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Enlarged Bureau on the honouring of commitments by Armenia and Azerbaijan regarding the resolution of the Nagorno-Karabakh conflict

Strasbourg, 23 January 2003

Report by the Chair

? Following the decision taken by the Deputies at their 820th meeting (4 December 2002, item 2.1b), the Enlarged Bureau met on Thursday 23 January 2003 in the presence of Mr Markarian and Mr Azimov, personal representatives of the Presidents of Armenia and Azerbaijan, and of Mr Gribkov (Russian Federation), Mr Jacolin (France) and Mr Perina (United States), co-Chairs of the OSCE Minsk Group.

? The discussions began with a presentation by the three Co-Chairs on the Minsk Group's work; this was followed by an exchange of views with the representatives of the member States, then a statement by each of the two Presidents' representatives and a debate.

The following points were addressed:

The respective roles of the OSCE Minsk Group and the Council of Europe:

? The Council of Europe does not seek to interfere in efforts to resolve the conflict, which remains the task of the OSCE Minsk Group. The latter has taken steps that, although falling short of a settlement, have enabled the various components of a such a settlement to be identified. These efforts, combined with meetings between the two Presidents and, more recently, between the representatives of the two Presidents, have kept dialogue alive between the two parties since the 1994 ceasefire, and are laying the groundwork for a solution.

? For its part, the Council of Europe is monitoring the situation from the perspective of how the two countries are honouring the commitments made on joining the Council two years ago. By counting on the positive effect that simultaneous accession could have on resolving the conflict, the Organisation took the unprecedented risk of inviting two countries that were in conflict to become members. The Committee of Ministers has the statutory role of monitoring how commitments made towards the Council are honoured: in the case of Armenia and Azerbaijan, this has been realised by setting up, in addition to the usual monitoring procedures, a monitoring mechanism of the Committee of Ministers itself (the GT-SUIVI.AGO). In addition, the Council of Europe is founded on the principle of co-operation between its member States: in the present case, this implies the implementation of a number of measures, beginning with those aimed at establishing a favourable climate for a solution (see below).

Prospects for resolving the conflict:

The majority of questions, whether addressed to the Co-Chairs or to the representatives of the Presidents, referred to the prospects for a settlement and a possible timetable.

Although it is accepted that the peace process should not become a hostage of the electoral system, it is clear that it is influenced by the electoral calendars in the two countries (presidential and parliamentary elections in Armenia in February and March 2003, presidential elections in Azerbaijan in October 2003). However, once these elections have been held, the international community will have difficulty in understanding a continued *status quo*. In fact, the two newly-elected Presidents will have all the required scope to obtain agreement for a just and sustainable settlement.

The conflict has now lasted for 10 years, and has had dramatic consequences on the two countries' populations. More than a million refugees and displaced persons, largely in Azerbaijan, have been obliged to flee their homes and live in conditions of acute deprivation and poverty. This is the oldest conflict in the former Soviet empire, and the failure to resolve it weighs heavily on the democratic and economic development of the entire region.

It is essential to find a solution, since experience has shown that conflicts that persist for longer than a certain period of time have a tendency to become static and self-perpetuating, which is unacceptable.

There are three types of obstacle to finding a solution:

? firstly, the various components of the settlement itself (the future status of Nagorno-Karabakh, which raises problems regarding Azerbaijan's territorial integrity and the right of Nagorno-Karabakh's population to self-determination, withdrawal from the occupied territories, the return of refugees and displaced persons, Armenia's access to Nagorno-Karabakh and Azerbaijan's access to Nakhichevan, the question of Susha);

? secondly, a dispute regarding the negotiation method (one side favours a comprehensive approach, the other a "step-by-step" approach);

? finally, exploitation by both parties of the time factor, which nonetheless works in different ways for Armenia and Azerbaijan. Both parties are more or less content with the status quo: one party refuses compromise, since it has an on-the-ground advantage, but is threatened in the medium-term by the departure of a large part of its population, especially its young people, and by the absence of friendly relations with 2 of its neighbours; the other is waiting for time to work in its favour and place it in a better negotiating position, an approach that is reinforced by the economic and political prospects afforded by its natural resources. Consequently, the conflict is frozen, a situation that is dangerous for both parties since, as one of the Co-Chairs observed, their fates are linked, and "they will sink or swim together".

While displaying the characteristics of a simultaneously internal and inter-state conflict, whose historical and political ramifications involve all States in the region, the problem of Nagorno-Karabakh is far from unique. In the final analysis, the elements for a settlement have been identified, and once the political will emerges, settlement could be achieved very quickly. In order to achieve a fair and sustainable peace, compromise will be necessary from both parties, along with the courage to make peace. In this respect, many questions have been asked about the democratic approach of both countries' political leaders. Have they made an effort to prepare the Armenians and Azerbaidjanis for peace? So long as leaders stick to belligerent rhetoric and promote hatred of the other side, there is little chance that compromises will be accepted.

Possible options

The different elements of a solution have been identified (self government of Nagorno-Karabakh, a common State, the exchange of territory, creation of corridors) and the components of an agreement that have been discussed and rejected by one or other side are well-known. In this area, it is pointless to hope for an innovative "miracle cure": the various parts of the puzzle have been on the negotiating table for several years. It has so far been impossible to combine them into a whole that is acceptable to both parties. The co-chairs indicated that agreement had seemed close on several occasions, particularly in Paris and at Key West (this was denied by the Azerbaidjan side). However, "until everything is accepted, nothing is accepted".

For the moment, the two parties seem to have completely diverging interpretations of their history and of the different phases of the negotiation process. They blame each other for failure, deny the areas of convergence, and become blocked over an alleged historical, legal or humanitarian legitimacy. As one of the speakers emphasised, "spilt blood dries slowly in the Caucasus", and the massacres committed by one or other side prevail over the benefits of forgiveness and reconciliation. So long as each party claims to be "100% right", a solution will be impossible.

In this context, the Chair would like to recall the Deputies' expectations: in January 2001, just before the accession, they noted that "they expected that simultaneous accession [of Azerbaijan and Armenia] would create a climate of confidence and reconciliation and that they would refrain from introducing contemporary or historical enmity."

The Council of Europe's contribution

? It is in promoting this climate of trust and reconciliation that the Council of Europe has a duty to contribute. As the Secretary General has emphasised, the Organisation has developed a certain expertise in the area of measures to build confidence and raise awareness within civil society, and in promoting regional co-operation. Confidence-building measures and co-operation in "politically neutral" fields that are not related to the conflict but which come under the label of humanitarian work in its broadest sense, such as education, young people's issues, culture, audio-visual and media questions, social cohesion and history teaching, may contribute to improving relations between the two countries and their populations. We must move from tri-lateral regional co-operation to bilateral co-operation, and prepare the Armenians and Azerbaidjanis for peace. A solution also entails the emergence of a democratic culture.

? At the same time, it is clear that settlement of the conflict and democratic development in the two countries are closely interwoven. The persistent conflict directly affects all the other commitments entered into by the two countries, and is the reason that the Committee of Ministers is obliged to follow developments in the negotiation process closely. The two countries should be able to provide sustained and tangible examples of the way in which they are honouring this and other commitments. This means not only refraining from the use of force to resolve the conflict, but also making genuine efforts to achieve a compromise. In the absence of progress, a time will come when explanations will have to be given, since where a genuine will for peace exists on both sides, peace is possible.

? Finally, the Council of Europe could, in due course, and at the request of the interested parties, provide assistance to the Minsk Group, particularly through the Venice Commission, in drawing up legal formulae for the status of Nagorno-Karabakh.

In conclusion, and as several speakers repeated, in joining the Council of Europe Armenia and Azerbaijan joined a symbolic organisation, one that includes countries which took part in pitiless wars in the course of their respective histories, but have come together at the Council of Europe around the principle of "never again", and in a spirit of reconciliation and co-operation. This search for a closer union through co-operation is an obligation for all of the Council's member States.