

## **Nagorno-Karabakh and the International Right of the Self-determination of Peoples**

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### **Preliminary Note**

The Azerbaijani-Turkish propaganda has a major influence on reporting and assessing the Nagorno-Karabakh/Artsakh<sup>1</sup> conflict. In order to enforce its distorted version of history, it attacks the freedom of the press, including in Switzerland: Azerbaijan intimidates journalists who deal with the conflict in the «wrong way» and puts them on a Black List.<sup>2</sup> The combination PR dominance and subtle threat is not only effective in the media but also in politics:

The cautious reactions to the war in Artsakh are characterised by a seemingly impartial attitude. The tenor is: Azerbaijan and Armenia are at war over a disputed territory that Armenia has occupied for 30 years. This view distorts and simplifies the conflict in favour of Azerbaijan.

Democratic countries should honour their own history of freedom and the universal humanitarian principles. The manipulative pan-Turkish narrative has to be decisively confronted with historical-political facts and international law.

### **In a nutshell**

- The narrative of the «occupation» of Nagorno-Karabakh by Armenia is wrong: Artsakh was never Azerbaijani.
- The right of self-determination of the peoples sufficiently legitimizes the existence of Artsakh.
- Artsakh is a functioning political system, a democratic republic.
- The «liberation» of the territory by the pan-Turkish alliance is a new chapter of the Armenian Genocide
- A courageous reaction of the democratic world is required now:
  1. Artsakh is to be recognized as a sovereign state.
  2. Azerbaijan and Turkey are to be indicted for their aggression.

## Summary

**Azerbaijan has no claim to Artsakh – neither historically nor legally.**

### **It is quite different ...**

The Azerbaijani-Turkish narrative about Armenia «occupying» the Azeri region of Nagorno-Karabakh is manipulative. It justifies the current campaign of Azerbaijan's conquest by falsely claiming the principle of territorial integrity under international law:

In reality, Nagorno-Karabakh never was part of an independent state of Azerbaijan. Stalin himself arbitrarily incorporated the territory into the Azerbaijan Soviet Socialist Republic in 1921, applying the method of «divide and rule». Stuck there until the disintegration of the Soviet Union it suffered from systematic de-Armenization for seven decades.

Briefly, the existence of the independent Republic of Artsakh, formerly Nagorno-Karabakh, is a legitimate exertion of the international human right of self-determination of peoples. Armenians have settled this region since primeval times. Artsakh also is a result of the periodically emerging Armenophobia by Turks and Azeris in the Southeast Caucasus.<sup>3</sup>

### **Liberation as destruction?**

On early Sunday morning, September 27, 2020, Azerbaijan launched a long-prepared offensive for the destruction of the Republic of Artsakh, for the expulsion of its ethnic Armenian population and the establishment of new territorial realities. With the use of inexhaustible arsenals of weapons and supported by Islamist mercenaries from Syria and Libya, Azerbaijan has been waging a war of annihilation ever since – massively supported by Turkey.

Settlements and infrastructures are systematically destroyed, which is celebrated in each case as «liberation» of «occupied territories». The cynicism is hardly to be outdone: Two autocratic states, known for their violation of citizens' and human rights in their own countries<sup>4</sup>, celebrate the annihilation of a democratic neighbouring country as a liberation.

### **No new chapter of the Armenian Genocide!**

It is shameful that the media of the democratic world have uncritically adopted the one-sided «occupation myth». It is all the more embarrassing that the international community of states remains rather silent on a campaign of annihilation on the periphery of Europe. The war in Artsakh is a violation of fundamental human rights and the Geneva Convention:

- Massive break of the internationally supported ceasefire of 1994;
- Racist rhetoric in the tradition of the Turkish-Azeri Armenophobia;
- Various war crimes such as torture, beheading and shooting of war prisoners, use of cluster bombs and combat drones against the population;
- Targeted destruction of residential areas, schools, hospitals, churches, cultural assets;
- Systematic non-compliance with humanitarian ceasefires.

The democratic states should show a courageous and appropriate reaction to the Artsakh war, even if Azerbaijan is an important oil and gas supplier.<sup>5</sup> What, if Armenia sat on a treasure of fossil fuels and not Azerbaijan?

Is there a political morality?

## Fact-checking

### 1. Artsakh was never part of an independent state of Azerbaijan.

Nagorno-Karabakh is a historical Armenian settlement area where Azeri immigrants have always been a small minority. The area is virtually part of the Armenian heartland.<sup>6</sup> It has never been part of an independent Azerbaijan, neither during the first republic after the Russian Revolution nor of the new Azerbaijani state, which emerged from the Soviet Union in 1991. Azerbaijan has no historical claim to the territory.

Before the Russian Revolution, the entire South Caucasus was part of the Russian Empire. After its downfall in 1917/18, the three newly established Republics of Georgia, Armenia and Azerbaijan made mutual territorial claims. Azerbaijan for instance claimed the Armenian region of Nagorno-Karabakh, but also parts of Georgia and even areas in the North Caucasus. Various clashes, international interventions and peace talks did not lead to a stable outcome.

**The burnt-down Armenian quarters of Shushi after the 1920 massacre - image rights US National Archives**



In 1921, after the incorporation of the South Caucasus into the Soviet Union, the Caucasian Bureau of the Central Committee of the Russian Communist Party decided that Nagorno-Karabakh would be part of the future Armenian Soviet Socialist Republic. Stalin personally intervened shortly after and single-handedly redirected Nagorno-Karabakh to the Azerbaijan Soviet Socialist Republic. His decision reached beyond the principle of «divide and rule». The pro-Turkish gesture aimed at promoting the connection of Turkey to the Soviet Union after the collapse of the Osman Empire.

In the Azerbaijan Soviet Socialist Republic, the deeply rooted Armenophobia led to a systematic ethnic and cultural de-Armenization of the region and repeatedly erupted into public violence, the last of which was the Sumgait Pogrom in 1988. During the dissolution of the Soviet Union, when both Armenia and Azerbaijan prepared for independence, the population of the Nagorno-Karabakh Oblast decided by referendum to become independent. This plebiscite of 1991 was even in line with the former Soviet constitution and with international law, but the Azeri government in Baku did not accept it. Subsequent bloody attacks on the Armenian population led to the war of independence (1992 - 1994).

## **2. The UN resolutions do not support Azerbaijan's claim.**

In order to prove that the existence of the Republic of Artsakh is in disagreement with international law, Azerbaijan and Turkey advocate 5 UN resolutions. However, these are snapshots of early moments from a 30-year long process and do not provide legal assessment of the current situations. They provide no proof of the Azerbaijani territorial claims, and they certainly do not provide legitimation for the war unleashed by the Turkish-Azerbaijani alliance.

Resolutions 822, 853, 874 and 884 were passed during the war of independence (1992 - 1994). They contain a default reaction of the international community of states for such a case, i.e., they call for the end of combat and the restoration of the status quo ante. Being static snapshots from the early 1990s; they are not part of any process of conflict resolution. They are irrelevant to the current situation and unsuitable for assessing today's state of international law in the region.

In 2008, another resolution passed in favor of the integrity of Azerbaijan's territory, but was voted for by only 39 states, including Azerbaijan itself.<sup>7</sup> The proponents of the resolution were mostly members of the Organization for Islamic Cooperation (OIC), including Azerbaijan. 7 states expressed themselves against the resolution, among them France, Russia and the USA, the three Co-Chairs of the Minsk Group, which had been appointed by the OSCE for the peaceful settlement of the conflict. More than 100 states abstained, including Switzerland. The international community of states thus demonstrated that it did not consider the resolution to be a valid contribution to the peace building process.

Surprisingly for many, Armenia has not recognized the Armenian populated Republic of Artsakh as an independent state to this day. By avoiding to coin new facts on its own, Armenia is respecting the mandate of the OSCE Minsk Group. Artsakh and Armenia adhere to international agreements.

## **3. A peaceful solution to the conflict is not in sight.<sup>8</sup>**

After the war of independence (1992 - 1994), the OSCE's Minsk Group, with its three chairs France, Russia and the United States, obtained an international mandate to resolve the Nagorno-Karabakh conflict peacefully by negotiations. However, Azerbaijan never agreed itself to any compromise during the entire duration of the multilateral mediation attempts. It has even rejected Artsakh as a negotiating partner since 1998. For more than 20 years, the peace process by the OSCE is being thwarted by Azerbaijan and Turkey. Witnessed by a passive international community, they prepared a swift «solution» to the conflict by armed force to be unleashed in a convenient moment.

The current aggression of Azerbaijan against Artsakh shows a new dimension. With massive support from NATO member Turkey, armed forces strive to quickly «liberate» all the «occupied territories». The declared goal is to conquer Artsakh and eliminate the Armenians. Under Erdogan, Turkey is preparing to realize another stage its pan-Turkish hegemonial dreams. The Azerbaijani autocrat Aliev is a willing assistant.

Peace mediation of the traditional regulatory power in the South Caucasus, Russia, are not being respected. The Minsk Group, which was set up by the international community of states to solve the conflict, is being ridiculed. Azerbaijan and Turkey mock that the OSCE proved incapable during 30 years, and that therefore they had to solve the conflict now once and for all, by force of arms and up to the bitter end. The ethnical-Armenian Artsakhis know, what this means:

The cathedral in Shushi after two targeted bomb attacks in October 2020 - Photo Aris Messinis, AFP Athens



In this year 2020 of the current war, the so-called Shushi massacre has its 100th annual commemoration: In 1920, only five years after the so-called Armenian Genocide, Azeri troops, supported by Azeri inhabitants, transformed the Armenian areas of the ancient cultural city Shushi to an inferno. For days, Azeris massacred Armenian fellow inhabitants, plundered, burned and destroyed 2,000 buildings, among them all churches, cultural institutions, schools, libraries, etc. The Armenian Bishop Vahan Gregorian, who had always been committed to peaceful coexistence with the Azeris, had his tongue cut off before he was beheaded, and his body dragged through the streets like a trophy. The Armenian head of the police of the city, Avetis Ghukasian, was publicly doused with oil and set on fire like a torch.

The Azeri communist Odzhakhkuli Musayev has described in disgust the persecution of women, children and elderly people during these long days of horror. Girls and women were systematically raped and then shot. Simultaneously, speeches about the holy war (Jihad) were held. – History seems to repeat itself.

#### **4. The Republic of Artsakh has to be recognized as an independent state. Now.**

The war of independence (1992 - 1994) resulted in favour of the self-determination of the Armenian people of Nagorno-Karabakh. No transient terror regime was established, but an emerging new independent state, based on international principles. In consequence, the Minsk Group of the OSCE for the peaceful settlement of the conflict recognized Nagorno-Karabakh as a negotiating partner and thus as a de facto state.

In 2008 the Federal Council of Switzerland (government) explained the international right of self-determination in the context of the Kosovo question concisely:<sup>9</sup> «The right of self-determination of peoples constitutes one of the fundamental principles of international law. A people may invoke this right without the prior recognition of a specific status by the UN or any other international organization.» This description is fully applicable to the Republic of Artsakh. Further the Swiss Government states: «This includes the protection of minorities, the respect of human rights as well as the respect of the principles of the UN Charter (...).» These values are part of the constitution of Artsakh.

The Republic of Artsakh keeps hold of everything that constitutes a sovereign state and qualifies it for international recognition:

- defined territory;
- permanent population;
- permanent administration under a common political institution that applies jurisdiction;
- a government that is in constant exchange with foreign states.

It would be an act of reason to recognize the territorial entity Artsakh as an independent state according to the principles of international law now. This is the only effective reaction to the unlawful aim of the Panturk alliance to occupy the territory, to cleanse it ethnically and to incorporate it into Azerbaijan.

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<sup>1</sup> As to the names: The Armenian population understands the trilingual name «Nagorno-Karabakh» as a symbol for foreign domination - Russian *nagorny/нагорный* means *mountainous*, Turkish *kara* means *black* and Persian *bagh* means *garden*. The new name «Artsakh» was introduced by referendum in 2017, and is based on the 10<sup>th</sup> province of the Kingdom of Armenia in ancient times. This change of name is an expression of self-determination.

<sup>2</sup> «Aserbajdschan geht gegen zwei Journalisten vor» (Azerbaijan takes action against two journalists), NZZ am Sonntag, 21 December, 2019

<sup>3</sup> Examples are the massacres of 1905, the so-called Armenian Genocide of 1915, the Massacre of Shushi in 1920 and the Sumgait Pogrom in 1988.

<sup>4</sup> The renowned think tank «Freedom House» grants Azerbaijan 10 of a maximum of 100 democracy points and Turkey a shameful 32 points. According to international standards, both countries thereby belong to the category «not free» – trending downward. In contrast Armenia (53) and Artsakh (34) are both transitional democracies with the designation «partly free» – trending upward.

<sup>5</sup> The example of Switzerland, whose main oil supplier is Azerbaijan, reveals the corrupting potential of economic opportunities: On its website, the Swiss Federal Department of Foreign Affairs (FDFA) praises the «Bilateral Relations Switzerland – Azerbaijan» in a sugary tone. In a mixture of naiveté and overconfidence it claims that Switzerland attaches great importance to promoting good governance (...) in Azerbaijan. As prominent example of good technical and economic cooperation SOCAR is named. This state-owned energy company has recently attracted international attention with its shameful warmongery. – The Swiss Agency for Development and Cooperation (SDC), which is part of the FDFA, helps to develop Azerbaijan with an annual contribution of several million USD. Swiss taxpayers thus support «local art and culture», «economic empowerment of women», «better public services and governance». – As an oil-producing state Azerbaijan generates enormous wealth, not least from deliveries to Switzerland. But instead of developing its own national economy, the money trickles away in the pockets of the kleptocracy and is invested in weapons with which Artsakh is currently being devastated. – As far as Artsakh is concerned, the FDFA strictly adheres to a presentation that can't irritate Azerbaijan. The «conflict» is mentioned, but presumably too risky to explain. For years, the ministry has actively discouraged travel to this region. However, until the outbreak of war on 27 September, the Republic of Artsakh was probably one of the safest places in the world. Finally, it plays down the war: «At the end of September 2020 there were renewed violent clashes, which caused several deaths and injuries.» (as of 26 October).

All in all, Switzerland is very helpful in polishing up the bad image and reputation of the corrupt and autocratic regime in Baku. For many Swiss citizens, this is an infamous attitude, because it appears as an indirect partisanship, violation of their sense of justice.

<sup>6</sup> In the Amaras monastery, for example, the priest Mesrop Mashtots developed the Armenian alphabet at the beginning of the 5<sup>th</sup> century.

<sup>7</sup> UN resolution 62/243

<sup>8</sup> This is probably the most convincing presentation of the conflict at present, including suggestions for solutions: Kambeck, *Europe's Next Avoidable War*, Palgrave Macmillan, 2013

<sup>9</sup> Section 2 f. of the response to the parliamentary interpellation 08.3010, 15 April 2008