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## The Failure of The Nagorno-Karabakh Conflict Resolution: Shortcomings of Facilitative Mediation or an Unsuitable Mediator?

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### *Summary*

The Nagorno-Karabakh conflict began in 1988 after the regional Supreme Council declared the transfer of the region from the Azerbaijani SSR to the Armenian SSR. The full-scale war started in 1992 after the dissolution of the USSR and ended with the May 1994 armistice. In the following quarter century, a peaceful resolution of the conflict was mediated by OSCE's Minsk Group in a form of facilitative mediation. The warring sides have never reached a final solution and a new war started in the autumn of 2020. This paper examines how facilitative mediation was conducted by the Minsk Group and why it eventually failed. The conclusion of this paper is that the combination of the weak mandate and the co-chairs' separate and incongruous interests in the Caucasus resulted in the failure of the conflict resolution in Nagorno-Karabakh.

*Keywords:* Nagorno-Karabakh, OSCE, Minsk Group, Facilitative Mediation, Conflict Resolution

### **Introduction**

The conflict over Nagorno-Karabakh has lasted more than three decades and still has not been resolved. After the end of the first war in 1994, it was clear that both sides were exhausted for further military conflict and needed other means to settle the problem. Bilateral negotiations between them were impossible, and a third side started to mediate the process. The mediator became the Minsk Group of the Conference on Security and Co-operation in Europe (CSCE)<sup>1</sup>.

<sup>1</sup> In 1994, the CSCE became the Organization for Security and Co-operation in Europe (OSCE).

The CSCE began to discuss the peace resolution of the conflict even before the 1994 armistice. It planned in 1992 to convene the Minsk Conference, but the plan was not realized. Instead, a smaller body, the Minsk Group, was convened in June 1992 and got the task to conduct the Nagorno-Karabakh mediation. The Minsk Group has permanent members; apart from Armenia and Azerbaijan, these are Belarus, Finland, Germany, Italy, Sweden, Turkey and the OSCE Troika<sup>2</sup>. The composition of the Minsk Group has partially changed over the years, but its co-chairs made up of Russia, the US and France have been permanent since 1997. The co-chairs' main activity was drafting proposals for the conflict resolution and conducting negotiations between the warring parties. Despite all these endeavours, military clashes were frequent and eventually resulted in a new war in the autumn of 2020.

This article seeks to address the question of why the mediation of the Minsk Group was unsuccessful. In comparison with other publications about this conflict and the Minsk Group, the novelty of this paper are the analyses of the Minsk Group's work done from the perspective of Beriker's model of facilitative mediation. It is a type of transformative intervention in which a mediator tries to guide conflicting parties to reach a permanent solution, but without compelling them to accept its decisions or proposals. This gives the mediator fewer leverages and power in the process which consequently makes it a risky choice for conducting successful conflict resolution. In the analyses, we use official OSCE documents related to the work of the Minsk Group, literature about theories and concepts of conflict resolution, literature about the Nagorno-Karabakh conflict, and media sources.

The article has six sections. After the Introduction, we will give a short review of selected theories and concepts about conflict resolution and mediation, and a review of the Nagorno-Karabakh conflict. In the next two sections, we will analyse the mediation of the Minsk Group and the co-chairs' interests, and discuss why they failed to resolve the conflict. Finally, we will present our conclusions in the last section.

## **Conflict Resolution**

The peaceful resolution of conflicts became a norm in international relations after World War II. It refers to "refraining from acts of war, as well as those acts that could jeopardize a ceasefire between the conflicting parties. Efforts to reach an amicable, comprehensive, and sustainable solution are being made through peaceful dispute resolution, which aims to contribute to a lasting and comprehensive solution to the conflict, but also to full stabilization and post-war reconstruction and

<sup>2</sup> The composition of the Troika changes every year. The Troika consists of three foreign ministers: of the country which holds chairmanship of the CSCE/OSCE in a respective year and of the previous and succeeding chairmanship countries.

confidence-building measures” (Andrassy *et al.*, 2007, p. 4).<sup>3</sup> This definition highlights several goals of conflict resolution: cessation of hostilities, the establishment of lasting peace, post-war reconstruction, and stabilization.

In many cases, territorial conflicts do not end quickly and with a complete settlement of disputes. If only the first goal from the definition of Andrassy *et al.* is achieved, the conflict is not resolved permanently, but turns into a “frozen conflict”. There are no military actions, at least not permanent ones, but there is a danger of a new war because no lasting political solution has been reached between the conflicting parties. Conflicts can also turn into intractable ones which “have persisted over time and refused to yield to efforts – either by the direct parties, or, more often, with third party assistance – to arrive at a political settlement” (Crocker *et al.*, 2009, p. 493). Thus, to make conflict permanently resolved, it is necessary that the conflicting parties find some interest in this, ways how to do it, and sometimes a third party that will help them to meet this goal. Related to the interests, Zartman claims that there are three possible reasons why parties would start negotiation: “to prevent conflict from escalating or from turning violent; it may be used to *manage* conflict – that is deescalate the means of its pursuit from violence to politics; or it may be the means to actually *resolve* the basic incompatibilities of positions or to *transform* them into cooperative relationships” (Zartman, 2009, p. 322). The exchange of goods between conflicting parties is an important part of negotiations (*ibid.*, p. 325) and this implies that at the centre of a conflict resolution is a compromise and acceptance of the interests of the opposite side. It goes along the lines of Wallensteen’s definition of a conflict resolution as “a *social situation where the armed conflicting parties in a (voluntary) agreement resolve to live peacefully with – and/or dissolve – their basic incompatibilities and henceforth cease to use arms against one another*” (Wallensteen, 2019, p. 54). He argues (*ibid.*, pp. 187-192) about six mechanisms in conflict resolution: reducing the significance of the territorial dimension, finding ways in which territory can be divided, horse-trading, giving access to government, conflict resolution, and postponing issues or the creation of timetables.

Conflicting parties often cannot find a solution in direct negotiations, and they call a third party to intervene. If one or more countries accept a call to become a third party, forms of conflict resolution depend on its ideas, leverages and interests, its power and position in international relations, and the type of the conflict as much as on the conflicting parties’ will and aims. These factors are also part of the foreign policy of involved countries, and Beriker’s (2009, p. 259) model of Foreign Policy Circumplex (FRC) explains the position of the third party in this process. According to this, the third party could participate in transformative intervention, in which

<sup>3</sup> Translated from Croatian to English by the authors of this paper.

the “actor intervenes in order to transform the dysfunctional relationship among the conflicting parties, with the aim of creating common intellectual and value space among the parties”, or in structural intervention, in which the “actor intervenes as a third party, and carries out activities designed to change the incentive structure of the disputing parties with an expectation that they would lead the parties to change their conflict behavior” (*ibid.*, p. 260).

Both types of intervention contain the possibility of mediation, but the problem is when to use mediation and not some other form of conflict resolution. According to Zartman and Touval (1985, p. 31), “mediation is a form of third-party intervention in a conflict with the stated purpose of contributing to its abatement or resolution through negotiation”. Bercovitch (2009, p. 345) suggests it is an appropriate form of conflict resolution in cases when “(a) a conflict is long, drawn out, or complex; (b) the parties’ own conflict-management efforts have reached an impasse; (c) neither party is prepared to countenance further costs or loss of life; and (d) both parties are prepared to cooperate, tacitly or openly, to break their stalemate”. Considering the possible varieties of these cases and the different interests of the involved parties, various forms of mediation are possible. Beriker argues that there is facilitative mediation in the transformative intervention and power mediation in the structural intervention. In facilitative mediation, a third party “mediates with the aim of helping parties find their own solutions. It can be in the form of facilitating exchange of information and problem-solving processes and achieved by introducing new resources for the conflict system, and enhancing trust among the parties” (Beriker, 2009, p. 260). On the other hand, in power mediation the third parties “impose a solution on a conflict in order to enhance their national or institutional interests. Pressing the conflicting parties to reach an agreement through the use of force or competitive tactics” (*ibid.*, p. 261).

From the perspective of mediation’s success, it is necessary that all involved parties – the warring parties and the mediator – are genuinely interested in resolving the dispute and are willing to reach a compromise.<sup>4</sup> Zartman and Touval (1985, p. 32) find a mediator’s two interests in this: one is defensive because the conflict goes against these interests, and the other is related to the increase of the mediator’s influence. In its work, the mediator can play one of three roles: as a communicator, formulator, or manipulator (*ibid.*, pp. 38-39). Whatever role they play, “mediators need to acquire resources of leverage and influence to address the parties’ interests, objective needs, vulnerabilities, insecurities, fears, and their sense of ‘sunk costs’ in the conflict to date” (Crocker *et al.*, 2009, p. 497). If these conditions do not exist, the role of the mediator in this process is questionable.

<sup>4</sup> In Pruitt’s (2007, p. 1525) readiness theory, motivation and optimism are two components which are necessary for warring parties to start negotiations and conclude agreement.

Leverage is “the mediator’s power or ability” to produce “arguments and inducements that make unattractive proposals look attractive” (Zartman and Touval, 1985, p. 40) or “possession of resources (physical, financial, informational)” which could be used “when dealing with tactical rigidities” (Bercovitch, 1985, p. 749). The mediator could also use “specific tactical functions” to bring new impetus to the process (*ibid.*, p. 744). But when a mediator uses leverages and specific tactical functions, it is important that it preserves impartiality and neutrality as one of the main characteristics of mediation. Stenner (2016, p. 268) argues that “impartiality belongs to a set of terms, such as objectivity, independence, or even omnipartiality that serve to guarantee fairness as a mediator”. If a large international organization is a mediator, the possibility of achieving neutrality and impartiality is bigger, but if a mediator is a state, that possibility is smaller. Finally, if a mediator is a group of states with conflicting goals, then this possibility is even smaller. For instance, Norwegian mediation between Palestinians and Israelis can be considered neutral and impartial because Norway has no special interests in the Middle East. When the US is a mediator in this region, one can doubt both its neutrality and impartiality given the country’s close alliance with Israel. Therefore, for mediation to succeed, mediators should be impartial and neutral, but they also must have efficient leverages. How much and what kind of leverage mediators have, depends on their identity and rank (Bercovitch, 2009, p. 349), but as long as the process lasts, mediation can “soften up” (*ibid.*, p. 340) the parties and lead them to an amicable solution. It is a theoretical assumption that we will test in the case of the Minsk Group mediation.

### **History of the Nagorno-Karabakh Conflict**

The Nagorno-Karabakh conflict has been a frozen conflict for over three decades. It has origins in 1923 when the Soviet government established Nagorno-Karabakh as an *avtonomnaya oblast* (“autonomous area” or “autonomous region”) of the Azerbaijani SSR (Carley, 1998, p. 1) within its up-to-1988 borders. The conflict erupted in the late 1980s after General Secretary Mikhail Gorbachev’s policies of *glasnost* and *perestroika* paved the way for greater freedoms in the Soviet Union and it became safer than before to express opinions and criticisms concerning political, economic, and social life in the Soviet Union (Libaridian, 1988, p. 83). Greater freedom of speech also enabled public debates about the change of borders between the constituent republics, including the administrative transfer of Nagorno-Karabakh from Azerbaijan to Armenia.

Protests related to the region’s status started in 1987, first in Yerevan, and then in Nagorno-Karabakh (Hirose and Jasutis, 2014). The region’s representatives appealed to the Central Committee of the Communist Party of the Soviet Union several times, with numerous petitions and letters and eventually, on February 20, 1988, the Supreme Council of the Nagorno-Karabakh Autonomous Region formally re-

requested the transfer of Nagorno-Karabakh from the Azerbaijani SSR to the Armenian SSR (Remler *et al.*, 2020, p. 86). Soon after that, the Karabakh Committee was established with the goal to demand the unification of Nagorno-Karabakh with Armenia. On February 26, Gorbachev met two leaders of this committee in Moscow, asking for a one-month moratorium on protests to assess the issue (Libaridian, 1988, p. 87). Gorbachev ruled out the possibility of any change of borders between the federal republics, thus rejecting Armenian calls for unification (Libaridian and Yunusov, 1998, p. 87).

The desire of the Armenians of Nagorno-Karabakh to become part of the Armenian SSR was responded to by a growing wave of anti-Armenian massacres and pogroms in Azerbaijan. The first victims were the Armenians in Sumgait, a seaside town near Baku. The Sumgait pogrom lasted three days, from February 27 to 29, 1988, followed by pogroms in Kirovabad and other cities where Armenians lived. For them, pogroms were a reminder of the massacres carried out by the Ottoman Empire in the First World War and the Armenians equated the Azeris with the Ottoman army (Yerasimos, 1994, p. 66). This reinforced the beliefs of the Armenians that they could not live in any form of arrangement with, as they called them, “Barbarian Turks” (Ambrosio, 2011, p. 108).

The Soviet leadership tried to interfere in the conflict and imposed a special administration in Nagorno-Karabakh under the direct control of Moscow on January 12, 1989 (Askerov and Matyok, 2015, p. 156). The head of the “Committee of Special Administration for Nagorno-Karabakh”, which consisted of four Russians, two Armenians, and one Azerbaijani, became Arkady Volsky (de Waal, 2013, p. 71). Meanwhile, the Armenian members of the suspended Nagorno-Karabakh Supreme Council established in August 1989 the National Council and reaffirmed their intention of unification with Armenia. They also declared they would cooperate with Volsky’s Committee only on their own terms. Although a decision by the federal authorities to establish this committee was key to calming the situation, the Soviet leadership soon lost the opportunity to participate in the problem-solving process and the conflict was re-ignited (Cornell, 2011, p. 86; Yerasimos, 1994, p. 66).

The new escalation began in the second half of 1989 when the Azerbaijani opposition blocked a railway on Karabakh and stopped the distribution of food and fuel to the Armenians. Shoot-outs between armed bands became the rule rather than an exception. On November 28, the Soviet direct command was abolished, and the Special Committee was replaced by a new “Organizational Committee” run from Baku (de Waal, 2013, p. 72). Nagorno-Karabakh was returned to Azeri control, and military rule was initiated. On December 1, 1989, the Armenian SSR Supreme Soviet adopted a decision about the unification of the Armenian SSR and Nagorno-Karabakh (Carley, 1998, p. 1; Cornell, 1999, p. 23).

Gorbachev's policies failed to reform the Soviet Union and it was dissolved in December 1991. Armenia and Azerbaijan were supposed to inherit their territorial integrity according to the international law principle of *uti possidetis iuris*<sup>5</sup> (Krivokapić, 2010, pp. 1110-1111). Under this principle, internal demarcations between administrative units are recognized as international borders of new states and they cannot be changed by force. This principle was developed as an attempt to avoid territorial disputes between the new states at the time of gaining independence and creating internationally recognized borders (Shaw, 1996, p. 75).

Nagorno-Karabakh was not one of the 15 Soviet Socialist Republics that had the right to become independent states under *uti possidetis iuris*, and it organized its own referendum on independence on December 10, 1991. In the referendum participated 82.2% of the total number of registered voters and 99.89% of them voted for independence. The Nagorno-Karabakh Republic was proclaimed as an independent state, but without international recognition (Aydin, 2002; Zarrilli, 2001, p. 231). And while in the earlier phase, Armenians from both Armenia and Nagorno-Karabakh advocated an alliance of the two entities under the rule of Yerevan, after the declaration of independence the Armenians from Nagorno-Karabakh advocated exclusively an independent state (Uzer, 2012, p. 250).<sup>6</sup>

The declaration of independence led to deterioration of the conflict and a bigger engagement of the forces of the Republic of Armenia in 1992. In February of that year, the Armenians occupied several Azerbaijani villages in Nagorno-Karabakh (Yunusov, 1996, p. 9), the most notorious being the occupation of Khojaly which resulted in the massacre of the Azerbaijanis trying to escape the village, and in May the town of Shusha, the old capital of the Karabakh khanate (Shafiyev, 2021, p. 211). From that moment, almost all Azerbaijanis left or were expelled from Nagorno-Karabakh (de Waal, 2013, p. 195). In 1993, the Armenians occupied Agdam, the main Azerbaijani settlement east of Nagorno-Karabakh, and the regions of Fuzuli, Jebail, Lachin, Kelbajar, Qubadli and Zangilan. Azerbaijan's military failure reflected on the internal political situation and in mid-1993 president Abulfaz

<sup>5</sup> The principle of *uti possidetis iuris* provides that "states emerging from decolonization shall inherit borders that they held at the time of independence" (Ratner, 1996, p. 590). The relevance of this principle was evidenced during the dissolution of the Soviet Union, Czechoslovakia, and Yugoslavia.

<sup>6</sup> According to one interpretation, the collapse of the USSR resulted in the change of Armenia's policy towards unification with Nagorno-Karabakh. Because under the *uti possidetis iuris* principle 15 Soviet socialist republics had the right to become independent states after the dissolution of the USSR, but not the sub-republican entities, Armenia could no longer claim that the region belonged to it, but instead demanded that Nagorno-Karabakh become an independent state (Remler, 2016, pp. 277-278).

Elchibey was ousted from power. Heydar Aliyev, a former KGB official and leader of the Azerbaijani Communist Party, became the new president.

The situation began to calm down in May 1994 after Russia's defence minister announced an armistice. The agreement was signed by the military leaders of Azerbaijan, Armenia, and Nagorno-Karabakh in Baku on May 9, in Yerevan on May 10, and in Stepanakert on May 11, and came into force on May 12, 1994 (Abrahamyan, 2016). Nagorno-Karabakh and seven other Azerbaijani provinces remained under Armenian rule. Following the signing of the agreement, the Nagorno-Karabakh conflict has been defined as a frozen conflict for years. In the conflict zone, numerous violations occurred on the Line of Contact. The worst one until 2020 was the Four-day War which erupted in April 2016 (Askerov, 2019, p. 56; Lorusso, 2016, p. 1). It started on the night of 1 to 2 April and demonstrated how fragile the 1994 armistice was (Schmidt, 2016, p. 112). In this war, Azerbaijan managed to take over some small areas that had been occupied by Armenian troops. The ceasefire was reached after a few days, but without a lasting solution.

On July 12, 2020, Armenian forces attacked Tovuz, a city located outside Nagorno-Karabakh at the intersection of the main energy and transportation routes, which is of geostrategic importance to Azerbaijan. The attack was one of the largest and deadliest confrontations since April 2016 (Ayca and Valiyev, 2020, p. 2). The Tovuz confrontation sparked a rise in patriotism and nationalism in Azerbaijan, leading to mass protests and pressure on the government to continue military action to regain the occupied zones of Nagorno-Karabakh. After protests in Baku, which began on September 27, Azerbaijan, Armenia, and Nagorno-Karabakh declared a state of emergency and began mobilizing their troops (Russell, 2020). Azerbaijan then launched a new war to liberate the occupied territories. By the end of October, it managed to regain control over four cities and many villages (Ayca and Valiyev, 2020, p. 1). After six weeks of the war, on November 10, the president of Azerbaijan and the prime minister of Armenia, in the presence of the president of Russia, signed a ceasefire agreement. It ended violence on all fronts, and most of the territory lost to Armenian forces in the first war was returned to Azerbaijan. Although the ceasefire enabled the return of many displaced persons and the start of reconstruction, the main issue, the long-term international status of Nagorno-Karabakh, remained unresolved.

### **The Minsk Group Mediation**

The Nagorno-Karabakh conflict has been a territorial, ethnic, and secessionist conflict, and in some periods it was irredentist as well.<sup>7</sup> It has been an intrastate con-

<sup>7</sup> "Irredentist movements usually lay claim to the territory of an entity – almost invariably an independent state – in which their in-group is concentrated, perhaps even forming some local

flict with a significant territorial component in which an ethnic, territorially based non-state actor wanted to take a part of the state's territory (Wallenstein, 2019, p. 80).<sup>8</sup> The irredentist character of the conflict was primarily in the early phase of the war when Armenia wanted to incorporate Nagorno-Karabakh, but irredentist ideas still exist among many Armenians. After the escalation of the conflict into a full-scale war in 1992, Armenia ceased to be a secondary party<sup>9</sup> and this transformed the mainly intrastate conflict into a combined inter- and intrastate war (Krüger, 2010, p. XI; de Waal, 2013, pp. 175-176, 242).<sup>10</sup>

The warring sides had opposite views on how to resolve it. While Armenia accepted the possibility of leaving the occupied regions outside Nagorno-Karabakh's 1923 borders, it considered inviolable the right of Nagorno-Karabakh's residents to decide about the region's future status. On the other side, Azerbaijan was ready to give to Nagorno-Karabakh broad autonomy, but did not accept the right of the people of Nagorno-Karabakh to self-determination and thus mainly wanted to establish *status quo ante bellum*. Analysis of the *Conference on Security and Co-Operation in Europe Final Act* signed in 1975 in Helsinki, the main act on which has been based the work of the OSCE and thus the Minsk Group as well, shows that they were more in favour of Azerbaijan's than of Armenia's and Nagorno-Karabakh's views. The Act defines the right of peoples to self-determination in the following way: "The participating States will respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States" (CSCE, 1975, 10). The right on self-determination which is bound to territorial integrity, and the stance of the Nagorno-Karabakh authorities and Armenia were two irreconcilable approaches. Krüger's analysis of the legality of Nagorno-Karabakh's referendum and secession in 1991 reveals that the region did not have the right to unilaterally proclaim independence under the existing Soviet law (2010, p. 40), and the idea of

majorities. The original term *terra irredenta* means territory to be redeemed, and the claimant can be an ethnic nation-state or a multiethnic plural state" (Carment and James, 1995, p. 84).

<sup>8</sup> Ramsbotham, Woodhouse and Miall (2016, p. 91) call this type of conflict identity/secession. Wallenstein (2019, pp. 188-189) claims there are four territorial solutions to state formation conflicts in terms of the status of the unit: self-administration, autonomy, federalism, and independence.

<sup>9</sup> A secondary party is not engaged with its own troops or resources but supports one of the conflicting parties (Wallenstein, 2019, p. 56).

<sup>10</sup> Despite the dual character of this conflict, Armenia has not recognized that it has been a party in the conflict (Krüger, 2010, p. XI). Moreover, "The profound military, political and budgetary links between Armenia and Nagorno-Karabakh suggest the *de facto* existence of a loose federation" (*ibid.*, pp. XI-XII).

the region's autonomous right to decide about its status thus does not have any legal ground. This implies that Hess Sargsyan's (2016, p. 520) claim about "competing principles of territorial integrity and right to self-determination enshrined in the Helsinki Final Act (1975)" is not correct because the Act subordinates the right of self-determination to the right of territorial integrity. The resolutions of the UN Security Council, where the three co-chairs are permanent members, also confirmed the territorial integrity of Azerbaijan.<sup>11</sup>

Probably the biggest obstacle to the conflict resolution was that the warring parties "have founded their negotiating positions on constructed national identities, based on mutually exclusive narratives of the history and cultural significance of Nagorno-Karabakh" (Hopmann, 2015, p. 168). They were motivated to end the conflict, but their optimism about this was doubtful. This led to irreconcilable positions which could not be resolved in bilateral negotiations, and they needed a third party to mediate. After the collapse of the USSR, Russia wanted to interfere in the conflict trying to be the third party, but it was not well accepted by Azerbaijan due to Baku's suspicions about Moscow's bias toward Armenia (de Waal, 2013). In May 1992, Iran tried to mediate, but its attempt soon failed (*ibid.*, p. 192). Eventually, the third side in the conflict resolution became an international organization with no experience in mediation (Cavanaugh, 2016, p. 425-426). It was the CSCE, which had started to deal with this conflict immediately after the dissolution of the Soviet Union when new independent states became its members.

The first incentive for the CSCE's inclusion came from the British diplomat at the CSCE's foreign ministers meeting in Prague in January 1992 (Maresca, 1996, p. 475; de Waal, 2013, p. 241). Then, in March 1992, the CSCE decided to convene the Minsk Conference (Pokalova, 2015, p. 74). To create the preconditions for this, an informal meeting of the representatives of a few CSCE member-states was held in June 1992 in Rome and they were named the Minsk Group (Cavanaugh, 2016, p. 426; Maresca, 1996, p. 485; de Waal, 2013, p. 241). Since the Minsk Conference never convened, the Minsk Group became the main OSCE body for the conflict. In 1997, France, Russia, and the US became its co-chairs (de Waal, 2013, p. 269) and this group inside of the Minsk Group soon became the main actor in the conflict resolution.

Taking the task to deal with the Nagorno-Karabakh conflict, it was clear that CSCE/OSCE intended to pursue facilitative mediation. The OSCE defines mediation as a "structured communication process, in which an impartial third party works with conflict parties to find commonly agreeable solutions to their dispute, in a way that satisfies their interests at stake". The mediation process includes four main pha-

<sup>11</sup> These resolutions are: 822 (1993), 853 (1993), 874 (1993), and 884 (1993).

ses: the preparatory phase for agreeing on negotiations ('talks-about-talks'), mediated negotiations, agreement, and implementation" (OSCE Conflict Prevention Centre, 2014, p. 10).<sup>12</sup> This was confirmed in some early documents of the Organization, including the one which set up the mandate of the co-chairs of the Minsk Conference in 1995 (OSCE, 1995).<sup>13</sup> Considering the identity/secession character of the conflict, it was necessary to achieve the "issue transformation"<sup>14</sup> of the warring parties to find a permanent solution. But apart from the general remarks on the commitment to peace, reaching a solution and informing other actors about the mediator's work, the statements in the document such as "make joint effort", "conduct", "promote", "assist", "inform and consult" did not give many leverages to the mediator. The document also did not prescribe deadlines or give powers to the co-chairs on how to resolve the crisis, particularly in the case of stalemate. Finally, it was the first conflict mediation in the history of the CSCE/OSCE (Cavanaugh, 2016, pp. 425-426) and it was not done by some of its permanent bodies, but by the three big powers which were mostly independent of the organization in this process. They were supposed to mediate in the name of the organization, but with their own diplomatic personnel and leverages.

The Minsk Group's activity from the 1990s until 2020 was organized in two main areas: (1) drafting proposals for the settlement of the conflict and (2) organizing negotiations and conducting individual talks with the warring parties. Over one decade, the Minsk Group published four major proposals. The first, Package Deal, was issued in 1997 and contained a withdrawal of the Armenian military forces from Azerbaijani territory and a withdrawal of Nagorno-Karabakh's military forces to the region's 1923 borders. It also contained provisions that the territorial integrity of Armenia and Azerbaijan would be recognized, and Nagorno-Karabakh would become a "state-territorial entity within Azerbaijan" (*Minsk Group proposal ('package deal')*), p. 4) in its 1923 borders. This deal was not accepted by the parties and soon after, in December 1997, the Minsk Group proposed the Step-By-Step Deal. It had similar provisions to the previous one, but did not determine Nagorno-Karabakh's status (*Minsk Group proposal ('step-by-step deal')*). It was also not accepted by the warring parties, particularly by the Armenians because it supposed the return of the seven regions to Azerbaijan before the final settlement of Nagorno-Karabakh's status (Markarov, 2016, pp. 73, 83-84). In November 1998, the Minsk

<sup>12</sup> There is a notion in this source that this definition is based on OSCE Mediation-Support Framework (SEC.GAL/110/13).

<sup>13</sup> It was not an official mandate of the Minsk Group, but of the never convened Conference. Nevertheless, the Minsk Group's tasks could be deduced from this.

<sup>14</sup> Ramsbotham, Woodhouse and Miall (2016, pp. 206-207) argue there are five possible generic transformations of protracted conflicts: context, structural, actor, issue, and personal and group transformation.

Group proposed the Common State Deal. It largely had the same provisions as the Package Deal, but gave even more sovereignty to Nagorno-Karabakh (*Minsk Group proposal ('common state deal')*). This plan was supposedly acceptable for Armenia, but not for Azerbaijan (RFE/RL, 2000).

After the failure of the 1997-1998 proposals, the Minsk Group did not come out with a similar document until 2007, when it proposed the Basic Principles for the Peaceful Settlement of the Nagorno-Karabakh Conflict or the so-called Madrid Principles of 2007 (OSCE, 1997). This was not a completely new proposal, but was based on the previous three from the late 1990s. The Madrid Principles were revised in 2009 and this version contains six principles for the peaceful resolution of the conflict:

1. Return of the territories surrounding Nagorno-Karabakh to Azerbaijani control
2. An interim status for Nagorno-Karabakh providing guarantees for security and self-governance
3. A corridor linking Armenia to Nagorno-Karabakh
4. Future determination of the final legal status of Nagorno-Karabakh through a legally binding expression of popular will
5. The right of all internally displaced persons and refugees to return to their former places of residence
6. International security guarantees that would include a peacekeeping operation (Welt and Bowen, 2021, pp. 3-4).

The principles were in accordance with the four UNSC resolutions from 1993 which confirmed the territorial integrity of Azerbaijan, but they also opened the possibility of a referendum about Nagorno-Karabakh's status. Up to the 2020 war, none of them was accomplished. Only this war changed the standstill, and after the ceasefire in November 2020 two principles were completely and two were only partly realized. Bercovitch's theoretical assumption that mediation can "soften up" parties and lead them to an amicable solution (2009, p. 340) was not realized because a battlefield and not a negotiation desk produced this outcome.

The Minsk Group was more diligent in its second activity. The three co-chairs invited the parties to negotiations, visited the Caucasus, met with them, and reported to the OSCE Chairman-in-Office on their activities. These activities were in some periods intensive, but Nagorno-Karabakh's officials were not allowed to participate in negotiations and thus more important were meetings between the presidents of Armenia and Azerbaijan.<sup>15</sup> In some cases, they were organized by in-

<sup>15</sup> Since 2019, the Armenian prime minister was meeting with the Azerbaijani president. The change came as a result of constitutional reform in Armenia.

dividual countries, not by the Minsk Group or all three co-chairs, or were held during various multilateral summits. The meetings started already during the first war in the early 1990s and proceeded in the later part of the decade. From 1998 to 2000 the two presidents met around 15 times (de Waal, 2013, p. 274) and in 2000 they even met in Nakhichevan (USC Institute of Armenian Studies, 2019). The Azerbaijani side was ready for a radical solution when President Aliyev almost accepted the loss of Nagorno-Karabakh in 2001, after the meeting between the Armenian and Azerbaijani presidents in Key West in the US, but then he changed his mind (de Waal, 2013, p. 278). After the election of his son Ilham Aliyev as the new president in 2001, negotiations between the presidents were replaced by lower-level meetings. The ministers of foreign affairs met between 2004 and 2006 in Prague (this became known as the Prague Process) under the supervision of the three co-chairs (*ibid.*, p. 286). This also did not result in any decisive solution and the presidents started to meet again in 2006. Despite some declaratory statements, there was no real progress in negotiations between them. The new intensification of negotiations came in 2009 when the two presidents had six meetings, making them probably the most frequently met presidents in the world in that year. In the 2010s, meetings became less frequent and military clashes more frequent, which eventually ended up with the 2020 war. Because of this, Cavanaugh (2016, p. 425) argues that the Minsk Group's work was more conflict management than conflict resolution, and Shirinyan (2016, p. 468) argues that the resolution eventually turned to management because of the emergence of the crisis in Ukraine and Syria and geostrategic conflicts in Eurasia.

### **The Co-chairs' Interests**

Such a type of conflict resolution was the first, but not the only structural problem. Having a 'weak' type of intervention, the mediator must be very determined, skilful and persuasive to achieve its goal, but also united if it is comprised of a group of states. Unlike the wars in Southeast Europe (SEE) in the 1990s, when all interventionists belonged to the Western group of states that had similar basic interests and approaches toward these wars, the three co-chairs in the Nagorno-Karabakh conflict have had an asymmetrical motivation and dissimilar geopolitical interests. Two are Western countries and members of NATO that have smaller interests in the Caucasus than in SEE, whereas the third one is a former superpower which has tried to establish its hegemony in the post-Soviet space which it calls Near Abroad. This makes the efficiency of conflict resolution limited not only by the type of mediation, but also by an internal division of the multi-state mediator. This also relates to impartiality and leverages because interests regulate how much a mediator will be impartial in the process and how ready it will be to use leverages.

States pursue their own interests in international relations and use hard and soft power to achieve their goals. Russia has had the biggest interests in the region and has been the most motivated to intervene in this conflict. These interests stem from the shared history with the peoples of the Caucasus and present geopolitical issues, making extension and increase of influence Russia's major self-interested motive to mediate in this conflict. The Kremlin was very active in the realization of this, and thus showed "neo-imperialist intentions" (Maresca, 1996, p. 472) and exercised the post-Soviet concept of sovereignty which limits the independence of the countries in the Near Abroad (Deyermond, 2016). But to achieve these goals, it had to be relatively free from the influence of other external actors in the region, including the OSCE and the mediation in the framework of the Minsk Group. It often worked separately and with different goals toward the region's states. It tried to establish as much as possible friendly relations with Armenia and Azerbaijan, although the two countries did not have the same motives for this.

Some of the Kremlin's main goals in the region were to preserve its zone of influence and prevent the rise of Turkish and Western influence. More receptive to this was Armenia than Azerbaijan. As a landlocked country, it would find it difficult to withstand isolation and threats from Turkey and Azerbaijan without Russian assistance. In 2010, Russia and Armenia concluded an agreement on the extension of Russian military bases in Gyumri, Armenia to 2044, purchase of Russian weapons and military hardware, and provision of the Russian security guarantees to Yerevan (O'Rourke, 2010). In addition to this, in 2015 Russia gave a loan to Armenia for purchase of Russian weapons (RFE/RL, 2015). On the other hand, Armenia cannot offer to Russia anything except to be a ground for its influence and presence in the Caucasus. This asymmetrical interdependence between the two countries resulted in the Finlandization of Armenia, which had to give up closer cooperation with the West. This fits with Zartman and Touval's claim (1985, p. 40) that "the greater the parties' perceived need, the greater the mediator's leverage". However, in this case, one of the co-chairs did not use the leverage for conflict resolution, but to achieve its own foreign policy goals.

Unlike Armenia, Azerbaijan is not Russia's ally, but the two countries strive to have at least some sort of friendly relations. This is not easy to achieve, since the two countries have conflicting geopolitical and economic interests. Azerbaijan is a major producer of fossil fuels in the region and has tried to circumvent Russian transport infrastructure for its export. This has faced Russian latent opposition and since the opening of the Baku-Tbilisi-Ceyhan pipeline in 2005, the Kremlin has tried to enhance energy trade with Azerbaijan (RFE/RL, 2010) in order to keep being a significant player in the Caspian energy market. Baku's main ally is Ankara, which is seen by the Kremlin as its major regional adversary. On the other hand,

Baku must consider Russian interests in the South Caucasus because apart from Turkey, the only neighbouring country with which it has not had political or other conflicts and misunderstandings is politically unstable Georgia. However, because of the alliance with Turkey and big revenues from fossil fuels trade, Azerbaijan has not fallen into asymmetrical interdependency toward Russia like Armenia, it has much more freedom in the creation and implementation of its foreign policy, and this leaves the Kremlin with weaker leverages over Azerbaijan than over Armenia.

In building such relations with the two countries, Russia could not separate this process from its work in mediation. In order to achieve its goals in the Caucasus and score influence over the warring parties, Russia often mediated separately from the Minsk Group. The other two co-chairs occasionally did this as well, but the Kremlin was more diligent, particularly after 2008. Presidents Putin and Medvedev had frequent joint and separate meetings with the presidents of Armenia and Azerbaijan, and the Russian side drafted some proposals for the resolution of the conflict, like the Kazan Agreement of 2011 (Shirinyan, 2016, p. 472) and the Lavrov Plan in 2015 (Babayev, 2020, pp. 34-35). The Russian actions eventually were not successful, but Shiriyev (2016, p. 443) claims that the Russian separate involvement weakened the work of the Minsk Group. The Russian activity also made the Kremlin permanently involved in Caucasus affairs. The US and France, on the other hand, have found some other parts of the world more important to them than this region.

The influence of Russia was once more demonstrated with the conclusion of the ceasefire in November 2020, which happened with Russian mediation and not the Minsk Group's mediation. President Putin organized the talks between the two sides after Armenia's prime minister Pashinyan sent the request, but the Kremlin had its own goals in this as well. One important achievement in the Kremlin's plans was an arrangement in which Russia would send peacekeeping troops to the part of Nagorno-Karabakh and Lachin corridor, which it was not able to do before. The agreement did not provide this possibility to Turkey despite some claims in the beginning that Ankara would also send its peacekeeping force. As a result, the 2020 war did not have one, but two winners: Azerbaijan regained control over most of its occupied territories and Russia stayed a significant actor in the Caucasus, even strengthening its role there.

The US policy toward the Caucasus has been significantly different from the Russian policy. Washington was occasionally very active in the process and organized meetings between the Armenian and Azerbaijani presidents, one of the most important being in Key West in 2001, and then the Prague Process between lower-ranking officials (Jafarova, 2023, p. 328). Nevertheless, from the very beginning of the conflict, the Americans and the Western countries did not see it as their "top priority... because it has not appeared to engage vital Western interests" (Maresca,

1996, p. 472). One of the most important Western interests in the Caucasus has been related to the need of the EU and the US to diversify gas and oil imports and reduce European dependence on Russian gas. One way to meet this demand was to import them from the Caspian region and Central Asia, and thus Washington gave strong support for the construction of the Baku-Tbilisi-Ceyhan pipeline and the Southern Gas Corridor (Jafarova, 2023, p. 323; RFE/RL, 2006). However, it was not necessary to resolve the Nagorno-Karabakh conflict in order to construct them since the pipelines from Azerbaijan bypass both Armenia and Nagorno-Karabakh. American interests rose in 2001 when the region became important to the US as a transport corridor for its military in Afghanistan and Central Asia (Cornell, 2005, p. 111). This brought the US and Azerbaijan closer and even opened the possibility for the construction of an American air base in this country (*ibid.*, p. 114). This has never been realised, but it became obvious that Baku became more important for American geostrategic interests than Armenia, which was both a landlocked country and had closed borders with Turkey.

These reasons could be sufficient to make Washington more prone to Baku than to Yerevan if there was not one internal factor in the US which had a significant impact on its foreign policy-making. It was the Armenian American lobby which persuaded the US Congress to adopt some decisions toward the region in favour of Armenia and Nagorno-Karabakh (Zarifian, 2014). Among the first was Section 907 of the Freedom Support Act from 1992, which Maresca claims was “openly hostile to Azerbaijan and prohibits US aid from being provided directly to the government in Baku, even for humanitarian purposes”. It “was intended as a retaliation against Azeri and Turkish blockades of Armenia, but ignored the suffering also present on the Azeri side, as well as the broader complexities of the conflict” (1996, p. 476). The Congress also granted significant annual financial aid to Armenia (Zarifian, 2014, p. 509) and some US states recognized the independence of Nagorno-Karabakh despite the opposition of the US federal government to this. However, the Armenian lobby’s influence was bigger on the Congress than on the White House, and after 9/11, the latter succeeded to withdraw Section 907 from implementation (*ibid.*, p. 510). But in later years, “Washington’s criticism of Baku’s human rights record was often interpreted by Azerbaijani officials as the US’ “pro-Armenian” stance” (Shiriyev, 2016, p. 451). The geopolitical interest on one side and the strength of one ethnic lobby on the other put the American policy toward Armenia and Azerbaijan somewhat in balance, but it seems that incongruity between these two factors also demotivated Washington for any radical solution to the conflict and the use of strong leverages against the warring parties.

France has had the smallest influence in the Caucasus. Being a member of the EU, it was its representative among the co-chairs (Gafarli, 2023, p. 355). It orga-

nized a few meetings between the warring parties, like the one in Paris in 2001 between the Armenian and Azerbaijani presidents (Babayev, 2020, p. 31), and was active in the work of the Minsk Group. French presidents visited the region every few years trying to establish bilateral relations with the region's countries, but French power to do something separately from the Minsk Group was limited in comparison with the other two co-chairs. Its soft and hard power was the smallest, and Paris was seen by Baku as a biased actor in this process. Azerbaijan was suspicious of France regarding the latter's strong support of Armenia's stance on the 1915 genocide and the influence of the Armenian lobby in France. Despite this, Paris tried to leave the impression that its policy toward the Caucasus was not in favour of either side in the conflict.

The different, asymmetrical, and conflicting interests of the co-chairs were reflected in the use of leverages in mediation. The two are interdependent because if interests are missing, it is less likely that the mediator will use "resources (physical, financial, informational)... when dealing with tactical rigidities" (Bercovitch, 1985, p. 749). A good example of how third parties could change the situation by using efficient leverages if they find interest is their interference in the wars in SEE. When the war broke out in Bosnia-Herzegovina in 1992, the UN, the European Community (later EU), and the US were slow in reaction and sent only peacekeeping troops there. The most significant leverage the UN used from the beginning of this war was economic sanctions against FR Yugoslavia, the country which was seen as one of the most responsible actors for the outbreak of the war. But as time went by and the war did not come to an end, the transformative intervention was changed into structural intervention. The war was stopped in 1995 after NATO used military force against one of the warring sides. The interest to do this had to do not only with humanitarian reasons but also with destabilization effects this war could have on the whole continent.

The SEE example shows how synchronized activities and similar interests among the members of the third side could be efficient to end the conflict. In the Caucasus, this was not the case. The official statements do not show any disagreements between the co-chairs, but Cavanaugh (2016, p. 434) argues that dynamics in relations between the West and Russia were reflected in the work of the Minsk Group. Unlike the situation with SEE, the Caucasus is not a neighbouring region of Western Europe, which is why the EU and the US have no immediate motive to address the Nagorno-Karabakh problem. Moreover, even if they wanted to do that, there was a geopolitical problem because the mediator was composed of three big powers which had asymmetrical and conflicting foreign policy goals. Consequently, the mediator could not use any effective leverage to produce a breakthrough in the resolution of this conflict. The status quo was maintained and the only real changes

on the ground took place when armed incidents broke out between the warring parties. These incidents were met by the co-chairs' statements filled with concern and calling for compromise, but not more than that. The lack of leverages in combination with the warring sides' inability to reach a permanent solution resulted in the growth of mutual distrust and distrust toward the mediators. An indicative example of this is the April 2016 war, which was stopped with the political intervention of the co-chairs, but also changed both sides' views on the continuation of negotiations and conflict resolution. Armenia and Azerbaijan sharpened their positions (Shirinyan, 2016, p. 471) and moved further away from reaching a compromise. The co-chairs failed to stop the distancing between the two sides and meetings between the two presidents became less frequent.

If not before, after this, it became clear that facilitative mediation has been the wrong type of resolution for the Nagorno-Karabakh conflict. The negotiations had served as a respite for Azerbaijan to build a sufficiently powerful army for successful military action, and for Armenia and Nagorno-Karabakh to maintain the status quo in anticipation that sovereignty would be reached over time. In the end, Azerbaijan regained sovereignty in much of the occupied territory and Russia strengthened its power in the South Caucasus.

## **Conclusion**

Mediation is not always doomed to failure. The role of the international community in the conflicts in the former Yugoslavia had characteristics of power mediation in structural intervention. In the beginning, there had been attempts to resolve the conflict peacefully, i.e. through negotiations, but over the years Western countries changed their attitudes. They became ready to use armed force, if necessary, to isolate individual countries in the international community and to promise financial assistance to the parties that would be willing to accept a compromise. Moreover, the proximity of the post-Yugoslav space to the Western countries made the latter more interested in ending the wars and forcing the warring parties not only to achieve a truce but to end the wars permanently. Some Western countries had their own interests in SEE, but they also had common geopolitical interests there.

The 2020 Nagorno-Karabakh war is proof that a facilitative mediation of long ethnic, territorial, identity, and secession conflicts is more prone to failure than a power mediation and possibly some other forms of structural intervention. However, the problems that the Minsk Group and its co-chairs faced in the whole analysed period were not only shortcomings of facilitative mediation. While the problem with a lack of efficient leverages could be seen as inherent in this type of mediation, the problems with neutrality, impartiality, and conflicting and incongruous interests of the mediating states could happen in other types of conflict resolution

as well. The failure, in this case, was the result of a combination of shortcomings of facilitative mediation and the different interests of the co-chairs which work together as one, single mediator. This resulted in mutually irreconcilable factors which impeded conflict resolution. If the mediator had been ready to use more persuasive ways towards the warring sides to achieve a final and permanent solution, as it was done in SEE in the 1990s, then the peaceful resolution could have been successful, and the solution of the Nagorno-Karabakh problem could have ended with a compromise and without a war. It would probably cease to be a facilitative mediation and would become a power mediation or some other type of conflict resolution. Questions which arise from this case are for what types of conflict facilitative mediation is the appropriate way for conflict resolution and who should be the mediator?

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