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**Resolution of Nagorno Karabagh conflict: hostage to unfavorable power balance and internal political stagnation.<sup>1</sup>**

**Background.** The conflict over Nagorno Karabagh, the region of Azerbaijan Republic with status of Autonomous Oblast, has erupted in late 1980s, against the background of the collapsing Soviet Union. with the region's claim of independence from Baku. As the autonomous region was not homogenous and had 24% of Azerbaijani population, who did not want to separate from Azerbaijan Republic, the exclusive claims led to inter communal clashes in Nagorno Karabagh. Animosity and violence in two republics had caused mutual flows of refugees, which in turn reinforced domestic instability in Armenia and Azerbaijan. With independence the conflict transformed into the undeclared war between the two republics, with Armenian forces moving in Azerbaijan sovereign territory to take control over Nagorno Karabagh region and 7 more regions beyond it. In 1994 under the auspices of the OSCE and with Russian mediation the ceasefire agreement was signed between the governments of Azerbaijan and Armenia.

**The current state of the conflict.**

The international mediation on the Nagorno Karabagh conflict have been conducted within the framework of OSCE since 1993. In 1994 the ceasefire agreement between the parties to the conflict was signed with the obligations of each party to support it up until the political solution is found. To date, the political solution is still not found, although a few times, most recently -before the Kazan meeting, the parties, in the perception of the mediators and observers, were close to signing of agreement. The subject of current negotiations are so called "Madrid Principles", which reflect results of many years of diplomatic activities of three co-chairmen – representatives of Russia, USA and France- and which witnessed numerous "ups" and "downs". The preliminary version of Madrid Principles for a settlement were presented by the ministers of the US, France, and Russia to Armenia and Azerbaijan in November 2007 in Madrid, while the renewed version ( which included the issue of the interim status of Nagorno Karabagh) was officially declared by the heads of states of co-chairs of the OSCE Minsk Group at the G8 summit in L'Aquila on 10 July, 2009. They were based on the Helsinki Final Act principles of Non-Use of Force, Territorial Integrity, and the Equal Rights and Self-Determination of Peoples and called for inter-alia:

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<sup>1</sup> This paper is part of the book Hans-Georg Heinrich (ed.) Post-Soviet Conflicts, ICEUR Studies Series, Frankfurt: Peter Lang, ( forthcoming).

- return of the territories surrounding Nagorno-Karabakh to Azerbaijani control,
- an interim status for Nagorno-Karabakh providing guarantees for security and self-governance,
- a corridor linking Armenia to Nagorno-Karabakh;
- future determination of the final legal status of Nagorno-Karabakh through a legally binding expression of will;
- the right of all internally displaced persons and refugees to return to their former places of residence; and international security guarantees that would include a peacekeeping operation”<sup>2</sup>.

The principles were confirmed in the statements of the co-chairmen in Muskoka, Canada, on 26 June, 2010<sup>3</sup>. The full list of basic elements were disclosed in the speech of Ambassador Robert Bradtke the US co-chair of the Minsk Group of OSCE on June 15, 2011 at the session of Foreign Affairs Committee of the European Parliament in Brussels<sup>4</sup>.

There are a few reservations, however, regarding the abovementioned achievements. The main is the unclear and open to multiple interpretations nature of the Madrid principles. The ambiguity of the principles, such as “legally binding expression of will” allowed some progress in the negotiation process, because the parties filled them with interpretation and meaning, which corresponded to their national interests. So the progress was caused not by the real compromises, but by ambiguous definitions. However, this is exactly why the very same advancement failed to extend, when the principles faced the necessity for further specification, among them the issue of who will be participating in the “legally binding expression of will”, when will it take place, the time frame of Armenian withdrawal, and the status of the land corridor across Lachin region, connecting Nagorno Karabagh with the Armenian proper. The Armenian president repeatedly blamed the Azerbaijani president in blocking an agreement by refusing to name a specific date of the “legally binding expression of will”. On the other hand, the Azerbaijani president, who has already

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<sup>2</sup> Joint Statement on the Nagorno-Karabagh conflict by US President Obama, Russian President Medvedev, French President Sarkozy at the L’Aquila Summit of the Eight, July 10, 2009  
[http://www.whitehouse.gov/the\\_press\\_office/Joint-Statement-on-the-Nagorno-Karabakh-Conflict/](http://www.whitehouse.gov/the_press_office/Joint-Statement-on-the-Nagorno-Karabakh-Conflict/)

<sup>3</sup> Statement by the OSCE Minsk Group Co - chair countries, Press release, OSCE Muskoka, Canada, 26 June 2010.  
<http://www.osce.org/mg/69515>

<sup>4</sup> “Current version of Basic Principles is fair and balanced, Robert Bradtke said” Mediamax, 15 June 2011.  
<http://www.mediamax.am/en/news/karabakh/1392/>

expressed his agreement with the “Madrid principles”, blamed the Armenian president in blocking the progress as the latter did not agree to the principles.

In March 2010, the Azerbaijani foreign minister Mammadyarov confirmed, that principles in general were acceptable for Azerbaijan. The principles as disclosed to the press by Azerbaijan official reflected the phased approach, as opposed to the package one, and included at the first stage withdrawal of the Armenian forces from 5 regions bordering Nagorno Karabagh and 13 villages of the occupied Lachin district, restoration of the communications, donor’s conference on post-conflict rehabilitation and deployment of peacekeeping observers. The second stage entailed, according to the minister, withdrawal of the Armenian forces from the remaining Kalbajar and Lachin district, return of the IDPs and only after that – the determination of the status of Nagorno Karabagh on the condition of non-violation of the territorial integrity of Azerbaijan<sup>5</sup>. The Armenian party did not express its agreement with the principles until Russian party revised them, taking into account Armenian interests and presented them at the trilateral meeting in Sankt-Petersburg on the 17<sup>th</sup> June, 2010. These in turn were declined by the Azerbaijani party.<sup>6</sup> The next meeting in Kazan with the mediation of the Russian president resulted yet in another deadlock.

Against this background of difficult negotiations, the ceasefire, although having being supported without peacekeeping forces, has been fragile. Since its signing each year from 15 to 20 people die only on Azerbaijani side as a result of its violation<sup>7</sup>. According to the statistics of the Ministry of Defense of Azerbaijan daily there are breaches of ceasefire by the opposite side from 4-5 directions. As the analysis of the independent Center “Doctrine” shows, the nature of the ceasefire violations after 2002, as compared to the 90s, on both sides of the frontline has changed. From greater spontaneity, caused by lack of order and coordination in the 90s, during the last few years it transferred into a tool of putting pressure by the sides on each other, as is more frequently timed to the dates of the negotiation meetings.

### **Costs of the conflict.**

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<sup>5</sup> Azerbaijani Foreign Minister Discloses Details of Madrid Principles, Caucasus Report, REF/RL, March 15, 2010. [http://www.rferl.org/content/Azerbaijani\\_Foreign\\_Minister\\_Discloses\\_Details\\_Of\\_Madrid\\_Principles/1984485.html](http://www.rferl.org/content/Azerbaijani_Foreign_Minister_Discloses_Details_Of_Madrid_Principles/1984485.html)

<sup>6</sup> The analysis of the meetings with mediation of Russia could be found in Расим Мусабеков “Нагорно Карабахский конфликт в контексте меняющейся региональной геополитики» in «От Майендорфа до Астаны: Принципиальные Аспекты Армяно-Азербайджанского Нагорно Карабахского Конфликта», MGU. Moscow, 2010.

<sup>7</sup> Here and below the source on military statistics is the interview of the author with Cesur Sumerenli, the director of “Doctrine” - the Journalist Center for Military Research, 26 October 2011, Baku.

The conflict which has lasted for almost 2 decades had significant consequences for the development prospects of the countries and for the region as a whole.

First, it was a large scale humanitarian crisis. The conflict led to more than 800 thousands of Azerbaijani refugees<sup>8</sup> from Armenia and displaced persons from the occupied Azerbaijani territories and estimated 320 thousands of Armenian refugees from Azerbaijan, 11 thousands Azerbaijani and 6 thousands Armenian military and civilian casualties, 30 thousands wounded in Azerbaijan and 20 thousand in Armenia and more than 4, 5 thousand missing persons only on Azerbaijani side<sup>9</sup>.

It caused enormous damage to economy, social infrastructure and culture. The area of Azerbaijan, affected by war, stretches along its entire border with Armenia, including Nakhchivan Autonomous Republic, with 917 settlements<sup>10</sup> having suffered to various degrees. 764 settlements were on the occupied territory of Karabagh ( area, which includes both Lowlands and Highlands), most of which are completely destroyed. For the whole area, which used to be a single region from the socio economic point of view the division on the upper and lower parts have been rather provisional, as the highlands traditionally were pastures for the people from the lowland Karabagh, populated by Azerbaijanis. The area of 7 regions beyond the Nagorno Karabagh – Agdam, Fizuli, Jabrayil, Zangilan, Gubadli, Lachin and Kelbajar - covers 8, 874 km. and has a population of 615,000 people, who became displaced as a result of the occupation. The occupied territories, which are called “ the buffer security zone” by the Armenian side, include arable lands and 5 large natural reserves ( Gara Gel, Basit Chay, Lachin, Gubadly and Araz boyu state reserves with total square of 43, 947 hectares. They are rich with other resources, such as chromium ore and mercury in Kelbajar and Lachin districts, copper – in Agdere district, gold deposits in Kalbajar and Zangilan. The lands are rich in natural raw construction materials, such as marble, limestone, raw cement, gravel and mortar sand, as well as precious and semi-precious stones and ( agate deposits in Qubadli district) and famous Istisu mineral water sources in Lachin and Kalbajar. According to the estimates, 1,992 cultural and general facilities and 183 historical monuments were destroyed on the occupied territories.

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<sup>8</sup> Here and below in the paragraph the source of statistics is Ариф Юнусов: Армяно-Азербайджанский конфликт: демографические и миграционные аспекты CA&CC Press AB, Издательский Дом, Швецияб 1998. [http://www.ca-c.org/journal/16-1998/st\\_10\\_junusov.shtml](http://www.ca-c.org/journal/16-1998/st_10_junusov.shtml)

<sup>9</sup> “Red Cross is involved in search for missing persons in Karabagh war” Contact news website, 2011 august 24, <http://www.contact.az/docs/2011/Social/08248819en.htm>

<sup>10</sup> Here and below statistics is quoted from Nazim Muzaffarli, Eldar Ismayilov “ Basic Principles for Rehabilitation of Azerbaijan’s Post-Conflict Territories”, CA&CS Press AB, Stockholm, 2010.

The displaced people were resettled all over republic, mainly around major cities Baku and Ganja, and in the lowlands of the central part of the country. While settlers around Baku had an access to the labor market, most of the settlers from the other areas have had difficulties in improving their living conditions and in integration in the society.

However, while physical destruction may be compensated by the Azerbaijan's revenues from the oil and gas resources ( Azerbaijan government plans to spend 28, 4 billion dollars on post-conflict rehabilitation programme), for Armenia it is becoming more difficult to afford isolation from the regional energy project and support both NK's economy and its army on the occupied territories, even with the billions of Russian investments in the military of Armenia and help of Diaspora.

The IDPs from the Azerbaijani populated areas of Nagorno Karabagh and 7 regions beyond it have never lost hopes for going back to their lands, as this hope has been consistently supported by the consecutive Azerbaijan presidents since the signing of the ceasefire in 1994.

On the other hand, the occupied territories, first of all, Azerbaijani populated Shusha city in Nagorno Karabagh area and villages and the regions beyond the Nagorno Karabagh autonomy borders- Lachin and Kalbajar- are the regions of the settlement policies by the Armenian government. This makes the final solution harder, as it creates additional obstacles to the implementation of the future political agreement. Besides, many IDPs from the Lachin region do not accept the idea, that any part of their home territories, other than railway, may be given to the so-called corridor to connect Armenia with Nagorno Karabagh.<sup>11</sup>

#### **Vicious circle of delay in reforms and lack of progress in resolution of the conflict.**

For both parties, however, it's much harder to overcome political and moral consequences of the conflict.

The conflict between Armenia and Azerbaijan distracted three South Caucasus Republics from the common struggle for independence from Moscow as a center of political power of Soviet regime and prevented states from uniting (similarly to the Baltic States) around the common purpose of consolidation of their independence. It also strengthened the Russia's presence and policy instruments through security alliance with Armenia and thus capacity to influence the outcome of conflict. It slowed down both from the foreign and domestic policy perspectives the integration of the region into the European and Euro-Atlantic structures, impeding political change and democratization in both states.

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<sup>11</sup> The author conducted interviews with the IDPs from the Lachin region on September 30, 2011 in Baku.

Besides significant material and humanitarian damage, the conflict has a deeper structural and long term effect - first of all, on the pace and nature of state and democracy building. Transition in both states was significantly affected by the unresolved conflict, which has been remaining a priority agendas of all the political leaders of the countries. Indeed, increasingly centralized power in Azerbaijan was often referred to the unresolved conflict as a necessary step to promote unity of state in the conditions of high insecurity. Similarly, boosting of Azerbaijani military budget at the expense of oil revenues, defined as priority spending, was justified by the fact of slow progress in negotiations and presence of the foreign troops on Azerbaijan's territory. The military rhetoric was particularly profound during 2008, but temporarily weakened after it raised concern in the international community and after the Russia-Georgian war.

Since early 90s the conflict and its consequences attracted most of the resources, directed to the country by the external donors, who prioritized conflict resolution and humanitarian issues in aid for Armenia and Azerbaijan. It delayed support for democracy building by the international institutions in the countries, torn by war and humanitarians emergency.

Most importantly, the unresolved conflict served the obstacle to the change of political elites and the dynamic of political process. Indeed, unlike in Georgia, where the younger elite came to power after Shevardnadze, the elites, whose interests and political capital were connected to Karabagh war in Armenia were deeply entrenched in power, preventing their replacement by younger generation or opposition<sup>12</sup>.

In Azerbaijan nationalist agenda remains the highest priority of all generation of politicians as a result of the failed negotiation process. On the other hand, nationalist rhetoric serves the incumbent to boost his political power in order to justify political status quo domestically. This happens also because of the monopolization of the conflict resolution by the president – the process of consultation with various layers and groups of the country is practically absent. The monopolized conflict resolution is easy to manipulate.

In turn, the unresolved conflict serves an obstacle to the integration both in the region and in the European and Trans-Atlantic structures and to creation of the common market in the South Caucasus, necessary for the substantial breakthrough in economic development. This is more damaging in case of Armenia, as Azerbaijan is utilizing fully its abundant energy resources and found alternative ways of their transportation. However, both are suffering slow development of democratic institutions, major deficiencies in basic

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<sup>12</sup> Richard Kiragossian called Serj Sargisian in his publications “The Last of Mohicans” , meaning, that he represented the last generation of the politicians related to the Karabagh war interest groups.

freedoms- of thought, assembly and conscience, and most importantly – of liberalism, as the basic set of ideas promoting the values of openness and tolerance and thus contributing to the development of inclusive views on diversity, which in turn would promote resolution of the conflict.

#### **Actors and vested interests in “status quo”: geopolitical bargaining.**

The “statu quo” has been supported due to a unique power balance both between the parties and in geopolitical situation. Once the military solution deemed to failure in 1994, it led to the ceasefire signed in the same year. The bargaining power of legal and economic advantage of Azerbaijan since then was balanced by the military advantage of Armenia ( Armenian army advanced in the territory of Azerbaijan) by the time of signing the agreement. The other factor boosting Armenia’s confidence is traditional political - military alliance with Russia, as well as influential Diaspora in Europe and the US. Azerbaijan’s firm position in negotiations was justified by its abundant oil and gas resources and the legality of its cause.

High stakes in preserving “statu quo” were proved most outstandingly during the negotiation process in the end of 90s already , in particular when the two parties were close to long desired compromise in 1998- until the shooting in the Armenia parliament, and resignation of the officials in Azerbaijan.

In the condition of “ normative uncertainly”, when illegality of violation of international borders by Armenia in some cases was not condemned –like in case of EU, OSCE , in the other – like in the case of the UN resolutions- was acknowledged, but not implemented or punished by sanctions<sup>13</sup>, the militarily gains were “legalized” in negotiation process as a bargaining tool of Armenian party. This led to perception of “acceptability” of utilization of the military power as a tool in negotiating process by the parties. Against the background of the ceasefire agreement, which lasted 17 years, the arms race which accelerated in the 2000s was the illustration of this phenomenon. This added a military component to Azerbaijan’s bargaining tools, who previously tried to use exclusively “oil diplomacy” and economic attractiveness of the future of the country. With inflow of oil and gas revenues the Azerbaijani military budget started to visibly increase. The military budget in 2011 was \$ 3,12 billion- two fold increase from the year 2010<sup>14</sup>. The president Ilham Aliyev was quoted by European Dialogue saying at the 92 anniversary of the Azerbaijani Armed Forces “A goal was set forth several years ago for Azerbaijan’s military expenses to be above all of Armenia’s

<sup>13</sup> Azerbaijan tried repeatedly get a recognition of Armenia as an aggressor party in a few international organizations, but did not succeed, except for the OIC.

<sup>14</sup> “Baku embarks on military spending surge, seeking for Karabagh peace”, Shahin Abbasov, October 22 2010, Eurasianet.org <http://www.eurasianet.org/node/62223>

spending. This goal has already been fulfilled. We will continue increasing our military power and will purchase all the weaponry and ammunition and machinery for our military”<sup>15</sup>

In turn, once having established control over Nagorno Karabagh and surrounding regions “ de facto” Armenia has been trying to use the period of ceasefire to reach an international recognition of this control, involved in active lobbying in EU and the USA, conducting policy of settling the territories of Nagorno Karabagh, Kalbajar and Lachin by the Armenian population. The cultural and historical monuments and museums on the occupied territories, were either destroyed, looted or, like the mosque in Shusha of Nagorno Karabagh, preserved or even restored under the name of the “Iranian” cultural monuments.

The difficulty of resolution of the conflict is in the instrumental nature of the small states’ secessionist conflicts. From the very beginning of the conflict, parties were aware of the Russia’s interest in keeping them under control, as this was continuation of the old policy of “ divide and rule”. This allowed Russia to put pressure on Azerbaijan in the 90s to promote its military strategic goals, which however, did not succeed. Tom de Waal quotes then ambassador of Azerbaijan to Russia Hikmet Hajizada, who recalled that Russia was using occupation of Kalbajar as means of pressure on Azerbaijan to agree on Russian peacekeeping forces in the zone of conflict<sup>16</sup>. On the other hand, once the conflict is resolved Russia would loose its leverage of influence also over Armenia, who traditionally was dependent on her in security and defense matters, landlocked and squeezed between the “Turkic historical enemies”.

After the military and coercive stage of geopolitical competition with creation of the institute of co-chairmen of the Minsk Group of the OSCE transformed into the peaceful and political way of coordination between the major interested actors – US, Russia and France- the bargaining also transferred to the political level. Indeed, although most of the negotiations were behind the closed doors, the leakage to the media had revealed, that there was an intense bargaining process between Russia and the US, Russia and conflicting parties. Most recently, the bilateral meeting of two presidents – Ilham Aliyev of Azerbaijan and Alexander Medvedev of Russia- in Moscow had two major issues on agenda. By interpretation of one of the

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<sup>15</sup> “Aliyev: Azerbaijan’s Defense Budget Tops Armenia Budget” European Dialogue, <http://eurodialogue.org/Aliyev-Azerbaijan-defense-spending-tops-Armenia-budget>

<sup>16</sup> Thomas de Waal “ The Black Garden: Armenia and Azerbaijan through peace and war” New York University Press, NY.2004.



experts, the parties were discussing the possibility of “ Karabagh” ( as Azerbaijan interest) in exchange for “ Caspian Status” ( as Russia’s interest)<sup>17</sup>.

Azerbaijan’s behavior has become more assertive in the region and internationally, boosted by the major oil revenues flow, which started in the mid 2000 ( the peak will reach in 2012). This allowed the country to invest in its military power, boost economic growth, invest in and lead energy and infrastructure projects and be more independent in its behavior in the region. On the issue of Caspian status Azerbaijan continues to hold on a position of division of the sea bed on the respective national sectors. However, Russia’s current interest is to promote the legal status, which would allow to preserve control activities in the sea, first of all energy transportation projects such as trans-Caspian pipelines and military balance, the planned by the EU gas pipeline Nabucco, which would carry Caspian gas to the European markets impossible without the gas volumes, which can be produced on the other side of the Caspian, such as in Turkmenistan. The Azerbaijani representatives downplayed the role of the unresolved status of the Caspian as a barrier to such pipeline<sup>18</sup>, yet, the resolution to the long negotiated issue may bring Russia the desired benefits in acquiring legal leverage of control over the presence of extra regional actors in the Caspian. However, there is a perception that bargaining power of Nabucco and Caspian status is not sufficient for Russia to change radically its traditional policy to rely on Armenia and unresolved conflict in order to keep under control the South Caucasus. The war in Georgia has demonstrated that Russia is not ready to change its policies in the region in substance.

This geopolitical bargaining was also obvious during the intensified round of Karabagh negotiations, when Russia adjusted the Madrid principles taking into account Armenian interests. On the 18<sup>th</sup> of August 2010 Armenia declared that it has agreed to extend Russia’s military basis until 2044<sup>19</sup>.

However, some analysts notice the trend of Russia’s “balancing” in NK conflict. This came with Russia’s awareness of Azerbaijan turning into a powerful independent player with abundant resources, utilized to boost its role in the region and beyond it. Investments of the SOCAR – national oil company- in the countries both of the South Caucasus and Black Sea region, along with winning the seat of non-permanent

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<sup>17</sup> Interview with Eldar Namazov, former advisor to H.Aliyev, 12.08.2011.Baku.

<sup>18</sup> Interview with representative of the State Oil Company of Azerbaijan ( EU4Seas project).

<sup>19</sup> Russia to prolong military presence in Armenia, Aug18, 2010, The Armenian weekly.  
<http://www.armenianweekly.com/2010/08/18/russia-to-prolong-military-presence-in-armenia/>

member of the Security Council of the UN were some of the confirmation of this growing role. In addition, this was also in recognition of the Azerbaijan's critical role in alternative energy projects in the region.

However, balancing in the conflict by Russia does not mean its total departure from the traditional "divide and rule" policies, as she is still did not reach a competitive capacity comparable with the West in terms of economy or political attractiveness.

### **OSCE: normative uncertainty.**

An introduction of the institute of co-chairs of Minsk Group of the OSCE in December 1994 in Budapest was a significant achievement in international diplomatic activities related to resolution of the NK conflict. It allowed to bring in regional and global actors with interests in the region under a framework within which they would coordinate, rather than compete in their policies. This brought positive dynamic of cooperation between the geopolitical competitors to the mediation. Yet, a few flaws of this framework became evident during the process.

The OSCE decision making mechanism is based on consensus. Both parties to the conflict – Armenia and Azerbaijan – are members of the OSCE and have a right of veto in the decision making. This implies that since each party bases its cause on one of the two founding principles of the OSCE – Azerbaijan on "territorial integrity" while Armenia on "right of self-determination", none of the principles can be a guiding, or superior in finding the resolution.

The peculiarity of the Minsk process is that "with the help and support of mediators it is up to the parties to find the balance between the various principles being discussed"<sup>20</sup>. The Minister of Foreign Affairs of Russia Lavrov at the press conference in Moscow on 22 January 2010 stated, that "none of the principles can be prior to the other"<sup>21</sup>

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<sup>20</sup> Facilitating Dialogue. Interview with Ambassador Andrzej Kasprzyk. OSCE Magazine, Issue Number 1, 2010. <http://www.osce.org/secretariat/67469>.

<sup>21</sup> Министерство Иностранных Дел Российской Федерации. Департамент Информации и Печатию\ Стенограмма выступления и ответов Министра Иностранных Дел России С. В. Лаврова на вопросы СМИ на пресс конференции, посвященной внешнеполитическим итогам 2009 года, Москва 22 января 2010 года [http://www.mid.ru/brp\\_4.nsf/0/0B514CB49F82A439C32576B40053C70E](http://www.mid.ru/brp_4.nsf/0/0B514CB49F82A439C32576B40053C70E)

Armenia tries to redraw the internationally recognized borders of her neighbor under the military pressure, officially - for the sake of right for self-determination of Armenian population of Nagorno Karabagh. However, as the party in negotiations Armenia has clearly violated the universal principle of inviolability of internationally recognized borders.

Yet, this violation is not denounced by the external actors, moreover this fact is used as a bargaining tool in negotiations. Consequently, there is no legal normative framework which would guide the parties towards the peace agreement. The mediators expressed much clearer attitudes to relations between the two principles and violation of the international borders in case of war between Georgia and Russia. Although, Russia did not implement all the points of EU mediated agreement, the inviolability of internationally recognized borders remains an overarching principle, which is guiding the international mediation in this case.

Denouncement of the use of force has not been consistent either. In fact, there was a lot of pressure on Azerbaijan in regards possible return of the occupied territories by force. This position was justified that military way of restoration of territorial integrity contradicts one of the three major principles of Helsinki Final Act and peaceful resolution- non-use of force, territorial integrity, equal rights and self-determination of people. At the same time, the format of negotiations, expressed in the underlying formula “lands in exchange for status for NK” is in fact legitimizing the use of force, as accepts the military gains of Armenia as major bargaining tool.

The other problem of the OSCE format, is that while attracting to mediation of actors, who have strong interests in the region, makes sense, a greater degree of their impartiality is essential for the effectiveness of mediation. According to the recent statement of one of the Azerbaijan political commentators<sup>22</sup>, the process cannot be successful, and Armenia will not compromise, while the states of co-chairmen supply her with resources.

Moreover, the continued “statu quo”, which is in the interests of Armenia, trying to consolidate the military achievements through creating “facts in the ground”, looks even more solid, if one takes into account the political influence of Armenian Diaspora in France and the United States, thus making overall power balance not in favor of changing the “statu quo”.

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<sup>22</sup> Политолог: армяне не пойдут на уступки, пока страны-сопредседатели им помогают, ( Political scientists: Armenians will not compromise, while the co-chairmen states are rendering them help) Interview with Zardusht Alizade, AZE.az 3 august 2011, [http://aze.az/news\\_politoloq\\_armyane\\_ne\\_63495.html](http://aze.az/news_politoloq_armyane_ne_63495.html).

Thus in the absence of multilateral institution in the region, which would judge the policies of its members from the point of the view of the international law, the parties tried to build up a power balance that would be benefit their bargaining position, as well as tended to compete in making allies and proliferating arms race.

All this caused Azerbaijan to appeal from time to time to the UN framework to get more balanced and normative judgment of the conflict. In 1993 the UN Security Council had adopted 4 resolutions<sup>23</sup> calling for immediate and unconditional withdrawal of Armenian troops from the occupied territories. The UN General Assembly adopted another resolution on 14 March 2008 “The situation on the occupied territories of the Republic of Azerbaijan” , where re-affirmed the territorial integrity of Azerbaijan and demanded withdrawal of all Armenian forces from the Azerbaijan’s territory. The resolution passed with 39 votes in favor and 7 against it with 100 abstentions. Indicative is the fact, that France, USA and Russia were among those 7 votes against the resolution. The reply of the USA on behalf of the three Co-chair countries to the general assembly on the 2<sup>nd</sup> of December 2008 stressed, that they viewed “the resolution 62/243 as selectively propagating only certain of those principles to the exclusion of the others without considering the Co-chairs proposal in its balanced entirety”.<sup>24</sup>

It is obvious, that without the consent of the critical players, such as the US, France and lack of incentive from the majority of European States, not only adoption, but implementation of the resolutions would be also unrealistic.

The OSCE process has been focusing on the principles of political agreement, which would define the sequence of the parties’ actions leading to the long term solution. This included the issue of withdrawal of troops and liberation of the occupied territories, security of population of Nagorno Karabagh, determination of status of Nagorno Karabagh, allocation of the peacekeeping forces and other.

However, very little has been done in development and formation of the common vision of the future of the region, which would place these principles and actions in the larger framework of “win-win situation”. Here the European Union could play a critical role in creating incentives and advantages of reaching

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<sup>23</sup> Resolutions N. 822(1993) adopted on 30 April 1993, N.853 adopted on 29 June 1993, N.874 adopted on 14 October 1993, N.884 adopted on 11 November 1993.

<sup>24</sup> Un General Assembly, Sixty Third Session, Agenda Item 18, The situation on the occupied territories of Azerbaijan, Report of the Secretary General” 30 march 2009.p.3.

political peace agreement through more inclusive policies toward the Eastern neighborhood and opening the perspective of EU membership for the South Caucasus.

### **Regional and extra regional players.**

The balance of power in the conflict was affected by the various degrees of involvement of the third parties in the Karabagh conflict – militarily by Armenia and Russia, politically and in the area of aid by the US and economically - by Turkey. Under the influence of Armenian lobby the US congress in 1992 adopted the 907 amendment to the Freedom Support Act, which prohibited any aid for the government of Azerbaijan. This had far reaching consequences for the nascent democracy of Azerbaijan, as left democratically elected liberal minded president Elchibey with no resources, undermined his rule through failures to provide security of the population in and around Karabagh, and certainly did not have a restraining effect on Armenia forces quickly moving in Azerbaijani territory applying scorched earth technique on the occupied territories. Next Turkey closed the borders in response to Armenia's occupation of Kalbajar region beyond the Nagorno Karabagh area. Turkey's act was not just the act of solidarity with Azerbaijan, but was caused by changing power balance in the region, which would have implications for Turkey's own security. The Turkish – Armenian complicated relations throughout the 20<sup>th</sup> century made Turkey alert of how far can Armenia go in realization of its territorial disputes with neighbors.

The characteristic of OSCE negotiating framework of normative uncertainty, made Azerbaijan to appeal few times during the negotiation process to the United Nations as a normative framework, which would give an assessment of the clear violation of the international law by neighboring Armenia.

The fact, that Armenia and Azerbaijan are on the geographic periphery of Europe, unlike Balkan states, makes this conflict “ non-European” and determines weak incentive and little investment from the side of the EU in resolution of the conflict. As is followed from the EU documents, EU sees its role as supportive to the OSCE process. The introduction of the institution and appointment of the EU special representative to the South Caucasus signaled strengthening EU interest in playing greater role in the conflict resolution, which was reflected in a number of resolutions of the European Parliament<sup>25</sup>. Yet, the EU involvement in Karabagh resolution can not be compared to the EU role in case of Georgia conflicts, especially after the

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<sup>25</sup> See in particular European Parliament Resolution of 20 May 2010 on the need for an EU strategy for the South Caucasus.(2009/2216(INI))

Russian invasion of Abkhazia and Ossetia in August 2008, when the EU came with the strong statement, affirming its support for territorial integrity of Georgia and Sarkozy mediated Russia-Georgia talks.

Overall, for the EU and the US the *statu quo* did not create major obstacle for the realization of their key interests in the region, namely, energy security. Indeed, the ceasefire agreement created sufficient level of stability required for signing and operating the contract of the century since 1994, as well as for creation of the alternative pipeline routes, such as Baku-Tbilisi-Ceyhan, so the oil would flow from the Caspian to the Western markets uninterrupted. Thus, the change of the situation would bear greater risks for the stakeholders, including external players, than support for the current level of stability.

In addition, the mediators from France and the US have no incentive or leverage on putting greater pressure on either side towards greater priority of one principle over the other, or make parties more consensual. Indeed, Armenian Diaspora remains a strong domestic political factor in many countries of "old Europe" and the US, supported by the liberal public opinion across Western states, while energy interests and the legality of Azerbaijani claims, defending its borders, make them to abstain from taking unambiguously pro-Armenian position.

The "neutrality", which was brought by the European state or the USA as an argument against prioritizing of any of the principle on many occasions, such as voting against the resolution 62/243 adopted at the General Assembly in 2008, in fact results from unwillingness to upset the power balance in the conflict, which in turn reinforces *statu quo* and promotes frozenness of the conflict.

EU's promotion of multilateralism in the region was not successful either, as had good intentions without relevant investments. Indeed, while EP's resolutions repeatedly stated importance of the trilateral cooperation between South Caucasus states, EU has done very little, if at all, to influence the process of the resolution of the NK conflict – the major obstacle to trilateral cooperation, as well as to cooperation in the other formats, such as BSEC or Black Sea synergy.

One of the value added initiatives of the European actors – NGOs, governments- is a suggestion that positive example of conflict resolution in Europe could serve a model for the conflict resolution in Karabagh conflict. While indeed South Tyrol and Aland Islands status have much to be learnt from, a few factors, which present there, are absent in case of Karabagh conflict. In the South Caucasus there is no regional legal arbiter, the decisions of which would be equally acceptable for both parties, as in case of Aland islands, and there is not an incentive of EU membership to make the third party (as it was in case of Austria) behave more responsibly regarding its neighbor in case of South Tyrol. The role of normative organization

in case of NK conflict has been played by the UN, which demanded withdrawal of Armenian troops from the Azerbaijan territory, but so far none of the adopted resolutions has been implemented.

The OSCE Minsk group institution played an important role of bridging the gap between two major powers Russia and the West and created a framework, where the powers were not acting against each other but rather cooperated in a peaceful manner.

### **Azerbaijan's position on Turkish –Armenian rapprochement.**

As was mentioned above Turkey's borders with Armenia were closed since occupation of Kalbajar region beyond Nagorno Karabagh area, the military operation, which aimed to "unite" the autonomous region of Azerbaijan with Armenia proper along the whole border of autonomy. The occupation of Kalbajar had a significant influence on development of humanitarian crisis in the republic, as was followed by major flow of displaced people.

Turkey was the only ally of Azerbaijan in the region to close the borders with Armenia, who did not recognize the territorial integrity of its neighbor. This action could have had a significant regulating effect on relations in the region. One of the reasons of post-Soviet conflicts is lack of sense of interdependency of the states of the South Caucasus. Indeed, the patron-clientalist relations between Russia and its subjects and centralized economy, when all relations between the republics were mediated by Moscow, developed a perception, that the poor with resources republics, such as Armenia, will enjoy economic security regardless of the relations between her and neighbors.<sup>26</sup> The cessation of the economic relations between Turkey and Armenia was an important signal, that the country cannot enjoy economic benefits of cooperation unless she respects the territorial integrity and sovereignty of the neighbor. However, due to the substantial aid from the side of the external and extra-regional actors – EU, US, Russia, Iran- the regulating effect of the economic embargos as consequences of the conflict on relations between the states was significantly weakened.

Lack of effectiveness of the economic sanctions was coupled with the idea, suggested by the Europe and the US, that Turkey's role in the region, especially in conflict resolution, would be much greater, if Turkey improved its relations with Armenia and build it independently from these relations in Azerbaijan.

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<sup>26</sup> Leila Alieva" Imperial Legacies: Economics and Conflict" Security Dialogue, Oslo, Vol.27

N.1, March 1996.

Armenia, although facing some opposition from the radicals, would have a unique chance of breaking the strategic alliance of Azerbaijan and Turkey and a way out from her economic isolation.

For Azerbaijan, In the situation, when Armenia was supported militarily by Russia and enjoyed political influence in most powerful states of the West through large Diasporas, the Armenia- Turkish protocols signed on 10 October 2009 meant losing support of the only ally in the region.

This was not because one of the provisions of the protocols entailed opening of the borders for mutual trade, but due to the fact, that the issue of Karabagh was dropped out of the protocols. According to the protocols, Armenia would have recognised the border between two states and would not demand an immediate recognition of the genocide by Turkey; Turkey, in turn, would not mention the Nagorno-Karabakh issue. This meant that the borders would be open without major condition which caused their closure being fulfilled, namely, withdrawal of the Armenian troops from Azerbaijan territory.

This caused a reaction of outrage from official Azerbaijan. Indeed, taking into account normative uncertainty in regards Karabagh conflict ( as opposed to Georgia-Russian) and absence of multilateral organization – legal arbiter in the regional disputes, position and behavior of the individual actors played a crucial role in power balance of the conflict and this separate agreement would undermine the position of Azerbaijan in negotiations at least in the short term perspective. However, some voices at the level of civil society and opposition would welcome these developments, as saw them promoting Turkish role in the region and Turkey's growing influence on Armenia, eventually reducing the role of Russia.

#### **The EU and the US: inconsistency in promotion of liberal reforms.**

The other factor which is not conducive for the compromises and consequently for progress in negotiations is rooted, as it was shown in the previous chapters, in domestic situation in the states -parties to the conflict. Statu quo in conflict, is in fact a reflection of the continuous statu quo in the internal politics- namely, continuity of political elites and groups of interests in power in Armenia and Azerbaijan, very similar to that in Russia. While Serj Sarkisian's rule has been characterized by greater foreign policy orientation to the West and Turkish- Armenian rapprochement, he did not manage to make a significant progress in domestic reform, mainly due to the unresolved conflict and priority of the security issues remaining at the top of agenda. This conditioned entrenchment in power of the same interest group connected to the war in Karabagh and military industrial complex closely related to Russia.



In Azerbaijan the political stagnation is closely related to the development of the natural resources- oil and gas, the revenues from which are utilized to strengthen power through strict patronage system and repressive apparatus. This circumstance is reinforced by the vested interests of the external actors, including democratic West, in “stability” in the country, as opposed to the political change.

The political stagnation, caused by non transparent and unfair elections, prevents the states to get leaders with greater legitimacy, which would make them more confident in taking a risk of compromise, rather than utilize the nationalist card. The Armenian-Azerbaijani war, which was led by the elected and democratic leaders of two states -Ter-Petrosian and Elchibey -usually is brought as an argument against democratization as a condition for conflict resolution. However, the favourable conditions for peaceful resolution are related not only to the election of a leader, enjoying popular support, but to the whole range of consequences, which the change might bring – creation of institutions of checks and balances, of conflict resolution and most importantly development and spread of the liberal thinking and values, leading to the more open society and more inclusive and tolerant policies.

The interests of energy and security both for EU and the US have affected their policies in Azerbaijan towards greater cautiousness in the promotion of liberal reforms. Not only Azerbaijan was last in aid per capita for its civil society since its independence in the South Caucasus, but political support for the leadership has been evident during almost all cycles of elections, as reflected in their softer assessment by the international observers. The international organizations and embassies of the developed democracies were repeatedly criticized for the double standards approach in Azerbaijan regarding support for democratic reforms by the civil society and opposition.

While Azerbaijan remains the most interested party in finding political solution due to the pressure with refugee and IDPs and occupied territories, yet it was also trying to get benefits from the stagnation by turning oil revenues into the increased military budget and strengthening the army, along with investment in national economy.

The EU’s policies were also called inconsistent by foreign analysts also, who noted insufficient engagement of the EU with the civil society in Azerbaijan<sup>27</sup>.

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<sup>27</sup> Katrin Bottger and Mariella Falkenhain “ The EU’s policy towards Azerbaijan and the role of civil society”, Institutue for Europäische Politik, Berlin, 2011. [http://iep-berlin.de/fileadmin/website/09\\_Publikationen/SPES\\_Policy\\_Papers/SPES\\_Policy\\_Paper\\_2011\\_The\\_EUs\\_policy\\_towards\\_Azerbaijan\\_BOETTGER\\_FALKENHAIN.pdf](http://iep-berlin.de/fileadmin/website/09_Publikationen/SPES_Policy_Papers/SPES_Policy_Paper_2011_The_EUs_policy_towards_Azerbaijan_BOETTGER_FALKENHAIN.pdf)

## **Conclusions.**

Will the conflict be solved soon ? As the analysis of the current situation with the Karabagh conflict shows, its solution became hostage to the power balance which favors status quo, as reflects vested interests in stability in the region and which is reinforced by the internal political stagnation in both states. The political stagnation in the states parties to the conflict and statu quo in the conflict are closely interrelated, as they reinforce and feed each other. From the side of the extra-regional actors, there is no sufficient incentive to push for resolution, neither there is a consistency in reform promotion, so it would create a favourable environment for conflict resolution through the institution building.

Geopolitically speaking, there are a few factors, which are non conducive for the soonest conflict resolution of the conflict.

First is the absence of normative framework and enforcing mechanism which would allow to address the clear cases of violation of international norms in the conflict. The negotiations have no normative guidance with two clashing principles being negotiated in the conditions of mediators' "neutrality" to these principles. This contrasts the cases, where power politics yet does not prevent international mediators and observers defend one principle versus the other, e.g. in Georgia-Russia conflict. The absence of the regional normative framework makes one of the parties, Azerbaijan to appeal from time to time to the other international multilateral institutions, such as the UN, or to look for support in the other regions and regional organizations of the world. This explains Azerbaijan's activities in the OIC , joining the Non –aligned movement, or lately – receiving seat of the non-permanent member of the Security Council of the UN.

Besides addressing the problematic mechanism of OSCE, which allows to veto any decision, thus to prevent it from playing the role of the regional arbiter, the composition of the Minsk group needs to develop a format, providing for greater non-partisanship of the countries, which are represented in the institute of co-chairmanship. The formula " lands for the status" has proved to be ineffective, and so far led to the arms race and boosting the military budgets. The military means of resolving the conflict should be denounced and de-legitimized in a more consistent way, extending it to the utilization of the occupied lands as negotiating tool. EU, USA and individual European states should declare unacceptability of violation of the internationally recognized borders in case of NK conflict. Armenia-Azerbaijan negotiations may concern only issues of security for the NK population, but not the status issue. At the same time, the EU and the US

should promote discussions between civil societies of NK and the rest of Azerbaijan on the future forms of co-existence, including the specific content of the degree of self-governance and autonomy for the NK.

The application of the successful models of the resolution of the European conflicts is complicated by the fact, that unlike Europe half a century ago, the South Caucasus is divided and is in the center of competition of the regional powers – Russia, Turkey and Iran, where the conflict is used to win the influence.

The complexities of the situation affecting the Nagorno Karabagh conflict lead to suggestion that the resolution of the conflict would hardly be found within the current frame work of negotiation. It needs to be enriched by bringing in other dimension, which would transfer the conflict from the “win-loose” solution to the “win-win” one, based on the clear vision of the common future with very specific and practical benefits.

There are certain developments, which may create more favourable environment for the solution of the conflict, but which are lie rather beyond current approach to conflict resolution of NK conflict.

First is the EU growing interest in stability and reform process in the Eastern neighborhood, which is proved by launching in 2009 of the Eastern Partnership policy. EU can become more consistent in promoting the standards and rules of international relations and responsible neighborly behavior in the South Caucasus region without bias. EU may also contribute to the development of the common vision of the parties to the conflict and breakaway region through creating prospects for EU membership and promote, similar to that in Georgia, the re-integration Baku policies towards NK.

The immediate reaction to the military aggravation between Russia and Georgia in 8 august of 2008 and mediation of the EU of post- war negotiations empowered position of the country, who suffered invasion of the neighboring state and stressed an importance of the principle of inviolability of the internationally recognized borders. The current agreement of Georgia and Russia on the issue of Russia’s WTO membership is another positive development in the environment surrounding NK conflict. First, it demonstrated how the country can successfully use the international mechanisms , as Georgia did, in achieving more responsible behavior of Russia in relations with her neighbor. Secondly, that involvement of Russia in WTO may eventually, although not directly, lead to opening up of its political system. Thirdly, Russia’s membership in WTO will influence behavior of other – non - members, such as Azerbaijan, towards sooner integration in this organization, which will improve overall situation in the region and their domestic situation.

The second is the influence of Arab revolutions, which may stimulate the EU and other actors to be more consistent in reform promotion in the Eastern neighborhood, and thus contribute to the improvement of

elections and thus greater legitimacy of the leaders, sooner spread of the liberal thinking, institutions of check and balances and conflict resolution and promote open minded, inclusive and tolerant policies and attitudes. Also, the EU could mediate track 2 negotiations, based on the common vision and the substance of co-existence of communities, such as filling with specific content of the formulas used in official negotiations such as “ highest autonomous status” for the NK , repeatedly promised by the officials of Azerbaijan.

And the third one, which could be called a “human factor”, is that with the greater integration in Europe and world the peoples of the South Caucasus tend to less focus on their ethnic identity, becoming citizens of the world through people to people contacts, visa liberalization, tourism, education, face-book and other means of modern communication. This process actualizes multiple identities of both Armenians and Azerbaijanis, stressing their commonalities, rather than differences both across the region and as part of Europe. The post-Soviet identity conflicts have passed their mobilization and idealistic stage and have entered the stage of pragmatic expectations of the improved living standards. For many, secessionist struggle did not bring much awaited prosperity and freedom, which may lead to eventual awareness of interdependency as an important factor in prosperity, democratization and European integration.