



PUBLIC INTERNATIONAL LAW & POLICY GROUP

www.pilpg.org

**NAGORNO KARABAKH
PRESIDENTIAL ELECTION
JULY 19, 2007**

REPORT

of the

**INDEPENDENT
AMERICAN MONITORING DELEGATION**

MEMBERS OF THE DELEGATION

**VLADIMIR MATIC • PAUL WILLIAMS • LOUIS SELL
FREDERICK LORENZ • MEGHAN STEWART • CHRISTOPHER GOEBEL**

SUMMARY

The Nagorno-Karabakh presidential election held on July 19, 2007, was the best organized and most trouble-free of the three elections that the Public International Law & Policy Group (**PILPG**) has monitored there. It reflected steady progress in building democratic institutions and developing the practice of participation in the political process. The commitment of the authorities, the candidates and the voters toward continued improvement of the voting environment has brought demonstrable results, leading to a free and fair election.

This was the first election after last year's referendum which adopted a new constitution for the Nagorno-Karabakh Republic (**NKR**). Recently, the electoral law was further amended to fine-tune the rules and procedures, taking into account recommendations from international organizations including PILPG.

Voters had ready access to the programs and views of the candidates and the opportunity to hear and see them directly on radio and TV and during rallies organized throughout the country. There were few complaints or reports of intimidation during the campaign, and the NKR Central Election Commission (**CEC**) handled them in accordance with the electoral law.

The six-person PILPG delegation visited 47 polling sites throughout Nagorno-Karabakh. It also met with four presidential candidates, the current NKR President, the NKR Foreign Minister, the Speaker of the NKR Parliament, other governmental officials, and on several occasions with the CEC. The PILPG delegation observed no significant irregularities and concludes that the election was conducted freely and in a transparent way according to both NKR laws and international standards.

PILPG considers international election observing as an important instrument for promoting political development. Fielding observer delegations contributes to fairness of elections and supports nascent democratic institutions and practice at the time most needed. Methodological coherence in evaluating elections commensurate to the historic and political environment promotes public confidence and encourages further participation in political activities.

The delegation evaluated both the political and the technical aspects of the elections, including laws and procedures and their implementation.

THE ELECTION ENVIRONMENT

The July 19, 2007, presidential election was the fourth held since the 1991 referendum on independence and the establishment of the NKR. Since the presidential system was adopted in December 1994, the election of the President of the Republic has been the most important political event determining basic orientation of governance and especially defense, security and foreign policy. Along with regular parliamentary and local elections, these events appear to reflect a consensus in this small, tightly-knit community to preserve their independence and secure international recognition of the de facto status they have enjoyed for the past sixteen years through support of democratic institutions and continuous improvement of procedures. Internal political stability therefore remained the concern of all citizens, groups and parties. However, continuation of the status quo did not seem to influence their determination to maintain national unity, project it to the world and, at the same time, engage

in debating (though often in a subdued way) major issues facing society and different ways to achieve their goals.

One unusual feature of the election was the decision of major political parties represented in the Parliament, including parties considered part of the opposition, to unite in support of one “consensus” candidate for President. These parties explained it as intended to avoid potentially divisive political conflicts at a time when Nagorno-Karabakh is still in an unresolved international crisis situation. They also pointed out that they retain their freedom of action in the Parliament after the election.

The persuasiveness of the security concerns motivating the major parties to support a consensus candidate is understandable. PILPG also shares the views expressed by most political observers in Nagorno-Karabakh, including those critical of the “consensus” decision, that the democratic process in Nagorno-Karabakh is generally developing in a positive fashion and that this presidential election offered more choice between candidates than did previous presidential elections in Nagorno-Karabakh. The PILPG delegation also notes that international organizations and individual democratic states have refused to provide assistance in democracy building and election monitoring despite repeated requests by the Nagorno-Karabakh authorities. Nevertheless, the PILPG delegation believes that democracy in Nagorno-Karabakh would be best served by not continuing this “consensus” approach by political parties in future elections, as it could undermine the climate and institutions of democracy and tend to deprive the people of Nagorno-Karabakh of their democratic right to choose among alternative visions of the country’s future development. A number of political leaders agreed with this assessment and pointed out that this was a necessary but temporary approach and said that Nagorno-Karabakh’s future lay in the development of a true multi-party system.

The official campaign started on June 20, 2007, and ended on July 17, 2007. The pre-election campaign atmosphere was calm, and few incidents were reported. As in previous campaigns, there were few visible signs in the streets except for occasional posters.

During the campaign allegations appeared of improper political involvement by police and security organs, including intimidation of supporters of one candidate. The PILPG delegation discussed these allegations with the CEC Chairman and President Ghoukassian. The CEC Chairman described efforts to investigate these allegations, including contacts with the supervisors of the security officers mentioned in the allegations, who denied any improper activity. President Ghoukassian said he had looked into the allegations and found them to be false. He expressed a determination, which the PILPG delegation welcomes, to take strong action against any police or security officials found to be improperly engaging in political activity or harassment. Developing regular mechanisms to allow complete and intrusive investigation of such allegations by the CEC or other competent civilian bodies is particularly important in a state such as Nagorno-Karabakh, which is developing democratic institutions in an unresolved conflict situation in which security organs necessarily play an important role.

ELECTION LAW AND PROCEDURES

The Electoral Code enacted in December 2004 was amended after the adoption last year of the new Constitution.

The CEC members are appointed only by elected officials. The President appoints three members, and each of the parties having a faction in the Parliament appoints two. Thus, the current CEC has nine members. Its mandate will expire with the term of the Parliament. After being appointed, the CEC formed eight territorial commissions for election regions (one in each of the seven regions and one in Stepanakert). Each of the territorial commissions formed precinct commissions under its jurisdiction. There were 277 polling stations for about 90,000 registered voters (including one polling station in Yerevan).

At the beginning of the campaign, the CEC distributed free TV and radio time to candidates. Each received 30 minutes, allotted over the duration of the campaign based on a lottery. In addition to free time, the candidates could buy up to 80 minutes of radio and/or TV time (one radio minute cost \$ 41 and one TV minute \$ 82).

Candidates were allowed to open a bank account with one million drams (\$ 3,000) and collect another five million (\$ 15,000) for the campaign. Individual contributions were limited to 100,000 drams (\$ 300), and enterprises and companies could donate up to 300,000 (\$ 900). However, those whose foreign capital exceeded 30% were banned from making contributions, as were charities and all foreign individuals and entities of any kind.

On election day and the previous day no campaigning was allowed. Also strictly forbidden were public statements insulting or slandering other candidates.

Based on this visit, the PILPG delegation identified a number of substantive changes to the Electoral Code which would further promote transparency. The delegation discussed these proposals with the NKR President and the CEC Chairman, and they responded favorably.

In a few polling stations, it was apparent that voting booths were aligned in such a way that others in the room could observe the marking of the ballots. After making inquiries with local election commissions and the CEC, the PILPG delegation concluded that these were isolated cases, due in part to the introduction of a new type of voting booth this year. The CEC indicated that it would make changes to address the problem.

POLLING DAY

The PILPG delegation divided itself into three teams and visited 47 polling sites in all electoral regions. The general climate was businesslike and calm.

The polling sites were in suitable locations known to the voters (often schools) and accessible. Security was well organized, and there were few signs or complaints about improper or intimidating behavior on election day.

The election commissions at the polling sites were well organized, familiar with the rules and procedures, and fully aware of their roles and responsibilities. Voter registration lists and instructions, as well as information about the candidates, were prominently displayed in most places and the lists were accurate. There were no problems with identification and recording

the vote in the lists. This may be attributed to relatively frequent elections. Rare cases of voters who were not registered but were in possession of identification (proof of permanent residence) were handled efficiently in accordance with an established and understood procedure to allow them to vote.

Servicemen were registered to vote outside their military units and barracks. The voter registration lists were displayed in their units 15 days before election day and sent to the polling stations three days before election day. Officers and those serving under contract were registered based on their permanent residence.

Ballot materials were supplied in time and secured in accordance with applicable law. For those unable to come to the polling sites, election officials arranged transportation or, in rare cases, visited such individuals so they could vote. Secrecy of the vote was maintained.

Commissions counted the ballots at polling stations immediately after voting ended and in the presence of candidate representatives. Disputes about the validity of the ballots were dealt with immediately.

International observers came from the United States, Germany, France, Belgium, Italy, Serbia, Macedonia, Czech Republic, Poland, Armenia, Ukraine, Russia and elsewhere.

CONCLUSION

Building democratic institutions and promotion of human rights is a slow and often painful process in post-conflict societies. The results depend very much on the right of the people to freely elect their representatives and on their ability to exercise that right and have a government of their choice. Critical is not only the process of the elections, but also what is behind them, including participation of people and how they exercise their inalienable right to govern themselves. The people of Nagorno-Karabakh have obviously made significant progress along that road. They deserve not only commendation but also support to continue in that direction.

DISCUSSIONS HELD

Arkady Ghoukassian, President of the Nagorno-Karabakh Republic

Ashot Ghouljian, Speaker of the NKR Parliament

Georgy Petrossian, NKR Foreign Minister

Vanik Avanesyan, presidential candidate

Masis Mayilyan, presidential candidate

Hrant Melkumyan, presidential candidate

Bako Sahakyan, presidential candidate

Sergei Nasibian, Chairman of the Central Election Commission

Sehran Airapetian, representative of the NKR President in the CEC

Semyon Afiyan, representative of Democratic Party of Artsakh in the CEC

Sergey Shahverdyan, representative of Dashnaksutyun-Movement-88 block in the CEC

Armen Sargsian & Vitali Balasanian, ARF Dashnaksutyun Party & Movement-88

Araik Harutyunian, Free Motherland Party

Sanasar Saryan, NKR refugees organization

Galina Somova, Russian community organization

Karen Ohanjanian, Helsinki Initiative 92

Naira Hayrumian, Open Society
Karine Ohanian, Demo newspaper
Youth leagues
Samvel Arakelyan, CEC member

Discussions were also held with delegates from other observer delegations and a group of journalists from the region whose visit was organized by the Institute for War and Peace with support of the European Union.

This report covers election related activities and results that occurred prior to the departure of the delegation from Nagorno-Karabakh on July 20, 2007. This report is delivered prior to the completion of the election process, including the tabulation and announcement of final results and the expiry of legal deadlines for hearing possible complaints and appeals. A conclusive assessment of the entire election would depend, in part, on the conduct of the remaining phases of the process.

July 20, 2007

ABOUT THE INDEPENDENT AMERICAN MONITORING DELEGATION

PUBLIC INTERNATIONAL LAW & POLICY GROUP, which was nominated two years ago for the Noble Peace Prize, selected some of its best to form a delegation to observe the presidential elections on July 19, 2007, in Nagorno-Karabakh. The six members have behind them long and successful careers in diplomacy, civil and military service, legal affairs, negotiation and conflict resolution, post-conflict political development, and peace and democracy building. Their international experience encompasses the region of the former Yugoslavia and the crises in Bosnia and Kosovo, Somalia, Iraq, Sri Lanka, and the former Soviet Union including the Caucuses. They have provided governments and entities across Europe, Africa and Asia with advice on constitutional issues including elections and matters of public international law. They have observed, analyzed and reported on the first democratic elections in post-communist and post-conflict societies and assisted in drafting related legislation.

VLADIMIR MATIC, Ambassador (ret.), the head of the delegation, resigned from his position as Federal Assistant Minister for Foreign Affairs in the former Yugoslavia in disagreement over policy and moral issues. He has been teaching international relations, foreign policy and diplomacy at Clemson University for the past 11 years. He worked as consultant to the United States Institute of Peace and was a Public Policy Scholar at the Woodrow Wilson International Center for Scholars. Following the overthrow of Milosevic, he was Special Envoy of the President of the Federal Republic of Yugoslavia to the U.S. Government in 2000 and 2001. He has published numerous papers on issues of ethnic conflicts, problems of transition and democracy building, and has observed and analyzed elections, including election monitoring in Nagorno-Karabakh in 2002 and 2005.

PAUL WILLIAMS directs the Public International Law & Policy Group and was nominated for the 2005 Nobel Peace Prize for his pro bono activity. He holds the Rebecca Grazier Professorship in Law and International Relations at the American University. He teaches in the School of International Service and the Washington College of Law. Previously he served in the Department of State's Office of the Legal Advisor, as Senior Associate with the Carnegie Endowment for International Peace, and as a Fulbright Research Scholar at the

University of Cambridge. Professor Williams has assisted over a dozen states and sub-states entities in major peace negotiations and in drafting post-conflict constitutions. He has also advised Governments across Europe, Asia and Africa on matters of international law.

LOUIS SELL serves as Executive Director of the American University in Kosovo Foundation and teaches international relations at the University of Maine. Previously he worked for 28 years with the U.S. Department of State and served in the former Yugoslavia and Soviet Union and later in Russia. He was also U.S. representative to the Joint Consultative Group in Vienna and Political Deputy to the first High Representative for Bosnian Peace Implementation. He is the author of “Slobodan Milosevic and the Destruction of Yugoslavia,” published in 2002 by Duke University Press. He is currently working on a book on the collapse of the Soviet Union and the end of the Cold War. Mr. Sell has observed many elections in Eastern Europe and the former Soviet Union, including the first multi-party elections in all six Yugoslav republics and Kosovo’s first post-war elections in 2000.

FREDERICK LORENZ lectures international humanitarian law and U.S. foreign policy at the Jackson School of International Studies, University of Washington in Seattle. Previously he served for 27 years as judge advocate in the U.S. Marine Corps and retired as a colonel. In 1995 he served as Senior Legal Advisor for the United Nations in Somalia and in 1996 as Legal Advisor for the NATO Implementation Force in Bosnia. He spent a year in St. Petersburg as a Fulbright Senior Scholar teaching international law and U.S. foreign policy. As a United Nations Legal Affairs Officer in Kosovo, he worked on the new system of national registration and first elections in the province in 2000.

MEGHAN STEWART is a Peace Fellow with PILPG and in that capacity has advised over a half dozen states on international legal standards related to post-conflict constitutional reform. She served as a legal advisor and primary drafter during constitutional reform negotiations in Bosnia in 2005 and 2006, analyzing electoral laws to ensure all proposed changes to the Constitution would be appropriately reflected in these laws. She also worked in Sri Lanka advising the government on peace negotiations with the LTTE. In Georgia she worked to develop a comprehensive framework agreement and negotiating strategy relating to the future status of Abkhazia. She has also advised political leaders in Liberia and Nepal and worked with the American Bar Association CEELI in Kazakhstan.

CHRISTOPHER GOEBEL is a co-founder of PILPG and has participated in projects for numerous governments and sub-government entities, including those in Bosnia, Macedonia, Afghanistan, Estonia and Kosovo. He also provided legal assistance on matters relevant to the peaceful resolution of the crisis in Nagorno-Karabakh. Previously, while practicing as an attorney in New York for Curtis, Mallet-Prevost, Colt & Mosle LLP, he represented governments and private enterprises in international financial transactions including the capital and equities markets, investment fund management, venture capital and project finance. As a Fulbright Research and Lecture Scholar in France, he concentrated on the European Union and the ethnic conflicts in the Balkans. He has published on the topic of population transfer under international law.