

NAGORNO-KARABAGH

LEGAL ASPECTS

(C) 2005

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Foreword

This is a study of legal issues on Nagorno-Karabagh. 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 the establishment of the independent state of Nagorno-Karabagh with the principles of 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 independent 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 in its claims for independence or reunification with Armenia.

Basic Facts

Name	Nagorno-Karabagh Republic (Artsakh)
Capital	Stepanakert
Language	Armenian
Population	144, 300
Ethnic Composition	95% Armenian, 5% minorities
Religion	Christian
Church	Armenian Apostolic
Minorities	Russians, Ukrainians, Assyrians, Kurds, Greeks
Location	Nagorno-Karabagh is situated in the Southeastern part of the Caucasus Minor, the Southwest of Azerbaijan, on the northeastern flank of the Karabagh Range of the Lesser Caucasus range, extending from the crest line of the range to the Kura River lowlands.
Flag	Tricolor, equal horizontal stripes of red, blue and orange with a patchwork pattern of white squares across all three stripes
Land	Mountainous
Largest towns	Shushi, Martakert, Askeran, Martuni, Hadrut

1. Pre-Soviet Status

After the First Russian-Persian war (1794-1813), according to the Treaty of Gulistan (1813), Karabagh, along with the other northeastern provinces of Armenia, was transferred from Persian to Russian dominion. 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 remained undisturbed throughout the century and through the beginning of World War I.

The dispute over Nagorno-Karabagh dates from the period of disintegration of the Russian Empire 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 secession from Russia.⁽¹⁾

During 1918-1920 in Nagorno-Karabagh the legislative power was exercised by the Armenian Assemblies. The First Armenian Assembly was convened on July 22-26, 1918, which declared the region self-governing and set up National Council and a government.

On February 20, 1919, the forth session of the Nagorno-Karabagh's Armenian National Council in a protest note addressed to the Allied Governments rejected the intention of the Government of Azerbaijan to consider Nagorno-Karabagh as an integral part of the territory of Azerbaijan and emphasized the right of the people of Nagorno-Karabagh to self-determination as recognized by the Peace Conference. It was mentioned that Nagorno-Karabagh had never recognized the authority of the Government of Azerbaijan in the limits of Karabagh's territory.

On February 24, 1919, the Forth Assembly of the Armenians of Nagorno-Karabagh adopted a Memorandum addressed to the Command of the Allied Forces in Transcaucasia to consider the will of the people of Nagorno-Karabagh to become an integral part of Armenia during the Peace Conference where the final status of Nagorno-Karabagh should be determined.

On August 26, 1919, the Karabagh National Council and the government of Azerbaijan concluded a provisional agreement on Nagorno-Karabagh to avoid military conflict. Both sides agreed that the problem of Nagorno-Karabagh must be considered at the Paris Peace Conference. The Agreement did not modify the status of Nagorno-Karabagh as an independent political unit. The provisional Agreement was violated by Azerbaijani side after the sovietization of the Democratic Republic of Azerbaijan⁽²⁾.

The fact that the government of Azerbaijan entered into agreement with the Karabagh National Council is an evidence that Karabagh was considered a distinct legal entity.

As for the position of the international community regarding this issue, the Azerbaijani Republic of 1918-1920 was never recognized by the international community, and by the League of Nations, in particular. The League not only refused to officially recognize the Azerbaijani Republic, but also its application for membership. At its fourth meeting on December 1, 1920, the fifth Committee elected by the Assembly of the League of Nations, having examined the request for admission of the Republic of Azerbaijan, arrived at the following conclusion:

A. Within the content of Article 1 of the Covenant of the League of Nations Azerbaijan

¹⁾ Lenin, V. I., Complete Publications of Works, (Moscow: 1963, in Russian), v. 31, at 436

²⁾ The telegram of the chairman of the Armenian National Council of Nagorno-Karabagh of June 9, 1920 addressed to the chairman of the Armenian delegation in Moscow informed that the IX session of the Council 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 inform the Russian Soviet government.

can not 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 ⁽³⁾ (Annex2).

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⁽⁴⁾" (Annex 3).

The decision of the Forth 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⁽⁵⁾" (Annex 4).

On August 10, 1920, Soviet Russia and the Republic of Armenia (not yet Soviet) signed an agreement stating that "the regions of Karabagh, Zangezour and Nakhichevan should be occupied by 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. Likewise the position of the League of Nations, the Soviet Russia by this Agreement recognized the Nagorno-Karabagh as a disputed territory between Soviet Azerbaijan and not yet Soviet Republic of Armenia.

³⁾ "Admission of Azerbaijan to the League of Nations", Memorandum by the Secretary-General, November 1920, 20/48/108.

⁴⁾ League of Nations: Journal N17 of the First Assembly, Geneva 1920, page 139.

⁵⁾ League of Nations, The Records of the First Assembly, The Meetings of the Committees, Forth Committee, page 174.

2. Sovietization Period

On November 30, 1920, the now-soviet government of Azerbaijan adopted a declaration on recognition of Nagorno-Karabagh, Zangezur and Nakhichevan as part of Soviet Armenia as a welcome act towards the victory of sovietized forces in the country. According to this declaration, the borders previously accepted between Armenia and Azerbaijan were abrogated and Nagorno-Karabagh, Zangezur and Nakhichevan were recognized as an integral part of Soviet Armenia (Annex 5). Though, the Azerbaijani Revcom in its "Declaration Regarding the Establishment of Soviet Power in Armenia" of December 2, 1920, recognized only Nagorno-Karabagh's right for self-determination. However, at that time, the recognition of Nagorno-Karabagh's right for self-determination was equal to the proclamation of Nagorno-Karabagh as integral part of Armenia, as the will of its people could not be distrusted.

On June 12, 1921, the National Council of the Azerbaijan SSR, based on the declaration of the Revolutionary Committee of the Azerbaijan SSR and on the agreement between the governments of the Azerbaijan SSR and Armenian SSR, adopted a declaration which proclaimed Nagorno-Karabagh as an integral part of Armenian SSR. On June 19, 1921, Alexander Miasnikyan, Chairman of the Council of People's Commissars of Armenia, 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 Socialist Republics of Armenia and Azerbaijan, it is declared, that from now on Nagorno-Karabagh is an inseparable part of Soviet Socialist Armenia".

In the official report of the People's Commissariat for Foreign Affairs to the IX Conference of Soviets for 1920-1921, it was mentioned that: "In July, an agreement is being

signed with Azerbaijan about Nagorno-Karabagh, which is being included in Soviet Armenia".

In July 1921, the Azerbaijan SSR insisted that Nagorno-Karabagh's issue be considered at the Plenary Session of the Caucasian Bureau 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 (Kavbureau) of RCP-B declined a formula suggested by its member, Narimanov, to "leave Karabagh in Azerbaijan" and decided to "include Nagorno-Karabagh in the Armenian SSR, and to conduct plebiscite in Nagorno-Karabagh only".

However, during the nights of July 4 and 5, a new decision was drafted, dictated by Moscow. The first paragraph of the new decision read: "Proceedings 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 Shushi, included in the autonomous region".

During that night Stalin, Moscow's representative, failed to succeed in getting approval of the majority of the members of the Plenary Session. The 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 "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 violations⁶⁾.

As these facts demonstrate, Nagorno-

⁶⁾ 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 included the following text 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 voting and that according to its own voting rules, four votes were not enough to pass a decision.

Karabagh did not belong to Azerbaijan SSR - either during the sovietization of Azerbaijan, or after the establishment of Soviet power in Armenia (when Baku recognized all disputed territories as Armenian) or when the Plenary Session of the Caucasian Bureau of the Central Committee of RCP-B discussed the issue and declared the territories to be an integral part of Soviet Armenia.

On the other hand, with or without procedural violations, the legitimacy of these fora is seriously questioned. The decision of the Moscow RCP is an unprecedented legal act in the history of international law: the political party of a third country, i.e., the Russian Bolshevik Party, with no legal power or jurisdiction, decided the status of the territory of Nagorno-Karabagh.

On July 7, 1923, Soviet Azerbaijan's Central Executive Revolutionary Committee resolved to dismember Karabagh and establish the Autonomous Region (Oblast) of Nagorno-Karabagh on a part of its territory.

3. Nagorno-Karabagh Under Perestroika

On February 20, 1988, a session of the twentieth convocation of delegates of Nagorno-Karabagh Autonomous Region adopted a resolution seeking the transfer of Karabagh from Soviet Azerbaijan to Armenia. At the same time, the Assembly applied to the Supreme Soviet of the USSR for confirmation of this resolution.

On June 13, 1988, the Supreme Soviet of the Azerbaijan SSR denied the application of the Assembly of Nagorno-Karabagh. Thereafter, on June 15, 1988, the Supreme Soviet of Armenian SSR approved Karabagh's request and decided to appeal to the Soviet government for the resolution of the issue.

On July 18, 1988, the Supreme Soviet of the USSR, citing Article 78 of the Soviet Constitution of October 7, 1977 (which prohibited any territorial changes to a Union Republic without its consent)⁷⁾, 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 established a special authority in Nagorno-Karabagh which was under the direct supervision of the Soviet central government. Thus, the central government ascertained Azerbaijan's inability to exercise formal control over the territory of Nagorno-Karabagh. As a result, the whole supervision of the economy, internal governance bodies, cultural and educational institutions of Nagorno-Karabagh was transferred to the appropriate institutions of

Soviet Russia and Armenian SSR. By the end of 1989, Nagorno-Karabagh was not under Azerbaijan's administrative control and de facto not within the Azerbaijan SSR.

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

On November 28, 1989, the Supreme Soviet of the USSR dissolved the special authority in Nagorno-Karabagh 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 Armenia adopted a resolution calling for the reunification of the Armenian SSR and Nagorno-Karabagh.

On November 23, 1991, the Supreme Soviet of Azerbaijan, that had already declared its own independence from the USSR, adopted a law on "Abolition of the Nagorno-Karabagh Autonomous Oblast"⁸⁾ (Annex 6). Also, the law called for the 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 Azerbaijan SSR and Nagorno-Karabagh. This law prohibited infringement of the latter's borders without Nagorno-Karabagh's explicit consent.

On November 28, 1991, the resolution passed by the USSR Constitutional Oversight Committee found the USSR Supreme Soviet's November 28, 1989 decision "On measures to normalize the situation in Nagorno-Karabagh

⁷⁾ Article 78 of the 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".

⁸⁾ The law on abolition of Nagorno-Karabagh Autonomous region was based on the second paragraph of the Article 10 of the Constitution of the Azerbaijan Republic (adopted on November 12, 1995 by a Referendum of the Azerbaijan Republic, which came into force since 27 of November 1995) and on Article 4 of the Constitutional Act on State Independence of the Republic of Azerbaijan.

Autonomous Oblast"⁹⁾ unconstitutional, as well as Azerbaijan's decision of November 26, 1991 abolishing Karabagh's autonomous oblast. It also revoked the December 1, 1989 Armenian resolution on "Reunification of Armenian SSR and Nagorno-Karabagh". Thus, this resolution restored Karabagh's pre-1988 status.

⁹⁾ The USSR Constitutional Oversight Committee found that the decision of November 28, 1989, hinders the restoration of the constitutional bodies of authority and government in Nagorno-Karabagh Autonomous Oblast and hinders the realization of the right 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 Independent State 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 1918-1920⁽¹⁰⁾.

On October 18, 1991, the Republic of Azerbaijan confirmed its independence by the adoption of its 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 Azerbaijan. The same Constitutional Act considered the establishment of Soviet power in Azerbaijan as "annexation by Soviet Russia" which "overthrew Azerbaijan's legal government". Thus, the Republic of Azerbaijan declared the establishment of Soviet power in Baku illegal, and rejected the whole Soviet political and legal heritage. The Constitutional Act reads as follows:

Article 2. The Azerbaijani Republic 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 the Republic of 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 Republic⁽¹¹⁾.

Baku clearly understood 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 applied⁽¹²⁾ (Annex 7).

The Azerbaijan SSR was the only Soviet Republic whose borders were determined by agreements (Moscow Agreement of March 16, 1921, and Kars agreement of October 10, 1921), which were never denounced and, presently, are still in force. It is the only Soviet Republic whose territorial integrity loses its basis without these agreements and outside of the Soviet legal heritage. In 1991, after Azerbaijan rejected the Soviet legal heritage, 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 Azerbaijani

¹⁰⁾ Declaration of the Supreme Soviet of the Azerbaijan Republic on "Re-establishment of the State Independence of the Azerbaijan Republic" "Bakinski Rabochi", August 31, 1991.

¹¹⁾ "Constitutional Act on the State Independence of the Azerbaijani Republic", "Baku", 7.11.1991.

¹²⁾ See page 13 of this report.

Republic has lost all pretensions to the territories passed to Soviet Azerbaijan in July, 1921 - namely Nagorno-Karabagh, even if the latter's act of transfer was legitimate⁽¹³⁾.

As for the norm of Article 4, paragraph 2 of the Constitutional Act 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, 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 solely Azerbaijan's Constitution and laws have exclusive legal force on the territory of Azerbaijan.

¹³⁾ See pages 7-8 of this report.

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

On September 2, 1991, Nagorno-Karabagh, in compliance with domestic Soviet law, initiated the process of independence through the adoption of the "Declaration of Independence of the Republic of Nagorno-Karabagh"⁽¹⁴⁾ by the local councils of Nagorno-Karabagh. This act was in full conformity with the existing law. The Soviet law of April 3, 1990 "On the Procedures of the Resolution of Problems on the Secession of a Union Republic from the USSR", particularly Articles 1, 3, 4, 6, 7, 8, 12 and 19, 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⁽¹⁵⁾.

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 Union. At the time of adoption of the law, for more than a year after its adoption, Azerbaijan was a member of the Union and this law was necessarily binding for Azerbaijan.

On December 10, 1991, Nagorno-Karabagh held its own referendum on independence in the presence of international observers and media representatives⁽¹⁶⁾. 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 autonomous oblasts should be organized separately for each autonomous entity...". The vote overwhelmingly (99 percent in favor of independence, 107,648 persons) approved Karabagh's sovereignty: 82.2 percent of Karabagh's registered voters (over

108,736 persons) participated in the elections and 99.89 percent of those casting ballots supported its independence from the already seceded Republic of Azerbaijan. As a result, Nagorno-Karabagh was the only autonomous region of the Soviet Union which gained independence according to the existing domestic legislation.

Following the results of the Referendum, on December 12, 1991, an Act "On the Results of the Referendum on the Independence of the Republic of Nagorno-Karabagh" was adopted and signed by the independent observers, which confirmed the fact that the preparatory, organizational and implementation procedures were carried out in conformity with 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 Nagorno-Karabagh 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 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 Nagorno-Karabagh (in 81 electoral districts), and on January 6, 1992, the newly convened Parliament, adhering to the results of the Referendum, adopted a Declaration of Independence.

¹⁴⁾ This Declaration proclaimed the Republic of Nagorno-Karabagh within the present borders of Nagorno-Karabagh Autonomous Oblast and adjacent Shahumian region.

¹⁵⁾ Particularly Article 3 stated that "... People of autonomous republics and autonomous entities have the right to decide on their own whether to stay within the USSR or within a seceding Union Republic...".

¹⁶⁾ The observers were the representatives of the former Union Republics, deputies of Supreme Soviets of USSR, RSFSR, MOSSOVIET and representatives of various international organizations and foreign states.

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

On January 6, 1992, the Supreme Council of Nagorno-Karabagh adopted the "Declaration on State Independence of the Republic of Nagorno-Karabagh" in view to regulate the relations between the Azerbaijani and Armenian nations, ensure the right of people for self-determination and reiterate Nagorno-Karabagh's experience of self-governance as it existed during 1918-1920. This Declaration and the Universal Declaration of Human Rights would form the basis for the elaboration of the Constitution and Legislation of Nagorno-Karabagh.

On January 8, 1992, the Parliament of Nagorno-Karabagh Republic adopted the Constitutional Law "On Basic Principles of the State Independence of Nagorno-Karabagh Republic", which proclaimed 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 Parliament of the Nagorno-Karabagh Republic based on the free will of its population via referendum. The borders of Nagorno-Karabagh Republic with other states may be changed by mutual agreement of concerned sides. The constitutional and legal status of Nagorno-Karabagh Republic may not be altered without the consent of the Parliament of Nagorno-Karabagh Republic.

The Resolution of the European Parliament "On the 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"⁽¹⁷⁾ (Annex 8).

¹⁷⁾ Official Journal of the European Communities, C 175/251.

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

On November 23, 1991, the Azerbaijani Republic annulled Karabagh's Autonomy. In doing so, Azerbaijan violated its law on "Nagorno-Karabagh Autonomous Oblast" of June 16, 1981 (amended as of July 22, 1982, June 27, 1985 and April 14, 1986), which states that the territory of Nagorno-Karabagh Autonomous Oblast may not be altered without the consent of National Deputies' Council of Nagorno-Karabagh Autonomous Oblast. Furthermore, the law clearly defines that the law on Nagorno-Karabagh Autonomous Oblast should be adopted by the Supreme Soviet of Azerbaijan SSR at the proposal of the National Deputies' Council of Nagorno-Karabagh Autonomous Oblast. Azerbaijan, having once abolished the autonomous status of Nagorno-Karabagh, has also restricted the scope of autonomy in its basic law, i.e. the 1995 Constitution, by requiring that the state should be "unitary", which leaves no further space for negotiations on these grounds.

Currently, the protection of human rights is a matter of legitimate international concern and, consequently, does not constitute exclusively an internal affair of the respective state. Azerbaijan, by abolishing the autonomous status of Nagorno-Karabagh without its peoples' consent and stipulating in its Constitution of 1995 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, Azerbaijan has violated Article 1 (Paragraph 2) 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:

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

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

- 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 Selfdetermination" (December 20, 1993);

- ICJ advisory opinions, (Western Sahara Case on the Right for Selfdetermination);

- International Labor Organization (ILO) Conventions # 107 and # 169 (Article 1[3]), 1998);

- 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).

In particular, based on the Declaration of October 24, 1974, the 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 secession from Canada, the Canadian Supreme Court 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. However, the Canadian Court found that the people of Quebec were denied any such right of democratic self-government and respect for human rights, thus unilateral secession from Canada would have been permissible under international law.

The Quebec's case shows that if a government is extremely unrepresentative, then much more destabilizing modes of self-determination, including secession, may be recognized as legitimate. The case for secession becomes even stronger when the claimant group has attained de facto independence⁽¹⁸⁾ (the case of Aaland Islands).

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. Only in the last decade this option has been chosen in the cases of East Timor, Northern Ireland, Quebec, Southern Sudan, Serbia and Montenegro, Puerto Rico and elsewhere.

¹⁸⁾ See Chapter 7 "Independent State of Nagorno-Karabagh under International Law".

7. Independent State of Nagorno-Karabagh Under International law

This study has demonstrated that the independence of Nagorno-Karabagh was conducted in conformity with the requirements of internal and international legal norms. Simultaneously, to this legal process, 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 the fourteenth years of its existence, the Republic of Nagorno-Karabagh has shown its own capacity to maintain and strengthen national security, economic development of the country and 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:

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

Some sources of international law regard "state recognition" as another condition for the establishment of an independent state, but this approach is not a generally accepted norm, and 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 practices of several states, such as the United Kingdom and the USA.

Defined territory: 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.

Permanent population: The vast majority of people of Nagorno-Karabagh constitute a homogenous group with historic ties to its territory. The population of Nagorno-Karabagh is about 144,300 with 95% Armenians and 5% minorities. On November 18, 1995, the President promulgated the "Law on the Main Principles of Nationality of Nagorno-Karabagh".

Permanent administration organized under common political institutions:

On September 9, 1996, the National Assembly of Nagorno-Karabagh established a Commission on Elaboration of the Constitution presided by the President of the country.

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 became the first democratically elected President of the Republic. The law on "President of Nagorno-Karabagh" of December 21, 1994 defines the powers of the President. On September 1, 1997, during extraordinary presidential elections, the second President of the Republic was elected.

According to the legislation of Nagorno-Karabagh, the National Assembly is the highest legislative body of the Republic. Compared with the first elections of December 28, 1991¹⁹⁾, a new form of elections was introduced in June 1995, according to which deputies are elected from 33 electoral districts, instead of 81. The last parliamentary elections were held on June 18, 2000. The law "On the Nagorno-Karabagh

¹⁹⁾ See page 13 on the 1991 elections.

Parliament" of December 22, 1994, determines the powers of the National Assembly. There are six Permanent Committees⁽²⁰⁾ in Nagorno-Karabagh National Assembly; temporary committees can be formed in case of necessity. Since 1991 the National Assembly has adopted a series of laws necessary for the foundation of the country's political structures, executive and judicial authorities. During 2001-2004, the following laws were adopted: Amendments to the Law on Education, Law on Military Service, Law on Police, Law on Census, Law on Television and Radio, Law on Tax Service, Law on Regulations of the National Assembly, Law on NKR Budget System, Law on Civil Defense, Laws on the NKR Government, etc.

According to the Decrees of the President of December 24, 1996 and October 29, 1997, the government of Nagorno-Karabagh is comprised of the Prime Minister and 10 Ministries⁽²¹⁾. In addition, there are state departments under the Government⁽²²⁾. The powers of the Government are determined by the law on "Government of Nagorno-Karabagh" of December 22, 1994.

Local governance is also operating in Nagorno-Karabagh since the adoption of the law on "Elections of bodies of local governance" by the Parliament on January 28, 1998. The first elections were held on September 27, 1998. The next regular elections were held on September 5, 2001 and on August 8, 2004.

Regular presidential, parliamentary and local elections have been held since December 1991. The last presidential elections were held on August 11, 2002.

The elections were observed by international observers (Annex 9).

The economy of Nagorno-Karabagh has been developing since the ceasefire of 1994. Large-scale reconstructions are being carried out in the country. The primary field of economy is agriculture. The country has its own budget system and currency. A law adopted by the Parliament regulates the budget of the country. The law on "Property" of February 14, 1995 regulates property issues.

Government engaged in discussions with foreign states:

On September 20, 1992, the Parliament of the Republic of Nagorno-Karabagh petitioned the United Nations, the Commonwealth of Independent States, and individual countries for recognition of Nagorno-Karabagh Republic.

Thus far, the government of Nagorno-Karabagh has been engaged in discussions with foreign states, also bringing its constructive participation at the international peace negotiations under OCSE mediation.

In various international and third-party sponsored forums dedicated to the peaceful settlement of the conflict, a series of documents contain the signature of officials of Nagorno-Karabagh while Azerbaijan still rejects any direct talks with Nagorno-Karabagh⁽²³⁾.

In 1992, at the Helsinki CSCE Council of Ministers, the document that mandated the Minsk Process referred specifically to Nagorno-

²⁰⁾ Foreign Relations, Inter-parliamentary Relations and Information; Budget, Finance-Credit and Economic Issues; Agriculture and Environment Protection; Defense, Security, State Construction, Law and Order Mandate; Human Rights and Minorities; Education, Science, Culture, Health, Sport and Social Issues.

²¹⁾ Agriculture; Culture, Youth Affairs and Sport; Defense; Education and Science; Economy and Finance; Foreign Affairs (created in 23 July 1993); Health; Internal Affairs; Social Protection; Urban Development.

²²⁾ National security; Justice; Privatization and investment; Statistics, state register and analyzes.

²³⁾ These documents include the Zheleznovodsk Communiqué of September 23, 1991, after official talks held in Zheleznovodsk, Russia at the initiative of the Russian and Kazakh Presidents; the Timetable of Urgent Steps proposed by the chairman of the CSCE Minsk Group, on June 14, 1993; the Moscow Communiqué of February 18, 1994, following negotiations among the defense ministers of Armenia and Azerbaijan and the representative of Nagorno-Karabagh's Army of Defense; the Bishkek Protocol of May 5, 1994, as the fruit of negotiations among the parliament speakers of Armenia, Azerbaijan and Nagorno-Karabagh undertaken within the framework of the CIS Interparliamentary Assembly Mediation Mission; and the Agreement on cease-fire, mediated by Russia on May 12, 1994, among the ministers of defense of Armenia and Azerbaijan and the commander of Nagorno-Karabagh's armed forces.

Karabagh as a party in the negotiations, represented by their elected authorities. The Summary of Conclusions of the Additional meeting of the Council of Ministers reads:

"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".

The participation of Nagorno-Karabagh in the OSCE Minsk process also enshrined in relevant OSCE decisions, particularly, the OSCE Budapest Summit 1994 Document, as well as in the decision of the OSCE Senior Council of 31 March, 1995. This is few of many times that Nagorno-Karabagh representatives are cited in various OSCE documents.

The 1994 cease-fire has been established with the Nagorno-Karabagh officials, Azerbaijan and Armenia (Sochi Agreement, 1992, Bishkek Protocol, 1994).

Also, Nagorno-Karabagh has representative offices in the USA, France, Russia, Lebanon, Australia and Armenia.

Concluding Remarks

This study brought to 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 had been 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.

The 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 USSR domestic legislation. 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 Region.

The establishment of both these states has similar legal basis; and therefore, the establishment of the Republic of Nagorno-Karabagh on the basis of the right for self-determination should not be considered in the scope of territorial integrity 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, Nagorno-Karabagh Republic was formed on territories over which the Republic of Azerbaijan had no sovereignty.

The establishment of the State of Nagorno-Karabagh was carried out in conformity with the principles and attributes required by international law for the creation of an independent state.

All studies show that the strongest argument for Nagorno-Karabagh's self-determination is the fact that Azerbaijan, in all aspects, failed to provide any framework for Nagorno-Karabagh's free and democratic development.

ANNEX 1

List of Legal Acts and Materials on Nagorno-Karabagh

1. Provisional Agreement between the seventh Armenian Congress of Karabagh and the Government of Azerbaijan on Nagorno-Karabagh (August 26, 1919).
2. 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.
3. "Letter from the President of the Peace Delegation of the Azerbaijan Republic" December", 1920.
4. "Letter from the President of the Peace Delegation of the Azerbaijan Republic" N-955, September 4, 1921.
5. League of Nations Assembly document 206, forth meeting, December I, 1920.
6. League of Nations, Record of the first Assembly, Meeting of the Committees II, Geneva, 1920 PP 173-174.
7. Constitutional Act on State Independence of the Republic of Azerbaijan (October 18, 1991).
8. Act "On the Results of the Referendum on Independence of the Republic of Nagorno-Karabagh".
9. Act "On Referendum of 10 December 1991 in Nagorno-Karabagh".
10. Azerbaijan SSR Supreme Soviet Declaration on "Re-establishment of the State Independence of the Republic of Azerbaijan" (August 30, 1991).
11. Azerbaijan SSR Supreme Soviet decision regarding the Declaration on "Re-establishment of the State Independence of the Republic of Azerbaijan".
12. Declaration of Independence of the Republic of Nagorno-Karabagh.
13. Declaration on State Independence of Nagorno-Karabagh (January 6, 1992).
14. Declaration of the Soviet Azerbaijani Central Executive Revolutionary Committee on Establishment of the Autonomous Region (Oblast) of Nagorno-Karabagh (July 7, 1923).
15. Plenary Session Protocol of the Caucasian Bureau (Kavbureau) of RCP-B (July 4, 1921).
16. Provision on Nagorno-Karabagh Autonomous Oblast (November 26, 1924).
17. The USSR Supreme Soviet Presidium's decision 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).
18. Resolution of the twentieth session of the convocation of delegates of Nagorno-Karabagh Autonomous Region seeking transfer of Karabagh from Soviet Azerbaijan to Armenia (February 20, 1988).
19. Telegram of the chairman of the Armenian National Soviet of Nagorno-Karabagh addressed to the chairman of the Armenian delegation in Moscow on termination of provisional agreement between the seventh Armenian Congress of Karabagh and the government of Azerbaijan of 1919 by the IX session of Nagorno-Karabagh (June 9, 1920).
20. Resolution of the Presidium of the Supreme Soviet of USSR on the Establishment of a Special Authority in Nagorno-Karabagh (January 20, 1989).
21. Declaration of the National Council of Azerbaijan SSR proclaiming Nagorno-

Karabagh as an Integral Part of Armenian SSR (June 12, 1921).

22. Law of Azerbaijan on "Nagorno-Karabagh Autonomous Oblast" (June 16, 1981).

23. Soviet law "On the Procedures of the Resolution of Problems on the Secession of a Union Republic from the USSR" (April 3, 1990).

24. Soviet law "On the Competencies of Regional and District National Deputies Councils of USSR Autonomous Regions and District Deputy Councils".

25. Constitutional Law "On Basic Principles of the State Independence of the Nagorno-Karabagh Republic" (January 8, 1992).

26. Azerbaijan Supreme Soviet law on the "Abolition of the Nagorno-Karabagh Autonomous Oblast" (November 23, 1991).

27. Declaration of Azerbaijan's Revolutionary Committee on recognition of Nagorno-Karabagh, Zangezur and Nakhichevan as a part of Soviet Armenia (November 30, 1920).

28. Resolution of the USSR Constitutional Oversight Committee declaring unconstitutional the USSR Supreme Soviet's and its Presidium's decisions and resolutions of Azerbaijan SSR and Armenian SSR Supreme Soviets on Karabagh's autonomous Oblast (November 28, 1991).

29. Constitution of the USSR (October 7, 1977).

30. USSR Constitution of 1924.

31. USSR Constitution of 1936.

32. Constitution (Principal Law) of Azerbaijan SSR (April 21, 1978).

33. New Constitution of the Azerbaijan Republic (adopted on November 12, 1995, came into force on November 27, 1995).

34. European Parliament Resolution "On Support for Peace Process in the Caucasus" (March 11, 1999).

35. Law on "Main Principles of Nationality of Nagorno-Karabagh" (November 18, 1995).

36. Law on "President of Nagorno-Karabagh" (December 21, 1994).

37. Law "On the Nagorno-Karabagh Parliament" (December 22, 1994).

38. Decrees of the President of 24 December 1996 and 29 October 1997 on the composition of the government.

39. Law on "Government of Nagorno-Karabagh" (December 22, 1994).

40. Nagorno-Karabagh's Law on "Elections of Bodies of Local Governance" (January 28, 1998).

41. Law of Nagorno-Karabagh on "Property" (February 14, 1995).

42. Declaration of Azerbaijan's Revcom "Regarding the Establishment of Soviet Power in Armenia" (December 2, 1920).

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 represented 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 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.

League of Nations:
Extract from the Journal N17 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 No. 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 Adjikaboul. 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 States 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,(No. 697), to the Secretary-General of the League of Nations with reference to his memorandum No. 108 upon the admission of the Azerbaijan Republic 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 Azerbaijan Republic 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, etc.
(Signed) M. Allsoptcasbacheff,
**President of the Peace Delegation
of the Republic of Azerbaijan.**

League of Nations
Extract from the Records of the First Assembly, The Meetings of the Committees.
Forth 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 (Czecho-Slovakia) 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

Non-official translation

Declaration of the REVCOM of Azerbaijan on Recognition of Nagorno-Karabagh, Zangezour and Nakhichevan as an Integral part of the Armenian SSR

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, Zangezour 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!

N. Narimanov, Chairman of the Revcom of Azerbaijan
Guseinov, the Peoples Commissar on Foreign Affairs"

The newspaper "Communist" (in the Armenian language). December 7, 1920, Yerevan.

Non-official translation

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

The Supreme Soviet of the Azerbaijan Republic, 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 in 1923 of the Nagorno-Karabagh Autonomous Oblast 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 violently 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:

1. Following Article 3 (paragraph 2) and Article 10 of the Constitution of the Azerbaijan Republic, Article 4 of the Constitutional Act "On State Independence of the Azerbaijan Republic" to abrogate the Nagorno-Karabagh Autonomous Oblast of the Azerbaijan Republic as an ethnic-territorial entity. To annul 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.

2. To restore the historical names of the cities Stepanakert, Mardakert, Martuni,

renaming them as follows: Stepanakert - into Khankendi, Mardakert - into Agdere, as well as to rename the Mardakert Region into the Agdere Region, city of Martuni -into the city of Khojavend, and the Martuni region - into the Khojavend Region.

3. To abolish the Askeran and Hadrut Regions.

4. To form the Khojali Region with the regional centre in the city of Khojali; to transfer, accordingly, the territory of the abrogated Askeran Region into the composite part of the Khojavend Region.

5. To transfer the cities of Khankendi and Shusha, as well as the Agdere, Khojavedi, Khojali and Shushi Regions, into the cities and regions [respectively] under the jurisdiction of the Republic.

The President of the Azerbaijan Republic A. Mutalibov

November 23, 1991

Non-official translation

An Extract from the Law of the Union of Soviet Socialist Republics On the Procedures of the Resolution of Problems on the Secession of a Union Republic from the USSR

Article 3.

"In the union republic, containing autonomous republics, autonomous oblasts and autonomous okrugs, the referendum shall be conducted separately on each autonomous entity. Peoples of autonomous republics and autonomous entities have the right to decide on their own whether to stay within the USSR or within a seceding union republic, as well as on its own legal status as a state.

While determining the results of referendum in the union republic, where there are areas of a co-residence of ethnic groups comprising the majority of the population of the given area, the results of voting shall be considered separately".

ANNEX 8

European Parliament

June 21, 1999

Official Journal off the European
Communities, C 175/251

Resolution on Support for the Peace Process in me 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-Karabakh 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-Karabakh 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-Karabakh,

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-Karabakh 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-Karabakh 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-Karabakh.

ANNEX 9

Act on Results of the Elections of President of the Nagorno-Karabagh Republic

A group of independent observers has been in the NKR since August 9, 2002, to observe the process of elections of President of the NKR.

The observers, divided into groups, worked in the town of Stepanakert, in Askeran, Hadrut, Martakert, Martuni, Shahoumyan, Shushi and Kashatag regions. The observers visited more than 120 polling stations and were present at the count of votes.

The independent observers state the following:

265 polling stations were set up on the territory of the NKR. To ensure that the NKR citizens, temporarily residing in the Republic of Armenia, can participate in the elections a polling station was set up in Yerevan.

The lists of the polling stations and the addresses of the regional (municipal) electoral commissions were published in the "Azat Artsakh" newspaper.

87 748 people that have the right to vote were included in the voter lists.

The Central Electoral Commission officially and finally registered four candidates, for whom equal conditions were created in the course of the election campaign. A voter makes a note in the ballot in the circle against the data of the only candidate whom he/she votes for.

The ballots were in Armenian. They were handed out to the voters upon presenting a passport or other identity document under the security of signature. Before using the ballots, they were stamped by a special (appropriate) seal of the polling station commission.

The proxies, the mass media representatives and the accredited observers had an opportunity to monitor the voting process and take part in the ballot counting in the polling stations of their choice.

The Central Electoral Commission performed effectively as an independent and professional body that endeavoured to fully and objectively implement the electoral legislation. The election administrators were competent and had the expertise to prepare and conduct elections. Electoral commissions demonstrated strong commitment to carry out their duties in compliance with the law and adhering to procedural requirements. The (overwhelming) majority of the reports submitted by observers, the electoral commissions received high ratings for their performance during the conduct of the elections.

Requirements presented by the Central Election Commission for conducting the ballot counting and summarisation of results provided a solid basis for transparency, accountability and accuracy. This election also demonstrated that the NKR is committed to strengthening its electoral bodies for conducting democratic elections, which has the obvious public support and trust as demonstrated by the attendance of voters to the elections, that made up 73 per cent (64 284 persons).

The observers have not found any violations in the voting procedure, in the procedure of distributing the ballots, filling them out and counting.

The preliminary results are the following:

G.S.Afanasian	"For" 1,3 per cent
A.B.Tovmasian	"For" 8,1 per cent
A.A.Gasarian	"For" 2,2 per cent
A.A.Ghoukasian	"For" 88,4 per cent

The number of votes given to the all candidates - 55 111 persons

Arkady Ghoukasian has been elected the President of the Nagorno-Karabakh Republic.

The conclusions of the observers:

The elections of the NKR President were conducted in compliance with the NKR legislature, ensuring the transparency, fairness and democracy of the election process.

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STATEMENT
on the
PRESIDENTIAL ELECTION
in
MOUNTAINOUS-KARABAKH
12th August 2002

Four representatives of the BHHRG, who had all visited Mountainous-Karabagh before, observed the presidential elections on 11th August 2002. They met members of the central and local election commissions, all four candidates, representatives of non-governmental organizations and many individuals and ordinary voters. They are grateful for the assistance they have received from both the Central Election Commission and the Foreign Ministry. They visited more than 20 polling stations on Election Day and attended counts in two polling stations.

The observers concluded:

1. The poll and the count were properly conducted.

Voters were correctly registered and efficiently processed in the polling stations. They voted in secret everywhere. The counts were efficiently and honestly conducted.

2. The elections were superior to many internationally-recognized and approved polls.

The BHHRG has observed 85 elections in the OSCE area. Its observers concluded that the presidential elections in Karabagh easily surpassed the standards of OSCE-organized elections in Bosnia and Kosovo, for instance, and other elections which have been approved by the OSCE and the Council of Europe, which we have also observed.

3. Voters expressed satisfaction with the campaign and media coverage.

Many voters spontaneously expressed to BHHRG their view that the media had kept them well informed about the candidates and the election procedures. They noted that the candidates had addressed many public meetings across the republic, something, which is not always the case in other elections.

4. Western countries could learn from Karabagh procedures.

BHHRG observers do not come to teach but to study and learn from the experience of others. British election procedures, for instance, are not technically perfect: British voters do not have to sign the electoral register when they cast their vote, unlike in Karabagh where the identity of the voter is better guaranteed.

A full report appear in due course on BHHRG's website, www.oscewatch.org

**INTERNATIONAL OBSERVATION
OF THE ELECTION IN NAGORNO-
KARABAKH**

Centre for the Comparative Study of
Elections, Academy of Sciences for National
Security Issues

Facts

On 11 August, the people of Nagorno-Karabakh held an election to renew their political leadership.

According to the election commission, there were 265 polling stations (plus 1 in Yerevan) for 87720 registered voters. 90 polling stations were on territory adjacent to that of the former autonomous oblast (region) - 14 in the Shahoumian area and 76 in the Latchin area, providing respectively for 1430 and 6555 voters (i.e. for those displaced from the areas of the former autonomous oblast under Azeri control).

There were 43 international observers - from Italy, Russia, the United States, the United Kingdom and Armenia. They included a high proportion of parliamentarians and former parliamentarians and representatives of human rights and humanitarian non governmental bodies.

The international observation was a "civil society" exercise. It was short-term, uncoordinated, and minimally structured. Observations were nonetheless made in over 120 polling stations, covering a substantial part of the territories.

No negative incidents were reported. No substantive criticism has been made of voter registration procedures, of the organization of voting, nor of the handling and transmission of the vote count protocols. None of the four candidates made convincing allegations against the rules and conditions of the campaign: because of media coverage of official functions, an outgoing incumbent has inevitably an

advantage over the challengers. Every effort was made to facilitate voter participation. Turn-out levels were broadcast every three hours throughout the day. The final declared turn-out was 73%.

Analysis

This was a post-conflict election, in a context of post-conflict rehabilitation, on a territory which has a 10-year-old state structure but as yet no form of internationally accepted political status. Humanitarian aid programmes are needed. Demining operations are being pursued.

On 2 and 6 August statements were made on behalf of the European institutions, dismissing the election as illegitimate and irrelevant to the search for a political settlement.

At issue is the right of a people, historically attached to a territory - 8 years after an end to active conflict but no political settlement in sight - to organize their affairs democratically through representative bodies and an elected political leadership.

To be remembered - as to the view taken by the international community of the legitimacy of the aspirations and expectations of the people - is that the CSCE Additional Council Meeting held in Helsinki at an early stage of the conflict (March 1992) agreed that «elected and other representatives» from Nagorno-Karabakh should be invited to an eventual peace conference.

Also to be remembered are the principles of the case-law of the European Court of Human Rights, on article 3 of protocol 1 on the right to free elections. Azerbaijan and Armenia - without whose agreement, in the view of the international community, no resolution of the conflict can be reached - have just recently ratified the Convention in accordance with their commitments on becoming member States of the Council of Europe. If, pending a

settlement, the international community takes the view that the people of Nagorno-Karabakh are under the jurisdiction of a State which is not in a position to respect these principles for the territory concerned, it has a moral obligation to the people concerned to recognize at the very least their right to internal self-determination. This has no necessary implications for the sovereign jurisdictions of States. It does not affect the search for a political settlement.

Indeed, when it comes to the final phase of negotiations for a political settlement, much time should be gained by not having to wait to know to whom the people of Nagorno-Karabakh have entrusted political leadership.

Stepanakert, 12 viii 02

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**REPORT OF INTERNATIONAL
OBSERVERS OF THE
PRESIDENTIAL ELECTION
PROCEDURES: NAGORNO
KARABAKH 11 AUGUST 2002**

COMMENTS AND CONCLUSIONS

1. We witnessed no procedural irregularities in any of the polling stations visited.

2. We were deeply impressed by the attention paid to detail at every stage of the voting process: checking identification of voters; detailed lists of the registered voters; genuine privacy for voters; sealing of the ballot boxes; arrangements made for proxy votes for those unable to read or understand the ballot form and/or home votes for those unable to attend the polling station.

3. We particularly commend the processing of the ballot papers and their format. The system of signing the reverse side of each paper by 3 members of the local Electoral Commission had been meticulously adhered to. The opportunity for each voter to record support for none of the candidates was original and noteworthy- and one which we might consider recommending for our own nation!

4. The overall percentage of citizens who participated in the electoral process is highly encouraging. In the locations we visited, the figure was higher in rural locations than the urban centre but the figure of 79.3% was very notable.

5. We witnessed the sealing of the ballot box at School 8 in Stepanakert promptly on schedule at 8 pm and the early stages of the procedures for counting the ballot papers. Overall, there was conscientious attention to every detail.

6. We were also deeply impressed by the quality of the arrangements: for example, fresh

flowers, table cloths and even live music at one polling station. These arrangements made the process of voting 'user-friendly' and attractive to voters.

7. As independent monitors, we were warmly welcomed at every polling station; at one location, it was mentioned that they would welcome the presence of monitors throughout the whole day.

8. In our opinion, the design of the voting paper could be improved. Its present size makes the sorting and counting of ballot papers slower and more difficult than it need be. The voting instructions could be on a separate sheet from the voting paper. This could then contain only the names of the candidates, with a square box immediately opposite, in which the cross or tick could be marked. This method should help to reduce the number of invalid votes (which was quite high in School 8 in Stepanakert). The existing circles seem to have confused some voters. Also, placing the voting box to the right of the candidate's name may prove helpful to the right-handed majority. Our proposed smaller voting paper would still be folded, after marking, to ensure secrecy.

9. This report deals only with what we saw on the Election Day. A further report will be submitted on wider considerations arising from the election campaign.

Our overall conclusion is one of congratulations to all the people of Artsakh for the spirit in which the elections have been conducted, their commitment to the democratic process and their pride in their progress towards the establishment of civil society.

*Signed:
The Baroness Cox
The Lord Hylton
Susan Mitchell
Colina Mitchell
Dr Kay Richmond
Date: August 12, 2002*