

A PREDICTABLE FAIT ACCOMPLI IN YEREVAN

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✘ Team Keghart **Editorial**, 12 January 2010

✘ As expected, the Constitutional Court of Armenia has upheld the constitutionality of the Protocols. Now the documents will be forwarded to the parliament of Armenia for ratification, and then President Serzh Sargsyan will have a final say.

Several Protocols-related matters are particularly worrisome. Although the Protocols are not ordinarily dealt as treaties, in this instance they are being accorded all the fanfare and prestige of a treaty, thus making it even more difficult to either bypass their provisions or abrogate them by a subsequent administration. Usually Protocols are dealt as "letters of agreement", which are much less restrictive in parameters.

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Article 11 of the Declaration of Independence, dated August 23, 1990, states, "The Republic of Armenia stands in support of the task of achieving international recognition of the 1915 Genocide in Ottoman Turkey and Western Armenia." The measured wording does not explicitly mention our legitimate land claims from Turkey. Hence, those who have forwarded the thesis that the Protocols violate the intent of the Declaration of Independence are at least partially wrong.

As to constitutionality, there are only two main articles in the constitution that are relevant to the case, while the second is remotely related:

"Chapter 1: **The Foundations of Constitutional Order**

Article 9

The foreign policy of the Republic of Armenia shall be conducted in accordance with the principles and norms of the international law, with the aim of establishing good neighborly and mutually beneficial relations with all states.

According to the above article it can be posited that the intent of the Protocols is to establish

"neighborly and mutually beneficial relations".

"Article 100

The Constitutional Court shall, in conformity with the procedure defined by law:

2) prior to the ratification of international treaties determine the compliance of the commitments stipulated therein with the Constitution."

This is remotely relevant, and unfortunately--as said earlier--the Protocols have been elevated to the status of treaties.

The only solace for those who object to the constitutionality is dependent on how the preamble of the constitution is interpreted (bolded by Keghart).

"The Armenian People, recognizing as a basis the fundamental principles of the Armenian statehood and **national aspirations engraved in the Declaration of Independence** of Armenia, having fulfilled the sacred message of its freedom loving ancestors **for the restoration of the sovereign state**, committed to the strengthening and prosperity of the fatherland, to ensure the freedom, general well being and civic harmony of future generations, declaring their faithfulness to universal values, hereby adopts the Constitution of the Republic of Armenia."

Here too, the constitution does not make land claims. There is only a vague reference to "national aspirations" and "restoration of the sovereign state"

Thus, it should not come as a surprise that the Court upheld the constitutionality of the Protocols.

The answer to land claims and what descendants of Genocide survivors define "national aspirations" lie elsewhere. Only through re-organization of the Diaspora, and making use of **all its potentials**, can the Diaspora hope to achieve what it aspires, in tandem with what Armenia as a state can do.

Fortunately, such positive developments are blossoming in various Armenian communities and organizations around the globe. The upcoming 12 months could determine whether Diaspora-driven initiatives regarding our legitimate land claims are on the right track. To quote a wise Armenian saying, "If you have fingernails, scratch your own head"
Yeghounk ounis, kloukhet kere.

Yes, we do have fingernails--no thanks to Serzh Sargsyan and Co.

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