

Commentary to the remarks made by President Serzh Sargsyan of the Republic of Armenia at the Third International Forum of Moscow State Institute of International Relations Alumni, held on 23 October 2015 in Yerevan, Armenia

By resorting to fake historical narratives and fallacious legalistic arguments, the Republic of Armenia, at the highest political level, once again attempted to conceal its policy of aggression against Azerbaijan and demonstrated its unwillingness to comply with the generally accepted norms and principles of international law.

1. The usual speculations of Armenia that Azerbaijan appeared on the South Caucasus political map only in 1918 and that allegedly Nagorno-Karabakh was not part of Azerbaijan until 1918, distort the reality. Such allegations, together with another recent statement by the President of Armenia that Nagorno-Karabakh is “inseparable part of Armenia”,¹ demonstrate the real intentions of the Armenian side and prove what has been clear from day one to Azerbaijan and increasingly to the wider international community that Armenia pursues the policy of annexation of the territory of another state and is not genuinely interested in engaging faithfully in the negotiations to resolve the conflict peacefully on the basis of the relevant norms and principles of international law.

Suffice it to recall that the name “Azerbaijan” has been used either in a politico-administrative, geographical or political sense since at least the 2nd century AD and referred in the maps and by many writers much earlier than 1918,² while the first Armenian settlement appeared in the South Caucasus only in the early 15th century and the first Armenian state in the region was established on 28 May 1918 – with the capital, which was conceded as a goodwill gesture by Azerbaijan on 29 May 1918 in an effort to curtail the annexationist aspirations of the Armenians and secure peace in the region.³

Moreover, as is well known, the Nagorno-Karabakh region of Azerbaijan is part of the geographical area called Garabagh (*Qarabağ*). The name of that part of the country consists of two Azerbaijani words: “qara” (black) and “bağ” (garden), while the term “Nagorno-Karabakh” is a Russian translation of the original name in Azerbaijani language – Dağlıq Qarabağ, which literally means mountainous Garabagh. In contrast to what the President of Armenia stated, Karabakh has been part of all states established by the ancestors of Azerbaijanis in the territory of Azerbaijan until the early 19th century. On 14 May 1805, the Treaty of Kurakchay between Ibrahim Khan, Khan of Karabakh, and Sisianov, representative of the Russian Emperor, was signed. According to that treaty, the Karabakh khanate came under the Russian rule.

¹ See the speech of the President of Armenia Serzh Sargsyan on 26 September 2015, available at <<http://www.president.am/en/press-release/item/2015/09/26/President-Serzh-Sargsyan-meeting-Genocide-100/>>.

² The 9th century traveller, Al-Yagubi, referred to the territory north of the Araz River as “Azerbaijan al-Ulya” (upper Azerbaijan); At-Tabari (838-923) wrote: “The Azerbaijani territory extends from the cities of Hamadan and Zanjan to Darband, and this territory is called Azerbaijan.”; Having drawn a picture-map of the Caspian Sea, Ibn Havgal (10th century) placed on it the word “Azerbaijan” along the coastline from Darband to Gilan. That map was the first medieval map of its kind to unite both banks of the Araz River under the name of Azerbaijan; Jean Chardin, French traveller (17th century), wrote that Azerbaijan is one of the largest provinces of the Safavid Empire, “bordered Dagestan in the north.”; In 1786, Colonel Burnashev, Russian representative to tsar Irakli II in Tiflis, in a book about Azerbaijan written by order of his government, stated: “The territory now referred to as Azerbaijan borders Georgia, that is the Tsardoms of Kakhet and Kartali, the Caspian Sea and the province of Gilan in the East, and Turkey in the West.” At the same time, the author stressed that “khans of Nukha, Shirvan, and Shusha (Karabakh – ed.)” are “Azerbaijani khans.”; During the occupation of Ganja, Sisianov, Commander-in-Chief of the Russian Forces in the Caucasus, wrote to graf (count) Vorontsov on 3 January 1804: “The Castle of Ganja, which the Asians consider to be unconquerable, keeps the whole of Azerbaijan in terror.”; In 1867, A.Berge wrote a book called “Asari-Shuarayi-Azerbaijan” (Poems of Azerbaijani Poets) in Germany. The book included a compilation of poems both from northern and southern Azerbaijan.

³ See e.g. State Archive of Political Parties and Social Movements of the Republic of Azerbaijan, f. 970, inv. 1, f. 1, p. 51.

After the conclusion of the Gulustan (1813) and Turkmanchay (1828) peace treaties between Russia and Iran a very rapid mass resettlement of Armenians in the region took place and the subsequent artificial territorial division emerged.⁴ The First World War also contributed to the increase in the number of Armenians in the South Caucasus. From 1828 to 1911 alone, more than 1,000,000 Armenians from Iran and Turkey resettled in the region, including the Azerbaijani territories, and 350,000 Armenians moved there in 1914-1916.⁵

According to the Russian official I.Chopin, who conducted a research on the Nakhchyvan and Iravan khanates, which was published in 1852 in Saint-Petersburg, the number of Azerbaijanis in those khanates before they came under the Russian rule in 1828 was 81,749 and the number of Armenians was 25,131.⁶ However, due to the resettlement process in 1828-1830, the number of Armenians in the same areas in 1832 reached 82,357.⁷

A few in the academic community, studying the Caucasus region, would disagree that it is resettlement of the Armenians in the Caucasus and their subsequent attempts to expand territorially at the expense of other peoples living in the region, which laid the basis for long-term instability, tensions and conflicts that continue to date.

Between 1905 and 1907, the Armenians carried out a series of large-scale massacres against the Azerbaijanis. The atrocities began in Baku and then extended over the whole of Azerbaijan, including Azerbaijani villages in the territory of present-day Armenia. Hundreds of settlements were destroyed, and thousands of civilians were barbarically killed.

Taking advantage of the situation following the First World War and the February and October 1917 revolutions in Russia, the Armenians began to pursue the implementation of their plans under the banner of Bolshevism. Thus, under the watchword of combating counter-revolutionary elements, in March 1918 thousands of Azerbaijanis were murdered in Baku, as well as in the Shamakhy and Guba districts, Karabakh, Zangazur, Nakhchyvan, Lankaran and other parts of Azerbaijan. During the construction of a stadium in Guba district of Azerbaijan in April 2007, a mass grave was discovered, containing the remains of hundreds of people, who were apparently executed in early 20th century, reminding of horrifying atrocities against the Azerbaijanis of not so distant past.

On 28 May 1918, the Democratic Republic of Azerbaijan was proclaimed. As noted above, the Republic of Armenia was established the same day. On 12 January 1920, the Supreme Council of the Allied Powers at the Paris Peace Conference *de facto* recognized the independence of Azerbaijan.

In April 1919, the Allied Powers recognized the provisional General-Governorship of Karabakh, which was established by the Democratic Republic of Azerbaijan in January 1919 and included Shusha, Javanshir, Jabrayil, and Zangazur uyezds,⁸ with the centre in the town of Shusha, to be under Azerbaijani jurisdiction, and Khosrov bay Sultanov as its governor. Later that year, the

⁴ See e.g. I.Shopen, Historical monument of the status of the Armenian oblast in the period of its annexation to the Russian Empire (Saint-Petersburg: Publishing House of the Emperor's Academy of Sciences, 1852), pp. 636, 639-641, 706; N.Shavrov, A new challenge to the Russian issue in Transcaucasia: Upcoming sale of Mughan to foreigners (Saint-Petersburg: Publishing House of the Editorial Board of the Ministry of Finance Periodicals, 1911), pp. 59-60.

⁵ See e.g. History of the Armenian people (Yerevan: Yerevan University Press, 1980), p. 268; Compilation of statistical data of the Caucasus (Tiflis, 1869), volume I, chapter I, part III; Caucasian calendar for 1917 (Tiflis: Press Office of the Governor-General E.I.B of the Caucasus, 1916), pp. 183, 219-221; Acts of the Archeological Commission of the Caucasus (Tiflis, 1870), volume IV, doc. 37, p. 37.

⁶ I.Shopen, *op. cit.*, pp. 639-640.

⁷ *Ibid.*, p. 641.

⁸ Uyezd – administrative-territorial unit of the Russian Empire, which was applied in the Democratic Republic of Azerbaijan and the Azerbaijan SSR until the late 1920s.

Armenians of Nagorno-Karabakh officially recognized the authority of Azerbaijan.⁹ Scotland-Liddel, a British journalist, wrote to London from Shusha:

“Peace came to Karabakh. The Armenians agreed to obey the Azerbaijani government ... The Armenians tell me that there has never been such order and peace in Shusha and Karabakh before”.¹⁰

Nonetheless, while the Bolsheviks were approaching Azerbaijan and the major part of Azerbaijani forces was concentrated in the country’s northern borders, on the night of Novruz holiday on 22-23 March 1920, the Armenians incited a large-scale armed uprising against the Azerbaijani government in Nagorno-Karabakh. Azerbaijani national army units were simultaneously and suddenly attacked in Shusha, Khankandi and in a number of other places. The insurgents, however, met with serious resistance from the Azerbaijani military detachments. The day after the uprising, Shusha was liberated, and Armenia’s attempt to capture Azerbaijani territories failed.

Armenia’s territorial claims towards Azerbaijan and efforts to annex Nagorno-Karabakh were an evident reality for most authors in the former Soviet Union, including Armenian ones. Thus, according to the Great Soviet Encyclopedia published in 1926, “[d]ashnaks ... stated to have claims on the Akhalkalaki and Borchaly regions of Georgia, and Karabakh, the Nakhchivan region and the southern part of the large Yelizavetpol province, which were parts of Azerbaijan. The efforts to forcefully annex those areas caused a war with Georgia (December 1918) and a long, bloody confrontation with Azerbaijan ...”¹¹

2. On 28 April 1920, the Soviet rule was established in Azerbaijan. Nonetheless, serious resistance was offered to the Bolsheviks in many parts of the country, while the Azerbaijani delegation at the Paris Peace Conference continued its work to achieve *de jure* recognition and admission to the League of Nations. However, it is obvious that the state, a considerable part of the territory of which was occupied and the government of which was overthrown and, consequently, was unable to exercise authority over the whole territory of the country by the time of consideration of the application for membership of the League of Nations, could not have been regarded as fully self-governing within the meaning of the Covenant of the League of Nations.¹² These are, in reality, the true reasons that prevented Azerbaijan from being admitted to the League of Nations.

At the same time, speculations of the Armenian side with regard to the issue of examination of Azerbaijan’s application for membership of the League of Nations are curious also insofar as the League of Nations did not consider Armenia itself as a state, paying attention to the fact that “[i]t has no written constitution”, that its government “cannot be considered ... stable” and that its “frontiers are not yet definitely fixed”.¹³ As a result, the admission of Armenia to the League of Nations was voted down on 16 December 1920.¹⁴

⁹ Provisional agreement between the Government of Azerbaijan and the Armenians of Nagorno-Karabakh, 26 August 1919. For the text, see To the history of formation of the Nagorno-Karabakh Autonomous Oblast of the Azerbaijan SSR. 1918-1925: Documents and Materials (Baku: Azerneshr, 1989), pp. 23-25. See also T.Swietochowski, *Russia and Azerbaijan: A Borderland in Transition* (New York: Columbia University Press, 1995), pp. 75-76.

¹⁰ State Archive of the Republic of Azerbaijan, f. 894, inv. 10, f. 103, p. 18.

¹¹ See Great Soviet Encyclopedia (Moscow: “Soviet Encyclopedia” JSC, 1926), vol. 3, p. 437.

¹² See League of Nations. Memorandum by the Secretary-General on the Application for the Admission of the Republic of Azerbaijan to the League of Nations. Assembly Document 20/48/108; Fifth Committee. Admission of New Members. Resolution on the request for admission made by Azerbaijan. Assembly Document 127.

¹³ See Admission of new Members to the League of Nations. Armenia. Assembly Document 209, pp. 2-3.

¹⁴ See League of Nations. Annex 30 B. Future status of Armenia. Memorandum agreed to by the Council of the League of Nations, meeting in Paris on 11 April 1920. League of Nations Document 20/41/9, p. 27; see also Admission of new Members to the League of Nations. Armenia. Assembly Document 209, pp. 2-3; Assembly Document 251.

3. According to the President of Armenia, “in 1921, Karabakh, contrary to its people’s will, was given an autonomous region status within the territory of Azerbaijan by the decision of the Caucasian Bureau of the Central Committee of the Russian Communist Party (Bolsheviks), a partisan body which did not have authority to adopt such decisions”. In contrast to this assertion, in reality, by its decision of 5 July 1921, the aforementioned Caucasian Bureau decided to *retain* Nagorno-Karabakh within the Azerbaijan SSR, not to “transfer” or “subject” it to Azerbaijan, as the Armenian side claims, while giving it autonomy with the town of Shusha as an administrative centre.¹⁵ The decision of 5 July 1921 was the final and binding ruling, which would be repeatedly affirmed by the Soviet Union legislation and recognized by Armenia over the years.¹⁶ At the same time, the significantly larger Azerbaijani population in Armenia was refused the same privilege. Moreover, the administrative boundary line of the Nagorno-Karabakh autonomous *oblast* was defined in such a way as to carve out the Azerbaijani villages and artificially create a new demographic situation in the region.

4. In his speech, the President of Armenia did not confine territorial claims only to Nagorno-Karabakh, but also called another historical and inalienable part of Azerbaijan, Nakhchyvan, as “Armenian region” that was allegedly forcibly annexed to Azerbaijan and where “Azerbaijan was carrying out a policy of systematically eliminating the Armenian population and exterminating Armenian cultural monuments”. However, the facts speak of a situation diametrically opposite to what Armenia asserts. Apart from a solid body of historical evidence that easily refutes the claims of the Armenian side, suffice it to mention that at a referendum (poll) held in Nakhchyvan in 1921 more than 90% of its population voted for leaving Nakhchyvan within Azerbaijan.¹⁷ This was reaffirmed in the Treaty between the Soviet Russia and Turkey, signed in Moscow on 16 March 1921¹⁸, and in the Kars Treaty of 13 October 1921 signed, in addition to Russia, Turkey, Azerbaijan and Georgia, also by Armenia.¹⁹

As far as the Armenians in the Nakhchyvan Autonomous Republic of Azerbaijan are concerned, the decrease in their number there was due to their resettlement habits to move to the places with better living conditions and employment opportunities. The illustrative example is present-day Armenia itself, where, despite its mono-ethnic composition, the number of Armenians is gradually decreasing.

5. In reality, over the 70 years of Soviet rule Armenia succeeded in expanding its territory and using every possible means to expel the Azerbaijanis from their lands. In total, during that period, the territory of Armenia has increased from 8,000-10,000 sq. km to 29,800 sq. km, mostly at the expense of Azerbaijani lands.²⁰ As a result, *inter alia*, the Nakhchyvan region was cut off from the

¹⁵ For the text of the decision, see To the history of formation of the Nagorno-Karabakh Autonomous Oblast of the Azerbaijan SSR.1918-1925: Documents and Materials, *op. cit.*, p. 92.

¹⁶ On 7 July 1923, the Central Executive Committee of the Azerbaijan SSR adopted a Decree “On the Formation of the Nagorno-Karabakh Autonomous Oblast”. The town of Khankandi was defined as the administrative centre of the autonomy. In September 1923, the name of the town was changed to Stepanakert after Stepan Shaumian, a dashnak and a “bolshevik” leader. Nagorno-Karabakh as an autonomous *oblast* within the Azerbaijan SSR was also referred in the USSR Constitutions of 1936 (Article 24) and 1977 (Article 87), while its legal status was governed by the Law “On the Nagorno-Karabakh Autonomous Oblast” adopted by the Supreme Soviet of the Azerbaijan SSR on 16 June 1981.

¹⁷ See State Archive of the Autonomous Republic of Nakhchyvan, f. 1, in. 3, f. 13, p. 79.

¹⁸ See Documents of the Foreign Policy of the USSR (Moscow: State Publishing House of Political Literature, 1959), v. 3, doc. 342, pp. 598-599.

¹⁹ See Documents of the Foreign Policy of the USSR (Moscow: State Publishing House of Political Literature, 1960), v. 4, doc. 264, p. 423.

²⁰ For different opinions among Armenian scholars as to the confines of the territory of Armenia at that time, see e.g. G.Galoyan, Struggle for the Soviet rule in Armenia (Moscow: State Publishing House of Political Literature, 1957), p. 92; S.P.Agayan, Great October and struggle of labours in Armenia for the victory of the Soviet rule (Yerevan: Publishing House of the Academy of Sciences of the Armenian SSR, 1962), p. 174; E.C.Sarcissian, Expansionary policy of the Ottoman Empire in Transcaucasia on the eve and in the years of the First World War (Yerevan: Publishing House of the Academy of Sciences of the Armenian SSR, 1962), p. 365; History of the Armenian people, *op. cit.*, p. 283.

main body of Azerbaijan. Furthermore, over the same period the immigration of a great number of Armenians from abroad and expulsion of Azerbaijanis from their lands have taken place. Thus, as per Armenian sources, more than 42,000 Armenians arrived in Armenia between 1921 and 1936.²¹ The next step towards the artificial change of the demographic composition of the population in Armenia was a decree by J.Stalin in November 1945 on the immigration of foreign Armenians, according to which Armenia received more than 50,000 immigrants in 1946, 35,400 in 1947, and about 10,000 in 1948.²²

On the pretext of resettling the Armenians coming from abroad, on 23 December 1947 and 10 March 1948, the USSR Council of Ministers adopted special decisions on the resettlement of collective farm workers and the other parts of the Azerbaijani population from the Armenian SSR to the Kur-Araz lowlands in the Azerbaijan SSR. Under those decisions, between 1948 and 1953 more than 150,000 Azerbaijanis were forcibly resettled from their historical homelands – the mountainous regions of Armenia – to the then waterless steppes of Mughan and the Mil plateau. At the same time, 200,000 Armenians immigrated to Armenia by mid-1961²³ and 26,100 people arrived between 1962 and 1973.²⁴

6. As is well known, at the end of 1987, Armenia overtly laid claim to the territory of Nagorno-Karabakh, and a number of illegal decisions were taken to institute the process of its unilateral secession from Azerbaijan. Those claims were preceded by the attacks on the Azerbaijanis both in Nagorno-Karabakh and in Armenia, resulting in civilian casualties and a flood of Azerbaijani refugees and internally displaced persons. Shortly after the assertion of claims on Nagorno-Karabakh at the end of 1980s, more than 200,000 Azerbaijanis were expelled from Armenia.

7. Allegations of the President of Armenia that “at the moment of the collapse of the Soviet Union, two independent and equal subjects, the Nagorno-Karabakh Republic and the Republic of Azerbaijan, emerged in the administrative territory of the Azerbaijan Soviet Socialist Republic” are fundamentally flawed. The unlawfulness within the Soviet legal system of attempted unilateral secession of Nagorno-Karabakh without Azerbaijan’s consent was confirmed at the highest constitutional level. Azerbaijan did not so consent, so that the definition of the territory of Azerbaijan as it proceeded to independence and in the light of the applicable law clearly included Nagorno-Karabakh. Accordingly, Azerbaijan came to independence with the territory and borders that it had within the USSR.²⁵

The arguments of Armenia that by the Constitutional Act on the State Independence of the Republic of Azerbaijan of 18 October 1991 Azerbaijan allegedly “annulled the acts that had been adopted during the existence of the Soviet Union with regard to itself”, including those relating to Nagorno-Karabakh, are equally fallacious. It is one thing to claim succession to a former legal personality, something which would mean more in political than in legal terms and does in no way affect and was not meant to affect the existing borders of Azerbaijan, it is quite another to argue that such a process would mean a reversion to territorial boundaries, which can take place only with consent of a state concerned and strictly in accordance with international law. Obviously, if accepted, the latter approach would reduce international law to a fiction, since states could challenge and seek to extend their boundaries and claim areas legitimately in the territory of other states on the basis of such reversionary irredentism. Moreover, in contrast to what Armenia asserts, the aforementioned Constitutional Act, in Article 4, made it absolutely clear that the laws of the USSR and the acts

²¹ See e.g. History of the Armenian people, *op. cit.*, p. 336.

²² *Ibid.*

²³ See Documents of the Foreign Policy of the USSR (Moscow: State Publishing House of Political Literature, 1962), v. 6, note 33, p. 611.

²⁴ See History of the Armenian people, *op. cit.*, p. 418.

²⁵ For more on these legal aspects, see UN Doc. A/63/664–S/2008/823, 29 December 2008.

adopted in Azerbaijan before the restoration of state independence, which do not contradict the sovereignty and territorial integrity of Azerbaijan, would remain effective.

It should be further noted that, almost from their very inception, the Republics of Azerbaijan and Armenia committed themselves – like other parties to the Alma-Ata Declaration of 21 December 1991 – to: “Recognizing and respecting each other’s territorial integrity and the inviolability of existing borders”.²⁶ The 1993 Charter of the Commonwealth of Independent States (CIS), to which both Armenia and Azerbaijan are parties, stresses, in Article 3, the principle of “inviolability of State frontiers, recognition of existing frontiers and renouncement of illegal acquisition of territories”.²⁷ Indubitably, a firm stand was taken by all the states members of CIS, to retain their former administrative (intra-state) borders as their inter-state frontiers following the dissolution of the USSR.²⁸

Consequently, Armenia’s assertions cannot affect the legal position as it existed during the critical period leading up to and including the independence of Azerbaijan, nor the legal position after such independence. That the Nagorno-Karabakh is part of Azerbaijan was reaffirmed by the UN Security Council in its relevant resolutions on the conflict²⁹ and from that time onward has been repeatedly stated at the international level. It is important to note that the resolutions of the Security Council, recognizing that Nagorno-Karabakh constitutes part of Azerbaijan and reaffirming the inviolability of international borders and the inadmissibility of the use of force for the acquisition of territory, were adopted after the Armenians of Nagorno-Karabakh had unilaterally declared their “independence”. Consequently, the Security Council made it absolutely clear that the unilateral declaration of independence in a given situation is invalid.

This approach is clearly visible in the policies of the European states *vis-à-vis* the independent states emerged after the dissolution of the Soviet Union. Of particular interest in this regard is the declaration on the disintegration process in the Soviet Union, adopted by the European Council on 10 December 1991, in which it underlined the importance of respecting the provisions of the Helsinki Final Act and recalled that “...according to these provisions, the frontiers of all States in Europe are inviolable and can only be changed by peaceful means and agreement.”³⁰ Later, in its Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union, which provided a common policy on recognition with regard to the states emerging from former USSR in particular, the European Council reiterated the requirement to “respect for the inviolability of *all* frontiers which can only be changed by peaceful means and by common agreement”.³¹ This explicit reference to “all frontiers” was thus not restricted to international frontiers and since the context was the coming to independence of a range of new states out of former federal states, all of whom became sovereign within the boundaries of the former federal units, the Guidelines constitute valuable affirmation of the principle of *uti possidetis*. The European Council particularly emphasized that “[t]he Community and its Member States will not recognize entities which are the result of aggression.”³²

²⁶ See Alma-Ata Declaration, 1991, 31 *International Legal Materials* (1992), pp. 147, 148.

²⁷ See Charter of the Commonwealth of Independent States, 1993, 34 *International Legal Materials* (1995), pp.1279, 1283.

²⁸ See Steven R. Ratner, “Drawing a Better Line: *Uti Possidetis* and the Borders of New States”, 90 *American Journal of International Law* (1996), pp. 590, 597.

²⁹ See UN Security Council resolutions S/RES/822 (1993) of 30 April 1993, S/RES/853 (1993) of 29 July 1993, S/RES/874 (1993) of 14 October 1993 and S/RES/884 (1993) of 12 November 1993.

³⁰ See European Council Presidency Conclusions, EU Doc. 2711/1/91, Maastricht, 9- 10 December 1991, <http://www.european-council.europa.eu/media/848626/1991_december_-_maastricht__eng_.pdf>.

³¹ EC Declaration on the “Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union”, 16 December 1991, 4 *European Journal of International Law* (1993), <<http://ejil.oxfordjournals.org/content/4/1/66.full.pdf+html>>.

³² *Ibid.*

In line with this policy, in its statement on the Nagorno-Karabakh conflict of May 1992, the European Union condemned “in particular as contrary to these [OSCE] principles and commitments any actions against territorial integrity or designed to achieve political goals by force, including the driving out of civilian populations.”³³ In its statement of November 1993, the European Union called upon the Armenian forces to withdraw from the occupied territories of Azerbaijan and underlined that “[t]he European Union reiterates the importance it attaches to the territorial integrity and sovereignty of the Republic of Azerbaijan, in accordance with the principles of the CSCE.”³⁴

8. In the Charter of the United Nations and the Helsinki Final Act, to which the President of Armenia refers, the principle of the non-use of force is explicitly linked to the inadmissibility of changing the boundaries of states through violent means and implies a prohibition on the acquisition of territory by force. For this very purpose, the Helsinki Final Act expanded Article 2(4) of the UN Charter and codified the territorial integrity, the inviolability of frontiers and the non-use of force as separate principles to emphasize the norm of territorial integrity.³⁵ These principles were drafted in the Helsinki Final Act in a way to emphasize that they are consequential principles generated by the foundational norm of territorial integrity and are hence inextricably linked under international law.³⁶

9. The allegations of Armenia that Azerbaijan failed to implement the demands contained in the relevant UN Security Council resolutions to cease military actions are also groundless. First, the ceasefire was established on 12 May 1994 and has subsequently been reconfirmed on a number of occasions. On 26 April 1995, the President of the Security Council made a statement, expressing the Council’s “satisfaction that the ceasefire in the region agreed upon on 12 May 1994 through the mediation of the Russian Federation in cooperation with the OSCE Minsk Group has been holding for almost a year”.³⁷ Second, it was exactly the Armenian armed attacks against areas within Azerbaijan in 1993, which elicited a series of four Security Council resolutions (822 (1993), 853 (1993), 874 (1993) and 884 (1993)) condemning the use of force against Azerbaijan and the occupation of its territories; reaffirming respect for the sovereignty and territorial integrity of Azerbaijan and the inviolability of international borders; and demanding the immediate, complete and unconditional withdrawal of the occupying forces from all the occupied territories. The resolutions also made specific reference to violations of international humanitarian law, including the displacement of a large number of civilians in Azerbaijan, attacks on civilians and bombardments of its territory. The presidential statements adopted by the Security Council between 1992 and 1995 are phrased along the same lines.³⁸

In other words, the above-mentioned resolutions, which are clearly the most authoritative and binding decisions on the problem, acknowledge that acts of military force were committed against Azerbaijan, and that such acts constituted a violation of international law. At the same time, in contrast to interpretation of the Armenian side, the Security Council did not mention, in any of its resolutions or presidential statements, the existence of “the Republic of Nagorno-Karabakh”, “the

³³ See “Statement on Nagorno-Karabakh”, European Political Cooperation (EPC) Press Release, Brussels, 22 May 1992, *European Political Cooperation Documentation Bulletin* (1992), vol. 8, Doc. 92/201, p. 260, <<http://aei.pitt.edu/36872/1/A2881.pdf>>.

³⁴ See “Statement on Nagorno-Karabakh”, European Political Cooperation (EPC) Press Release, Brussels, 9 November 1993, *European Political Cooperation Documentation Bulletin* (1993), vol. 9, Doc. 93/448, p. 532, <<http://aei.pitt.edu/36868/1/A2877.pdf>>.

³⁵ See L.Hannikainen, “The Declaration of Principles Guiding Relations between States of the European Security Conference from the Viewpoint of International Law”, 6 *Instant Research on Peace and Violence* (1976), pp. 94, 96; See also H.Russel, “The Helsinki Declaration: Brobdingnag or Lilliput?”, 70 *American Journal of International Law* (1976).

³⁶ See J.Symonides, “The Inviolability of Frontiers and the Territorial Integrity in the Treaties between Poland and the GDR, Between Poland and the FRG and in the Final Act of the Helsinki Conference”, 11 *Polish Yearbook of International Law* (1981-1982).

³⁷ See UN Doc. S/2013/279.

³⁸ See UN Docs. S/23904 of 12 May 1992, S/24493 of 26 August 1992, S/24721 of 27 October 1992, S/25199 of 20 January 1993, S/25539 of 06 April 1993, S/26326 of 18 August 1993 and S/PRST/1995/1 of 26 April 1995.

people of Nagorno-Karabakh”, its “right to self-determination” and “military aggression” on the part of Azerbaijan.

In reality, it was Armenia that intentionally disregarded the demands of the Security Council for the immediate cessation of all military activities and hostile acts for the purposes of establishing a stable ceasefire. Apart from the Security Council resolutions and presidential statements as such, over the whole period of consideration of the matter in the Council, the actions of the Armenian side and the unacceptable scorched earth policy practiced by its armed forces have been repeatedly deplored, in the strongest terms, in the statements by the Conference on Security and Cooperation in Europe (CSCE)/Organization for Security and Cooperation in Europe (OSCE) and by member states represented in the Security Council.³⁹

Indeed, at the very time when there was a real possibility of halting the bloodshed and saving the lives of thousands of people, the leaders of Armenia and the subordinate separatist regime which it had created in the occupied territories of Azerbaijan followed a different line of reasoning. The simple cause of that was that Armenia’s territorial claims towards and military actions against Azerbaijan had been aimed from the very beginning at seizing the territories by means of force and fundamental change of their demographic composition.

10. Serzh Sargsyan’s assertion that “[t]he calls addressing our country just said ‘continue to exert influence’ on the Nagorno-Karabakh Armenians to end the conflict, which was fully carried out by Armenia” is also a factually inaccurate and a rough paraphrase of what the Security Council resolutions demanded from Armenia in reality. In its resolution 884 (1993), the Council “[u]rges the Government of Armenia to continue to exert its influence to achieve compliance by the Armenians of the Nagorny Karabakh region of the Azerbaijani Republic with resolutions 822 (1993), 853 (1993) and 874 (1993), and to ensure that the forces involved are not provided with the means to extend their military campaign further”. None of these demands of the Security Council were implemented by Armenia. First, the key demand of all the UN Security Council resolutions – to withdraw all occupying forces from all the occupied territories remains unimplemented by the Armenian side to date. Second, Armenia not only did not ensure that the forces involved were not provided with the means to extend their military campaign further, but continued and expanded its military support of and direct involvement in the armed attacks against the territory of Azerbaijan, with more territories of Azerbaijan falling under occupation.

Moreover, over the years, in violation of the UN Security Council resolutions, Armenia has continued its military build-up in the occupied territories of Azerbaijan, deploying there hundreds undeclared military hardware, including battle tanks, armored combat vehicles and artillery systems military personnel. Large-scale military exercises conducted by Armenia in the occupied territories of Azerbaijan in the wake of another round of high-level talks in October 2014, with the involvement of about 47.000 military troops and over 3000 combat equipment and armaments of the armed forces of Armenia, shattered the expectations for a way forward in the achievement of a peaceful settlement not only of Azerbaijan, but of the entire international community.

11. There have been numerous instances in history of states trying to disguise their own role in the forcible seizure of the territory of another state by setting up puppet regimes in the occupied territories.⁴⁰ Such an approach is evidenced in the policies and practices followed by Armenia in the occupied territories of Azerbaijan. Having succeeded in forcing all Azerbaijanis to leave the

³⁹ For more information about the chronology of Armenian attacks and the actions taken in that regard by the UN Security Council and the Conference on Security and Cooperation in Europe (CSCE), see UN Doc. A/67/875–S/2013/313, 24 May 2013.

⁴⁰ Adam Roberts, “Transformative military occupation: applying the laws of war and human rights”, available at <http://www.iihl.org/iihl/Documents/roberts_militaryoccupation1.pdf>.

Nagorno-Karabakh region, Armenia spares no effort to introduce the Armenian community of the region as its sole representative.

The Summary of Conclusions of the Additional Meeting of the CSCE Council, held in Helsinki on 24 March 1992, explicitly refers to the representatives of the Nagorno-Karabakh region of Azerbaijan as “interested parties”, implying that representatives of both the Azerbaijani and Armenian communities of this region of Azerbaijan could be invited to the Minsk Conference once it is convened and after consultation with the states participating at the Conference.⁴¹

At a certain stage, Armenia’s unrealistic claims on that issue were a serious obstacle in the peace process, giving rise to the following important clarification made by the President of the Minsk Group in respect of the equality between the Azerbaijanis and Armenians of Nagorno-Karabakh as “interested parties”:

“On the basis of the mandate of the Council of Ministers of CSCE of March 24, the solution of the problem belongs to the Chairmanship of the [Minsk] Conference, after consultation with the eleven countries of the Minsk Group. Other aspects of this problem have been by and large agreed to: it was thus decided that the ‘interested parties’ would take part in the proceedings of the working groups in conditions of equality with the other participants, whereas at the plenary sessions they would only be present and, if necessary, could express their views only through the Chair.

“These decisions, however, concern both ‘interested parties’ without any distinction between them. In the course of his consultations, the Italian Chairman could not find any consensus among the other countries of the Minsk Group for the Armenian thesis according to which the 24 March mandate would enable him to give the Armenian party of Nagorno Karabakh a formal priority over the Azeri party, or even call the former ‘elected representatives’”.⁴²

12. The international community overwhelmingly rejects Armenia’s attempts to present the unlawful separatist entity it established in the occupied territories as an “independent state” and refuses to recognize as legitimate the situation created through the use of force against the territorial integrity of Azerbaijan, accompanied by ethnic cleansing and other flagrant violations of the peremptory norms of general international law. In its judgment on the case of *Chiragov and others v. Armenia* of 16 June 2015, the European Court of Human Rights confirmed its conclusion from the admissibility decision of 14 December 2011, stating that “the ‘NKR’ is not recognized as a State under international law by any countries or international organisations...”⁴³

Furthermore, having examined the evidence presented, the Court established that “the Republic of Armenia, through its military presence and the provision of military equipment and expertise, has been significantly involved in the Nagorno-Karabakh conflict from an early date”, that “[t]his military support has been – and continues to be – decisive for the conquest of and continued control over the territories in issue” and that “...the evidence ... convincingly shows that the armed forces of Armenia and the ‘NKR’ are highly integrated”.⁴⁴ Based on this and other evidence testifying to the political, financial and other dependence of the separatist entity from Armenia, the Court concluded that “... the Republic of Armenia, from the early days of the Nagorno-Karabakh conflict, has had a significant and decisive influence over the ‘NKR’, that the two entities are highly integrated in virtually all important matters and that this situation persists to this day” and that “the ‘NKR’ and its administration survives by virtue of the military, political, financial and other support given to it by

⁴¹ See Summary of Conclusions, Helsinki Additional Meeting of the CSCE Council, 24 March 1992, p. 14, para. 9.

⁴² CSCE Communication No. 279, Prague, 15 September 1992, p. 3.

⁴³ European Court of Human Rights, Grand Chamber, *Chiragov and others v. Armenia*, Application no. 13216/05, Judgment (Merits), 16 June 2015, p. 56, para. 148; pp. 66-67, para. 182.

⁴⁴ *Ibid.*, p. 66, para. 180.

Armenia which, consequently, exercises effective control over Nagorno-Karabakh and the surrounding territories...”.⁴⁵

13. Azerbaijan resolutely rejects the attempts by Armenia to blame Azerbaijan for the situation in the conflict zone. In reality, it is Armenia that continues to insist on unrealistic annexationist claims and takes actions that are aimed at destabilizing the situation on the ground, strengthening its military build-up in the occupied territories, derailing the peace process and ultimately consolidating the *status-quo*. Armenia regularly and deliberately violates the ceasefire by attacking and killing Azerbaijani military personnel as well as civilians residing in the territories adjacent to the frontline. Over the past years, particularly since the beginning of 2015, such violations and armed provocations, with the use of mortars and large-caliber machine guns and artillery, have become more frequent and violent.

14. Armenia’s usual allegations that Azerbaijan imposed a blockade on it are also groundless and are aimed at distorting the real situation on the ground. With its policy of territorial claims against almost all of its neighbours, Armenia bears the sole responsibility for the current dire economic conditions it finds itself in. Self-imposed isolation from the regional economic projects and interruption of economic ties is a direct consequence of Armenia’s aggressive policy and occupation of the territories of Azerbaijan. Furthermore, the call of the UN Security Council to “restore the economic, transport and energy ties of the region”, to which the President of Armenia refers, was made in the general context of the conflict settlement. The Armenian side fails to mention that, in its resolution 853 (1993), the Security Council reiterated its earlier calls for the restoration of economic, transport and energy links in the region “in the context of paragraphs 3 and 4”. Paragraph 3 of the said resolution “[d]emands the immediate cessation of all hostilities and the immediate, complete and unconditional withdrawal of the occupying forces involved from the district of Aghdam and all other recently occupied areas of the Azerbaijani Republic”. Paragraph 4 “[c]alls on the parties concerned to reach and maintain durable cease-fire arrangements”. Thus, the Security Council established a direct linkage and the relationship of reciprocity between the restoration of economic, transport and energy links in the region and the immediate, complete and unconditional withdrawal of the Armenian occupying forces from the occupied territories of Azerbaijan, a condition that has not been yet fulfilled.

The joint declaration signed by the Presidents of Armenia, Azerbaijan and the Russian Federation on 2 November 2008, in Meindorf Castle, the Russian Federation, follows the same logic and, *inter alia*, states that signatories “will facilitate improvement of the situation in the South Caucasus and establish stability and security in the region through political settlement of the Nagorno-Karabakh conflict based on the principles of international law and the decisions and documents approved within this framework, thus creating favourable conditions for economic growth and all-round cooperation in the region”.⁴⁶

Furthermore, international economic relations are governed by the fundamental principles of sovereign equality of all states, non-aggression and respect for the sovereignty and territorial integrity of states.⁴⁷ Azerbaijan has a sovereign right to choose its trade partners and to engage in economic cooperation on the basis of these principles as well as mutual advantage and equitable benefits. Proceeding from these principles, Azerbaijan cooperates with all friendly and peace-loving regional and global partners and has initiated a number of trans-regional transportation and energy projects that contribute to the prosperity not only of Azerbaijan, but of other countries in the region

⁴⁵ European Court of Human Rights, Grand Chamber, *Chiragov and others v. Armenia*, Application no. 13216/05, Judgment (Merits), 16 June 2015, pp. 67-68, para. 186.

⁴⁶ For the text, see <<http://archive.kremlin.ru/eng/text/docs/2008/11/208708.shtml>>.

⁴⁷ See the Charter of Economic Rights and Duties of States, adopted by UN General Assembly resolution 3281 (XXIX), 12 December 1974, UN Doc. A/RES/29/3281.

and beyond. Immediate, complete and unconditional withdrawal of the Armenian occupying forces from the occupied territories of Azerbaijan is a prerequisite for creating appropriate conditions for the conduct of normal economic relations, as envisaged in the resolutions of the UN Security Council.

15. Armenia's allegations that Azerbaijan blocks the activities of international humanitarian organizations in Nagorno-Karabakh are also groundless. Azerbaijan has a solid track-record of effectively cooperating with international partners on humanitarian issues, including those relating to the conflict, in full compliance with and based on international humanitarian law. Humanitarian relief actions by states and international organizations should be exclusively humanitarian in nature and should be carried out in conformity with the principles of neutrality, impartiality and consent of the affected country, while fully respecting the sovereignty, territorial integrity and national unity of states in accordance with the Charter of the United Nations, as reaffirmed in the Guiding Principles on humanitarian assistance adopted by the UN General Assembly through its resolution A/RES/46/182 on "Strengthening of the coordination of humanitarian emergency assistance of the United Nations" of 19 December 1991.

Azerbaijan is aware of the ongoing efforts by Armenia towards consolidating the occupation of the territories of Azerbaijan through continuing unlawful settlement practices and economic and other activities in those territories, accompanied by interference with the public and private property rights. Armenia spares no effort to attract foreign entities and international organizations to such activities, including under the pretext of "humanitarian assistance".

In that regard, it is important to recall that, under international law, any military occupation is considered temporary in nature, an occupant does not acquire sovereignty over an occupied territory and the legal status of the territory in question remains unaffected by the occupation of that territory. International law prohibits actions which are based solely on the military strength of the occupying power and not on a sovereign decision by the occupied state.⁴⁸ The occupation of a territory *jus in bello* does not entail the right to annex that territory, since *jus contra bellum* forbids any seizure of territory based on the use of force.⁴⁹ It is clear that the occupying power does not have a free hand to alter the legal, social and economic structure in the territory in question and that any form of "creeping annexation" is forbidden. The fundamental international legal requirement in that regard is that states shall not recognize as lawful situations resulting from serious breaches of international law and nor render aid or assistance in maintaining it. It is critical that states and international organizations cooperate with a view to ending such breaches by lawful means.

16. The Armenian side also frequently speculates on the confidence-building measures. Evidently, Armenia's perception of such measures is limited to the withdrawal of snipers and the investigation of ceasefire incidents only. Otherwise, Armenia would recall that it deliberately denies the right of almost one million Azerbaijani refugees and internally displaced persons to return to their homes and undertakes efforts to alter the demographic structure of the occupied territories and remove any signs of Azerbaijani cultural and historical roots of those territories. References by Armenia to confidence-building are also curious insofar as Armenia persistently opposes direct contacts between the Azerbaijani and Armenian communities of the Nagorno-Karabakh region of Azerbaijan.

17. The Republic of Azerbaijan underlines that no peace settlement of the conflict can be reached which violates the Constitution of the Republic of Azerbaijan and which is inconsistent with

⁴⁸ Jean Pictet (gen. ed.), *International Committee of the Red Cross, Commentary on the Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War* (Geneva, 1958), p. 273.

⁴⁹ Eric David, *Principes de droit des conflits armés (Principles of the Law of Armed Conflicts)* (Moscow, ICRC, 2000), pp. 376-378; Jean Pictet (gen. ed.), *op. cit.*, pp. 273, 275.

international law. The military occupation of the territory of Azerbaijan does not represent a solution and will never produce a political outcome desired by Armenia. The resolution of the conflict is possible only on the basis of the sovereignty and territorial integrity of Azerbaijan within its internationally recognized borders. The territorial integrity of Azerbaijan has never been and will never be a subject of negotiations. Azerbaijan remains committed to the conflict settlement process based on this understanding.

Azerbaijan once again demands that the Armenian side, instead of wasting time and desperately trying to mislead its own people and the international community by searching in agony for arguments in history to justify its annexationist aspirations, which only prove the fallacy of its allegations, cease its policy of occupation and ethnic cleansing and engage constructively in the conflict settlement process, comply with its international obligations and withdraw its forces from the territories of Azerbaijan.
