the offices of the Electoral Commission and the Media Centre and had meetings with the three presidential candidates in the respective Campaign Headquarters. We also exchanged information with other observers to acknowledge us with the most relevant aspects and views on this election.

ON THE POLLING DAY

We witnessed active voting in various cities and towns: Stepanakert,

Shushi, Aikestan, Ghlagh and Vank. We constated normal affluence of voters, the correct role of the authorities, the visibility of the standards and the existence of ballots and ballot boxes. Voters had the conditions for the realization of the electoral operation.

There were no irregularities or complaints from voters. Officials and prosecutors stated that the elections were conducted totally normal.

ON THE COUNTING AND REPORTING OF RESULTS

After the close of voting we witnessed the task of organization and communication of central data of the conducted elections, participation in each electoral district and in the grand total. Observers possessed the elements of communication and freedom to develop their work. Journalists had the elements to convey the information available without restriction.

In conclusion, the results of our work allow to conclude that these elections were conducted according to the stipulated legal norms and within the regulations provided for this event.

Stepanakert, July 20, 2012

D. OBSERVATION IN NAGORNO KARABAGH - INDIVIDUAL REPORT JANA HRADILKOVA JULY 20TH

Character of observation

I was invited for the third time to work as an observer of elections in Nagorno Karabagh. I have been interested in the issues of both North and South Caucasus for more then ten years as a peace activist, charity worker and publicist. My main concern in this engagement has been to compare the situation in NK from both the time perspective and international context of peaceful reconciliation process. I was interested not only about the quality of elections but also about the real status of an observatory mission.

I was working in a small group – two Czechs and one woman from Russia/Kabardino Balkaria. We have decided to visit polling stations both in Stepanakert (4 polling stations in the morning) and in villages in north direction - Shaumyanskyi rayon (visiting 8 places, the final one in Karbachar).

Process and framework of our mission

The day before elections we have had the possibility to meet and talk individually with other observers as well as with two candidates and the chief of the third candidate group. We were equipped with all possible texts and materials which

were useful for us in terms of obtaining an adequate information about all the electory process.

We were enabled to choose freely with whom we needed to talk and where to go, which is highly appreciated. In spite of choosing a very difficult and ambitious route our drive has to be highly appreciated as absolutely professional. So there are no complaints about both free and technical conditions we were provided with.

The only thing which I have been missing as opposed to the 2005 observatory activities was the common closing debate of international observers community.

Quality of elections

I have not registered any violations of election in any polling station. The only small shortcomings could be raised (methodological inconsistencies) as having purely technical character. Lists of voters as well as other documents were placed where they should be. No pressure has been done on voters from any side. The reality went exactly after the given electoral code. The atmosphere in all places was absolutely clear, taken with all its seriousness, people were absolutely open, concentrated, communicative, transparent, there was no feeling of something to be hidden or manipulated from our eyes, high attention to organizing the electory space, simply it was very impressive. More on that, it was clear that people in villages take this day as a very important in their lives. From the point of an international context elections

in Nagorno Karabkh mean a unique phenomenon of real national community consensus NOT about candidates, but about the way and the meaning of their elections. As far as I had the possibility to listen to other observers group evaluations I fully agree with them in substantial set of their positive comments.

Overall evaluation of the 2012 presidential election meaning

From the perspective of an observer today most important issue is the recognition of Nagorno Karabagh as an independent subject. Several times it has been articulated that citizen express by the most serious, transparent, free and democratic way of electing their representatives that no doubt they themselves recognize their country as ready for to be recognized internationally. NK election itself is a proud and clear gesture and message to the world. This has been recognized and appreciated by international observers community as well.

My question is - Is that enough - will be that voice taken in the mind of international political institutions? What has been changed since 2005 when I was observing elections here for the first time? It is clear that peace process will not move from its frozen status since the NK will not be recognized as an official, strong partner in these negotiations.

I am sure that NK authorities are well aware of it. The crucial issue in this long-time process which has not been moved ahead yet has to follow the strict

itinerary of its process. Elections (which have been so touching in the eyes of all observers) is the first and fulfilled condition in this process. In spite of that, there is no doubt that this condition is not the only one. Which one is the further? The presence of plurality in the domestical political scene? Honestly articulated set of problems and obstacles which have not been brought on the table yet? The process will not be moved from its frozen point, since all the existing negotiators will not start to work on consensus about these issues. The international debate has obviously been stucked on the territorial argumenting. It does not work, since this is a vicious circle where members of it do not connect on any common issue to talk about. I consider as the main goal for the subject of this process – Nagorno Karabagh Republic to start to play the role of its facilitator.

The next condition for doing the next step in the process is on both international and local political community: To work promptly and seriously on formulation of the key issues for negotiations, concerning the real lives of people in NK and those who have been damaged by the conflict itself.

I saw enough courage in people I met in villages to be able to talk openly about the value of life, of the place they live or used to live, about the nation to belong to, about their belonging to the wider international community. Authorities should be more then ever before aware of the fact, that there is a time to make a step ahead – not only organize a high-quality elections but to listen to people and educate

them in what is going on in the outside world. Without this kind of a dialogue not only the situation will be moved from the frozen point, but it start to be wrapped into desperate emotions and as such will be easily exposed to ideologization and loss of a freedom, the most precious value this election STILL dispose with.

I am aware of the fact, that this past paragraph of my observing evaluation may overstep the frame of a standard observing format. As an excuse please take it as the expression of my deep gratitude that I was invited to your natural paradise already for the third time, all meetings with its people are deeply preserved in my heart. I do care about your future and I would not consider as honest not to share my relevant thoughts with you.

Thank you and wish you good chances, expectations and peaceful future.

Stepanakert, July 20, 2012

**E. PRELIMINARY REPORT OF STO
MISSION AT THE ELECTIONS OF
THE PRESIDENT OF NKR
19 JULY 2012
EUROPEAN CENTER OF
GEOPOLITICAL ANALYSIS**

The Mission's format and methodology

European Centre of Geopolitical Analysis, having experience in the field of election monitoring, has been invited by the Speaker of the National Assembly of Nagorno Karabagh Republic Mr. Ashot Gulyan to conduct Short Term Observation (STO) of the presidential elections scheduled for the 19th of July 2012. The Mission consisted of politicians and experts experienced in political processes and democratic procedures. It has been co-presided by Members of European Parliament Mr. Johann Ewald Stadler (Austria) and Mr. Daniel van der Stoep (Netherlands). Other members of the Mission represented European Union countries - Austria, Poland and Bulgaria.

The Mission, being STO, has worked on the territory of NKR between 14th and 20th of July 2012.

The methodology of the Mission was based on the principles of EU, United Nations and other international organizations, concerning STO, which particularly included:

- Analysis of legal electoral framework;
- Analysis of electoral campaign;
- Observation of the voting on election day.

The Mission has acknowledged the fact that NKR, although not internationally recognized, is de facto functioning state, which means that it fulfills all prerequisites of statehood (territory, population, political authority).

Background

The institution of the President of NKR, existing since 1994, is a key figure in republic's political system. Until now three heads of state have been elected – Robert Kocharyan, Arkadiy Gukasyan and the incumbent (since 2007) president Bako Sahakyan.

The 2012 electoral campaign has been shadowed by growing tensions on the truce line delimited in 1994 after the war of independence of 1991-1994. Several soldiers (including Armenian) have been killed on the borderlands in Spring and Summer, with most cases being the results of Azerbaijani provocations. The tense situation could not stay without an impact on presidential elections in NKR. Thus the main issues of the campaign were connected to security measures, as well as on demands for peace talks including the participation of NKR as the most important subject of the so-called “frozen conflict”.

All candidates participating in the election campaign have voiced their support for NKR's participation in conflict settlement with Azerbaijan. Acting president Bako Sahakyan claimed that OSCE Minsk Group has already understood urgent need to involve Stepanakert in negotiations,

and that this is the result of various endeavors of Karabagh's authorities. Arkadiy Sogomonyan told that in case of him being elected as a president, Baku will agree to have direct talks with Stepanakert, meanwhile rejecting any territorial compromise with Azerbaijan. Vitaly Balasanyan stressed that there have been hardly any progress in peace negotiations since 1996, when Stepanakert ceased to participate in the talks. He claimed that Armenia should formally guarantee safety and independence of NKR.

Another important issue during the campaign was one of the economic nature and prospects of economical growth as well as infrastructural development. Several candidates focused particularly on border regions which were living in particularly severe conditions limiting their growth. A. Sogomonyan proposed tax-free zones in the bordering regions. B. Sahakyan claimed that "county is the base for the whole state" and proposed special programs to build infrastructure and social services' access to villages. Even the most remote of them, according to him, should have certain infrastructure, including the medical one. To limit migration from villages the acting president proposed a cheap credit program for young families who would like to build their houses in the county. V. Balasanyan told that a program for villages and farming should be based on a principle that in about 5-7 years food self sufficiency of NKR should be possible.

Besides internal significance, the role played by former presidents and

politicians from Karabagh has been since the 90ies very important for the political life of Armenia itself. The first president of NKR (1994-1997) Robert Kocharyan then became prime minister (1997) and president (1998-2008) of Armenia. Other politicians from NKR, including the incumbent Armenian president Serzh Sarkisyan, have also strongly influenced the political landscape not only of their own republic, but of the neighboring Armenia as well.

Therefore the mission of European Centre of Geopolitical Analysis comes to a conclusion that the presidential elections in NKR are of large significance not only for NKR, but also for neighboring countries, as well as for the whole region, particularly in the context of geopolitical turbulences in the Middle East and Transcaucasus countries.

Constitutional and legal basis

The President of NKR being the head of state has position and competences which are usually ascribed to the head of state in moderate presidential or semi-presidential system, having as his counterpart the parliament (the National Assembly of NKR). The parliament can initiate impeachment procedure (Art. 71 of the Constitution), but it may succeed only in case when the Supreme Court finds its arguments legally strong enough to proceed and then 2/3 of all members of parliament vote for impeachment.

The legal framework for presidential elections is prescribed in Nagorno Karabagh constitution of 1996 and the Electoral Code of 2007.

The Constitution states that all elections and referendums are based on the principle of universal, direct, equal and secret ballot (Art. 3). The right to vote is given to NKR citizens with age over 18, with the exception of those who are mentally disabled and those who are sentenced to prison (Art. 32). The latter can raise some doubts as it excludes all prisoners, without any distinction.

The president is elected for a five year term, with right to only one subsequent reelection. A candidate for presidential post has to be over the age of 35, being a citizen of NKR and permanently residing on the territory of NKR since at least 10 years before the election (Art. 62 of the Constitution).

If more than two candidates participate in the election and no one of them gets more than 50% of all valid votes, a second round of the election is held within 14 days after the first round. If only one candidate participates in the elections, he is elected if at least 50% of the votes cast were in his support. The final results of the elections and their judicial legitimacy is recognized by the Supreme Court of NKR. Interesting rule has been introduced by the Art. 64 of the Constitution which states that in case of serious and motivated problems concerning any of the candidates the elections may be postponed for another 14 days.

The role of internal and foreign observers is precisely described in Electoral Code, guaranteeing transparency and openness of the electoral process.

Electoral campaign

Having met with several representatives of NKR civil society, mass media and the staffs of candidates participating in the election, the Mission comes to a conclusion that all the candidates had equal possibilities of accessing the voters with their programs and ideas. All candidates could participate in debates on equal rights, as well as they were given all necessary possibilities to organize meetings and other forms of direct campaigning.

Day of voting

On the 19th of July between 8.00 and 20.00 the members of the Mission have monitored voting at polling stations of three regions of NKR (Stepanakert city, Askeran region, Martouni region). The number of visited polling stations made about 4% of all polling stations existing in the country.

The Central Electoral Commission of NKR has provided the observers with complete and detailed information about the electoral procedures, as well as with all necessary assistance in fulfilling their duties.

The observers were given access to all polling stations of NKR, which means that the electoral process has been transparent according to NKR laws and regulations.

The Mission, after conducting its basic activities within STO, came to the following main conclusions:

- The elections were held in accordance to the legal basis (the Constitution and the Electoral Code);
- The level of preparation of the electoral bodies can be estimated as corresponding to democratic standards, concerning the experience of the Republic in organizing elections (16 elections of various levels and 2 national referendums since 1991);
- Due to the social, historical and cultural background of NKR the elections were calm and did not cause any political tensions in the society;
- The results of the elections can be recognized as legitimate and democratically guaranteeing the right of all citizens of NKR to express their views and opinions and choose the head of state;
- The observers of all candidates were present at most of the polling stations and if not they were given equal opportunities to register themselves as observers.

The general assessment of the quality of work of visited polling stations was excellent in 22% and satisfactory in 78%.

In 11% of visited polling stations the secrecy of the ballot was not fully guaranteed due to the lack of sufficient space of the used rooms. However, the members of polling stations' electoral commissions' tried to improve the situation after remarks of the Mission members.

In 67% of the visited polling stations the Mission has found various misinterpretations of the electoral law concerning the sealing of ballot boxes. The members of polling stations' electoral commissions' used handbooks which did not precisely describe the procedure of closing ballot boxes (as it is in Art. 54 nr 3 of the Electoral Code). After the interventions made by the observers the problem was solved in every of the found cases.

Remarks and Recommendations

- The instructions for polling stations' commissions' members should be edited more carefully and cover more detailed interpretation of the electoral regulations – particularly when it comes to the secrecy of the voting and security of ballot boxes;
- The conditions and size of buildings in which polling stations are placed could be improved, which is however not easy, concerning NKR is a developing country. In some cases the lack of sufficient place could lead to limiting the level of secrecy of the ballot as well as could make the work of polling stations' commissions and observers less efficient;
- The remarks of foreign observers should be checked independently and passed to electoral authorities, particularly in context of tense international situation – in order to avoid irresponsible activities of foreign citizens and entities, interested in destabilizing country's political stability.

**F. STATEMENT OF THE RUSSIAN
OBSERVATION MISSION ON
THE RESULTS OF THE NKR
PRESIDENTIAL ELECTION**

On July 19, 2012, election of the President of the Nagorno Karabagh (Artsakh) Republic was held in accordance with Articles 4 and 63 of the Constitution of the Nagorno Karabagh Republic.

In order to assess the process of voting and the counting of votes an observation mission from the Russian Federation has been invited to the republic.

Members of the mission ascertain the transparency of the preparation and conduct of the election and the counting votes. The Russian observers have visited a large number of polling stations in all administrative regions of the Nagorno Karabagh Republic and the capital Stepanakert. Members of the observation mission were given the opportunity to monitor the work of the Central Election Commission, the polling stations and the process of vote counting. The presidential election in the Nagorno Karabagh Republic was held under conditions of high political rivalry and equal access to the media.

Some shortcomings in the work of the election commissions noted by the mission were more of an organizational and technical nature and members of election commissions and local authorities took measures to promptly address them.

We assess the phases of the presidential vote as positive. The voters have voted in person. The observation mission has not observed any incidents or irregularities that would affect the free expression of will. The process of vote counting at the visited polling stations was carried out transparently. Observers were able to freely examine the election documents and sample ballots, the decisions of election commissions and minutes of the meetings.

As a result of the voting, the Russian observation mission acknowledges the NKR presidential election of July 19, 2012, as legitimate, transparent, free, open, democratic, fair, complying fully with the electoral legislation of the republic as well as the existing international standards for democratic elections.

The fifth presidential election of the Nagorno Karabagh Republic, held on an alternative basis with the participation of three candidates, demonstrate the consistent efforts towards strengthening the institution of democratic elections and developing a civil society. Voter turnout, their motivation and civic stand show their deep involvement in the democratic process.

Members of the mission note the importance of the presidential election for the negotiation process under the auspices of OSCE Minsk Group, as well as the overall effective functioning of the Nagorno Karabagh authorities. The efforts to build and improve a democratic electoral system

require appropriate attention by the OSCE Minsk Group co-chairs and the world community as a whole, thus contributing to the rapid and peaceful settlement of the Azerbaijani-Karabagh conflict and to bringing stability and real lasting peace in the region.

Stepanakert, July 20, 2012

**G. DECLARATION OF THE GROUP
OF FRENCH OBSERVERS
PRESIDENTIAL ELECTIONS OF 19
JULY 2012 IN THE REPUBLIC OF
NAGORNO KARABAGH
Stepanakert, July 17- 21, 2012**

On July 18, prior to conducting the vote, the Delegation successively met the three candidates: Arkady I. Soghomonyan, Vitaly M. Balasanyan, Bako S. Sahakyan.

The three candidates, after presenting their programs, provided their precise requirements.

On the election day, July 19, the Delegation was separated into two groups and conducted observation operations in the Southern, Eastern and Northern parts of the territory. The observation covered twenty polling stations grouping to nearly two thousand registered.

The reception was most cordial and warm.

The organization of polling stations appeared to us being in conformity in all aspects to the requirements of the Electoral Code: voter's lists, conformity of electoral materials (ballot boxes and voting booths), verification of voters identities, confidentiality of voting, the presence of representatives of two candidates.

During the observation of all voting operations, no breaches of law were detected.

In conclusion, we consider that the presidential elections of 19 July 2012 have been open, transparent and free and so they matched the requirements of the electoral regulations of the Republic of Nagorno Karabagh as well as the democratically accepted criterias by the international community.

In this case, it appeared to be legitimate and therefore should be taken into consideration.

Pierre d' ESPERONNAT

Maurice BONNOT

Jean PICOLLEC

H. REPORT ON CONDUCT OF THE NAGORNO KARABAGH PRESIDENTIAL ELECTION OF 19th July 2012

Daniel Hamilton

This is the personal report of Daniel Hamilton, an independent election observer, into the conduct of the Presidential election that took place in Nagorno Karabagh on 19th July 2012. No payment was offered or accepted for the completion of this election observation mission.

This report is written without prejudice to arguments surrounding the future legal status of the territory of the Republic of Nagorno Karabagh, whose present territory was codified in 1994 ceasefire talks chaired by the Organisation for Security and Cooperation in Europe (OSCE). While the Republic of Nagorno Karabagh functions as a de facto independent state it remains a de jure part of the Republic of Azerbaijan.

The Government of Azerbaijan has declared that all foreign observers of the elections will henceforth be considered persona non grata and banned from entering the country in the future.

The election

274 electoral districts were established, as well as one polling station in Yerevan to enable Nagorno Karabagh residents in Armenia to vote. No provision was made for postal or proxy voting.

Polling stations were open from 08:00 to 20:00. The total number of registered voters was 98,909, of which 72,833 cast ballots, representing a turnout of 73.64%.

The final result, as announced by the Central Election Commission of Nagorno Karabagh, was:

- Bako Sahakyan (incumbent) - 47,085 (66.7%)
- Vitaly Balasanyan - 22,966 (32.5%)
- Arkady Soghomonyan - 594 (0.8%)

Scope of observations

During the course of election day, polling stations 10, 33, 17, 5, 3, 38 and 19 were visited. Polling stations visited included urban polling stations in Stepanakert and Vank and rural locations in the Martakert region.

I had the opportunity to personally meet with incumbent President Bako Sahakyan and to visit his campaign headquarters. I was also afforded the opportunity to meet with the campaign manager of Vitaly Balasanyan. I did not meet with Arkady Soghomonyan or any of his campaign representatives, beyond those official observers present at polling stations.

Positive observations

At almost 74%, voter turnout exceeded that witnessed in most North

American countries and European Union member states.

Polling station staff demonstrated exemplary knowledge of procedures and a clear commitment to scrupulously adhering to them.

Election observers were not impeded in any way in the conducting of their task. Observers personally selected the polling stations they wished to visit on election day and no advanced notice of observer visits was given to polling station staff.

Official posters and biographical information relating to each of the three candidates was displayed inside each polling station. Information was displayed in a uniformed manner, with no advantage given to any one candidate in terms of the size or prominence of their election materials.

In no case were any election posters or promotional materials displayed either inside or in an unacceptably close proximity to the polling station.

A list of all voters eligible to vote at each location was prominently displayed at the entrance to each polling station.

Proxies of Bako Sahakyan and Vitaly Balasanyan were present in each polling station. In the case of some polling stations outside of Stepanakert, proxies of Arkady Soghomonyan were absent.

All voters were asked to provide photographic identification before being issued with a ballot paper. In each case, this ID requirement was satisfied by the voter producing an Armenian passport.

Voting booths could not be overlooked and allowed for adequate voter privacy while casting ballots.

Solid steps were taken by election officials to ensure that ballot papers could not be forged. In each polling station, the reverse side of each ballot paper contained the signature of three polling station staff (who rotated this responsibility throughout the day) and the official stamp of the polling station.

Prior to the commencement of the count, unused ballot papers were publicly destroyed and placed inside sealed envelopes.

Ballot boxes were unsealed in the view of all international observers and the count supervisors of Bako Sahakyan, Vitaly Balasanyan and Arkady Soghomonyan.

During the counting procedure, each ballot paper was individually displayed to members of the local election commission and the count supervisors of Bako Sahakyan, Vitaly Balasanyan and Arkady Soghomonyan.

Negative observations

While all ballot boxes were securely sealed, the approach used to seal

the ballot boxes was inconsistent. Some, for example, were sealed with plastic ties alone while others had both a plastic and paper seal. Consistency in this respect ought to be required in future elections.

In a number of polling stations, counting staff sat immediately next to ballot boxes. In many cases, this included operating the plastic mechanism that allowed voters to place their ballot papers into the box. While no voter reported feeling uncomfortable with this practice, steps should be taken to minimize the level of physical contact election staff have with the ballot box while voting is taking place. An observer of Italy Balasanyan reported some hostility towards his candidate's campaigning efforts in rural communities. This hostility did not come from police or state employees but rather from villagers supportive of the candidacy of Bako Sahakyan. The government may wish to conduct further information campaigns in advance of future elections in order to ensure all citizens are aware of the importance of allowing multi-party electioneering.

In the case of some rural locations, polling stations were not easily accessible to voters with physical impairments (i.e. located at the top of staircases or in poorly-paved yards). A review of each polling station should be conducted to ensure this problem is minimized in future.

Ballot papers were only made available in the Armenian language. In one

case, a voter who could only read Russian required assistance of polling staff to cast her vote. In future, it would be advisable to make ballot papers available in the Russian and Azeri languages in order to assist both ethnic minority voters and those with poor or non-existent knowledge of the Armenian language in the casting of their votes.

While election officials scrupulously adhered to rules stating that ballots must be cast by placing "V" in the box to the right of their chosen candidate's name, this approach proved to be unnecessarily inflexible in practice.

Observers identified numerous cases where ballot papers demonstrating clear voter intent were discounted due to bearing a mark that was not "V" next to their chosen candidate.

Similarly, ballot papers were discounted in the case of a voter indicating a positive intention to vote for a particular candidate in preference to others (i.e. crossing out the names of the candidates they did not wish to vote for).

The disqualification of such ballot papers was, however, done with the full discussion and agreement of members of the local election commission and observers of Bako Sahakyan, Vitaly Balasanyan and Arkady Soghomonyan.

As an estimate, this problem impacted upon roughly 0.25% of the total

ballot papers cast (not including those that were intentionally spoiled by voters).

In future, counting staff ought, in consultation with representatives of candidates, be able to accept as valid any vote where voter intention is clear.

Conclusion

Without prejudice to arguments surrounding the legal status of the territory, the Presidential election held in Nagorno Karabagh on 19th July 2012 can be judged to be free, fair and in accordance with

comparable electoral standards found in European Union member states. In the case of each of the negative observation made, simple steps can be taken to remedy any problems identified. Officials in Nagorno Karabagh have demonstrated a willingness to accept and act upon criticisms made of the conduct of the elections. While the OSCE declined an invitation to send a delegation to scrutinize the conduct of the elections, Nagorno Karabagh must continue to seek their participation in future election observation missions.

ANNEX 14

Reports on the Parliamentary Elections of the Nagorno Karabagh Republic

(May 23, 2010)

**A. REPORT OF THE INDEPENDENT
AMERICAN-DUTCH MONITORING
DELEGATION LED BY THE PUBLIC
INTERNATIONAL LAW & POLICY
GROUP TO THE
May 23, 2010
NAGORNO KARABAGH
PARLIAMENTARY ELECTIONS**

Summary

The observations conducted by the Independent American-Dutch Monitoring Delegation indicate that the Nagorno Karabagh parliamentary elections held on May 23, 2010 were conducted in a free, fair and transparent manner. The Central Election Commission supervised the electoral preparations and polling efficiently. Based on the information gathered during our short-term mission, the activities of the electoral authorities, political parties and candidates during the elections were consistent with generally accepted international standards. The observations of our missions provide strong indications that Nagorno Karabagh continues to make strong progress in establishing and sustaining a healthy and sustainable democracy.

The observed election environment was calm and orderly. We neither observed nor received reports of any significant irregularities in the voting process. We also received no reports of significant irregularities in the pre-election period.

The three-person delegation met with representatives of four major political parties, the Central Election Commission chairman, numerous national and local government officials, representatives from local nongovernmental organizations, and journalists. The delegation visited eight polling sites located in seven out of the eight major electoral regions and found no significant irregularities in the sites visited.

Election Environment

Elections are both a technical and political process. The technical aspect incorporates the election administration, logistical preparation, necessary electoral materials, and voter education programming used for registration and voting. The political component incorporates issues surrounding constraints on competition, the degree of voter involvement, and citizen access to information on the candidates.

The citizens of Nagorno Karabagh we met with, from the voters and election officials in the towns and villages, to the representatives of the key political parties, to public officials at the highest level, uniformly expressed confidence and a firm conviction that the Nagorno Karabagh elections are run in a free and fair manner. Even those who expressed dissatisfaction with some of the policy choices made by their government agreed that those choices had been made through a fair and democratic process. Numerous citizens

of Karabagh expressed pride that their democratic achievements surpassed the level of democracy prevailing in several other neighboring countries.

The pre-election campaign atmosphere was reported to be calm. None of the candidates interviewed expressed the opinion that voters had been prevented from gaining sufficient information about any of the candidates or political parties, or that unfair preference had been given to specific candidates or parties in the realm of media access. There were no reports of threats, intimidation or other improper influences that could prevent voters from expressing their honest personal preferences at the ballot box. The delegation did not detect any sense of fear, intimidation or hostility directed towards candidates or potential voters. There were no reports of onerous security measures or other external pressures that might have unfairly affected voter turnout.

CEC rules were in effect for allocating time and space in the Nagorno Karabagh media with the intent of providing equal access to candidates and parties. No party or candidate we spoke with reported violations of these rules. Nor did we receive reports that the government has misused the media to unfairly affect the election, though some citizens expressed the view that the relative weakness of the private media has the natural effect of strengthening the voice of the incumbent government and muting the voice of opposition. The government and party officials we interviewed uniformly agreed that parties and candidates had

ample and open opportunities to present their views to voters in live public forums.

Election Law and Procedures

The 2010 election is Nagorno Karabagh's fifth parliamentary election since 1991. Approximately 90 international observers from 14 countries, including Canada, Russia, Armenia, Argentina, the Netherlands, Germany, the Czech Republic, Denmark, Ireland, France, and the United States, monitored elections.

Candidates were nominated through political parties according to the proportionality system and in voting districts according to the majoritarian system. Of the 33 National Assembly seats, 17 deputies are elected through the proportional system from the list of candidates nominated by each party, and 16 deputies are elected by majoritarian system, one from each of the 16 electoral districts. The 16 electoral districts consisted of 273 polling stations. The Central Electoral Commission registered lists of 4 political parties, Free Motherland, Artsakh Democratic Union Party, the ARF Dashnaktsutyun, and the Artsakh Communist Party.

For the 16 majoritarian seats, 40 candidates were nominated. Of these, 22 by non-party groups, and 18 were nominated by political parties. 6 candidates represent the Free Motherland party, 4 represent the Artsakh Democratic Union Party, 5 represent ARF Dashnaktsutyun, 1 represents the Artsakh Communist Party, 1 represents the Our Home is Armenia party

and 1 represents the Christian-Democratic Party.

Polling Day

The delegation visited eight polling sites in seven of the eight electoral regions and found the election to be very well organized in a technical sense. Members of the delegation heard no serious complaints from citizens, candidates, or officials about the validity of the voting procedures or results. The general climate at the polling places was calm, positive and efficient. There was no evidence of intimidation or of any climate of fear or uncertainty on the part of voters. Police were present at most of the polling places visited by the delegation but they generally kept to their proper place in front of the polling stations. The officers understood their role in providing security for voters and election officials, and there were no complaints relating to police conduct. There was no evidence that police were having any intimidating or otherwise improper effect on voters or the voting process.

The election commissions at the polling places performed well in organizing and conducting the vote. Election commissioners were generally very well prepared; all were familiar with the required procedures, and we received no complaints regarding the actions of election officials. Necessary voting materials, including voter registration lists, supplies, and blank ballots arrived in due time and in sufficient quantities. Information about the majoritarian candidates also was displayed outside most polling places, and no

candidate representative complained of any preferential treatment in this regard.

In most polling places visited by the delegation standard voting instructions and election rules were prominently displayed. One small, rural polling place did not receive standard printed materials in time for election day, but nonetheless produced simple instructions that appeared to provide voters with the basic information needed to vote. We spoke with several voters of varying ages and none expressed concerns or confusion about the instructions provided at this station.

The voter registration lists appeared to be generally accurate and in all cases were prominently posted at the polling sites. Private voting booths were provided in all but one polling place. Election officials informed us that they were unable to obtain the standard three-sided booth due to a shortage. The replacement, a lectern, provided insufficient privacy, but during our observation no voter complained that this accommodation affected their right to cast their ballot freely.

The delegation observed one vote count. In that instance, the count proceeded in accordance with the rules. The delegation is unaware of any complaints put forward by candidates or citizens about the count. Candidate observers were allowed to be present for the count observed by our delegation, and election commissioners at the polling places we visited repeatedly confirmed that registered observers were free to observe the vote counts.

In one respect, conditions at the polling places visited by our delegation were inconsistent with electoral regulations. Although Article 24(3) of the NKR Electoral Code forbids individuals from assembling in groups on the day of the election within a 50 meter radius of polling place, this requirement was rarely enforced at the polling places we observed. In most polling places, groups of citizens congregated and conversed in small groups well within the 50-meter limit.

None of these groups were engaged in campaigning, none were disruptive, and none was reported to have, or appeared to have, any negative influence on the election process. To the contrary, the groupings seemed the natural extension of an electorate taking pleasure in the democratic process. We suggest consideration be given either to clarifying the existing law or to bolstering its enforcement.

Conclusion

Nagorno Karabagh continues to make progress in building democracy, and its authorities have made a serious and concerted effort to conduct the 2010 polls by democratic means. Many of the citizens we met with recognized this progress. Our observations consistently revealed a desire for and commitment to a fair and transparent electoral process. No election is perfect and here, as elsewhere, there were some minor areas for improvement. Nonetheless, our observations, though necessarily limited, indicate that Nagorno

Karabagh's most recent election was conducted in a free and fair manner. Indeed, we found no significant evidence to the contrary. Based on our observations, we anticipate that the collective experience of the monitors present at these elections will offer a more comprehensive confirmation of the conditions we encountered.

The Delegation

The delegation is composed of members with an array of experience in dealing with international, political and human rights issues. **Michael Kovaka**, who led the American-Dutch Independent Monitoring Delegation is Senior Counsel for the Public International Law and Policy Group and an experienced constitutional lawyer and advocate for freedom of speech and freedom of the press in the United States. **Kerstin Mikalbrown** is a Senior Research Associate with the Public International Law & Policy Group, working primarily with clients in post-conflict reconstruction and security issues. **Marieke de Hoon** is Co-Director of the Netherlands office of the Public International Law & Policy Group, and Researcher and Lecturer in Public International Law and International Criminal Law at the Free University of Amsterdam.

Discussions Held:

Bako Sahakyan, President of the
Nagorno Karabagh Republic
Ashot Ghulian, Chairman of the
National Assembly of the
Nagorno Karabagh Republic

Georgy Petrossian, Foreign Minister of the Nagorno Karabagh Republic
Spartak Tevosyan, Vice Premier of the Nagorno Karabagh Republic
Ararat Danielyan, Chairman of the Nagorno Karabagh Republic Supreme Court
Sergey Nasibyan, Chairman of the Central Electoral Commission
Vazgen Mikaelyan, Mayor of Stepanakert
Ara Pluzian, Representative of the Dashnaksutyun Party
Artur Tovmasyan, Representative of the Free Motherland Party
Vahram Atanesyan, Representative of the Democratic Artsakh Union Party
Hrant Melkumyan, Head of the NKR Communist Party

Representatives of the following non-governmental organizations: Institute for People's Diplomacy, Stepanakert Branch of the Moscow University, NGO Resource Center, Artsakh University, Artsakh Intelligentsia, Stepanakert Press Club, DEMO, Center for International Cooperation, International Center for Human Development, Medical Union of Karabagh, Organization of Young Political Scientists, and the Karabagh Refugees from Azerbaijan.

This report covers election-related activities that occurred prior to the departure of the delegation from Nagorno Karabagh mid-day on May 24, 2010.

Stepanakert, May 24, 2010

B. REPORT OF THE FRENCH DELEGATION ON THE LEGISLATIVE ELECTIONS OF May 23, 2010

The elections were held in accordance with democratic standards accepted by international law. Although we did not attend the election campaign, the contacts with the political parties revealed that the multiparty system was in the process of development (we were reported that meetings were held at the local level, in the small districts). Moreover, the press seems to have played its role notably through the different newspapers of parties and the organization for the first time of a television debate, two days before the polls, in which 4 formations have participated.

In comparison with the previous elections, the observers that have already participated in the monitoring of the previous polls noted improvements in the organization and the functioning of the operations of vote; the poll day lists were more accurate (less omissions); improvement of the appeal mechanisms; perfectly appropriate materials (voting booths, ballot boxes); voters having passports with photograph.

However, a certain improvements could be envisaged:

- Limitation of the numbers of the registered voters in each polling place (as an example 2072 registered voters and 187 soldiers in Hadrout) this figure seems hardly to be manageable;

- Accessibility of the old persons or handicapped to the polling places (staircases), access to the certain places was difficult;

- Certain polling places were overcrowded (reduced freedom of movement);

- In contrary, the timetable was reduced for the small polling places.

The functioning of the election observing mission could be improved through the assignment of the mission to the electoral territory (possible by casting of lots).

Pierre d'Esperonnat,
French association of the Doctors of Law;

Maurice Bonnot,
Institute of Democracy and Co-operation;

Michel Poret,
French association of the Doctors of Law

Alain Fresnel,
Independent association ECTI

Stepanakert, May 23, 2010

**C. INTERNATIONAL OBSERVATION
MISSION OF THE ELECTIONS TO
THE NATIONAL ASSEMBLY
OF THE NAGORNO KARABAGH
REPUBLIC
May 23, 2010**

We, as one of the German election observation teams, would like to thank the Nagorno Karabagh government for the kind invitation to observe the elections to the national assembly on May 23, 2010. Especially we would like to thank our driver and interpreter who were of valuable support.

In order to be able to offer an even better organization of the election observation we would like to highlight the following points:

- Thus, we think as necessary to have a predefined date when all observers meet to jointly coordinate their work. At this meeting, all necessary information material (election codes, lists of precinct centers all in different languages) should be provided.

- On election day we observed the voting process in one polling station of Stepanakert (6.01) and several polling stations in the Tartar valley up to Karvatchar (14/18; 14/17; 14/15; 14/3; 14/14; 14/01). The counting process we observed in Kichan (10/05).

- Overall, we didn't observe any grave irregularities. Remarkable was the active participation of voters as well as

the election commissions (e.g. high voter turn-out, attentive election commission members, friendly and cooperative atmosphere).

- What surprised us was that we observed more irregularities in the Stepanakert polling station we visited than in the rural areas (station was crowded, lack of organization of voting process, more than one person in voting booth - even discussion in voting booth).

- In the smaller polling stations we visited the voting process was well organized. In some polling stations there were uncertainties or technical reasons though why the voting process could not be implemented as stipulated. This concerned for example the voting possibilities of voters who personally could not come to the polling stations. While in some stations this point was not clear, in others, the right procedure was clear but could out of technical reasons not be implemented. Other points we would highlight are the different forms of sealing (in some polling stations only red plastic strips on ballot boxes; in others additional stamped paper sealing), there that was in one of the areas observed only one candidate and at some of the polling stations campaign material was displayed.

Concerning the counting process we observed, it went exactly as stipulated.

All in all we would emphasize that the whole voting process was advanced and in accordance with democratic principles

- especially compared to observation experiences in other post-Soviet countries the voting process can be regarded as on a high democratic level.

Signed by:

Christian Kolter,
Bremen University graduate student

Beate Eschment,
*Humboldt University professor in Berlin,
expert on Central Asia*

Franziska Smolnik,
*Research Assistant, German Institute for
International & Security Affairs.*

D. INTERNATIONAL OBSERVERS' CONCLUSION ON THE ELECTIONS TO THE NKR NATIONAL ASSEMBLY

On 23 May 2010, the elections of Deputies to the NKR National Assembly took place in the Nagorno Karabagh Republic in line with the NKR Electoral Code.

124 international observers from Argentina, Armenia, Germany, Denmark, Ireland, Canada, the Netherlands, Transdnestrian Moldovan Republic, Russia, Republic of Abkhazia, Republic of South Ossetia, Slovakia, the United States, France and Czech Republic followed the process of elections. Among them were many present and former parliamentarians, representatives of nongovernmental humanitarian and human rights organizations. More than 40 representatives of mass media from different countries were accredited to cover the election process.

The observers had meetings with representatives of all parties and many candidates, members of the Central Electoral Commission, journalists and representatives of local non-governmental organizations.

The day of elections, observers visited several electoral districts, participated in the process of counting of votes in electoral districts.

Based on the monitoring of the elections, observers verify:

Preparations, implementation and summarization of the results of the elections to the NKR National Assembly have been conducted in compliance with the NKR Electoral Code of December 8, 2004 (amended in 2007, 2009, 2010).

16 electoral districts and 272 polling stations were formed on the territory of the Nagorno Karabagh Republic and one in the NKR Permanent Representation office in Yerevan for the NKR citizens temporarily visiting Armenia.

94.857 voters were included in the register.

Elections to the 33 seat NKR National Assembly were conducted by proportional (17 seats) and majoritarian (16 seats) electoral systems.

Four parties have applied to participate in the elections and the NKR Central Electoral Commission registered electoral lists of all 4 parties. 40 candidates were nominated in 16 electoral districts by majoritarian system, 18 of which from parties, 7 by civil initiative.

A ballot for the elections to the National Assembly by proportional system contained the names of parties in alphabetical order, as well as surnames, first names and middle names of the first three candidates on the list.

A ballot for the elections to the National Assembly by the majoritarian system contained surnames, first names

and middle names of the candidates in alphabetical order (by surname), and the names of the nominating parties, and in the case of a civil initiative – the words “civil initiative”.

As an omission, it needs to be mentioned that the computerized system of making registers (voter lists) was not fully worked out at these elections. For that reason the surnames of certain voters were not included in the register. As a result, they had to waste additional time to receive a confirmation paper from the NKR Police, on the basis of which they could vote.

The elections were conducted in a calm atmosphere, no serious violations were fixed either in registration of candidates, organization of voting, or in processing the votes and transporting the protocols of vote counting from polling stations to the regional (city) electoral commissions, and then - to the CEC.

During the day of elections, the voter turnout was reported every 3 hours. Finally, the participation of voters made up...

The voters we met expressed no pretensions regarding the organization of elections and the mass media coverage of them.

As a whole, the May 23, 2010 elections to the NKR National Assembly were transparent, fair in line with democratic standards and can be assessed as another step towards the consolidation of democracy in the NKR.

Signed by:

Bo Carstens,

*Denmark, Copenhagen University
professor*

Jose Ameghino Arbo,

*Argentina, member of the National
Parliament of Argentina*

Sergio Nahapetyan,

*Argentina, Former member of the National
Parliament of Argentina*

Frantisek Mikloshko,

*The first chairman of the
National Assembly of Slovakia, MP*

Martin Mahdal,

Czech Republic, Czech TV producer.

May 23, 2010

Stepanakert

ANNEX 15

Recognition of NKR's right for self-determination

A. STATE OF RHODE ISLAND HOUSE RESOLUTION

Supporting the Nagorno Karabagh Republic's Efforts to Develop as a Free and Independent Nation

*IN GENERAL ASSEMBLY
JANUARY SESSION, A.D. 2012*

*Introduced By: Representatives Fox,
Mattiello, Corvese, McNamara, and
Bennett*

Date Introduced: May 17, 2012

Referred To: House read and passed

WHEREAS, The Region of Artsakh, also known as Mountainous Karabagh, is located in the Transcaucasus and has historically been Armenian territory, populated by an overwhelming majority of Armenians; and

WHEREAS, In 1923, the communist dictatorship of Joseph Stalin, in violation of the national, territorial, and human rights of the Armenian people, annexed part of the region of Artsakh which was composed of a 95 percent Armenian population, and joined it with the region of Soviet Azerbaijan; and

WHEREAS, For decades, Armenians in Nagorno Karabagh, having arbitrarily been severed from Armenia and forced under Soviet Azerbaijani administration, peacefully demonstrated

for national independence and individual freedom and against Soviet Azerbaijani repression and discrimination; and

WHEREAS, In the years immediately preceding the Nagorno Karabagh Republic's declaration of independence, these peaceful demonstrations were met with acts of violent repression by Soviet Azerbaijani forces who refused to allow the reestablishment of the people of Nagorno Karabagh's national independence; and

WHEREAS, During the repressive and violent events leading to the birth of the Nagorno Karabagh Republic, ethnic Armenians were killed in Sumgait (February, 1988), Kirovabad (November, 1988), and Baku (January, 1990), by Soviet Azerbaijani forces. Over 350,000 Armenians were forcibly deported from Azerbaijan; and

WHEREAS, In July of 1988, within months of the Sumgait tragedy, the United States Senate unanimously passed Amendment 2690 to the Fiscal Year 1989 Foreign Operations Appropriations bill (H.R. 4782), concerning the Karabagh conflict and calling on the Soviet government to "respect the legitimate aspirations of the Armenian people ..." and noted that "dozens of Armenians have been killed and hundreds injured during the recent unrests ..."; and

WHEREAS, The Armenians of Nagorno Karabagh would not be deterred and would not allow their dream of national independence, and their inherent desire for individual freedom, to be destroyed by violence and repression; and

WHEREAS, On December 10th of 1991, despite continued violence against the people of Nagorno Karabagh, a popular referendum proclaiming the republic took place in Nagorno Karabagh during the process of the Soviet Union disintegration; and

WHEREAS, Under the watchful eye of more than 50 international observers and in full compliance with international standards for free and fair elections, more than 80 percent of the eligible voters in Nagorno Karabagh cast a ballot. Ninety-eight percent of those casting ballots overwhelmingly chose national independence and individual freedom, thereby choosing the path of democracy after decades of communist control; and

WHEREAS, The population of Nagorno Karabagh then held free, democratic, and direct elections for its parliament; and

WHEREAS, On January 6th of 1992, the first-ever freely elected Parliament of Nagorno Karabagh adopted a Declaration of Independence of the Nagorno Karabagh Republic; and

WHEREAS, From the earliest days of its formation, the Republic's

freely elected governmental bodies have continuously striven to build an open and democratic society through free and transparent elections, affirmed by international observers; and

WHEREAS, Since signing a cease-fire agreement with Azerbaijan in 1994, after three years of armed conflict, the Nagorno Karabagh Republic registered significant progress in post-war humanitarian and economic development; and

WHEREAS, Despite the 1994 cease-fire agreement, the Nagorno Karabagh Republic's security and sovereignty continue to be threatened by regional tension and hostile acts; now, therefore be it

RESOLVED, That this House of Representatives of the State of Rhode Island and Providence Plantations hereby encourages the Nagorno Karabagh Republic's continuing efforts to develop as a free and independent nation in order to guarantee its citizens those rights inherent in a free and independent society; and be it further

RESOLVED, That this House hereby supports the Nagorno Karabagh Republic's continued constructive involvement with the international community and its efforts to reach a lasting solution to the existing regional problems, and to establish peace and stability in the strategically important region of South Caucasus; and be it further

RESOLVED, That this House hereby respectfully urges the President and Congress of the United States of America to recognize the independence of the Nagorno Karabagh Republic and to encourage nations neighboring the Republic to foster and maintain peaceful relations with the people of the Nagorno Karabagh Republic. We furthermore urge our country's leaders to continue promoting humanitarian and economic rehabilitation of the Nagorno Karabagh Republic and to fully support its continuing development of a free and democratic society, with all the social, economic, and political advantages that such a free and democratic society brings to its citizens; and be it further

RESOLVED, That this House hereby memorializes the United States of America to support strengthening and solidifying our country's relationship with the Nagorno Karabagh Republic and its citizens, both culturally and economically, to insure the continued survival of this nation's burgeoning growth of freedom and democracy; and be it further

RESOLVED, That the Secretary of State be and he hereby is authorized and directed to transmit duly certified copies of this resolution to the President of the United States and to Rhode Island's Congressional Delegation.

B. COMMONWEALTH OF MASSACHUSETTS

MASSACHUSETTS STATE HOUSE RESOLUTION

Supporting Nagorno Karabagh's Right to Self-Determination and Efforts to Develop its Democracy

Date Introduced: August 6, 2012

WHEREAS, Artsakh, also known as Nagorno Karabagh, is located in the Transcaucasus and has historically been Armenian territory, populated by an overwhelming majority of Armenians; and

WHEREAS, for decades Armenians in Nagorno Karabagh having been severed from Armenia by the communist dictatorship of Joseph Stalin and forced under Soviet Azerbaijani administration, peacefully demonstrated for self-determination and individual freedom and were met with acts of violent repression by Soviet Azerbaijani forces, including the killings of ethnic Armenians in Sumgait (February 1988), Kirovabad (November 1988), and Baku (January 1990) and the forcible deportation of over 350,000 Armenians from Azerbaijan; and

WHEREAS, on December 10, 1991, despite these continued acts of violence against the people of Nagorno Karabagh, a popular referendum on independence took place in which more than 80 percent of the eligible voters in Nagorno Karabagh cast a ballot and 98 percent of those voting

supported independence, thereby choosing the path of freedom and democracy after decades of communist Azerbaijani control; and

WHEREAS, from the earliest days of its formation, the Republic's freely elected governmental bodies have continuously striven to build an open and democratic society through free and transparent elections, affirmed by international observers, and have also registered significant progress in humanitarian and economic development; and

WHEREAS, on July 19, 2012, this process of democratic development took another major step forward when Nagorno Karabagh held its Presidential election, in which 74 percent of eligible voters cast ballots in a peaceful and competitive election that international observers found to be free and fair; and

WHEREAS, since signing a cease-fire agreement with Azerbaijan in 1994, after three years of armed conflict, Nagorno Karabagh's security continues to be threatened by regional tension and Azerbaijan's hostile acts; and

WHEREAS, that the House of Representatives hereby congratulates Nagorno Karabagh on the success of its ongoing efforts to develop its democracy and expresses full support for Nagorno Karabagh and its people in their pursuit of self-determination and democratic independence; therefore be it

RESOLVED, that the House of Representatives hereby respectfully urges the President and Congress of the United States of America to support the self-determination and democratic independence of Nagorno Karabagh and its constructive involvement with the international community's efforts to reach a just and lasting solution to security issues in that strategically important region; and be it further

RESOLVED, that a copy of these resolutions be forwarded by the clerk of the House of Representatives to the President of the United States and to the Massachusetts Congressional Delegation.

C. STATE OF MAINE

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO SUPPORT THE INDEPENDENCE OF THE NAGORNO-KARABAKH REPUBLIC

Resolution HP-987
April 10, 2013

STATE OF MAINE
IN THE YEAR OF OUR LORD
TWO THOUSAND AND THIRTEEN

WE, your Memorialists, the Members of the One Hundred and Twenty-sixth Legislature of the State of Maine now assembled in the

First Regular Session, most respectfully present and petition the President of the United States and the United States Congress, as follows:

WHEREAS, Nagorno-Karabakh is a landlocked region in the South Caucasus and has historically been Armenian territory, populated by an overwhelming majority of Armenians, which was severed from Armenia by the Soviet dictator Joseph Stalin in 1921 and placed under newly created Soviet Azerbaijani administration; and

WHEREAS, February 20, 1988 marked the beginning of the national liberation movement in Nagorno-Karabakh; and

WHEREAS, the Nagorno-Karabakh democracy movement inspired peoples throughout the Soviet Union to stand up against tyranny and for their rights and freedoms, helping to bring democracy to millions and contributing to world peace; and

WHEREAS, in 1989, the United States Senate expressed support for the legitimate aspirations for freedom of the people of Nagorno-Karabakh; and

WHEREAS, on September 2, 1991, in a popular expression of democracy, the elected legislature of Nagorno-Karabakh declared the creation of the Nagorno-Karabakh Republic, in full compliance with then-existing legislation and international norms; and

WHEREAS, on December 10, 1991, the people of Nagorno-Karabakh voted overwhelmingly in a referendum in favor of the independence of the region and, on January 6, 1992, the democratically elected legislature of the Nagorno-Karabakh Republic formally declared independence; and

WHEREAS, Azerbaijan launched a full-scale military aggression to suppress the national liberation movement in the Nagorno-Karabakh Republic, which ended with the signing of a cease-fire in 1994; and

WHEREAS, as one of the mediators, along with Russia and France, the United States has expressed its vision for a stable and peaceful South Caucasus, and direct United States aid to Nagorno-Karabakh represents a vital source of humanitarian relief for post-war reconstruction in the republic; and

WHEREAS, the Nagorno-Karabakh Republic has built a democratic nation, with a free-market-oriented economy and a vibrant civil society, and has held several presidential and parliamentary elections, all praised by international monitors as free and fair; now, therefore, be it

RESOLVED: That We, your Memorialists, encourage and support the Nagorno-Karabakh Republic's continuing efforts to develop as a free and independent nation in order to guarantee its citizens those rights inherent in a free and independent society; and be it further

RESOLVED: That We urge and request that the President of the United States and the United States Congress support the self-determination and democratic independence of the Nagorno-Karabakh Republic and its constructive involvement with the international community's efforts to reach a just and lasting solution to security issues in that strategically important region; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Barack H. Obama, President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, to the Honorable Robert Avetisyan, Permanent Representative to the United States of the Nagorno-Karabakh Republic and to each Member of the Maine Congressional Delegation.

D. STATE OF LOUISIANA

**SENATE RESOLUTION NO. 151
INTERNATIONAL AFFAIRS.
Expresses support for the Nagorno
Karabakh Republic's
efforts to develop as a free and
independent nation.**

SLS 13RS-3026
BY SENATOR MURRAY
Regular Session, May 30, 2013

A RESOLUTION

To express support for the Nagorno Karabakh Republic's efforts to develop as a free and independent nation.

WHEREAS, Nagorno Karabakh, also known as Artsakh, has historically been Armenian territory, populated by an overwhelming majority of Armenians, which was illegally severed from Armenia by the Soviet Union in 1921 and placed under the newly created Soviet Azerbaijani administration; and

WHEREAS, February 20, 1988, marked the beginning of the national liberation movement in Nagorno Karabakh, which inspired people throughout the Soviet Union to stand up against tyranny and for their rights and freedoms, helping to bring democracy to millions and contributing to world peace; and

WHEREAS, the United States Senate Congress has repeatedly expressed support for the legitimate freedom aspirations of the people of Nagorno Karabakh; and

WHEREAS, on September 2, 1991, the legislature of Nagorno Karabakh declared formation of the Nagorno Karabakh Republic, in accordance with then acting legislation; and

WHEREAS, on December 10, 1991, the people of the Nagorno Karabakh Republic voted in favor of the independence, and on January 6, 1992, the democratically elected legislature of the Republic formally declared independence; and

WHEREAS, since proclaiming independence, the Nagorno Karabakh Republic has registered significant progress in democracy building, which has been most recently demonstrated during the July 19, 2012, Presidential elections that were assessed by international observers as free and transparent.

THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana hereby encourages and supports the Nagorno Karabakh Republic's continuing efforts to develop as a free and independent nation in order to guarantee its citizens those rights inherent in a free and independent society.

BE IT FURTHER RESOLVED that the President and Congress of the United States of America are hereby urged to support the self-determination and democratic dependence of the Nagorno Karabakh Republic and its constructive involvement with the international community's efforts to reach a just and lasting solution to security issues in that strategically important region.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the President of the United States, the secretary of the United States Senate, the clerk of the United States House of Representatives, and to each member of the Louisiana delegation to the United States Congress.

E. RESOLUTION OF THE LEGISLATIVE COUNCIL OF THE NEW SOUTH WALES

1. That this House notes that 2012 marks the twentieth anniversary of the declaration of independence of the Republic of Nagorno Karabagh.

2. That this House:

(a) acknowledges the importance of the basic human right to self-determination and a free and a democratic society,

(b) recognizes the right to self-determination of all peoples including those of the Republic of Nagorno Karabagh,

(c) notes Nagorno Karabagh's sustained efforts towards creating a free and democratic society through the use of legitimate parliamentary elections and its continued efforts to develop a responsible government,

(d) supports and encourages Nagorno Karabagh's involvement within the international community and further encourages its engagement with the international community to reach a solution to the existing regional problems to establish peace and stability,

(e) encourages peaceful relations and the continued promotion of humanitarian and economic support for the people of Nagorno Karabagh; and

(f) calls on the Commonwealth Government to officially recognize the independence of the Republic of Nagorno Karabagh and strengthen Australia's relationship with the Nagorno Karabagh and its citizens.

Caption: The President of the Republic of Nagorno Karabagh (NKR), Bako Sahakyan, personally extended his gratitude on behalf of his nation to the state of New South Wales.

Adopted on 25th October, 2012

F. THE SEIMAS OF THE REPUBLIC OF LITHUANIA

THE DECLARATION ON ESTABLISHING A FRIENDSHIP GROUP WITH THE REPUBLIC OF ARTSAKH

“Taking note that this year marks 25 years since the day when the people of Artsakh (Nagorno Karabakh), exercised its right to self-determination, and Lithuania all along supported this aspiration and encouraged a peaceful resolution to the problem;

Considering that the people of Lithuania and Artsakh in their struggle for independence were guided by the generally accepted norms of international law,

democratic values and common ideals, a commitment they adhere to this day;

Sharing the vision of the common European space in which every resident is ensured with the right to freely enjoy basic human rights and fundamental freedoms;

Taking note that the right to self-determination in international practice is the only possible guarantee of security and democratic development of the peoples;

Noting the significant efforts of Artsakh to build a free and democratic society through legitimate elections at all levels and the formation of responsible and effective government;

Considering important the involvement of Artsakh in the international community in addressing the existing problems and establishing long-term peace and stability in the region;

We, a group of deputies of the Seimas of the Republic of Lithuania, declare decision to establish in the Seimas of the Republic of Lithuania Friendship Group with the Republic of Artsakh (the Nagorno Karabakh Republic).”

February 26, 2013

**G. FRENCH POLITICIANS’
STATEMENT ON THE
ESTABLISHMENT OF A
FRIENDSHIP CIRCLE WITH THE
NAGORNO KARABAGH REPUBLIC
(ARTSAKH)**

March 19, 2013

1. Taking as a basis the absolute importance of freedoms and democratic principles enshrined in the Universal Declaration of Human Rights,

2. Supporting the right to self-determination of all peoples including those of the Nagorno Karabagh Republic (Artsakh);

3. Acknowledging the necessity of establishing lasting peace and maintaining stability in the South Caucasus;

4. Supporting the activity of the OSCE Minsk Group co-chairmanship aimed at a peaceful settlement of the Karabagh conflict and the efforts of France in this direction;

5. Welcoming the consistent efforts of the people and government of the Nagorno Karabagh Republic towards creating and developing a free and democratic society,

6. Being confident that the isolation of the people of Artsakh from the international processes does not contribute to the establishing dialogue between peoples and stable peace;

We, politicians, members of parliament and senators of the French Republic declare decision to establish a Circle of Friendship with the Nagorno Karabagh Republic (Artaskh).

Signed by:

The First Deputy Mayor of Marseille Roland Blum, Mayor of Vienne Jacques Remiller, MPs Valerie Boyer, Rene Rouquet, Guy Teissier, Francois Rochebloine, Senators Sophie Joissains, Philippe Marini, Bernard Fournier, former MPs Georges Colombier and Richard Mallie.

**H. BOARD OF SUPERVISORS OF
FRESNO COUNTY, CALIFORNIA**

RESOLUTION

**RECOGNIZING THE
INDEPENDENCE OF THE
NAGORNO KARABAGH REPUBLIC
AND COMMEMORATING THE 98TH
ANNIVERSARY OF THE ARMENIAN
GENOCIDE**

WHEREAS Nagorno Karabagh is a landlocked region in the South Caucasus and has historically been Armenian territory, populated by an overwhelming majority of Armenians, which was severed from Armenia by the Soviet dictator Joseph Stalin in 1921 and placed under newly created Soviet Azerbaijani administration; and

WHEREAS February 20, 1988 marked the beginning of the national liberation movement in Nagorno Karabagh, which inspired peoples throughout the Soviet Union to stand up against tyranny and for their rights and freedoms, helping to bring democracy to millions and contributing to world peace; and

WHEREAS in 1989 the United States Senate expressed support for the legitimate aspirations for freedom of the people of Nagorno-Karabagh, and on September 2, 1991 the elected legislature of Nagorno Karabagh declared the creation of the Nagorno Karabagh Republic; and

WHEREAS on December 10, 1991 the people of Nagorno Karabagh voted in favor of the independence of the region, and on January 6, 1992 the democratically elected legislature of the Nagorno Karabagh Republic formally declared independence; and

WHEREAS Azerbaijan responded to the Nagorno Karabagh Republic's aspirations for freedom with pogroms in Sumgait, Baku and other places, eventually unleashing full-scale aggression against the young democracy; and

WHEREAS despite the cease-fire with Azerbaijan in 1994, the Nagorno Karabagh Republic's security and sovereignty continue to be threatened by regional tensions and hostile acts; and

WHEREAS since proclaiming independence, the Nagorno Karabagh Republic has registered significant progress in democracy building, which has been

most recently demonstrated during the July 19, 2012 Presidential elections that were assessed by observers as free and transparent; and

WHEREAS April 24, 2013 marks the commemoration of the 98th Anniversary of the Armenian Genocide where 1,500,000 Armenians perished by the hands of the Ottoman government.

NOW THEREFORE, be it resolved that the Fresno County Board of Supervisors hereby encourage and support the Nagorno Karabagh Republic's continuing efforts to develop as a free and independent nation in order to guarantee its citizens rights inherent in a free and independent society, and respectfully urge the California State Legislature, the United States Congress and the President of the United States to support the self-determination and democratic independence of the Nagorno Karabagh Republic and its constructive involvement with the world community; and

Be it further resolved that the Fresno County Board of Supervisors respectfully requests the United States Congress and the President of the United States to officially recognize the Armenian Genocide and commit to the education of the future generations about the Armenian Genocide.

Adopted by the Fresno County Board of Supervisors this 23rd day of April 2013.

SHAHEN AVAKIAN
NAGORNO KARABAGH:
LEGAL ASPECTS
Fourth Edition

Editing:
L. Eyranyan
S. Bejanyan

Printed by "Tigran Mets" Publishing House
Yerevan 2013