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## REGIONAL CONFLICTS

**MEDIATION ABILITIES OF  
THE ORGANIZATION FOR SECURITY AND  
COOPERATION IN EUROPE (OSCE)  
IN THE CASE OF THE SETTLEMENT OF  
THE NAGORNO-KARABAKH CONFLICT**

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In 1988 the Armenian representatives of local authorities of Nagorno-Karabakh decided to secede from Azerbaijan. The first Azerbaijanis were killed, and expelled from Armenia and Nagorno-Karabakh. As a consequence, the same occurred in some parts of Azerbaijan in relation to Armenians. In 1989 the Parliament of Armenia took a decision “on reunification of Armenia and Nagorno-Karabakh.” These actions led to the conflict the essence of which is a territorial claim. From the very beginning of the conflict Azerbaijan regarded Nagorno-Karabakh as its inviolable part and proceeded from the OSCE principles of sovereignty, inviolability of frontiers and territorial integrity. Whereas Armenia believed that Nagorno-Karabakh was an Armenian territory, its Armenian population was suppressed and it must

secede from the Azerbaijani sovereignty and obtain independence in order at a later stage to unite with Armenia. Armenians justify their claims by the OSCE principle of self-determination of peoples.

In 1991 Azerbaijan regained its independence and in 1992 was admitted to the Conference for Security and Cooperation in Europe (CSCE, after 1 January, 1995—OSCE) and the United Nations (U.N.), which implies that the U.N. and the OSCE member states recognized the sovereignty and territorial integrity of Azerbaijan within its present frontiers. Azerbaijan being inspired by the high expectations of and “commitments under the Helsinki Final Act... to refrain from the threat or use of force against the territorial integrity ... of any State, ... to settle disputes by peaceful means”

renewed in the Paris 1990 Summit Meeting<sup>1</sup>, in 1992 agreed to settle the conflict under the OSCE auspices. The OSCE has been involved in the mediation of the settlement through its following instruments:

- The decisions on the settlement;
- Negotiations under the auspices of the OSCE Minsk Group;
- High Level Planning Group (HLPG);
- The Personal Representative (PR) of the OSCE Chairman-in-Office (CiO) on the

conflict dealt with by the OSCE Minsk Conference.

The expectations were very high when in 1992 then CSCE was involved in the resolution of the conflict. However more than 12 years have been passed and the problem is still there and the OSCE is powerless to do something. In this article we tried to analyze the OSCE mediation and to give a brief description of the work of its instruments through their accordance with and adherence to the decisions on the conflict, thus assessing the mediation abilities in conflict settlement of the OSCE, which is considered to be one of the pillars of the European security architecture.

<sup>1</sup> *Charter of Paris for a New Europe*, Paris, 1990, p. 15.

## 1. The Decisions on the Settlement

The history of the OSCE mediation dates back to 24 March, 1992, when the additional meeting of the CSCE Council took place in Helsinki. By its decision the Council, first of all, established a conference on Nagorno-Karabakh (to be held in Minsk) as the negotiation forum for the settlement of the conflict. Secondly, this decision set up the principles and commitments of the CSCE as the political basis for the settlement. Thirdly, in accordance to that decision the CSCE participating States had the status of the full-fledged members of the negotiation forum. Fourthly, the decision of the Council determined the status of the Armenian and Azerbaijani representatives of Nagorno-Karabakh who could be invited to the negotiations as interested parties by the Chairman of the Conference only with the agreement of the participating States of the negotiation forum. Thus, the decision provided the representatives of Nagorno-Karabakh with a status that was lower than that of the participating States of the Conference.<sup>2</sup>

The occupation of the Azerbaijani regions in 1993 required the adoption by the U.N. Security Council resolutions 822 (30 April), 853 (29 July), 874 (14 October), 884 (12 November), which reaffirmed the respect for sovereignty and territorial integrity of the Republic of Azerbaijan and all other States in the region, as well as the inviolability of international borders and the inadmissibility of the use of force for the acquisition of territory. The resolutions demanded the immediate cessation of all hostilities and the immediate complete and unconditional withdrawal of the occupying forces involved from all occupied areas of the Republic of Azerbaijan and in this context called for the restoration of economic, transport and energy links in the region. The resolutions endorsed the efforts of the OSCE Minsk Group to achieve peaceful resolution of the conflict and called on the parties to seek a negotiated settlement of the conflict within the context of the CSCE Minsk process. Expressing grave concern at the displacement of a large number of civilians in the Republic of Azerbaijan, the resolutions appealed to assist refugees and displaced persons to return to their homes in security and dignity.<sup>3</sup>

At the CSCE Summit, which took place in Budapest on 5-6 December, 1994, the decision on intensification of the CSCE action in relation to the Nagorno-Karabakh conflict was taken. This decision, first of all, established the institute of the co-chairmanship to coordinate all the mediation activities within the

<sup>2</sup> See: *First Additional Meeting of the CSCE Council. Summary of Conclusions*, Helsinki, 1992, pp. 14-15.

<sup>3</sup> See: The U.N. Security Council Resolutions: S/RES/822 (1993), 30 April, 1993; S/RES/853 (1993), 29 July, 1993; S/RES/874 (1993), 14 October, 1993; S/RES/884 (1993), 12 November, 1993.



framework of the CSCE. Secondly, the Co-chairmen of the Minsk Conference were asked to conduct speedy negotiations for the conclusion of a political agreement on the cessation of the armed conflict, the implementation of which would eliminate consequences of the conflict and permit the convening of the Minsk Conference. Thus, this decision as well as the U.N. Security Council resolutions envisaged a step-by-step approach formula of the settlement in accordance with which the military issues were solved first and then political. Thirdly, the participating States expressed their will to provide a multinational CSCE peace-keeping force after the conclusion of the political agreement. Fourthly, it was necessary to establish high level planning group to make recommendations on this force.<sup>4</sup>

The OSCE Ministerial Council held in Budapest on 7-8 December, 1995, in its decision, in particular, supported the efforts of the Co-chairmen of the Minsk Conference to achieve, in coordination with the CiO, a political agreement on the cessation of the armed conflict. The implementation of such an agreement would eliminate major consequences of the conflict and would permit the early convening of the Minsk Conference. The signing of the agreement would enable the OSCE Permanent Council (PC) to take a decision on the establishment of the OSCE peacekeeping operation. The decision welcomed the commitments expressed to establish direct contacts, in coordination with the Co-chairmanship, to achieve agreement on the principles governing the resolution of the conflict and took note of the readiness of the parties to address crucial issues with a view to reaching a compromise.<sup>5</sup>

This decision necessitated in 1996 the determination of the principles of the settlement. At the OSCE Summit, which took place in Lisbon on 2-3 December, 1996 the CiO and the Co-chairmen of the Minsk Group suggested to the parties the principles for the settlement. These principles were supported by all OSCE participating States except Armenia. Under these conditions the CiO Flavio Cotti had to make statement. He stated that no progress has been achieved in the last two years to resolve the Nagorno-Karabakh conflict and the issue of the territorial integrity of the Republic of Azerbaijan. The efforts of the Co-chairmen of the Minsk Conference to reconcile the views of the parties on the principles for a settlement have been unsuccessful. The Co-chairmen of the Minsk Group recommended three principles, which should form part of the settlement of the Nagorno-Karabakh conflict. The CiO regretted that one participating State could not accept this. These principles had the support of all other participating States. These principles were:

- territorial integrity of the Republic of Armenia and the Azerbaijan Republic;
- legal status of Nagorno-Karabakh defined in an agreement based on self-determination which confers on Nagorno-Karabakh the highest degree of self-rule within Azerbaijan;
- guaranteed security for Nagorno-Karabakh and its whole population, including mutual obligations to ensure compliance by all the Parties with the provisions of the settlement.<sup>6</sup>

The U.S.A., European Union (EU), Russian Federation, Finland and Turkey made statements in support of these principles. The Lisbon Summit was a good opportunity to reach a consensus on the principles or basis, which was the core of the settlement and this would have committed the parties to proceed from these principles during the negotiations. However, the OSCE community failed to do it, which had long-term negative consequences for negotiations. On the other hand, OSCE participating states for the first time clearly stated that conflict must be settled on the basis of territorial integrity of Azerbaijan and autonomy for Nagorno-Karabakh.

As a result the Copenhagen (1997) and Oslo (1998) Ministerial Council meetings took no decision on the conflict. After the Lisbon Summit the outcome of these meetings, probably, was a logical one, since the Lisbon principles of the settlement formally were not bound.

In the Declaration adopted at the OSCE Summit held in Istanbul on 18-19 November, 1999 the participating States applauded the intensified dialog between the Presidents of Armenia and Azerbaijan,

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<sup>4</sup> See: *CSCE. Budapest Document 1994. Budapest Decisions*, Budapest, 1994, pp. 4-5.

<sup>5</sup> See: *The Fifth Meeting of Ministerial Council. Chairman's Summary. Decisions of the Budapest Ministerial Council Meeting*, Budapest, 1995, p. 10.

<sup>6</sup> See: *Lisbon Document*, Lisbon, 1996, p. 11.

whose regular contacts have created opportunities to dynamize the process of finding a lasting and comprehensive solution to the problem. The heads of state firmly supported this dialog and encouraged its continuation, with the hope of resuming negotiations within the OSCE Minsk Group. They also confirmed that the OSCE and its Minsk Group, which remained the most appropriate format for finding a solution, stand ready to further advance the peace process and its future implementation, including by providing all necessary assistance to the parties.<sup>7</sup>

Since the OSCE Budapest 1995 Council Meeting it was the first text agreed within the OSCE community and actually the language of this text shifted the responsibility for the settlement of the conflict from the OSCE to the parties.

In the decisions of the OSCE Ministerial Council meetings, which were held on 3-4 December, 2001 in Bucharest and on 6-7 December, 2002 in Porto, the importance of continuing the peace dialog was stated and a call to parties to continue the efforts on the settlement of the conflict on the basis of the norms and principles of international law was expressed.

Thus, the Helsinki 1992 decision set up the negotiation framework for the conflict settlement *on the basis of the CSCE principles*, whereby the representatives of Nagorno-Karabakh had *the status lower* than that of other participants of the negotiation. The U.N. Security Council resolutions endorsed the necessity of comprehensive political settlement of the conflict on the basis of sovereignty and territorial integrity of Azerbaijan through negotiations. These decisions predetermined *the political basis* for the comprehensive settlement and in order to reach this settlement created a negotiation forum for the *elimination of the consequences of the armed conflict*. In this sequence of the resolution first of military consequences of the conflict and then the solution of the political issue at the Minsk Conference was contained *the formula of the comprehensive settlement*, which was fixed in the U.N. and CSCE 1994 and 1995 decisions.

## 2. The Negotiations under the Auspices of the OSCE Minsk Group

The Helsinki 1992 Council's decision allowed starting the mediation process within the OSCE. From the very beginning of this process the main goal of Azerbaijan was the elimination of the consequences of the armed conflict, namely the liberation of the occupied territories and return of refugees, and elaboration of the status of Nagorno-Karabakh at the Minsk Conference. The main aim of Armenia was to obtain the independent status for Nagorno-Karabakh in exchange for the liberation of some occupied territories.

### ***The Rome Negotiations on Preparation of the Peace Conference on Nagorno-Karabakh***

The first such negotiations were held in Rome on 31 May, 1992 and had passed several stages. The military situation at that time was characterized in a way that on 8 May, 1992 the Armenian armed forces having occupied Shusha (district and city in Nagorno-Karabakh inhabited by Azerbaijanis) completed the capture of the whole territory of Nagorno-Karabakh and the deportation of its 50,000 Azerbaijani population. On 18 May, 1992 Lachin (city and district on the territory of which runs the road connecting Armenia with Nagorno-Karabakh) was captured.

<sup>7</sup> See: *Istanbul Document 1999*, Istanbul, 1999, p. 50.

From the very beginning of the CSCE mediation all the negotiations and documents discussed were aimed at the elimination of the consequences of the armed conflict which would have allowed convening the Minsk conference for the resolution of political issues, namely the status of Nagorno-Karabakh. To this end during the first round of negotiations the Minsk Group prepared the document, which envisaged withdrawal of the military forces from Lachin and Shusha, return of refugees and displaced persons, and establishment of the CSCE international monitors for verification of the implementation of the above-mentioned tasks. At further rounds on the insistence of the Armenian side these tasks were extended to the part of Aghdara (district in Nagorno-Karabakh) and to former Shaumyan/presently part of Goranboy (inhabited by Armenians district outside Nagorno-Karabakh, the territory of which now constitutes part of Goranboy district), controlled by Azerbaijan.

Continued until the fall of 1992, the four rounds of the Rome negotiations did not bring any results. At the fifth round of negotiations resumed on March 1, 1993 the representatives of Armenia and Azerbaijan agreed on the text of a decision to send to the zone of the conflict the mission of international monitors. This decision had to be approved by the CSCE Committee of Senior Officials (CSO), the meeting of which was envisaged to be convened in Prague on 26 April, 1993. However, from 27 March up to 3 April, 1993 the Armenian armed forces launched the operation on seizure of Kalbajar district, located between Armenia and Nagorno-Karabakh. This undermined agreements reached.

The Rome negotiations for convening the Minsk Conference did not succeed, because the Armenian representatives in violation of the Helsinki 1992 decision have put in a claim demanding for the Armenian representatives of Nagorno-Karabakh in the negotiations the equal status with the rest of the participating States of the Minsk Conference, not revising at the same time the status of the Azerbaijani representatives of Nagorno-Karabakh. Having not reached this aim in the negotiations they unleashed in 1993 the second stage of the military campaign.

### ***Timetable of Urgent Steps to Implement the U.N. Security Council Resolutions***

During 1993 the Italian chairmanship together with the participants of the Minsk Conference prepared several versions of the Timetable of urgent steps to implement the U.N. Security Council resolutions 822, 853 and 874 and to resume negotiations.

The first Timetable of urgent steps to implement the U.N. Security Council resolution 822 was proposed by the Minsk Group on 3-4 June, 1993. This Timetable was accepted by the parties to the conflict. However, the capture of Aghdam (district outside of Nagorno-Karabakh) on 23-24 June, 1993 prevented the realization of the Timetable.

The next Timetable of urgent steps to implement two U.N. Security Council resolutions 822, 853 was suggested by the Minsk Group on 4-5 August, and its revised version—on 13 August, 1993. The Timetable envisaged complete withdrawal of occupying forces from Aghdam and Kalbajar districts. The withdrawal of all forces is verified by the CSCE Verification Mission. After that the restoration of communications begins. Nothing was said about the problems (withdrawal of occupying forces and return of refugees) of Shusha and Lachin. That contradicted the U.N. Security Council resolutions, as well as the aims of the Rome negotiations, in which the liberation of these districts was considered as a condition for the convening of the Minsk Conference. The parties had to give an answer by 19 August, 1993. However, instead of that followed the seizure of Fuzuli on 23 August, of Jabrail on 25-26 August and of Gubadli on 31 August, the districts located outside Nagorno-Karabakh.

The next Timetable of urgent steps to implement the U.N. Security Council resolutions 822, 853 was suggested in Paris on 23 September, and its adjusted version—on 29 September, 1993. This Timetable contained new elements that had lacked in the old ones. The Timetable increased the status of Ar-

menian representatives of Nagorno-Karabakh and thus violated the Helsinki 1992 decision. The Timetable proposed the withdrawal of forces from Gubadli, Aghdam, Fuzuli, Jabrail, and Kalbajar districts, except Lachin district. This withdrawal was conditioned by reopening of communications. Such approach contradicted the U.N. Security Council resolutions, demanding unconditional withdrawal from all occupied areas of Azerbaijan. The withdrawal was understood as the withdrawal to the relevant segments of 1988 district borders, which did not envisage the resolution of the problem of Shusha. For the first time the Timetable demanded the withdrawal of the Azerbaijani forces from Aghdara. That also ran contrary to the U.N. Security Council resolutions, since they did not consider Aghdara as an occupied district and did not demand the withdrawal of forces.

It was envisaged that the parties to the conflict would sign a statement on the Timetable of urgent steps, the continuation of negotiations toward a peaceful settlement of the crisis on the basis of the principles, commitments and provisions of the CSCE and the continued implementation of U.N. Security Council resolutions 822 and 853. After the realization of all steps envisaged by the Timetable the opening of the Minsk Conference was planned. The parties had to give the reply to that Timetable by 6 October, 1993. Azerbaijan did not accept the proposals due to their departure from the requirements of the U.N. Security Council resolutions. As a result of the operation carried out from 1 October till 1 November, 1993 Zangelan (district located outside Nagorno-Karabakh) was captured.

The adjusted Timetable of urgent steps to implement the U.N. Security Council resolutions 822, 853 and 874 was suggested by the Minsk Group in Vienna on 12 November, 1993. The Timetable proposed the accomplishment of the following consecutive steps: cessation of military activities; withdrawal from occupied territories (Gubadli, Zangilan, Aghdam, Fuzuli, Jabrail, Aghdara and Kalbajar districts); restoration of communication and transportation; creation of conditions for the return of refugees/displaced persons; opening of the Minsk Conference.

The necessity to create conditions for the return of refugees was new, positive element. The problems of Lachin and Shusha were intended to remain open and to be resolved at the Minsk Conference. For the first time the questions relating to the withdrawal of forces/refugees from Shaumyan/Goranboy were included in the Timetable and to be resolved at the Minsk Conference. This approach did not correspond to the provisions of the U.N. Security Council resolutions on liberation of all occupied territories of Azerbaijan, which would create a condition for the convening of the Minsk Conference. Nor these resolutions regarded Shaumyan/Goranboy as an occupied area.

The Vienna Timetable more than that of Paris linked the withdrawal of the forces from the occupied territories of Azerbaijan with the restoration of communications and with the outcome of the preparatory meeting for the Minsk Conference, envisaged to be convened before the withdrawal, where a discussion of procedural issues and of the decision-making process, i.e. the status of Armenians of Nagorno-Karabakh, was planned. Azerbaijan did not accept this document either, the Armenians did accept it.

All the timetables were aimed at the elimination of most, but not of all the consequences of the armed conflict. To this end the previous timetables proposed consecutive measures and in this way were based on a step-by-step approach. But the Paris and Vienna timetables presupposed mutually obligatory and mutually conditioned steps and were based on a package approach. The Paris and Vienna documents in this way were fundamentally distinct from the previous versions, seriously departed from the understanding of the formula of the settlement, reflected in the Helsinki 1992 decision and the U.N. Security Council resolutions and contradicted them.

Thus, several versions of the Timetables of urgent steps suggested by the mediators also did not succeed. In 1993 the Armenians toughened their position by starting new campaign of military actions and this affected the negotiation process. Failing to reach in 1992 the claim of equal status with the other participating States of the Minsk Conference for the Armenian representatives of Nagorno-Karabakh at the negotiations by peaceful means, the Armenian forces seized during 1993 six districts of Azerbaijan, located outside Nagorno-Karabakh, putting the international community before the *fait accompli*. The agreements reached by the parties in the negotiations in March 1993, Timetables of urgent steps, proposed by the Minsk Group in June and August 1993, were not realized due to the capture of new Azer-

baijani territories. While the issues of the withdrawal of the Armenian forces from one district were being discussed, they were capturing other one. This was the first reason for the failure of the mediation efforts in 1993.

Under the conditions of the Armenian expansion the Chairman of the Minsk Conference included in the Paris and Vienna timetables new and excluded other provisions, which contradicted the U.N. Security Council and the OSCE decisions. This was the second reason for the failure of the mediation efforts. That is why in comparison to Rome negotiations the timetables were steps back in terms of departure from the decisions.

### ***Agreements on the Cessation of the Armed Conflict***

By the year 1994 the Armenian armed forces occupied the territory nearly of the whole Nagorno-Karabakh and of seven districts, located around it, and expelled all the population from these territories. Such military situation certainly affected the negotiation process and complicated it. Only on 12 May, 1994 through the mediation of Russia and in cooperation with the Minsk Group a cease-fire agreement was reached.

During the chairmanship of Sweden (1994) and double chairmanship of Russia and Finland (1995-1996) within the Minsk Group numerous negotiations were conducted. In the course of these negotiations several versions of the document, later called the Agreement on the cessation of the armed conflict, were discussed.

The Agreement consisted of the main part and of four annexes: cease-fire and cessation of hostilities and their consolidation; timetable of measures regulating the situation in some occupied areas; procedure for the removal of obstacles to the restoration of normal power and transport links in the area of conflict; international assistance in implementing the agreement. Consolidation of cease-fire, liberation of territories and return of refugees, restoration of communications, and deployment of the peacekeeping forces were considered as military-technical measures and they made up the main content of the agreement. In annexes it was pointed out how to implement these measures and the terms.

The Agreement envisaged the official cease-fire and cessation of hostilities and after that mutual disengagement of the forces. Following the official cease-fire and cessation of hostilities the opening of communications takes place. The disengagement of forces creates a buffer strip-zone, where peacekeeping force is deployed. Afterwards the liberation of Aghdam, Fuzuli, Jabrail, Zangilan, Gubadli, Kalbajar, Aghdara, Khojavand (district in Nagorno-Karabakh partly controlled by Azerbaijan) and Lachin (without a transit zone along the Lachin road) follows. Lachin was included in the agreement only in 1996. Khojavand district was mentioned for the first time. Refugees return to the liberated territories. The liberation of territories and return of refugees take place under the supervision of the peacekeeping force. The Agreement envisaged that the implementation of these military-technical measures would allow convening the Minsk Conference, where the legal status for Nagorno-Karabakh would be elaborated and approved.

During all these years the Agreement has not been finalized, because it had not been possible to agree on some problems, which were later termed as key issues. These are the problems of Shusha, Lachin, and of former Shaumyan districts, security and status of Nagorno-Karabakh. The problems of these districts, being treated (Shusha and Lachin by Azerbaijanis; Shaumyan by Armenians) as those directly arising from the armed conflict and accordingly as a subject for the agreement on the cessation of the armed conflict, have turned however from military to political ones. Shusha and Lachin (occupied by Armenians) in accordance to the U.N. resolutions were subjects for the withdrawal, which Armenians did not accept and fulfill. Whereas Shaumyan (controlled by Azerbaijanis) only from the Armenian point of view was considered as a subject for liberation. Despite this clear-cut disparity these districts were equalized both by Armenians and by the mediators in the Agreement, which did not foresee the resolution of the problems of Shusha and Lachin, but indicated the problem of Shaumyan as

such. This, as we have already pointed out, did not correspond to the requirements of the U.N. resolutions and Rome negotiations.

While the issue of security and status of Nagorno-Karabakh was purely political one, it had to be dealt with by the Minsk Conference. But this issue was brought to the negotiations by Armenians as a bargaining chip to get desirable status for Nagorno-Karabakh in exchange for liberation of occupied territories, except Shusha and Lachin. This was a main feature of the Armenian position in the negotiations after the spring of 1994, by which they had completed the seizure of the territory nearly of the whole Nagorno-Karabakh and of seven districts, located around it.

In all versions of the Agreement the Armenian representatives of Nagorno-Karabakh were considered as conflicting party, which was higher than the status of Azerbaijani representatives of Nagorno-Karabakh. This was in contradiction to the Helsinki 1992 decision. The Agreement envisaged the liberation of the Aghdara and Khojavand districts, which were not to be liberated in accordance to the U.N. Security Council resolutions. The opening of communications was envisaged after the official cease-fire and cessation of hostilities, but not in the context of the liberation of territories, as it was established by the U.N. Security Council resolutions.

Thus, this document generally preserved and even deepened approaches contained in Paris and Vienna Timetables, which contradicted the U.N. Security Council and the OSCE decisions. The Agreement was aimed at the elimination not of all, but of significant consequences of the armed conflict, which would allow in view of the mediators to convene the Minsk Conference for the comprehensive settlement of the conflict.

During 1992-1996 peace proposals have been discussed at the meetings of the Minsk Group with the participation of all its members. Each of these years (except 1996) either OSCE Ministerial Council or Summit has taken a decision. In other words, the whole OSCE through its Minsk Group has been involved in the resolution of the conflict.

### Three-fold Chairmanship

After the OSCE Lisbon Summit in 1997 the three-fold chairmanship of France, Russia and the U.S.A. was set up. In April 1997 one round of negotiations was held. Since that time the negotiations had been suspended, instead the Co-chairmen of the Minsk Group started to travel to the region. On 1 June, 1997 the Co-chairmen during their visit to the region presented a draft of the comprehensive agreement to resolve the Nagorno-Karabakh conflict. The title of the document proves that it was dealing not only with the cessation of the armed conflict, but also with the political issues. The Co-chairmen for the first time included the elements of the status of Nagorno-Karabakh in the proposals. Azerbaijan accepted the proposals in principle, but Armenia did not.

On 19 September, 1997 the Co-chairmen during their second visit to the region presented new proposals on the secession of the Nagorno-Karabakh armed conflict. These proposals envisaged that the measures to eliminate the consequences of the armed conflict were to be implemented in two stages. At the first stage liberation of occupied Azerbaijani districts, except the territories of Shusha and Lachin districts, launching of the OSCE peacekeeping force, return of refugees and opening of communications were presupposed. In the second phase it was recommended to resolve the problems of Shusha, Lachin and former Shaumyan districts and accept main principles of a status of Nagorno-Karabakh, to be valid until the determination of its final status, and to further this way the convening of the Minsk Conference in order to finalize a comprehensive settlement.

The presidents of Armenia and Azerbaijan announced in a joint declaration in Strasbourg on 11 October, 1997 that these proposals represented a promising basis for resuming negotiations within the framework of the Minsk Group. This was the first time that the proposals by the Co-chairmen of the Minsk Group had been supported both by Armenia and Azerbaijan. However, Armenia's new leadership rejected these proposals in 1998. Thereafter the Minsk process was for all practical purposes at a dead end.

Over a year later, on 7 November, 1998 the Co-chairmen presented new proposals on the principles of a comprehensive settlement of the Nagorno-Karabakh armed conflict. The new peace plan contained agreements both on key issues, i.e. on the status of Nagorno-Karabakh, problems of Lachin corridor, Shusha and former Shaumyan, and on the cessation of the armed conflict. These proposals were based on a concept of a "common state," conferring upon Nagorno-Karabakh a status of a state and territorial entity in the form of a republic and constituting a common state with Azerbaijan within its internationally recognized borders. Azerbaijan rejected these proposals, because they violated its sovereignty and Lisbon principles. Armenia accepted them. This was last proposal of the Co-chairmen to date.

So the OSCE mediation brought no tangible results and under these circumstances in 1999 on the margins of the NATO Summit in Washington at the initiative of the U.S. government the presidents of Armenia and Azerbaijan started direct talks. Since then they met a number of times. In Key West the bilateral format of the meetings were changed to the so called "proximity talks." The presidents did not talk with each other, but rather the Co-chairmen talked to each president separately trying to intermeditate between them. The bilateral talks have not yet produced concrete results.

The mediation of a three-fold co-chairmanship was characterized by five peculiarities. First, the negotiations have been suspended and replaced by the Co-chairmen's visits to the region, during which they presented new plans. Second, the rest of Minsk Group participants have been discharged from the practical mediation. Third, the three-fold chairmanship for the first time included in the Agreement elements of Nagorno-Karabakh's status, which was the subject for the Minsk Conference. Thus, an elimination of consequences of the armed conflict has been linked with the status of Nagorno-Karabakh. This approach contradicted the U.N. Security Council resolutions and CSCE Budapest 1994 decision, which supposed overcoming first military consequences of the conflict and as a next step the resolution of the political problems. Fourth, by doing so the Co-chairmen completely departed from the Lisbon principles, suggested by them and officially supported by the top representatives of their countries at the Lisbon Summit. Fifth, later on the Co-chairmen's visits were substituted by the bilateral talks of the presidents of Armenia and Azerbaijan. Probably it is not accident that during 1997-1999 the OSCE Ministerial Council and Summit meetings took no decision on the conflict.

### 3. A High-Level Planning Group (HLPG)

HLPG was established on 20 December, 1994 in Vienna in accordance with the decision of the CSCE Budapest Summit. The HLPG superseded an earlier Initial Operations Planning Group, which was established in May 1993. It consists of military experts seconded by the OSCE participating States and has the following tasks:

- To develop a plan for the establishment, composition and operation of a multinational CSCE peacekeeping force;
- To make recommendations on, inter alia, the size and characteristics of the force, command and control, logistics, allocation of units and resources, rules of engagement and arrangements with contributing states.

The HLPG work is guided by CiO directives. To fulfill directives the HLPG started conducting fact-finding visits to the region, and began detailed conceptualization, which resulted in the Concept for an OSCE Multinational Peacekeeping Mission for the Nagorno-Karabakh conflict, presented to the CiO on July 14, 1995. It included four options, of which three were a mixture of armed peacekeeping troops and unarmed military observers, their strength varying from 1,500 to 4,500 personnel. The fourth was an unarmed military observer mission. At present, the HLPG is adapting the concept to the current stage of

negotiations and updating the four options through fact-finding missions to the region of the conflict.<sup>8</sup> From time to time the HLPG holds briefings concerning its activities.

#### 4. The Personal Representative of the CiO on the Conflict Dealt with by the OSCE Minsk Conference

The PR has been acting since 28 August, 1995, when the CiO appointed PR and his assistants. Since 17 January, 1997, this post has been held by envoy Andrzej Kasprzyk from Poland. In accordance with the mandate the PR has the following tasks:

- To represent the OSCE CiO in issues related to the Nagorno-Karabakh conflict, assist the CiO in achieving an agreement on the cessation of the armed conflict and in creating conditions for the deployment of an OSCE peacekeeping operation, in order to facilitate a lasting comprehensive political settlement of the conflict in all its aspects;
- To report on all aspects of his activities to the CiO of the OSCE, report through the CiO to the Co-chairmanship of the OSCE Minsk Conference and, as appropriate, to the Minsk Group, and receive instructions from the CiO;
- To assist the Co-chairmanship at its request;
- To assist the HLPG in planning an OSCE peacekeeping operation in accordance with the Budapest Summit Decisions;
- To assist the parties in implementing and developing confidence-building, humanitarian and other measures facilitating the peace process, in particular by encouraging direct contacts;
- To cooperate, as appropriate, with representatives of the U.N. and other international organizations operating in the area of conflict.

The headquarters of the PR located in Tbilisi. The PR and his field assistants deployed on a rotating basis in Baku, Erevan and Khankandi, visit the region of conflict, meet the people on the ground, try to establish a climate of confidence and thus contribute to a cease-fire and finally—reaching the agreement. Much of their time is spent monitoring the line of contact between the parties. PR periodically informs the PC on his activities.

The Chairmen of the Minsk Conference, Head of HLPG and Personnel Representative are subordinated to the CiO.<sup>9</sup>

#### *C o n c l u s i o n*

The OSCE is an organization, which includes its decision-making bodies, institutions and missions for field activities. It is a comprehensive organization for dialog, negotiations and cooperation on security issues. The OSCE security concept is based on its indivisibility and comprehensiveness, covering three dimensions: political-military, economic and humanitarian. Decisions are taken by consensus. The OSCE principles and decisions relating to all security dimensions establish norms and standards, the adherence to which constitutes commitments of the participating States. The OSCE possesses operational capabilities to observe and implement its norms. All this lends the OSCE a unique character.

<sup>8</sup> See: OSCE. Mission Survey. High Level Planning Group, n.d. [<http://www.osce.org/publications/survey/survey23htm>].

<sup>9</sup> See: OSCE. Mission Survey. The Personal Representative of the Chairman in Office on the Conflict dealt with by the OSCE Minsk Conference, n.d. [<http://www.osce.org/publications/survey/survey22htm>].



Proceeding from this description of the OSCE, its principles and decisions on the conflict, as well as U.N. Charter and relevant resolutions of the U.N. Security Council constitute *political basis, norms for the settlement of the conflict*. Whereas established under the supervision of the OSCE CiO the negotiation forum with the status of its participants, HLPG, and the PR of the CiO are means among the *operational capabilities* at the disposal of the OSCE to reach the resolution. Thus, the OSCE possesses both conceptual, political or normative basis, and practical or operational means of the settlement in order to translate these norms into reality. The OSCE norms and operational capabilities make up its *mediation ability* for peaceful settlement of the conflict.

From the very beginning the task of the negotiations was to terminate consequences of the armed conflict in order to prepare the convening of the Minsk Conference, where a status of Nagorno-Karabakh would be determined and in this way a comprehensive settlement would be reached. This sequence constitutes *a formula of the settlement*, which as we have already pointed, had been reaffirmed by the U.N. resolutions and the OSCE decisions.

We have already seen that different peace plans launched by the Minsk Group Chairmanship not always and not completely were in accordance with the norms of the international law, that is to say with the U.N. and OSCE decisions on the conflict. The lack of adherence of the Co-chairmen of the Minsk Group to the decisions represents a serious deficiency in their work.

The mediators proceeded not from the decisions, but rather from, on the one side, the political interests of the states they represented and on the other, military realities, prevailing on the ground. Such position of the states is a reason of a lack of the OSCE ability coercively to take and implement decisions. This is a serious deficiency in the OSCE operational capability. Inability of the OSCE to approve the principles of the settlement in Lisbon and that of the Co-chairmen to convince the parties to accept peace plans that are in accordance to the U.N. and the OSCE decisions is an evidence of the above-mentioned observation. While the work of HLPG and PR in general was in accordance with the relevant decisions.

Thus the OSCE norms and operational capabilities have not yet led to the settlement of the Nagorno-Karabakh conflict. In the case of the Minsk Group mediation we can come to a conclusion that the OSCE norms have not yet become the only basis all participating States always adhere to.

The truth and reality is that today the OSCE is still too much dependant on the participating States, but not on its norms. It is not the OSCE that is not able to act unanimously, but its participating States that fail to do so. Very often participating States simply manipulate the OSCE and its norms for the sake of domestic and foreign policy goals. In their turn participating States justify their policy by political interests, which sometimes are not in accordance to the OSCE norms. In international relations a political interest is still also based on a power of force, but not on a power of international law. The policy of governments, whose power is not based on democracy or norms of international law, could hardly be regarded as a legitimate one. There is firm tendency to accept realities created by the use of force. The use of force could not be legitimate unless it proceeds from the requirements of international law approved within the multilateral framework.

Our analysis leads to the conclusion that one should not fully rely on the OSCE mediation abilities on conflict resolution. The OSCE may be appropriate in early warning, conflict prevention, crisis management and post-conflict rehabilitation, but unlikely in conflict resolution. The beginning of bilateral confidential talks between the presidents of Armenia and Azerbaijan may prove that observation. These talks started, when it become clear that the OSCE mediation abilities were exhausted and additional impetus was required. The conflict settlement, either peaceful or military, at the end of the day is up to the direct parties to the conflict. The OSCE may suggest its mediation abilities to this end, if the parties wish to use them.

It was expected that the current Co-chairmanship, comprising France, Russia and the U.S.A., would only contribute to the speedy resolution of the conflict. Problem is that agendas of those countries toward the region are different and today probably not reconcilable. Even the view that it is parties to the conflict that should resolve the conflict is true to the extent that it meets interests of the internal policy and those of influential external actors. This is a significant obstacle in the way of the settlement on the basis of the decisions on the conflict.

Neither Armenia displays will to comply with the decisions on conflict nor the mediators are prepared to compel the parties to accept those decisions. Under these circumstances the new geopolitical destination and institutional incentive for Armenia and Azerbaijan are required. The flexibility of the countries involved in the conflicts in Balkans was supported by their NATO and EU accession perspective. It was EU membership that forced the Greek and Turkish representatives of Cyprus after 30 years of hostilities to speed up negotiations on unification of the island. Whereas the lack of such kind of incentive for Armenia and Azerbaijan impedes the resolution of the conflict.