

# GÜNCEL BELGELER

(LATEST DOCUMENTS)

**BELGE 1: A. HOVSEPYAN. RECOGNITION OF ARMENIAN GENOCIDE SHALL HAVE A PERFECT INTERNATIONAL-LEGAL PROVISION**

**RA PROSECUTOR GENERAL AGHVAN HOVSEPYAN'S REPORT AT THE SECOND PAN-ARMENIAN CONFERENCE OF LAWYERS "AHEAD OF THE 100<sup>TH</sup> ANNIVERSARY OF ARMENIAN GENOCIDE".**

**BELGE 2: DECLARATION ADOPTED BY THE PARTICIPANTS OF THE SECOND PAN-ARMENIAN FORUM OF LAWYERS "AHEAD OF THE 100<sup>TH</sup> ANNIVERSARY OF THE ARMENIAN GENOCIDE"**



# BELGE 1

## **A. HOVSEPYAN. RECOGNITION OF ARMENIAN GENOCIDE SHALL HAVE A PERFECT INTERNATIONAL-LEGAL PROVISION**

### **RA PROSECUTOR GENERAL AGHVAN HOVSEPYAN'S REPORT AT THE SECOND PAN-ARMENIAN CONFERENCE OF LAWYERS 'AHEAD OF THE 100TH ANNIVERSARY OF ARMENIAN GENOCIDE'.**

“Respectable participants of conference

At first, let me express my satisfaction on the fact that by the initiation of the Ministry of Diaspora lawyers' representative and very important conference was held ahead of the 100th anniversary of Armenian genocide which, I am sure, can give light to very old legal issues of Armenian genocide and be a serious stimulus for legal research of Armenian genocide and the Armenian issue, in general.

The topics in consideration are modernistic and interesting –the procedure of international recognition of Armenian genocide and Armenian legal mind, legal issues of abolishing the consequences of genocide, legal issues of activity of territorial commission formed in Diaspora ahead of the 100th anniversary of Armenian genocide, etc.

It is gratifying that today many countries have recognized and condemned the Armenian genocide, but unfortunately, international community has not given a final solution to the issue of recognition of Armenian genocide. That is why the recognition and condemnation of Armenian genocide by any country, at best, gives a feeling of emotional and moral satisfaction to us – Armenians, particularly, decisions like this shake Turkey's authority.

Recognition of the fact of Armenian genocide by international community is prevented by economic and geographical-political interests of several countries, mainly of superpowers, sometimes by collision of those interests.

Such is the situation today and it was so a century ago when, because of the same interests, our ancient nation appeared on the altar of geographical-political insatiable ambitions of superpowers.

It's worth mentioning that the issue of recognizing or not recognizing the Armenian genocide has often become a powerful means to exert pressure on Turkey. We must learn lessons from these facts. First of all, it is necessary to move from emotional-moral dimension of international recognition of Armenian genocide to legal one. What does it mean? It means that in territorial and international complicated situation of nowadays it is impossible to solve the issues of international recognition of Armenian genocide and Armenian-Turkish relations, in general, without scientifically grounded legal proofs. That is, either the recognition of Armenian genocide, or the normalization of Armenian-Turkish relations shall have a perfect international legal provision. And we – the Armenian lawyers are destined to carry out that complicated task.

We can't say that the Armenian lawyers have not done anything in the process of legal provision of recognition of Armenian genocide and solution of Armenian issue. It is enough to mention the name of well-known specialist of international law, doctor and professor of juridical science Yuri Barseghov. Some of the works of the devoted lawyer are "The Genocide of Armenians is a Crime according to International Law", "Turkish Doctrine of International Law as a Tool of Genocide Policy" and so on. In these works Yu. Barseghov from the point of view of international law discusses the crimes committed against Armenians in Turkey from 1876 to 1923, he grounds that they must be evaluated as genocide and Turkey must bear a legal responsibility for the committed crime. Moreover, it is remarkable, that Yu. Barseghov is categorically against the belief that the genocide took place in 1915. Armenians, as well as other nations tend to believe it. Breaking that stereotype, Yu. Barseghov legally proves that Armenian genocide started in Ottoman Empire then went on with breaks till 1923. That is, either Turkish sultans, or young Turks and Kemalists have implemented Armenian genocide in Turkey. It means this or that certain power in Turkey is not the author of Armenian genocide, particularly, it is not only the Ottoman Empire that bears responsibility for Armenian genocide, but also contemporary Turkey, and its founder Kemal Atatürk's arms are painted with Armenians' blood, as well.

Finishing my speech on Yu. Barseghov's legal researches on Armenian genocide I would like to mention especially "The Collection of Documents on Turkey's Responsibility for Armenians' Genocide" formed and edited by that deserved lawyer. This collection is single by its documentary materials, as well as its legal direction. If the purpose of former similar collections was to prove

the fact of genocide, this collection was formed on legal basis and concerns Turkey's legal responsibility.

I hope, there will be some lawyers to continue Yuri Barseghov's work. Armenian lawyers, especially the young ones, must go on researching and analyzing in this direction.

It is an indisputable fact that Armenian genocide committed in Turkey is fundamentally proved. A lot of evidence on miserable crime of Turks is available – witness' testimonies, letters, diaries, official documents, memories of Turks who took part in genocide and foreigners who were eye-witness of those events. Besides, we have the confession of Turkish powers fixed by Turkish courts in the verdicts from 1919 to 1920. During those years Turkish courts took up a number of trials where the defendants were Turkish statesmen and politicians, soldiers, officials. They were sentenced for massive assassination and forcible evacuation of Armenians. Those verdicts are official legal ratifications condemning the Armenian genocide which can hardly be litigated even by today's Turk nationalists. I think this direction of legal study is strongly perspective and efficient.

Speaking about the international recognition and condemnation of Armenian genocide, we consider Turkey the main responsible part. In juridical words, Turkey is the doer of the crime. And it is true. But we - the lawyers know that criminals often have accomplices – organizers, instigators, supporters. Have there been any personalities, international overt or secret organizations, peoples and countries that have organized and supported to implement the Armenian genocide. And what was the purpose? In literature some information about the organizers, supporters and even about co-doers of Armenian genocide is available. However, for the present I will not speak about the international organizations and countries proclaimed in that information as they are just hypothesis which need serious legal examination. One of the issues of Armenian lawyers is the revelation of organizers, instigators and supporters of Armenian genocide.

Regarding the legal issues of abolishing the consequences of Armenian genocide, Armenian lawyers have serious work to do in this field.

Here a number of legal issues arise. It is indisputable that the abolishing of consequences of Armenian genocide is related to compensation. Will that compensation be just moral, or property and territorial?

What is the frame of subjects getting compensation? Shall it include the heirs of genocide victims, Armenian apostolic church, the Republic of Armenia or

all together? I think the heirs of genocide victims shall be materially compensated. The churches miraculously saved in Turkey and the lands belonging to church shall be returned to the Armenian Church, the Republic of Armenia shall get back its lost territories, etc. But all those requirements shall have a perfect legal base.

We all are aware that international insurance companies had decided to pay appropriate insurance payment to the heirs of genocide victims since 2007. However, they have recently stopped paying. Why? Of course, the role of Turkey's pressure is undeniable, but if we possessed juridically grounded proofs that process would have a logical end.

Of course, the international recognition of Armenian genocide is very important to Armenians, Turks, and why not, to the whole humanity. The international recognition of Armenian genocide would give not only a feeling of emotional-moral satisfaction, it would not only allow the Armenian nation to throw off the social-psychological complex of incompleteness but also it would solve all the problems connected with compensation. However, it's already a century that Armenian-Turkish relations are in the same place and although numerous states have officially recognized and condemned Armenian genocide, we don't have any tangible results. I am sure that the same situation will be 100 years later. And the reason of this situation is not only Turkey's arguable position and geographical-political contradictions of superpowers. I am sure that the reason is also our position towards the recognition of Armenian genocide and Armenian-Turkish relations.

I think it is not right to consider the international recognition of Armenian genocide the magic key of the solution of Armenian issue and direct all the material, human and mental resources of Armenian nation to the solution of that issue. The international recognition of Armenian genocide is only a component of the solution of Armenian issue and the normalization of Armenian-Turkish relations, in general, very important but only one component. And the Armenian issue and the normalization of Armenian-Turkish relations, which is just of legal character, shall be solved on the base of fundamental principles of international law. It means that all the international treaties on Armenian nation, its territories shall be subjected to appropriate international-legal expertise beginning from Berlin's Congress to the last Armenian-Turkish not ratified agreement. Otherwise, we will have what we have now.

What is going on today? Almost every day we hear the stuff and nonsense of Azerbaijani high-rank officials saying that Syunik is an Azerbaijani territory, Yerevan is an Azerbaijani territory, Artsakh is indisputably an Azerbaijani territory. And we keep silence. At best, we consider the Azerbaijani

requirements groundless. I agree, it is really nonsense, it is such an evident false and lie that it's even a shame to response them. At best, we advise the Azerbaijani people to get acquainted with the works of ancient historians who even didn't know the name "Azerbaijan". But wouldn't it be more efficient to submit a grounded counterclaim to Azerbaijani people? Thus, according to the article 3 of the Treaty of Moscow dated March 16, 1921 Nakhidjevan was separated from Armenia and passed to Azerbaijan's aegis as an autonomous region. For the present, not referring to the legality of the Treaty of Moscow dated March 18, 1921 I will only mention that by the decision of Azerbaijan's Central Executive Committee dated June, 1923 the mentioned international treaty was arbitrarily reviewed, the status of Nakhidjevan changed and that land was removed from Azerbaijan's aegis and was involved in the territory of Azerbaijan. That decision was such a rude violation of international law that even Turkey's government submitted a protest note in July, 1923 and the decision of Azerbaijan's Central Executive Committee was assessed as an invasion. Do we have a right to declare today that Nakhidjevan is the inseparable part of Armenia, but overrun by Azerbaijan? Undoubtedly, we have the right, but we keep silence.

Now let's return to international treaties concerning the Armenian nation. I will mention that Armenian specialists of international law have studied international agreements and drawn interesting conclusions. With this respect I would like to refer to some issues. From the study of our specialists of international law it is seen that the Treaty of Sevres dated August 10, 1920 is a very important international-legal document for Armenians. Although that treaty was not ratified by signatories, it was not denounced by the Treaty of Lausanne dated July 23, 1923, either. Sevres Treaty is non-ratified but it has not come out of effect. However, from the aspect of normalization of Armenian-Turkish relations it's not Sevres Treaty that is very important but the U.S. President Woodrow Wilson's arbitral decision of November 22, 1920 relating to that treaty which defined Armenia's territory. According to famous provisions of international law if there is a dispute between the parties and they agree to invite an arbiter to resolve their dispute, once for all they agree to fulfill any ruling by the arbiter. Moreover, the arbitral decision is final and it does not have any time limit. The mentioned decision of the U.S. President Woodrow Wilson is such for Armenia, Turkey and sixteen more countries. According to this decision the provinces of Van, Bitlis, Erzurum and Trebizond with the area of 103599 square km pass to Armenia. According to the article 89 of Sevres Treaty Turkey and Armenia, as well as High Contracting Parties agree to submit the issue of borders between Armenia and Turkey in provinces of Erzurum, Trebizond, Van and Bitlis to the arbitration of U.S. President.

A question may arise, if Sevres Treaty has not come into effect, its article 89 has not come into effect, either. Accordingly, the arbitral decision of U.S. President Woodrow Wilson is not binding, either. However, the issue is not that simple and it cannot have a negative solution.

The mentioned article is only the formulation of the expression of will of Armenia, Turkey and other countries on the base of which the U.S. President Woodrow Wilson passed an arbitral decision. The further ratification of Sevres Treaty or leaving it unratified has nothing to do with the expression of will of the parties. It's not accidental that by Treaty of Lausanne dated July 24, 1923 Turkey's borders with Greece, Bulgaria, in contact zone with the territory of Syria are laid down, whereas there is no word about laying down the Armenian-Turkish border. Particularly, according to the Treaty of Lausanne Kars is not involved in the current territory of Turkey. It means that the current Armenian-Turkish border does not comply with the Treaty of Lausanne.

By the way, the Congressmen of the state California of the USA Anthony Portantino and Judi Chu have also stated that the U.S. President Woodrow Wilson's arbitral decision is binding and irrevocable.

One can object that the Armenian-Turkish border was already laid down by Russian-Turkish Treaty of Moscow dated March 21, 1921 according to which Kars and Ardahan passed to Turkey, Nakhidjevan was separated from Armenia and passed under Azerbaijan's aegis with the status of an autonomous region. However, the treaty cannot be considered as a full international treaty as the signatories were not recognized states at the moment of signing the treaty and could not be considered as subjects of international law. Besides, Armenia was not allowed to participate in Russian-Turkish negotiations and did not sign the treaty. And one of the famous principles of international law is that the third party which is not a signatory does not bear any responsibility.

One can object that Armenia took part in negotiation with Turks in Kars in October, 1921 and signed the treaty of October 21, 1921 about passing Surmalu to Turks. However, the treaty was not initially valid as Armenia was a part of Russia and was not a subject of international law.

I touched upon this serious international legal problem transiently because my purpose is not a thorough legal study of the mentioned treaties but drawing the attention of the participants of the conference to the necessity of study. I hope that Armenian lawyers have the necessary potential to study international treaties and draw the necessary conclusions relating to the Armenian-Turkish relations.



Today the Armenian-Turkish border is not laid down yet. We have territorial disputes with Turkey, as well as with Azerbaijan. I think , for legal solution of the dispute it is necessary to prepare a big claim package with appropriate juridical arguments and submit it to Armenian authorities, later to the UN body making legal decisions to solve the issue of handing it to International Court of Justice.

I am sure, if Azerbaijan had one hundredth part of our juridically grounded claims it would have applied not only to the International Court of Justice but also to all possible and impossible instances.

I hope, this conference will be a new stimulus to do necessary researches to move the normalization of Armenian-Turkish relations to legal dimension.

Let's not forget that time is against us".

A. G. Hovsepyan

The Prosecutor General of the Republic of Armenia

State Counselor of Justice

Doctor of the Science of Law

05.07.2013      Yerevan



### DECLARATION

*adopted by*

the participants of the Second Pan-Armenian Forum of Lawyers “Ahead of the 100<sup>th</sup> Anniversary of the Armenian Genocide”

*Attaching importance to* the need of gearing the potential of Armenian lawyers around the world towards international recognition and condemnation of the Armenian Genocide and elimination of the consequences;

*Responding to* the call of the State Commission in charge of Coordinating the Events Ahead of the 100<sup>th</sup> Anniversary of the Armenian Genocide;

*Welcoming* the joint statement issued by Catholicos of All Armenians Karekin II and Catholicos Aram I of the Great House of Cilicia on April 24<sup>th</sup> regarding recognition and condemnation of the Armenian Genocide, elimination of the consequences, as well as the return of Armenian churches, monasteries, church territories and spiritual and cultural assets to the rightful owners;

*Appreciating* the efforts made by Armenian and foreign lawyers in regard to key issues of genocides;

*Discussing* the key issues related to recognition and condemnation of the Armenian Genocide and elimination of the consequences in the limits of international law;

We the participants of the Second Pan-Armenian Forum of Lawyers address all Armenian lawyers and foreign experts of international law involved in solving key issues related to genocides.

**We declare:**

1. We believe the major objective of Armenian lawyers is not to state the clear fact of Genocide, but to compile a list of complete and substantiated documents based on the views expressed during the forum, the existing studies and documents, as well as the norms and principles of international law in order to eliminate the consequences;
2. Within the framework of the solution to legal issues, we will be collaborating with the State Commission in charge of Coordinating the Events Ahead of the 100<sup>th</sup> Anniversary of the Armenian Genocide headed by the RA President and the committees established in the Armenian Diaspora;
3. We will establish a special committee that will make the package of legal documents on key issues related to the Armenian Genocide complete.

**Pan-Armenian Conference of Lawyers  
Center of Constitutional Law of the RA  
Union of Lawyers of the RA**

