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Escalation of violence in Nagorno-Karabakh and the other occupied territories of Azerbaijan

Report¹

Committee on Political Affairs and Democracy

Rapporteur: Mr Robert WALTER, United Kingdom, European Conservatives Group

Summary

The report condemns the escalation of violence since the summer of 2014 across the line of contact and along the international border between Armenia and Azerbaijan, including the deliberate targeting of civilian settlements. Recalling that both countries committed themselves, upon accession to the Council of Europe, to use only peaceful means for settling their conflict over the Nagorno-Karabakh region, the report warns that a further procrastination only complicates the settlement of this “un-frozen” conflict which has claimed over a hundred human lives since the beginning of 2014.

The report calls on Armenia and Azerbaijan to make use of the OSCE Minsk Process and actively submit to each other, via the Minsk Group, constructive proposals for the peaceful settlement of the conflict in accordance with international law. Noting the lack of progress over the last twenty years, it also calls upon the Minsk Group to consider reviewing its approach to the resolution of the conflict.

Finally, the report calls for a number of steps to be taken, in the framework of the OSCE Minsk Process, and proposes that the Assembly follows progress on a regular basis.

1. Reference to committee: [Doc. 13546](#) and [Doc. 13549](#), Reference 4061 of 29 September 2014.



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A. Draft resolution²

1. The Parliamentary Assembly is alarmed by and condemns the escalation of violence since the summer of 2014 across the line of contact between Nagorno-Karabakh and the other territories of Azerbaijan occupied by Armenia, and the residual territory of Azerbaijan, as well as along the international border between Armenia and Azerbaijan.

2. The Assembly strongly condemns the deliberate targeting of civilian settlements close to the line of contact and reminds the parties of their obligations under the Geneva Conventions to protect the safety and security of non-combatants. The Assembly is particularly worried by the recent upsurge of ceasefire violations and the reported use of heavy weapons, including mortars and artillery. It fears that the security situation and living conditions of residents of frontline villages have continued to worsen, to the point that refugees and internally displaced persons (IDPs) now question the commitment of the international institutions to deliver a solution.

3. The Assembly regrets that the Nagorno-Karabakh problem has been sidelined by other major international crises, and that the daily suffering of the victims of this conflict has been overshadowed by other human tragedies. The Assembly believes that further procrastination only complicates the settlement of this “un-frozen” conflict which has claimed over a hundred human lives since the beginning of 2014, and which may escalate into a real war between two Council of Europe member States. Furthermore, the Assembly notes that ever since the outbreak of armed hostilities in the early 1990s, the problem of Nagorno-Karabakh has been the major source of enmity between Armenia and Azerbaijan, and has caused instability for the entire region of the South Caucasus.

4. The Assembly recalls its [Resolution 1416 \(2005\)](#) and [Recommendation 1690 \(2005\)](#) on the conflict over the Nagorno-Karabakh region dealt with by the Minsk Conference of the Organization for Security and Co-operation in Europe (OSCE), adopted in January 2005, and regrets that, more than twenty years after the armed hostilities started, these Azerbaijani territories are still under occupation. Nearly one million people are still displaced and face an uncertain future. The Assembly regrets that considerable parts of the territory of Azerbaijan are still occupied by Armenian forces and that separatist forces are still in control of the Nagorno-Karabakh region. It notes in this respect the position of the European Court of Human Rights in its June 2015 judgment in the case of *Chiragov and Others v. Armenia* regarding the issue of jurisdiction, according to which Armenia “exercised effective control over Nagorno-Karabakh and the surrounding territories”.

5. The Assembly regrets the failure of the ad hoc Committee on the implementation of [Resolution 1416 \(2005\)](#) on the conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference, established by the Bureau of the Assembly in 2005, to make any progress, due to the absence of members of the Armenian delegation. The Assembly reiterates its call on the parliamentary delegations of Armenia and Azerbaijan to use the platform which it offers for engaging in a constructive dialogue and the establishment of mutual trust.

6. The Assembly reiterates its concern, expressed in its [Resolution 1416 \(2005\)](#), that the military action, and the widespread ethnic hostilities which preceded it, led to large-scale ethnic expulsion and the creation of mono-ethnic areas which resemble the terrible concept of ethnic cleansing. The Assembly reaffirms that independence and secession of a regional territory from a State may only be achieved through a lawful and peaceful process based on democratic support by the inhabitants of such territory and not in the wake of an armed conflict leading to ethnic expulsion and the *de facto* annexation of such territory to another State. It reiterates that the occupation of foreign territory by a member State constitutes a grave violation of that State’s obligations as a member of the Council of Europe and reaffirms the right of displaced persons from the area of conflict to return to their homes safely and with dignity.

7. The Assembly recalls Resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993) of the United Nations Security Council and urges the parties concerned to comply with them, in particular by refraining from any armed hostilities and by withdrawing military forces from any occupied territories. The Assembly also aligns itself with the demand expressed in Resolution 853 (1993) of the United Nations Security Council and thus urges all member States to refrain from supplying any weapons and munitions which might lead to an intensification of the conflict or the continued occupation of territory.

2. Draft resolution adopted by the committee on 4 November 2015.

8. The Assembly recalls that both Armenia and Azerbaijan committed themselves, upon their accession to the Council of Europe in January 2001, to use only peaceful means for settling their conflict over the Nagorno-Karabakh region. Therefore, the Assembly urges both governments to refrain from using armed force against each other as well as from propagating military action.
9. The Assembly recalls that the Council of Ministers of the Conference for Security and Co-operation in Europe (CSCE) agreed, in Helsinki in March 1992, to hold a conference in Minsk in order to provide a forum for negotiations for a peaceful settlement of the conflict. Armenia, Azerbaijan, Belarus, the former Czech and Slovak Federal Republic, France, Germany, Italy, the Russian Federation, Sweden, Turkey and the United States of America agreed at that time to participate in this conference.
10. The Assembly pays tribute to the tireless efforts of the Co-Chairs of the Minsk Group (France, Russian Federation, United States of America) and the Personal Representative of the OSCE Chairperson-in-Office, in particular for having achieved a ceasefire in May 1994. It welcomes the meetings between the Presidents of Armenia and Azerbaijan convened by the OSCE Minsk Group Co-Chairs during the summer and autumn of 2014. The Assembly again calls on Armenia and Azerbaijan to make use of the OSCE Minsk Process and actively submit to each other via the Minsk Group constructive proposals for the peaceful settlement of the conflict, in accordance with the relevant principles of international law.
11. However, in light of the lack of progress over the last twenty years, which undermines the credibility of international institutions, the Assembly calls on the Minsk Group to consider reviewing its approach to the resolution of the conflict.
12. The Assembly commends the Government of Azerbaijan for their financial and materiel support to the more than one million displaced persons and refugees, including the provision of housing, education and health facilities and other financial assistance, and welcomes their commitment to financing and facilitating a programme of resettlement of all displaced persons who wish to return to their homes in the region. The Assembly further welcomes the willingness of the Government of Azerbaijan to establish contacts with the political representatives of both communities from the Nagorno-Karabakh region regarding the resettlement of displaced persons in their place of origin.
13. The Assembly notes that the displacement of 600 000 IDPs from the region means that the status quo is not acceptable and must not be seen as a *fait accompli*, ultimately to the benefit of one party.
14. In the framework of the OSCE Minsk Process, the Assembly calls for:
 - 14.1. the immediate cessation of violence across the line of contact and the border between Armenia and Azerbaijan, including the withdrawal of all military equipment and the cessation of military activity in the vicinity of the region;
 - 14.2. the demilitarisation of the line of contact on both sides;
 - 14.3. the implementation of the first steps towards a peaceful settlement, namely: the withdrawal of Armenian armed forces and other irregular armed forces from Nagorno-Karabakh and the other occupied territories of Azerbaijan; the establishment of full sovereignty of Azerbaijan in these territories and the convening of the plenary meeting of the Minsk Group to establish an interim status for Nagorno-Karabakh guaranteeing security and internal self-governance, with an agreed corridor linking Armenia to Nagorno-Karabakh; and other confidence-building measures, including an access corridor to Nakhchivan;
 - 14.4. the Russian Federation to recognise the internationally agreed arms embargo on both parties in the conflict and to ensure that any weapons supplied to Armenia do not end up in the hands of the separatist forces in Nagorno-Karabakh;
 - 14.5. the establishment by the OSCE of an international peacekeeping force to maintain security within Nagorno-Karabakh and the other occupied territories and to ensure the safe return and resettlement of displaced persons, as well as of a mechanism to investigate ceasefire violations;
 - 14.6. Armenia to fully co-operate in the exchange of data on missing persons from the conflict under the aegis of the International Committee of the Red Cross (ICRC), thus implementing a proposal launched by French President François Hollande.
15. The Assembly calls on all parties directly involved in the illegal conviction of Dilgam Asgarov and Shahbaz Guliyev by unrecognised “courts” in Nagorno-Karabakh and their continuing imprisonment there, to ensure their immediate release by the occupying power, Armenia.

16. The Assembly reiterates its call on the Secretary General of the Council of Europe to draw up an action plan, in conformity with the principles of the Minsk Group, for specific support to Armenia and Azerbaijan targeted at mutual reconciliation processes and to take the present resolution into account in deciding on action concerning Armenia and Azerbaijan.

17. The Assembly strongly condemns the lack of co-operation by the Armenian delegation to the Parliamentary Assembly and the Government of Armenia in the preparation of the report on this issue. It considers that such behaviour is in breach of Armenia's commitments as a member of the Council of Europe and resolves to consider what measures can be taken in this instance and to ensure that its rapporteurs are not hindered in the future in the pursuit of their mandates.

18. The Assembly resolves to continue to follow on a regular basis progress towards the peaceful resolution of this conflict in the framework of the OSCE Minsk Process, the cessation of violence in the region and the restoration of the territorial integrity of Azerbaijan.

B. Explanatory memorandum by Mr Walter, rapporteur

1. Introduction and scope of the report

1. In June 2014, two motions for a resolution concerning the Nagorno-Karabakh conflict were tabled by members of the Parliamentary Assembly: a motion on the armed occupation of Azerbaijani territories by Armenia (Doc. 13546), tabled by Mr Elkhan Suleymanov and others on 24 June, and a motion on the Nagorno-Karabakh conflict (Doc. 13549), tabled by Ms Theodora Bakoyannis, Chairperson of the Committee on Political Affairs and Democracy, and others on 25 June.

2. In September 2014, the Assembly referred the two motions to the Committee on Political Affairs and Democracy to be dealt with jointly in a single report under a title to be decided by the committee. Taking into account also recent developments on the ground, the Bureau of the Assembly had “recommended” the following title for the joint report: “Escalation of violence in Nagorno-Karabakh and the other occupied territories of Azerbaijan”.³

3. During the Autumn 2014 part-session of the Assembly, the Committee on Political Affairs and Democracy, following proposals by its Chairperson and members, took three votes in this respect: it decided to pursue the preparation of a report on the two motions referred to it, rejecting a proposal not to give any follow-up; approved the title recommended by the Bureau for the joint report on the two motions; and, lastly, appointed me as rapporteur.

4. Following my appointment as rapporteur, I immediately presented to the committee my plan for the preparation of the report. In particular, my intention was to pay four fact-finding visits to hold meetings in Armenia, Azerbaijan, the Nagorno-Karabakh region, as well as with Azerbaijani Internally Displaced Persons (IDPs) from Nagorno-Karabakh. I also made it clear that my purpose was neither to substitute myself to the role of the Minsk Group,⁴ the only mediation format recognised by both sides concerned, nor to try to propose a solution to this long-standing conflict. This was not the role of the Parliamentary Assembly or the Council of Europe in general.

5. The purpose of the report was simply to inform my colleagues in the Assembly of the actual situation on the ground, in particular as violence along the line of contact was escalating as of summer 2014, and the views of all sides concerned, including those of the *de facto* authorities of Nagorno-Karabakh and civil society representatives there. Indeed, as stated in the motion tabled by Ms Bakoyannis and others, 13 years after the accession of Armenia and Azerbaijan to the Council of Europe under the common commitment “to use only peaceful means for settling the conflict, by refraining from any threat of using force against their neighbours” and nine years after the adoption of Assembly Resolution 1416 (2005) on the conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference, and in the light of recent geopolitical conditions in the region and growing tensions along the line of contact, the time seemed ripe for raising public awareness about the ongoing conflict and sharing updated information obtained by all sides concerned. As a result of my work, I have drawn some conclusions and these are contained in the draft resolution.

6. As regards the title of the report, I explained upon my appointment – and have since reiterated many times – that this was the outcome of a decision taken by the committee on the recommendation of the Bureau, and not my own proposal. In both the Bureau and the committee, the Chairperson of the Armenian delegation presented her objections to the title, and to the report itself, but both meetings approved the current title. I have said on a number of occasions that I would be ready to propose to the committee changes to the title of

3. A third motion, tabled earlier by Mr Suleymanov, calling for sanctions against Armenia because of its continued occupation of Azerbaijani territories, was referred to the Monitoring Committee to be taken into account in the context of the report on the honouring of obligations and commitments by Armenia. On 5 February 2015, Mr Elkhan Suleymanov and other members of the Assembly tabled a motion for a resolution on “Ensuring the right of Dilgam Asgarov and Shahbaz Guliyev to a fair trial” (Doc. 13709) which the Bureau of the Assembly referred to the Committee on Political Affairs and Democracy to be taken into account in the context of this report.

4. For the convenience of the reader, I quote from the website of the Organization for Security and Co-operation in Europe (OSCE): “At its meeting in Helsinki in 1992, the then-CSCE Council requested the Chairman-in-Office to convene as soon as possible a conference on the Nagorno-Karabakh conflict involving Armenia and Azerbaijan. This event was to take place in Minsk and provide a forum for negotiations towards a peaceful settlement. In 1994, the OSCE Budapest Summit established the so-called Minsk Group, which continues to work for the creation of conditions in which such a conference can take place. The Co-Chairs of the Minsk Group are Ambassadors Igor Popov of the Russian Federation; Pierre Andrieu of France; and James Warlick of the United States of America. The Group’s permanent members are Belarus, Germany, Italy, Sweden, Finland, and Turkey, as well as Armenia and Azerbaijan. On a rotating basis, also the OSCE Troika is a permanent member.” www.osce.org/mg/108306.

the report on the basis of arguments I received from the sides concerned in the course of the preparation of the report and in particular during the meetings I had hoped to have with the Armenian authorities, as it was the Armenian side which objected to the title.

2. Background

2.1. Summary of previous Parliamentary Assembly work on the conflict

7. When acceding to the Council of Europe, both Armenia and Azerbaijan undertook the commitment “to continue efforts to settle the [Nagorno-Karabakh] conflict by peaceful means” and “to settle international and domestic disputes by peaceful means and according to the principles of international law (an obligation incumbent on all Council of Europe member States), resolutely rejecting any threat of use of force against [their] neighbours”.⁵

8. It is worth noting that the Assembly gave its green light for accession simultaneously to the two States precisely in the light of the ongoing conflict between them and considering that, whereas the OSCE Minsk Group was the optimum framework for negotiating a peaceful settlement to this conflict, accession would contribute to the negotiation process and to stability in the region. In the accession opinions, the Assembly had also positively considered the decision taken by the Speakers of the Parliaments of Armenia, Azerbaijan and Georgia to introduce regional parliamentary co-operation and welcomed the atmosphere of trust and détente between the parliamentary delegations of Armenia and Azerbaijan established in the first such regional meeting held in Tbilisi in September 1999.

9. In addition, Armenia also committed itself to using its considerable influence over the Armenians in Nagorno-Karabakh to foster a solution to the conflict.

10. Reports on the honouring of obligations and commitments of Armenia and Azerbaijan which have been debated in the Assembly since the accession of the two States in January 2001 have referred to the conflict but not dealt with it in depth.

11. For its part, the Committee on Political Affairs and Democracy approved a report in November 2004 on “The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference”, prepared by Mr Terry Davis (United Kingdom, SOC) and, following his election to the post of Secretary General of the Council of Europe, finalised by the late Mr David Atkinson (United Kingdom, EDG (now EC) Group). Following a debate on this report, the Assembly adopted, in January 2005, [Resolution 1416 \(2005\)](#) and [Recommendation 1690 \(2005\)](#) which so far constitute the only Assembly texts dealing exclusively with the Nagorno-Karabakh conflict.

12. I refer to the 2004 report presented by Mr Atkinson ([Doc. 10364](#)) as regards the historical background to the conflict, the role of the OSCE Minsk Group and the United Nations Security Council [Resolutions 822 \(1993\)](#), [853 \(1993\)](#), [874 \(1993\)](#) and [884 \(1993\)](#), passed in the aftermath of the conflict, in 1993. I also refer to this report as regards the essential conditions for a sustainable settlement and the possible action by the Council of Europe and its member States. All these elements remain unchanged, including, to my regret, the lack of implementation of the Security Council resolutions.

13. More significantly, I wish to recall and reaffirm the position the Assembly took in its [Resolution 1416 \(2005\)](#) whereby, *inter alia*, it: regretted the failure to resolve the conflict over the Nagorno-Karabakh region which had led to the displacement of hundreds of thousands of people and the fact that “considerable parts of the territory of Azerbaijan are still occupied by Armenian forces”, whereas “separatist forces are still in control of the Nagorno-Karabakh region”; reaffirmed that “independence and secession of a regional territory from a State may only be achieved through a lawful and peaceful process based on the democratic support of the inhabitants of such territory and not in the wake of an armed conflict leading to ethnic expulsion and the de facto annexation of such territory to another State”; reiterated that “the occupation of a foreign territory by a member State constitutes a grave violation of that State’s obligations as a member of the Council of Europe” and reaffirmed “the right of displaced persons from the area of conflict to return to their homes safely and with dignity”. I reaffirm all the demands the Assembly addressed ten years ago both to Armenia and to Azerbaijan, as well as to the OSCE Minsk Group Co-Chairs, as they are all valid still today.

5. See Opinions [221 \(2000\)](#) and [222 \(2000\)](#) respectively on Armenia’s and Azerbaijan’s application for membership of the Council of Europe.

14. In 2007, the Assembly, meeting at Standing Committee level, adopted [Resolution 1553 \(2007\)](#) and [Recommendation 1797 \(2007\)](#) on missing persons in Armenia, Azerbaijan and Georgia from the conflict over the Nagorno-Karabakh, Abkhazia and South Ossetia regions. I refer to these texts and the report ([Doc. 11196](#)) prepared by Mr Leo Platvoet (Netherlands, UEL), as far as the specific humanitarian aspects of the conflict over Nagorno-Karabakh are concerned and as a background to my own discussions on the issue of IDPs with interlocutors in Azerbaijan.

15. Last but not least, let me recall that, in order to ensure the implementation of [Resolution 1416 \(2005\)](#), the Bureau of the Assembly had set up an ad hoc committee which, under the chairmanship of the late Lord Russell Johnston, held five meetings between 2005 and 2007. Background information on the work of the ad hoc committee is to be found in the report⁶ presented to the Bureau in January 2012 by Mr Jordi Xuclà, the last Chairperson of this ad hoc committee.

16. To sum up, it is worth noting that, in the absence of co-operation by the Armenian delegation, as of the beginning of 2008, the ad hoc committee failed to achieve any tangible results. It was not reconstituted in January 2012. Also, any attempts to discuss the conflict as part of a Sub-Committee on conflict prevention and resolution of the Committee on Political Affairs and Democracy failed, for the same reasons. A report has been prepared on "Inhabitants of frontier regions of Azerbaijan are deliberately deprived of water"⁷ by Ms Milica Marković (Bosnia and Herzegovina, SOC) for the Committee on Social Affairs, Health and Sustainable Development. Ms Marković paid two fact-finding visits to Azerbaijan but failed to visit Armenia and the Nagorno-Karabakh region.

17. Indeed, recent developments, including the escalation of violence along the line of contact, but also the lack of co-operation by the Armenian side in the preparation of my report (although ten years ago the Chairperson of the Armenian delegation had facilitated the rapporteur's visits to both Armenia and the Nagorno-Karabakh region), regrettably testify to the absence of any progress towards the peaceful settlement of the conflict, but also to a decrease of trust between the two sides. Hence, the need to reiterate urgently to the two sides that they should comply with their accession commitment, undertaken 15 years ago, to settle the Nagorno-Karabakh conflict by peaceful means and refrain from any use, or threat of use, of force.

2.2. Steps undertaken to prepare the report

18. Despite my initial statement, both the principle of the report and its title, as well as my own appointment as rapporteur, were harshly criticised by the Armenian delegation to the Assembly and, at the same meeting when I was appointed, its Chairperson, Ms Hermine Naghdalyan, declared that Armenia would not co-operate with the preparation of my report as only the Minsk Group could legitimately deal with the Nagorno-Karabakh conflict and its settlement.

19. To put my words into deeds and ensure that my mandate should not be seen as an attempt to interfere with the work of the Minsk Group, only a few weeks after my appointment as rapporteur and upon my initiative, on 10 November 2014, I met in Vienna the Personal Representative of the Chairperson-in-Office on the conflict dealt with by the OSCE Minsk Conference, Ambassador Andrzej Kasprzyk. Subsequent to this meeting and upon my request, the President of the Parliamentary Assembly wrote to the then Chairperson-in-Office of the OSCE, Mr Didier Burkhalter, President of the Swiss Confederation, to seek his agreement, in addition to that of the Chairpersons of the Armenian and Azerbaijani delegations to the Assembly, with a view to organising a visit to the Nagorno-Karabakh region with the assistance of Ambassador Kasprzyk.

20. During the December 2014 meeting of the Committee on Political Affairs and Democracy, I informed my colleagues about the meeting I had had with Ambassador Kasprzyk and the letter sent by the President of the Assembly and reiterated my intention to hold meetings with all sides concerned as announced right after my appointment as rapporteur. For this purpose and in order to fix the dates and modalities of my visits, I started bilateral talks with the Chairpersons of the Armenian and Azerbaijani delegations. Although my initial intention was to start by visiting Armenia in March 2015, Ms Naghdalyan told me that it would not be possible to organise my visit to Armenia before May 2015. I therefore decided to organise in the meantime a fact-finding visit to Azerbaijan.

21. Taking into account my discussions with the Chairpersons of the Armenian and Azerbaijani delegations, an official letter was sent to them by the Secretary General of the Assembly, Mr Wojciech Sawicki, on 6 February 2015, proposing dates in March for my visit to Azerbaijan and in May for my visit to Armenia. In his letters, Mr Sawicki confirmed to both parties my intention to visit also the Nagorno-Karabakh region.

6. [Doc. 12830](#) Part 2, Progress report, see Appendix 3: AS/Bur/Ad Hoc NK (2011) 01.

7. [Doc. 13931](#).

22. A positive reply was soon received from the Chairperson of the Azerbaijani delegation, Mr Samad Seyidov, and I paid my first fact-finding visit to Baku from 11 to 13 March 2015. To respect impartiality and ensure the objectivity of my report, I refrained from any statements to the press during my visit to Baku. Pending my fact-finding visit to Armenia, I also refrained from informing the members of the committee of the content of my meetings in Baku and I did not even circulate the programme of my visit. My intention was to report to the committee on both visits to Azerbaijan and Armenia after my May visit to Yerevan.

23. In the absence of a reply from the Chairperson of the Armenian delegation, a new letter was sent on 30 March 2015 proposing concrete dates for my visit to Yerevan from 11 to 14 May 2015, dates informally agreed with Ms Naghdalyan. The letter remained without reply until June 2015.

24. On 19 June 2015, Ms Naghdalyan wrote to Mr Sawicki expressing her readiness to receive me in Armenia as her Parliamentary Assembly colleague and facilitate the organisation of some meetings in parliament as well as with refugees and relevant civil society groups, despite her delegation's strong reservation and opposition expressed during the October 2014 part-session of the Assembly on bringing the Nagorno-Karabakh settlement issue to the Assembly's agenda. As regards my intention to visit the Nagorno-Karabakh region, Ms Naghdalyan seemed to agree that a visit there was indispensable to anyone genuinely interested to learn about the situation on the ground and expressed her hope that I was planning to carry out my visit "in close co-operation with the Nagorno-Karabakh authorities".

25. I replied personally to the letter of Ms Naghdalyan a couple of days later, on 22 June, thanking her and expressing my readiness to discuss concrete dates and modalities for my visit to Armenia. As regards my intention to visit Nagorno-Karabakh, I asked her assistance in the organisation of such a visit in accordance with established practice within the Assembly as, in view of the conflict and for security reasons, rapporteurs' visits to the Nagorno-Karabakh region had always been organised with the assistance of the Chairperson of the Armenian delegation to the Assembly.

26. As I had not heard from Ms Naghdalyan regarding possible dates for my visit to Armenia and/or Nagorno-Karabakh during the summer months, I wrote again to her on 27 August proposing to organise such visits in the course of September. In addition, and as my report is primarily focusing on the alleged violence on the line of contact, I expressed my readiness, when visiting the Nagorno-Karabakh region, to visit the line of contact or approach it as far as security conditions would allow. I also addressed on the same day a letter to the Chairperson of the Azerbaijani delegation, Mr Seyidov, proposing to visit the line of contact from the territory of Azerbaijan.

27. At the meeting of the committee on 1 September 2015 in Paris, I informed colleagues of my intention to visit the line of contact, and asked both the Armenian and the Azerbaijani delegations to facilitate such a visit. Although the Armenian representatives were not present in the meeting room at the moment of my statement, I had an exchange with Ms Naghdalyan earlier that day and I informed her about my intention as also expressed in my letter of 27 August. She promised that I would receive an official answer to my earlier requests in the coming days.

28. On 7 September, Mr Seyidov replied to my request and expressed the readiness of the Azerbaijani authorities to receive me in Baku and to facilitate a visit to the line of contact on 15 and 16 September 2015.

29. On 10 September, I received a letter from Ms Naghdalyan in which she confirmed her readiness to receive me in Armenia, but not during the month of September. Instead she proposed that I might visit Yerevan in late November. She also advised me that to visit Nagorno-Karabakh and the other occupied territories I would have to secure an invitation from the representative of the so-called "Nagorno-Karabakh Republic (NKR)" in Yerevan. It was claimed that this was not a convenient time to visit. I was therefore somewhat surprised to read that in September the Armenian Parliament had received a delegation from the French National Assembly and organised high-level meetings in Yerevan and taken the group to the line of contact in Nagorno-Karabakh on a very similar programme to the one I had been requesting since early 2015.

30. Moreover, on 22 September, and despite Assembly practice to the contrary, I did address the *de facto* administration of Nagorno-Karabakh with a request to visit Stepanakert, possibly in October 2015, through their representative in Yerevan. The reply I received on 2 October 2015 criticises once more the title of the report and considers that this was an obstacle to the co-operation with the *de facto* authorities of Nagorno-Karabakh. The content of the reply leaves no doubt that, contrary to what Ms Naghdalyan was saying at the committee meeting in October 2015, writing to the *de facto* administration changed nothing regarding their position and did not help at all in the preparation of the report. I have appended the above-mentioned letter of 2 October 2015 to the report for the convenience of the readers.

31. I sent yet another letter to the Chairpersons of the delegations of Armenia and Azerbaijan on 5 October 2015 asking them for information, by 19 October 2015, on the timeline of the escalation of violence during the last fifteen months. This would have allowed me to have at least some information in writing from the Armenian side. I received a reply from the Chairperson of the Azerbaijani delegation on 8 October 2015, including the requested information. I received a reply from the Chairperson of the Armenian delegation on 27 October 2015 which, however, contains no information on my specific request.

3. Recent developments (May 2014 until mid-October 2015)

32. As I explained above, it is neither the purpose of this report nor the role of the Assembly to offer a solution to the long-standing conflict over Nagorno-Karabakh. As my purpose is to inform my colleagues of recent developments on the ground, while respecting the work of the OSCE Minsk Group, I have tried in this section to summarise developments as of summer 2014, when the two motions forming the basis of my report were tabled.

33. The motions refer to the conflict as such and the need to make progress towards a peaceful settlement, whereas the title of the report, as proposed by the Bureau and approved by the committee, refers to the recent escalation of violence. Below I have therefore tried to summarise developments with respect to these two issues, obviously closely interrelated. For this section, I have relied on the public statements issued by the Co-Chairs of the OSCE Minsk Group (Ambassadors Igor Popov of the Russian Federation, James Warlick of the United States of America and Pierre Andrieu of France). Unfortunately, the regular monitoring reports issued by the Personal Representative of the Chairperson-in-Office, Ambassador Kasprzyk, which offer more detailed information, are not public although they are available to the governments of OSCE participating States. I have also referred to a judgment by the European Court of Human Rights of relevance to the subject-matter of my report.

34. To start with, on 12 May 2014, on the occasion of the 20th anniversary of the ceasefire agreement, the Co-Chairs of the OSCE Minsk Group issued a statement which recalls the beginning of the negotiation process towards a peaceful settlement and summarises the state of progress by mid-2014. I quote the entire statement as this can offer a good basis for my colleagues to understand what is currently at stake and in particular the core principles on which a peaceful settlement should be based and the elements that this should include:

“On the twentieth anniversary of the 1994 ceasefire agreement, the OSCE Minsk Group Co-Chairs invite the people of the region to reflect upon the legacy of the past two decades.

That agreement brought an end to outright war, halted the tragic violence of previous years, and laid the groundwork for negotiations that offered the sides a path to peace. Thanks to the resulting truce a new generation of Armenians and Azerbaijanis grew up without experiencing the horrors of war. The sides should do everything possible to protect future generations from such experience.

The ceasefire agreement did not, however, resolve the underlying conflict. It left the territories surrounding Nagorno-Karabakh occupied and failed to provide a path forward on status for Nagorno-Karabakh. The absence of a final settlement has resulted in the ongoing displacement of hundreds of thousands of people, the perpetual threat of escalating violence along the international border and the Line of Contact, and a misconception in some quarters that the status quo can be sustained indefinitely.

The sides have shown little willingness to take advantage of the opportunities presented by the Co-Chairs countries or make the political decisions necessary for progress in this peace process.

We share a common position on this conflict, and remain firmly committed to helping the sides reach a peaceful settlement as soon as possible based on the core principles of the UN Charter and the Helsinki Final Act, particularly those pertaining to the non-use of force, territorial integrity, and equal rights and self-determination of peoples. A settlement will have to include the elements outlined by the Presidents of the co-chair countries in statements from 2009 to 2013, which include the return of the territories surrounding Nagorno-Karabakh, interim status for Nagorno-Karabakh guaranteeing security and self-governance, a corridor linking Armenia to Nagorno-Karabakh, final status of Nagorno-Karabakh to be determined in the future by a legally-binding expression of will, the right of all internally-displaced persons and refugees to return, and international security guarantees, including a peacekeeping operation. In November we saw a promising renewal of dialogue at the highest levels. We call on the sides to enter into constructive, good-faith negotiations resulting in a peace agreement based on these elements in order to bring about a lasting settlement to the conflict.

Such a settlement will not be possible without a basis of trust and understanding between the Armenian and Azerbaijani people. We call on the sides to commit to active people to people programs and security confidence building measures to reinforce the peace process.

Armenians and Azerbaijanis deserve to live in peace and security, and we stand ready to help. The sides must take the necessary steps towards peace. When they do, it will be with the full support of the OSCE and the international community.”⁸

35. Only a couple of days after the issuing of this statement, on 19 May 2014, after crossing the line of contact near Terter, the three Co-Chairs expressed regret about the continued ceasefire violations and consequent casualties. They noted that the absence of a mechanism for investigating ceasefire violations allowed the sides to put the blame on each other.⁹

36. The end of July and beginning of August 2014 were marked by a sharp deterioration and escalation of violence along the line of contact and the border between Armenia and Azerbaijan. Both sides reported numerous incursions, casualties and targeting of the civilian population, accusing each other of violating the ceasefire agreement. The number of reported losses and incursions, as well as the weaponry used and the targeting of villages signified an unprecedented level of tension since the ceasefire agreement came into force. In a statement issued on 2 August, the OSCE Chairperson-in-Office and the Co-Chairs expressed serious concern at the deliberate targeting of civilians and shooting at representatives of international organisations in violation of obligations by the two sides under the Geneva Convention; a clearly marked International Committee of the Red Cross (ICRC) vehicle came under fire while assisting the local population on the Armenian-Azerbaijani border on a humanitarian mission. They appealed to the Presidents of Armenia and Azerbaijan to take immediate action to defuse tensions and respect the ceasefire agreement.¹⁰

37. On 10 August 2014, Russian President Vladimir Putin hosted a tripartite meeting in Sochi with the Presidents of Armenia and Azerbaijan, which seemed to have had a stabilising effect. The Sochi meeting was organised by the Russian President and co-chair of the Minsk Group, who did not invite the other Co-Chairs. In response, a meeting was organised by the US Secretary of State John Kerry in Newport, Wales, in the margins of the NATO Summit in September 2014.

38. On 27 October 2014, French President François Hollande hosted a summit of the Presidents of Armenia and Azerbaijan, with the participation of the Co-Chairs and the Personal Representative of the Chairperson-in-Office of the OSCE. During the Paris summit, the two Presidents had a long tête-à-tête. However, because of sharp divergences on the issue of the “final status”, there was no agreement on a joint statement. Therefore, the French President issued a statement on his own including elements approved by the two sides. Amongst them, it is worth noting the fact that the Presidents of Armenia and Azerbaijan agreed to exchange information about missing servicemen under the auspices of the ICRC, a work currently ongoing. Also, noting that the status quo was unacceptable, the French President proposed in his statement the launch of the drafting of a “comprehensive peace agreement”.

39. These three presidential meetings, following the spike of violence at the end of July and beginning of August, had the effect of revitalising the most important channel of communication between the two sides.

40. Regrettably, the situation deteriorated again after the downing of an Armenian military helicopter on 12 November 2014 along the line of contact during a large military exercise conducted by Armenia in Agdam, one of the occupied Azerbaijani territories surrounding Nagorno-Karabakh. According to a joint statement issued by the Heads of Delegation of the OSCE Minsk Group Co-Chair Countries at the OSCE Ministerial Conference in Basel, on 4 December 2014, “[t]he November 12 downing of a military helicopter along the Line of Contact was an avoidable tragedy that underscored the importance of measures by the sides to reduce tensions, restore trust, and avoid future incidents”.

41. On 29 December 2014, a “court of first instance” in Nagorno-Karabakh passed sentence on two Azerbaijanis who had been held in detention in Nagorno-Karabakh since their arrest in July. The court sentenced Dilgam Asgarov to life imprisonment and Shahbaz Guliyev to 22 years in prison. They were on trial for “illegally crossing into Nagorno-Karabakh, for espionage, and for kidnapping and murder”. According to the Azerbaijani authorities, D. Asgarov and S. Guliyev were taken hostage by Armenian forces while visiting their native region, the occupied Kalbajar province of Azerbaijan. Another Azerbaijani citizen, Hasan Hasanov, was

8. [Statement by the Co-Chairs of the OSCE Minsk Group](#) on the Twentieth Anniversary of the ceasefire agreement Moscow, Paris, Washington, 12 May 2014.

9. Press Release by the Co-Chairs of the OSCE Minsk Group, Baku, 19 May, 2014.

10. OSCE Chairperson-in-Office, Minsk Group Co-Chairs deeply concerned about developments at Line of Contact, call for immediate action to defuse tensions, Bern/Moscow/Paris/Washington, 2 August 2014.

shot dead and his body was later handed over to the Azerbaijani authorities for burial. The authorities of Azerbaijan contested the verdict as not lawful as “this so-called court case ... has no legal basis” and stated that to ensure the release of Asgarov and Guliyev they would “maintain contact with the Minsk Group Co-Chairs and international organisations”. The verdict was upheld on 10 March 2015 by the “Court of Appeal” and on 27 May 2015 by the “Supreme Court” in Nagorno-Karabakh. An application has been filed by the wives of Asgarov and Guliyev with the European Court of Human Rights concerning alleged violations of the rights of their husbands.

42. On 5 February 2015, Mr Elkhan Suleymanov and other members of the Assembly tabled a motion for a resolution on “Ensuring the right of Dilgam Asgarov and Shahbaz Guliyev to a fair trial” (Doc. 13709) which the Bureau of the Assembly referred to the Committee on Political Affairs and Democracy to be taken into account in the context of this report. In this motion, the signatories noted that “the ‘court’ that pronounced the two sentences neither had the legal recognition from a judicial authority of any State, as it was established by an unrecognized separatist political entity, nor does it adhere to the fundamental principles that govern the proceedings of a court of law, as it lacks the oversight and guiding rules emanating from international treaties that guarantee either human rights or the rule of law, because that unrecognized separatist political entity is not a signatory to them”. The signatories asked the Parliamentary Assembly to “call on all parties directly involved in the illegal detention and prosecution of both D. Asgarov and S. Guliyev, as well as any national or international organisations that may contribute to the successful resolution of this situation, to act with determination in order to ensure the respect of the basic human and legal rights of the detained men, and urges them to guarantee, for these two individuals, in a reasonable time frame, a fair and impartial trial by an independent and legally established tribunal, in accordance with the provisions of Article 6 of the European Convention on Human Rights (ETS No. 5)”.

43. After 2014, in which approximately 60 people lost their lives, the disturbing violent trend continued in the following year. In the month of January 2015 alone, 12 casualties and 18 wounded were reported by the parties.¹¹

44. The following months until the end of July 2015 were marked by a period of relative stability along the line of contact and Armenia-Azerbaijan border, which coincided with major international events in both countries.¹²

45. On 3 May 2015, “parliamentary elections” were held in Nagorno-Karabakh. In a statement issued a few days earlier, the Co-Chairs noted that “[in] the context of a comprehensive settlement of the conflict, [they] recognize[d] the role of the people of Nagorno-Karabakh in deciding their future”. They concluded as follows: “However, none of our three countries, nor any other country, recognizes Nagorno-Karabakh as an independent and sovereign state. Accordingly, we do not accept the results of these ‘elections’ as affecting the legal status of Nagorno-Karabakh, and stress that they in no way prejudge the final status of Nagorno-Karabakh or the outcome of the on-going negotiations to bring a lasting and peaceful settlement to the Nagorno-Karabakh conflict.”¹³

46. On 5 May 2015, a Nagorno-Karabakh serviceman, Arsen Baghdasaryan, charged with sabotage and in detention in Azerbaijan since 26 December 2014, was sentenced to 15 years in a maximum security prison. On 15 July, an Azerbaijani court upheld the verdict against Baghdasaryan in a closed hearing. The serviceman was captured by Azerbaijani forces during what the Azerbaijani Minister of Defence reported as an incursion attempt by Armenian forces at the line of contact near Agdam. For its part, the press service of the so-called “Minister of Defence” of Nagorno-Karabakh reported that the captured serviceman was “a contract military serviceman ... [who] deserted the place of his deployment, for which he was temporarily expelled from service”.

47. On 16 June 2015 the European Court of Human Rights (“the Court”) delivered a Grand Chamber judgment in the case of *Chiragov and Others v. Armenia*.¹⁴ The case concerned the complaints by six Azerbaijani refugees who were unable to return to their homes and property in the district of Lachin, in occupied Azerbaijan, from where they had been forced to flee in 1992 during the Armenian-Azerbaijani conflict over Nagorno-Karabakh.¹⁵

11. See the statement by OSCE Chairperson-in-Office and Co-Chairs of the OSCE Minsk Group on latest developments in the Nagorno-Karabakh peace process, Munich, 7 February 2015.

12. See Press Release by the Co-Chairs of the OSCE Minsk Group, Baku, 23 July 2015.

13. Press Release by the Minsk Group Co-Chairs, Paris, 30 April 2015.

14. Application No. 13216/05; [Court judgment and press release](#) of 16 June 2015.

15. There are currently more than 1 000 individual applications pending before the Court which were lodged by persons displaced during the conflict over Nagorno-Karabakh.

48. In the applicants' case and before judging on the merits, the Court confirmed that Armenia exercised effective control over Nagorno-Karabakh and the surrounding territories and thus had jurisdiction over the district of Lachin. The Court noted in particular that numerous reports and public statements, including from members and former members of the Armenian Government, demonstrated that Armenia, through its military presence and by providing military equipment and expertise, had been significantly involved in the Nagorno-Karabakh conflict from an early date. Armenia's military support continued to be decisive for the control over the territories in question. Furthermore, it was evident from the facts established in the case that Armenia gave the "NKR" substantial political and financial support; its citizens were moreover required to acquire Armenian passports to travel abroad, as the "NKR" was not recognised by any State or international organisation. In conclusion, Armenia and the "NKR" were highly integrated in virtually all important matters and the "NKR" and its administration survived by virtue of the military, political, financial and other support given to it by Armenia. Armenia thus exercised effective control over Nagorno-Karabakh and the surrounding territories.

49. On the merits, the Court considered that there was no justification for denying the applicants access to their property without providing them with compensation. The fact that peace negotiations were ongoing did not free the government from their duty to take other measures. What was called for was a property claims mechanism which would be easily accessible to allow the applicants and others in their situation to have their property rights restored and to obtain compensation. The Court thus held, by a majority, that there had been: a continuing violation of Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights (ETS No. 5); a continuing violation of Article 8 (right to respect for private and family life); and a continuing violation of Article 13 (right to an effective remedy).^{16 17}

50. Both the Armenian and Azerbaijani authorities reacted to the judgment of the European Court of Human Rights in the Chiragov case. For Azerbaijan, the verdict "recognised continuing violations by Armenia of a number of rights [of the plaintiffs]," and that "the Republic of Armenia bears full international responsibility for the breaches of international law that have occurred and continue to occur". The Court's ruling that "Armenia exercises effective control over the Nagorno-Karabakh and surrounding territories" was also highlighted. For the Armenian authorities, "this is an individual court case which cannot have implication on the Nagorno-Karabakh conflict settlement process. The co-chairmanship of the Minsk Group is the only internationally mandated format dealing with the resolution of the issue", and "issues related to the right of the refugees and displaced persons to return are integral part of the negotiation process".¹⁸

51. Following an increase of ceasefire violations already in July 2015, the month of September was marked, according to the OSCE Minsk Group, by an unacceptable escalation in the conflict as Armenian and Azerbaijani forces used mortars and heavy weapons in and around civilian areas causing an increase of casualties among civilians on both sides of the line of contact and the international border. Following a meeting of the Foreign Ministers of the two countries in New York, in a statement issued on 26 September 2015, the Co-Chairs called for the Presidents of Armenia and Azerbaijan to accept an OSCE mechanism to

16. Judge Motoc expressed a concurring opinion. Judge Ziemele expressed a partly concurring, partly dissenting opinion. Judge Hajiyev expressed a partly dissenting opinion. Judges Gyulumyan and Pinto de Albuquerque each expressed a dissenting opinion. These separate opinions are annexed to the judgment.

17. The Grand Chamber of the European Court of Human rights delivered on 16 June 2015 a second judgment related to the Nagorno-Karabakh conflict, although of less relevance to the present report, in the case of *Sargsyan v. Azerbaijan* (Application No. 40167/06; [Press Release](#) of 16 June 2015). The case concerned an Armenian refugee's complaint that, after having been forced to flee from his home in Gulistan in the Shahumyan region of Azerbaijan in 1992 during the Armenian-Azerbaijani conflict over Nagorno-Karabakh, he had since been denied the right to return to his village and to have access to and use his property there. It was the first case in which the Court had to decide on a complaint against a State which had lost control over part of its territory as a result of war and occupation, but which at the same time was alleged to be responsible for refusing a displaced person access to property in an area remaining under its control. In Mr Sargsyan's case, the Court confirmed that, although the village from which he had to flee was located in a disputed area, Azerbaijan had jurisdiction over it. The Court noted in particular that, in contrast to other cases in which it had found that a State had only limited responsibility over part of its territory due to occupation by another State or the control by a separatist regime, it had not been established that Gulistan was occupied by the armed forces of another State. The Court considered that while it was justified by safety considerations to refuse civilians access to the village, the State had a duty to take alternative measures in order to secure Mr Sargsyan's rights as long as access to the property was not possible. The fact that peace negotiations were ongoing did not free the government from their duty to take other measures. What was called for was a property claims mechanism which would be easily accessible to allow Mr Sargsyan and others in his situation to have their property rights restored and to obtain compensation.

18. The statement by the Minister for Foreign Affairs of Azerbaijan was distributed by the Azerbaijani delegation to the OSCE under reference PC.DEL/814/15 and the Armenian Foreign Minister's comment to the press was distributed by the Armenian delegation to the OSCE under reference SEC.DEL/334/15.

investigate ceasefire violations as “[without] such a mechanism, the sides will continue to blame each other for initiating deadly attacks on the Line of Contact and Armenia-Azerbaijan border”. Noting that Armenia had agreed to discuss the details of the mechanism, the Co-Chairs urged Azerbaijan to do the same.¹⁹

52. A meeting between the two Presidents is foreseen before the end of the year; however the time and place have not yet been agreed.

4. Fact-finding visits

53. In view of the facts I described under section 2.2 of my report and to my great regret, I have not been able to visit either Armenia or Nagorno-Karabakh. I therefore can only limit myself to reporting on my two fact-finding visits to Azerbaijan, hoping that my account of these visits can be helpful for the information of my colleagues in the Assembly. I am also able to rely on information provided above by the OSCE Minsk Group Co-Chairs and the Personal Representative of the Chairperson in Office of the OSCE. On the basis of the programme of my two visits, what follows is a summary of the discussions I held with my various interlocutors.

4.1. First fact-finding visit to Azerbaijan (Baku, 11-13 March 2015)

54. My first meeting in Baku was with Ambassadors from Council of Europe member and observer States as well as representatives of international organisations present in the country.

55. They all welcomed the fact that I started my mandate by meeting Ambassador Kasprzyk. That said, some of them questioned the efficiency of the group with respect to the results it had so far achieved. Referring to the Madrid Principles on the settlement of the conflict, many of them agreed that what was really at stake was how to reconcile the territorial integrity principle with that of self-determination. For some, there was a critical gap between, on the one hand, the urgency of the situation on the ground (which was underestimated in capitals) and, on the other, the slow pace of the mediation process.

56. Eventually, all the Ambassadors seemed to agree with the point I made that, after all, the Minsk Group was a mediation format aimed at facilitating the process but could not force sides to agree against their will. It is for the two Presidents to work towards finding an acceptable solution; any mediation effort is bound to fail if the leaders do not show the political will to solve the conflict. But this means also accepting that compromises are necessary; and, more than anything else, preparing society that some concessions need to be made if a solution is to be found. However, for the moment, little has been done on either side to prepare society in this respect.

57. All ambassadors underlined the importance of people-to-people contact: people on both sides seemed to be prisoners of the past; memories of continued perceptions of the past were being transmitted from one generation to another.

58. Contacts at the level of civil society were also important so that the two parties would acquire ownership of the negotiation process and the eventual outcome. In this respect, some ambassadors regretted the crackdown on civil society in Azerbaijan as this limited the chances for the constructive and fruitful people-to-people contacts necessary to move forward and towards a sustainable (rather than an imposed) solution; this also created difficulties for European Union financing of confidence-building measures as the latter were mainly addressed at civil society.

59. Among other issues that were raised by the ambassadors, I would mention the following:

- the nature of the conflict: whereas one ambassador referred to the Nagorno-Karabakh conflict as a frozen one, born when the former USSR was dissolved, most of them seemed to agree that this conflict was not a frozen one as people were dying along the line of contact daily;
- the comparison with the conflict in Ukraine: for some, there was no reason to treat the two conflicts differently as in both cases there has been a violation of territorial integrity; for others, there was a difference between the Nagorno-Karabakh conflict and all others in the former Soviet Union space based on the particular historical background and origin of this conflict in comparison to both older conflicts (Transnistria, South Ossetia and Abkhazia) and the recent one in Ukraine;
- the importance of the international observation mission in the region to avoid for instance incidents like the shooting down of an Armenian helicopter in November 2014 when Armenia was conducting a large military exercise in the occupied territory of Agdam;

19. Press Statement by the Co-Chairs of the OSCE Minsk Group, New York, 26 September 2015.

- the need to raise international public awareness about the conflict that had not been solved for more than 20 years now and the deterioration of the situation in recent months;
- the positive impact the solution of the conflict would have on the development of the whole region (currently a hostage of the past).

60. The representative of the Office of the United Nations High Commissioner for Refugees (UNHCR) underlined that the Azerbaijani authorities were doing an enormous job in the humanitarian sphere to help IDPs and refugees from the conflict both through legislative and financial means. He informed me that the number of IDPs and refugees from the conflict amounted to more than one million, including 600 000 IDPs from Nagorno-Karabakh and the seven surrounding territories, 250 000 refugees from Armenia, 50 000 Meshketian Turks and some 100 000 people living near the line of contact who had moved a few kilometres inside Azerbaijan, most of whom had however moved back to their place of origin ([Doc. 11196](#)). The authorities deserved to be congratulated for what they had achieved with IDPs. There was however a risk of further displacement in light of recent escalation of violence near the line of contact. The UNHCR works together with the ICRC to deal with cases of people crossing the line of contact by mistake or deliberately.

61. Most of the ambassadors seemed to agree that the period as of mid-2014 had been marked by the most serious escalation of violence since 1994 when the ceasefire entered into force. Violence had escalated during the summer months and had culminated in the shooting down of the Armenian helicopter in November 2014.

62. During my meetings in parliament, most MPs expressed themselves in favour of peace, as also a precondition for prosperity in the whole region. The sooner the conflict was solved the better, in their view. They strongly regretted however the continuing ceasefire violations which they argued were committed daily by the Armenian side, including the use of drones, helicopters and heavy weaponry.

63. They insisted on the violation of international law that was committed by Armenia more than 20 years ago and was still ongoing and the fact that two thirds of their border with Armenia remained under occupation by the latter. How could reconciliation be possible as long as military occupation, having led to the displacement of one million people, was ongoing? And how come Europe and the international community as a whole were not reacting to the ongoing international law violations committed in this case whereas they were not ready to accept similar breaches in Ukraine or Georgia?

64. Referring to the seven territories surrounding Nagorno-Karabakh, MPs said that no Armenians had ever lived there so they should be liberated immediately thus allowing the return of hundreds of thousands of IDPs. The issue of the status of Nagorno-Karabakh (as defined before the conflict) could then be discussed. However, in their view, Armenia preferred to preserve the status quo.

65. Referring to Russia, all MPs questioned its role although to different degrees: for most of them, as Russia was at the origin of the conflict and thus part of the problem, it was impossible for it to be also part of its solution. They argued that, without Russia's interference, the two peoples, Armenians and Azerbaijanis, could reach a solution. For others, a customs union between Azerbaijan and Russia could be envisaged but, at any event, it was not acceptable to expect Russia to protect their borders as this would be an interference with their sovereignty.

66. Referring to the Minsk Group, MPs expressed their frustration, arguing that it only helped preserve the status quo. Some admitted that its role was in any event limited as it could only issue recommendations which Armenia could then ignore.

67. For its part, the Azerbaijani delegation to the Assembly recalled its efforts to bring the issue of Nagorno-Karabakh onto the agenda of the Assembly. They could understand perfectly well that "it was not for the Council of Europe to find a solution to the conflict" but it was very important to them to raise awareness in all Council of Europe member States about the conflict and the ongoing violations of international law by Armenia, including ethnic cleansing. They recalled Assembly [Resolution 1416 \(2005\)](#) on the conflict and regretted that, shortly after its adoption, the President of Armenia, in addressing the Assembly, had expressed his indifference to that text.

68. Members of the delegation referred to the need to restore ties between the Armenian and Azerbaijani communities from Nagorno-Karabakh. This could also help achieve progress within the Minsk Group, which had so far failed to prove its effectiveness. They also insisted on the fact that the Nagorno-Karabakh conflict was in no way a frozen one as people were dying there daily.

69. In both meetings at the parliament (with MPs and members of the delegation), I was told that shooting by the Armenian side was not only targeting the military but also civilians in villages near the line of contact.

70. In the afternoon of the first day of my visit, I visited the Masaric settlement for IDPs which was inaugurated on 1 April 2013. I was impressed by the high quality of accommodation offered to IDPs.
71. Some 760 families were living in this settlement, mostly from the Zangilan region, one of the seven occupied territories adjacent to Nagorno-Karabakh. Some 28% of the residents were unemployed and received from the State a payment equivalent to the average salary they used to receive before the conflict. However, as more and more job opportunities were offered recently, this number was steadily declining.
72. 425 children between 6 and 17 years of age were registered at the school inside the settlement (its total capacity was up to 480 pupils). The classrooms were new, beautifully set up and they were used for no more than 25 children each. One of the IDPs from the Zangilan region told me that the previous year some IDPs went to visit their old villages, crossing from Iran. Most of their houses were destroyed and nobody was living there.
73. The Vice-Chairperson of the State Committee for Refugees and IDPs, Mr Fuad Huseynov, informed me that the government had prepared a returnee programme. Quoting independent polls, he told me that 90% to 95% of IDPs wanted to return to their place of origin and the government had to respect their wishes. He mentioned the example of elderly people who ask, after death, to be put in a coffin so that they could be transferred and buried in their place of origin.
74. The government's plan was to rebuild the villages when IDPs could safely return. The UNHCR was also looking into the resettlement process.
75. To my question, Mr Huseynov answered that in some villages, prior to the conflict, together with ethnic Azeris, 1% to 2% of the population was Armenian. A few Russians also used to live there.
76. The Deputy Minister of Defence confirmed that Azerbaijan wanted peace but could not accept giving away 20% of its territory. The armed forces of the country were undergoing important reforms of modernisation and the State had good relations with all its neighbours except Armenia.
77. He regretted the fact that the situation on the line of contact had deteriorated recently as tensions were rising. In his view, the escalation of tension started in summer 2014 from the Armenian side and was also linked to the Russia-Ukraine conflict. It had actually culminated in the highest degree of tension since the ceasefire agreement entered into force in 1994.
78. Referring to frequent provocations by the Armenian side and the large military exercise Armenia conducted in the occupied territory of Agdam, involving tens of thousands of Armenian soldiers, in November 2014, the Deputy Minister informed me that during that exercise two Armenian helicopters attacked their positions and, as a result, one helicopter (MI-24) was shot down. He told me that, on the other side of the line of contact, there was the Armenian army and the so-called Nagorno-Karabakh army, which was in reality a division of the Armenian army. Arms in Nagorno-Karabakh were coming from Armenia and 99% of them were imported from Russia.
79. Referring to Nakhchivan, the Deputy Minister said that it was an exclave, not linked to Azerbaijan by land. Azerbaijan was actually providing oil to Iran so that Iran could provide oil to Nakhchivan.
80. In concluding, the Deputy Minister underlined that the Nagorno-Karabakh conflict was not at all a frozen one, but rather a "hot conflict" leading to casualties every day. People in Azerbaijan were losing patience and there was therefore an urgent need to reach a peaceful settlement.
81. For their part, representatives of civil society I met in Baku proposed that the Assembly could organise a meeting between them and civil society representatives from Armenia and Nagorno-Karabakh, for instance in Tbilisi or in Strasbourg. In the past, they had participated in such meetings organised by the Assembly or the intergovernmental sector, for instance on cultural or media-related issues. Some of them could no longer continue their co-operation with the Council of Europe following recent laws which have made the functioning and financing of non-governmental organisations (NGOs) in Azerbaijan more difficult. They all seemed to agree on the dissuasive role played by Russia every time the two sides came closer to a solution.
82. I met President Aliyev on the second day of my first visit to Baku. The President started by making a comparison between the situation in Nagorno-Karabakh, on the one hand, and Donbas, on the other. The violation of Ukraine's territorial integrity was not different to that of Azerbaijan; the ceasefire line referred to in the Minsk agreements with respect to Donbas was similar to the line of contact with respect to Nagorno-Karabakh. In the case of Nagorno-Karabakh, there was in addition a number of United Nations Security Council Resolutions in support of the territorial integrity of Azerbaijan.

83. Referring to the historic origin of the conflict, President Aliyev compared it this time with the situation in Crimea: if the so-called “referendum” in Crimea was not legitimate, it was even less so in Nagorno-Karabakh as, in the latter case, it was conducted after the Azerbaijani population had been expelled. Referring to the role of Russia, he recalled that 5 000 Russian troops were stationed on Armenian territory and Russia was providing arms to Armenia for free.

84. Referring to the meetings he had had with his counterpart from Armenia and the Co-Chairs of the Minsk Group in 2014 (in Sochi in August, then in Wales in September and in Paris in October 2014), he said that they were well organised and efficient and he praised the attitude of the French President who was genuinely committed to moving forward. But then the large military exercise organised by Armenia in the occupied territory of Agdam spoiled every chance for progress in the negotiations and led to the helicopter incident and a new rise in tensions.

85. President Aliyev underlined that the Minsk Group had made it clear that the status quo was unacceptable, but Armenia did not seem ready to accept that. The first step in the settlement process, as it was being discussed within the Minsk Group, would be the liberation of the seven territories adjacent to Nagorno-Karabakh by Armenia in exchange for the recognition of an interim status for Nagorno-Karabakh. Under the interim status agreement, Azerbaijan was ready to accept that Armenia would keep the control of the Lachin corridor and that Nagorno-Karabakh could have its own autonomous institutions. Azerbaijan would never, however, accept independence of Nagorno-Karabakh or any status which would imply separation from Azerbaijan, as both historic and legal arguments were in favour of the region belonging to Azerbaijan. Ten or 15 years after the entry into force of an interim status and once reconciliation was achieved, nobody could predict the result of a possible referendum. In this respect, the President recalled the UN-organised referendum in Cyprus, where the two communities had voted differently, and referred to several examples of autonomous or semi-autonomous regions in Europe. He also recalled that in 2009 at the OSCE Ministerial Conference in Athens, the two sides had come very close to an agreement. Following a long period of inactivity, in August 2014 the meeting in Sochi organised by the Russian Co-Chair of the Minsk Group marked a new dynamic in the negotiations which was however halted after the Armenian provocations three months later.

86. President Aliyev underlined that the use of force should be ruled out completely. That said, he stressed that the defence budget in Azerbaijan was twice as big as the whole State budget in Armenia.

87. He also added that the settlement of the conflict would imply the restoration of Armenia’s normal relations with its neighbours and the end of its economic isolation and of its total dependence on Russia.

88. With respect to the actual situation in the seven adjacent territories, President Aliyev referred to the two fact-finding missions conducted there by the OSCE in 2005 and 2010.²⁰ They both testified to the disastrous consequences of the conflict, describing towns and villages which existed there as totally abandoned and in ruins. Therefore, President Aliyev said that it would be difficult to make any estimates as to the cost of reconstruction of those territories. Three hundred million euros were spent per year on reconstruction near the line of contact. So far, some 20 000 IDPs had been resettled in places where infrastructure existed. For instance, the day before our meeting, President Aliyev had inaugurated a new settlement in Barda, close to the line of contact, for some 400 IDPs.

89. A total of 240 000 IDPs had been resettled. This was an achievement of the last five years and of the economic development of the country. The President recalled that for 15 years after the conflict IDPs had been living in tent camps. The last such camp was closed in 2007. IDPs who had not yet been resettled were still living in dormitories or kindergartens.

90. We continued to discuss the situation of IDPs with Mr Ali Hasanov, Deputy Prime Minister and Chairperson of the State Committee for Refugees and IDPs. He clarified the point that, pending the solution of the conflict and the return of IDPs to their places of origin currently under occupation, their resettlement was done on a temporary basis in settlements belonging to the State. Some 340 000 IDPs still lived in dire conditions in dormitories and had to be resettled. A total of 5.5 billion dollars had been allocated to IDPs. The total damage caused by the conflict was estimated at 300 billion dollars.

20. See the report on the 2005 visit: www.europarl.europa.eu/meetdocs/2004_2009/documents/fd/dsca20050413_08/dsca20050413_08en.pdf; See the Executive Summary of the report on the 2010 visit: www.osce.org/mg/76209?download=true.

91. Mr Hasanov referred to the State return programme which was prepared by the government and commented upon by 150 entities, including international organisations. But he said that the reconstruction of the occupied territories would require an enormous effort. Demining alone would take at least five years.

92. According to government estimates, only 10% of the IDPs may not wish to return to their places of origin. The percentage of those wishing to return was higher for elderly people and lower for the younger generation.

93. Three programmes were adopted by the government to support rural development, which would also help return. Gas, electricity, water, etc. had been supplied throughout the country. Comfortable living conditions and job opportunities had been created in the regions outside the capital. Settlements were built near the line of contact to facilitate return.

94. The Speaker of Parliament confirmed the position of the President of the Republic as regards the steps being discussed for the settlement process. He reassured me that the parliament was fully in line with the President's line on the negotiations. He regretted the fact that international organisations were not able to reinforce the resolutions they were adopting.

95. Referring to relations with Russia, the Speaker said that Azerbaijan had not joined the Customs Union proposed by Russia as it wanted to stay closer to Europe. But there was growing frustration in Azerbaijan with respect to Europe's role in the settlement of the conflict or rather the absence of any role.

96. Mr Elmar Mammadyarov, Minister for Foreign Affairs, also gave me a clear outline of the steps that should be undertaken to settle peacefully the conflict. He referred *inter alia* to a proposal by French President François Hollande on the exchange of data on missing persons from the conflict under the aegis of the ICRC. While Azerbaijan was ready to accept this proposal, it was being rejected by the Armenian side. He wondered whether it would be the fear of the discovery of mass graves?

97. As regards the interim status that could be granted to Nagorno-Karabakh pending negotiations on the final status and in exchange for the liberation of the occupied territories, the minister said that not much would change on the ground in comparison to the actual situation. They would only insist that peacekeepers to be employed would not come from the States represented in the Minsk Group or neighbouring States.

98. The minister insisted that "the military should go back to their barracks" as they were the most irritating factor. He was convinced that people's minds could change and that reconciliation was possible once the troops had been removed. He also confirmed that Azerbaijan was ready to invest large amounts of money not only in the liberated territories but also in Nagorno-Karabakh itself following agreement on the interim status.

4.2. Second fact-finding visit to Azerbaijan, including a visit to the area of line of contact (15-16 September 2015)

99. I carried out my second visit to Azerbaijan on 15 and 16 September 2015. During this visit, I had the opportunity to meet in Baku with the Ministers of Foreign Affairs and Defence, officials of the Karabakh Community and members of the Azerbaijani delegation to the Assembly. On 16 September, I was flown by an Azerbaijani army helicopter to the town of Terter situated 230 km to the west of Baku and about 20 km from the line of contact, and subsequently visited the military frontline.

100. During my second meeting with the Minister for Foreign Affairs, Mr Elmar Mammadyarov briefly reiterated his views on the prospects of the political process aimed at settling the Nagorno-Karabakh conflict, and the parameters of a possible solution. He reiterated his view that the key problem was the presence of the Armenian troops in Nagorno-Karabakh and in seven surrounding districts controlled by the Armenians. The Co-Chairs of the Minsk group were unanimous about the need for Armenia to withdraw its troops as a necessary first step on the way towards the settlement. The minister was convinced that this step would trigger positive dynamics and allow predictable developments, namely establishing contacts, communications and, eventually, co-operation between the parties. The issue of the future status of Nagorno-Karabakh could be postponed.

101. According to Minister Mammadyarov, as soon as the Armenian side agreed on the principle of withdrawal of troops, the progress on all other issues, including the return of refugees and IDPs and re-establishment of transport communications and economic exchanges, would go faster than expected. Armenia would benefit from the process too as its economy would be boosted.

102. At the same time, the minister believed that Armenia's position remained unchanged and Yerevan opposed all initiatives aimed at overcoming the current stalemate by the withdrawal of troops. This lack of flexibility resulted from Armenia's concerns over the security situation in Nagorno-Karabakh in the case of its withdrawal. He believed that security issues could be addressed, in the framework of the settlement, by deployment of an OSCE peacekeeping force which would have a UN Security Council mandate. Its composition should be agreed by all sides, and should probably include Russian and Turkish peacekeepers.

103. The minister stated that the internal administration of Nagorno-Karabakh after the opening of the settlement process would be ensured by "the people in place". All roads crossing the current line of contact which are now cut should be opened and monitored by the peacekeepers. The safety and security of the Lachin corridor would also be guaranteed by international monitors. The border between Armenia and Azerbaijan should also be opened and demilitarised – "let the military go back to their barracks", repeated the minister.

104. The withdrawal of troops and the deployment of peacekeepers would open the way for the return of refugees and IDPs. The Azerbaijani authorities would prepare a set of measures to encourage returns and stimulate the economic development of the area.

105. The Minister expressed doubts that the current Armenian leadership was genuinely interested in finding a solution to the conflict. Moreover, in his view, the Armenian side did not want the Nagorno-Karabakh issue to be on top of the agenda of the international community. Yet, a solution would be beneficial for all sides involved and its political sensitivity for the Armenians was overestimated.

106. Answering my question on whether Armenia admitted the presence of its troops in Nagorno-Karabakh and surrounding districts, the minister confirmed that Armenian conscripts were sent to serve in these areas and the Armenian army conducted military exercises there.

107. Colonel General Zakir Hasanov, Minister of Defence, opened the meeting with a detailed statement reflecting the Azerbaijani views on the roots of the Nagorno-Karabakh conflict. He accused the Armenian side of nurturing plans of "the Greater Armenia from the Black Sea to the Caspian Sea"; the conflict in and around Nagorno-Karabakh was in his opinion part of this project.

108. Assessing the current balance of forces, the minister stated that time played in favour of Azerbaijan which had a growing economy and population while those of Armenia were in decline. In order to neutralise the effects of its demographic weakness, the Armenians brought in fighters from Syria and other conflict zones to take part in combat against the Azerbaijani troops, and resettled Syrian refugees in Nagorno-Karabakh. Unlike the situation some years ago, the Armenian side no longer hid the presence of their troops in Nagorno-Karabakh. There was a regular exchange of senior personnel between the Armenian Armed Forces and the so called "Nagorno-Karabakh Republic Army". In June of this year, Lt. Gen. Levon Mnatsakanyan, the Deputy Chief of Staff of the Armenian Armed Forces, was appointed Minister of Defence of "NKR" and Commander of the "NKR Army". His predecessor, Lt. Gen. Movses Hakobyan, was then appointed as Deputy Chief of Staff in Yerevan. In fact, the current Armenian Minister of Defence, Seyran Ohanyan, served as Commander of the "NKR Army" between 2000 and 2007.

109. Minister Hasanov provided some information on the current situation on the ground. He referred to an increased intensity of exchanges of fire across the line of contact, for which he put the blame on the Armenian side, and claimed that the Azerbaijani side only responded to fire from the other side. The Armenians were in a tactically advantageous situation as they occupied the heights and had better positions for directing their fire. Civilians living in villages along the line of contact were often targeted: the minister referred, *inter alia*, to a recent incident in which a wedding party on the Azerbaijani side of the line was shot at and several people, including children, were seriously wounded. In addition to small arms, mortars were now increasingly used. He also complained about a growing number of Armenian military exercises which often amounted to provocation, and referred to the case of the Armenian helicopter shot down as it was flying in Azerbaijani airspace.

110. Finally, the minister referred to growing pressure from within Azerbaijani society to use force in order to recover territories held by the Armenians. While stressing that Azerbaijan favoured a negotiated solution to the Nagorno-Karabakh problem, he stated that the Army was prepared to act in the event of massive provocations.

111. Representatives of the Karabakh Community reiterated the wish of their people to go back to their land and live there, side by side with the Armenians as had been the case for many years. At the same time, they expressed the frustration of the over one million refugees and IDPs at the inability of the international

community to help bring the conflict over Nagorno-Karabakh to an end. In their view, the Nagorno-Karabakh conflict in general, and their situation in particular, were simply ignored and forgotten by international public opinion.

112. Members of the Azerbaijani delegation to the Assembly also expressed deep disappointment that, twenty years after the outbreak of the conflict, the efforts by the Minsk Group had brought no tangible results. Finding a political solution to the Nagorno-Karabakh problem did not seem to be a top priority for the international community, which considered it as one of several “frozen conflicts”. However, the conflict was a real one, with bullets and mortar bombs flying every day and civilians being killed. Inaction of the international community plays into the hands of Armenia which would prefer the status quo to go on, and actually worsens the situation on the ground and the suffering of civilians, both those living near the line of contact and refugees and IDPs.

113. On 16 September, I was flown in a Mi-8 helicopter of the Azerbaijani Army to the town of Terter, some 230 kilometres west of Baku and some 20 km from the line of contact. I was accompanied by Lieutenant General Veliev, Deputy Minister of Defence. We then were driven in armoured personnel carriers to an Azerbaijani army position on the frontline, some 200-300 metres from the actual line of contact. I had an opportunity to speak with the Azerbaijani soldiers and officers both at their field positions and in the barracks.

114. Although I did not witness any exchange of fire during my stay in the area, one could feel the false sense of calm, and there was a sense of tension and anxiety in the air. The Azerbaijani officers reported that, on average, there are some 70 to 80 cases of exchanges of fire daily across the line of contact, and these figures have been on the rise.

115. Quite a large number of soldiers whom I talked to, both in the trenches and in their barracks, acknowledged having been under fire. According to my Azerbaijani interlocutors, they have orders to never open fire first, but to always return fire in order to “silence” the source of enemy fire. They also deny ever targeting civilians living in villages on the other side of the line of contact.

116. Many of the Azerbaijani servicemen whom I met came from families who used to live in Nagorno-Karabakh or in the surrounding areas. Some of these families remain in neighbouring districts while others had to move to other parts of Azerbaijan. These young soldiers have never seen the homeland of their families, but many say they would like to be able to return one day.

117. According to Azerbaijani officers, the forces forcing them include the troops of the so-called “Ministry of Defence of Nagorno-Karabakh”, as well as Armenian servicemen and irregular fighters from the local population. They also claim that there are “mercenaries” who came to the area from other hot spots like Syria and Iraq, i.e. refugees from other conflict zones resettled in Nagorno-Karabakh and surrounding districts who are under an obligation to serve on the frontline.

118. Arms most frequently used in skirmishes include automatic rifles and machine guns and 60 mm and 82 mm mortars. The Azerbaijani army also report frequent instances of sniper fire and a substantial presence of field artillery systems and tanks on the other side of the line of contact. There are also vast mine fields on both sides of the line.

119. Azerbaijani officers state that there are no field contacts or regular communication lines between local commanders from either side. Exceptionally, contacts are established to allow observers of the Minsk Group to monitor the situation on the ground. In these cases, passages through the mine fields are opened from both sides. Otherwise, there are no crossings of the line of contact.

120. The military and local authorities have informed me of very large quantities of unexploded ordnance in the fields near the line of contact, which make these fields dangerous for the local population and almost impossible to use for agriculture. In addition, such ordnance is systematically washed down by rivers flowing from the Nagorno-Karabakh mountains.

121. I also visited some villages of the Terter district, including the village of Gapanly located only a few hundred metres from the line of contact, and listened to testimonies of local residents on conditions of their daily life. In particular, Gapanly is the place where, on 1 September 2015, a wedding ceremony was reportedly deliberately fired upon and shelled by the Armenian forces, leaving three civilians wounded, including a child.

122. During my visit, about fifty local inhabitants, including many children and elderly people, and gathered at a small village square. Their emotional stories presented a grim picture of life on the frontline. The village has been systematically and intentionally targeted from across the line of contact, even though there are no Azerbaijani army facilities there. Many residents reported having been under fire and wounded while working

in the fields. Many houses were damaged. The authorities are now building concrete walls to protect the road which links the village to the neighbouring localities and to the highway. Local children have to walk along this road in order to get to school and, reportedly, there have been times when schoolchildren were fired at.

123. As in most of the area, Gapanly used to derive its main income from agriculture thanks to its fertile soil and water provided through a network of irrigation canals from reservoirs in the Nagorno-Karabakh mountains. Since the beginning of the war in the early 90s, this network is out of order and the area suffers from a permanent water shortage. Representatives of local authorities complain that the Armenians keep the reservoir valves closed most of the year, thus depriving Azerbaijani farmers of water exactly when they need it most. As a consequence, the local economy is in decline. In Gapanly, authorities provide a water supply from drilled wells, but the quality of water is poor and its quantity is insufficient.²¹

124. Despite these hardships, local residents seem devoted to their homeland and committed to continue living there. At the same time, one could clearly feel a mix of anger and misunderstanding at the lack of any progress in their situation in the past twenty years. There is also a feeling of deep injustice as the international community seems to have completely lost interest in the destiny of these ordinary people, who are, in fact, the main victims of this conflict.

125. According to the Azerbaijani officials, there are more than 130 villages living in similar conditions along the line of contact.

5. Conclusions

126. My conclusions are summarised in the draft resolution. To sum up my proposals, I would mention in particular the following points.

127. We should express our deep concern over and condemn the escalation of violence since the summer of 2014 across the line of contact between Nagorno-Karabakh and the other territories of Azerbaijan occupied by Armenia, and the residual territory of Azerbaijan, as well as along the international border between Armenia and Azerbaijan.

128. We should strongly condemn the deliberate targeting of civilian settlements close to the line of contact and remind the parties of their obligations under the Geneva Conventions to protect the safety and security of non-combatants. The recent upsurge of ceasefire violations and the reported use of heavy weapons, including mortars and artillery, is particularly worrying. Further procrastination only complicates the settlement of this “un-frozen” conflict which has claimed over a hundred lives over the past 15 months, and which may escalate into a real war between two Council of Europe member States.

129. Reaffirming Assembly [Resolution 1416 \(2005\)](#) and [Recommendation 1690 \(2005\)](#) on the conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Group, we should further take note of the position of the European Court of Human Rights in its June 2015 judgment in the case of *Chiragov and others v. Armenia* regarding the issue of jurisdiction, according to which Armenia “exercised effective control over Nagorno-Karabakh and the surrounding territories”.

130. We should reiterate our call on the parliamentary delegations of Armenia and Azerbaijan to use the platform offered by the Assembly for engaging in a constructive dialogue and establishing mutual trust.

131. Recalling that both Armenia and Azerbaijan committed themselves upon their accession to the Council of Europe in January 2001 to use only peaceful means for settling their conflict over the Nagorno-Karabakh region, we should urge both governments to refrain from using armed force against each other as well as from propagating military action.

132. Welcoming the meetings between the Presidents of Armenia and Azerbaijan convened by the OSCE Minsk Group Co-Chairs in the summer and autumn of 2014, we should call again on Armenia and Azerbaijan to make use of the OSCE Minsk Process and actively submit to each other, via the Minsk Group, constructive proposals for the peaceful settlement of the conflict in accordance with the relevant principles of international law. However, in light of the lack of progress over the last twenty years, which undermines the credibility of international institutions, we should call on the Minsk Group to consider reviewing its approach to the resolution of the conflict.

21. See also [Doc. 13931](#), op. cit.

133. We should commend the Government of Azerbaijan for their financial and material support to the more than one million displaced persons and refugees and welcome their commitment to finance and facilitate a programme of resettlement of all displaced persons who wish to return to their homes in the region. We should further welcome the willingness of the Government of Azerbaijan to establish contacts with the political representatives of both communities from the Nagorno-Karabakh region regarding the resettlement of displaced persons in their places of origin.

134. Noting that the status quo is not acceptable and must not be seen as a *fait accompli*, ultimately to the benefit of one party, we should call for a number of steps to be taken as a priority within the framework of the OSCE Minsk Process, in particular for:

- the immediate cessation of violence across the line of contact and the border between Armenia and Azerbaijan, including the withdrawal of all military equipment and the cessation of military activity in the vicinity of the region;
- the demilitarisation of the line of contact on both sides;
- the implementation of the first steps towards a peaceful settlement, namely: the withdrawal of Armenian armed forces and other irregular armed forces from Nagorno-Karabakh and the other occupied territories of Azerbaijan; the establishment of full sovereignty of Azerbaijan in these territories and the convening of the plenary meeting of the Minsk Group to establish an interim status for Nagorno-Karabakh guaranteeing security and internal self-governance, with an agreed corridor linking Armenia to Nagorno-Karabakh; and other confidence-building measures including an access corridor to Nakhchivan;
- the Russian Federation to recognise the internationally agreed arms embargo on both parties in the conflict and to ensure that any weapons supplied to Armenia do not end up in the hands of the separatist forces in Nagorno-Karabakh;
- the establishment by the OSCE of an international peacekeeping force to maintain security within Nagorno-Karabakh and the other occupied territories and to ensure the safe return and resettlement of displaced persons, as well as of a mechanism to investigate ceasefire violations;
- Armenia to fully co-operate in the exchange of data on missing persons from the conflict under the aegis of the ICRC, thus implementing a proposal launched by French President François Hollande.

135. We should call on all parties directly involved in the illegal conviction of D. Asgarov and S. Guliyev by unrecognised “courts” in Nagorno-Karabakh and their continuing imprisonment there, to ensure a fair trial in a recognised court of the occupying power, Armenia, in accordance with the provisions of Article 6 of the European Convention on Human Rights.

136. We should regret the lack of co-operation by the Armenian delegation to the Parliamentary Assembly and the Government of Armenia in the preparation of this report and, noting that such behaviour is in breach of Armenia’s commitments as a member of the Council of Europe, consider what measures can be taken in this instance, in the context of the Assembly’s Rules of Procedure, and to ensure that its rapporteurs are not hindered in the future in the pursuit of their mandates. The Committee on Rules of Procedure, Immunities and Institutional Affairs could be seized of the matter.

137. Finally, we should continue to follow on a regular basis, possibly with the appointment of a Special Rapporteur in the Committee on Political Affairs and Democracy, progress towards the peaceful resolution of this conflict in the framework of the OSCE Minsk Process, the cessation of violence in the region and the restoration of the territorial integrity of Azerbaijan.

Appendix 1 – Letter to Mr Robert Walter, dated 2 October 2015



Dear Mr Walter,

In response to your letter of September 22, 2015, I have the honor to inform that the authorities of the Nagorno-Karabakh Republic took note of your request to assist in visiting the Nagorno-Karabakh Republic as a Rapporteur of the Committee on Political Affairs and Democracy of the Parliamentary Assembly of the Council of Europe. In this regard, I have been instructed to communicate the following position of the authorities of the Nagorno-Karabakh Republic:

The title of the report “The Escalation of violence in Nagorno-Karabakh and the other occupied territories of Azerbaijan” is one-sided and reflects the position of only one party to the conflict, i.e. Azerbaijan, thus clearly pre-determining its content and conclusions. In our opinion, such an approach violates the basic principles of the preparation of reports of the Council of Europe, which are impartiality and neutrality, and becomes an obstacle to the cooperation with the authorities of the Nagorno-Karabakh Republic.

In addition, according to your letter as well as your correspondence with the head of the Armenian delegation to the PACE forwarded on to us, it becomes clear that your report will also address the political and military aspects of the Azerbaijani-Karabakh conflict. Issues related to the settlement of the Azerbaijani-Karabakh conflict are dealt with in an agreed format, which has a mandate for mediation recognized by the international community. Such a format agreed by all three parties to the conflict is the OSCE Minsk-Group co-chairmanship, which has accumulated the necessary experience and expertise to professionally and consistently do its job on an institutional basis.

Yours sincerely,

Signed: Karlen Avetisyan

Appendix 2 – Dissenting opinion by Ms Hermine Naghdalyan (Armenia, EC)²², Chairperson, and Mr Armen Rustamyan (Armenia, SOC), Vice-Chairperson of the Armenian delegation to the Parliamentary Assembly

In this document we are going to refer to procedural aspects of the preparation of the draft report “Escalation of violence in Nagorno-Karabakh and other occupied territories of Azerbaijan” by Mr Robert Walter (United Kingdom, EC) because it has been submitted in violation of the Code of conduct for rapporteurs of the Parliamentary Assembly.

The main controversy at the time of the introduction was the title of the draft report, which indeed predetermined the outcome and direction in which the report was drafted. The title itself one-sidedly alleged that Nagorno-Karabakh is an “occupied territory” despite the fact that it has never been considered as such by any relevant international organisation and particularly by the internationally mandated mediators – the OSCE Minsk Group Co-Chairs. Despite the fact that the Armenian delegation repetitively appealed to the rapporteur to change the title, which would have been considered by the Armenian authorities as a sign of neutrality and impartiality, the rapporteur did continuously reject those appeals.

Rule 1.3.3 – Undertaking to carry out all necessary fact-finding visits – Mr Walter submitted a draft report without visiting Armenia and Nagorno-Karabakh, despite repetitively being officially invited to visit Armenia by the head of the Armenian delegation.

Rule 1.1 – Mr Walter also concealed the fact that upon assumption of the position of the rapporteur he had already applied to receive Turkish citizenship. The fact that on 25 May 2015 he received from the hands of the then Turkish Foreign Minister a Turkish passport casts doubt on his impartiality towards the subject of the report, bearing in mind the pro-Azerbaijani position of Turkey on the Nagorno-Karabakh issue.

As regard the purpose of the report, Mr Walter repetitively insists in the Explanatory memorandum that “As I explained above it is neither the purpose of the report nor the role of the Parliamentary Assembly of the Council of Europe to offer a solution to the long-standing conflict over Nagorno-Karabakh”.

Despite Mr Walter’s mentioned declaration, in the conclusions of his report, Mr Walter has done exactly the opposite and assumes the role of the Minsk Group Co-Chairs, proposing his own views on the Nagorno-Karabakh conflict resolution thus undermining the efforts of the mediators whose work has been based on the mandate of the international community.

In the draft report, Mr Walter is repeating almost verbatim the position of Azerbaijan on the Nagorno-Karabakh conflict resolution, which besides being biased and one-sided, sharply contradicts the proposals of the mediators – the Co-chairs of the Minsk Group – and is at odds with the peace process as a whole. By this, the rapporteur also opposes the shared position of all Council of Europe member States who numerously have welcomed and supported the Minsk Group Co-chairs.

There are numerous other inconsistencies, discrepancies and misrepresentations in the draft report connected with historical facts and current state of play.

In consideration of the above, the Armenian delegation calls on the Committee and the Parliamentary Assembly to reject the draft resolution contained in the report.

22. Rule 50.4 of the Assembly’s Rules of Procedure: “The report of a committee shall also contain an explanatory memorandum by the rapporteur. The committee shall take note of it. Any dissenting opinions expressed in the committee shall be included therein at the request of their authors, preferably in the body of the explanatory memorandum, but otherwise in an appendix or footnote.”