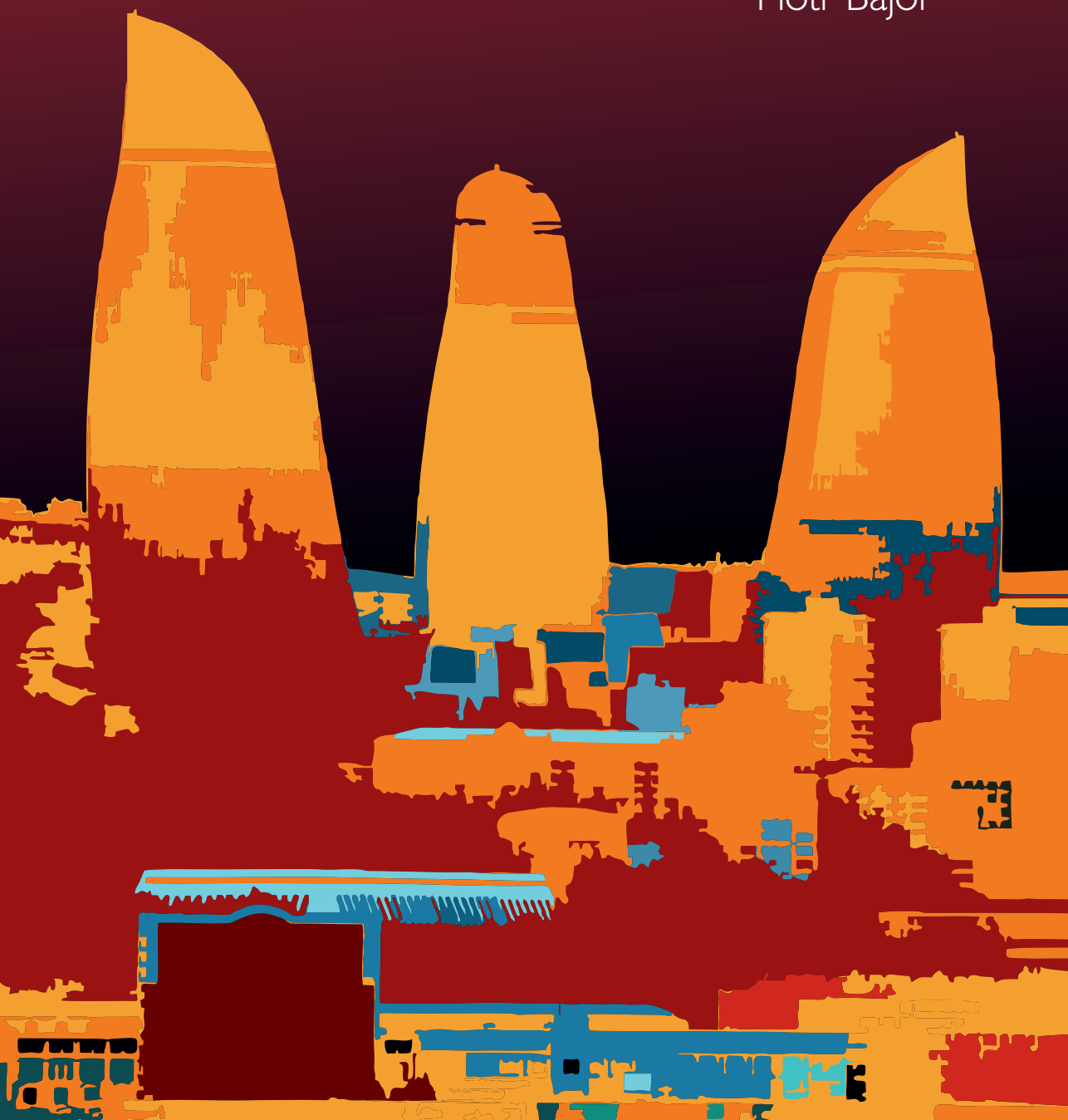


Contemporary Azerbaijan in Social and Political Dimension

edited by
Piotr Bajor



**Contemporary Azerbaijan
in Social and Political Dimension**



SOCIETAS

**edited by
BOGDAN SZLACHTA**

95

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Introduction

Put into the readers' hands, the book is devoted to the issues of modern Azerbaijan, analyzed through the prism of key political, social, and economic processes happening in this country.

Modern Azerbaijan plays a significant role from the geopolitical and security perspective, not only in the regional aspect of the Southern Caucasus, but also as a broadly recognized post-Soviet area. Therefore, the purpose of this book was to improve the readers' awareness of modern Azerbaijan and to present the most important processes regarding the issue of political, social, and economic transformations of the country, as well as the aspects of foreign and security policy.

The main intention of the initiators of this book was to take a national perspective, therefore the authors of each of the articles are scientists representing diverse research institutions in Azerbaijan who present the latest results of their research. Thus, in this book the readers will find answers to the key questions regarding modern Azerbaijan and the most important processes happening in this country.

Piotr Bajor

The Principle of *Self-Determination of Peoples* in Modern Age and the Position of the Republic of Azerbaijan

Introduction

The firm principle of the modern international relations is an observance of territorial integrity of any state. This principle finds its reflection in the UN Charter. Article 2.4 of the Chapter 1 says “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations”.¹

More substantiation of this principle may be found in the Final Act of the Helsinki Declaration of 1975 where it is said that “the participating States regard as inviolable all one another’s frontiers as well as the frontiers of all States in Europe and therefore they will refrain now and in the future from assaulting these frontiers”.² And further, “accordingly, they will also refrain from any demand for, or act of, seizure and usurpation of part or all of the territory of any participating State”.³ This document was signed by all members of OSCE and four of five permanent members of the UN Security Council and all three states – co-chairing the Minsk OSCE group on settlement of the Armenian-Azerbaijani, Nagorno-Karabakh conflict. There is no signature of the People’s Republic of China as it isn’t a European country.

¹ UN Charter, 1945, article 2, p. 3, <https://treaties.un.org/doc/publication/ctc/uncharter.pdf> (access: 24.11.2016).

² The final Act of Conference on Security and Cooperation in Europe, Helsinki, April 30 – August 1, 1975, 1987, p. 5-6.

³ *Ibidem*.

Interpretation of the Principle of Self-Determination of Peoples

At the same time, Armenian and their Russian theorists have recently begun to interpret the principle of inviolability of borders and the concept of self-determination of peoples in their own way. It should be noted that this concept originally began to be used during the Age of the Enlightenment and revolutionary shocks in Europe, and, first of all, in France. The term used then was the existence of the natural right of the peoples to choose their destiny – either to live in the multinational state, or to create a mono-state of one nation. Later, at the Parisian peace conference, U.S. President Woodrow Wilson declared that in modern era it is possible to speak “about the right of the peoples to self-determination”,⁴ however, in fact peoples continued to live where they lived. At the beginning of the 20th century, in particular, on the eve of and during World War I this idea was developed by V. I. Lenin in such works as “Critical notes on ethnic issue”, “On the right of the peoples to self-determination”⁵ and others. Lenin’s idea is secession for the sake of a new socialist association. Later, this principle became the cornerstone of the Constitution of the USSR. Article 206 of the Constitution of the USSR said that any Federal Republic has the right of secession from the USSR, but never and nowhere has this “right” been exercised.

In his work “The discussion on self-determination”, written in the middle of 1916, Lenin wrote: “This way or another, you cannot escape a conclusion: annexation is the violation of self-determination of peoples, an establishment of borders of the state contrary to the will of a people”,⁶ in this case – the people of Ukraine, and before – Azerbaijan and Georgia. The territory of any state in the world can be changed only with the consent of the state. As the subject of international law no one in the world has the right to interpret this truth in a different way.

The 7th paragraph of above-mentioned Declaration of the Principles of the Helsinki Conference “Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief” says: “The participating States on whose territory national minorities exist will respect the right of persons belonging to such minorities to equality before the law, will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere”.⁷ The following 8th paragraph deals with “... equal rights of peoples and their right to self-determination” to which Armenian political scientists often refer. However, it says nothing about the right of national minorities to leave any state for any

⁴ *Self-determination*, <https://www.britannica.com/topic/self-determination> (access: 24.11.2016).

⁵ V.I. Lenin, *Complete Set of Works*, Vol. 25, Moscow 1958, p. 289-294.

⁶ *Ibidem*, Vol. 30, Moscow 1958, p. 26.

⁷ The final Act of Conference on Security and Cooperation in Europe, Helsinki, April 30 – August 1, 1975, 1987, p. 5-6.

reasons.⁸ The Declaration supports the right of peoples to carry out political, economic, social and cultural development without intervention from the outside. Also, these paragraphs concern only indigenous peoples, and the right to self-determination is supposed to be relevant only for native peoples.

The world practice confirms that each nation can gain independence only once and create a national state. The same nation can't gain independence several times in the places of its residence, on the territory of the independent countries where they are citizens. Violation of this principle contradicts the Charter of the UN and all international principles.

State sovereignty and international relations in post-Soviet area

In this regard a natural question emerges – what does sovereignty mean in modern era? State sovereignty for any state is the supremacy of the State power within the country and the guarantor of its independence on the world scene.

Supremacy of the principle of independence as the sovereign basis of the state power expresses its political and legal essence and reveals itself in corresponding forms of internal and external activity of the state. This principle is firm and nobody has the right to violate it.

This idea was confirmed in «The declaration on observance of the sovereignty, territorial integrity and immunity of borders of the states – members of the Commonwealth of Independent States», signed in Moscow on April 15, 1994. The 3rd article of the Declaration says: «Claim that territory capture with use of force can't be recognized, and occupation of the territory of a state can't be used for the international recognition or imposing of change of its legal status».⁹ The whole text of the Declaration is given below in full. In such a case it is difficult to combine this article with the occupation of the part of Ukrainian territory– the Crimea and its accession to Russia. The Declaration has been signed by the president of the Russian Federation as well.

Long before the annexation of the Crimea by Russia, Armenian separatists hoped for external support. According to Freedom Radio: “Armenian diaspora around the world is raising funds for Karabakh”.¹⁰ Russian journalist Oleg Panfilov says in the

⁸ *Ibidem*.

⁹ Declaration on Observance of the Sovereignty, Territorial Integrity, and Inviolability of the Borders of Member States of the Commonwealth of Independent States of 15 April, 1994 (Moscow), <http://www.inpravo.ru/data/base250/text25v878i300.htm>. Signed in Moscow on April 15, 1994, in one original copy in Russian. The original copy is kept in the archives of the Government of the Republic of Belarus (access: 24.11.2016).

¹⁰ Нагорный Карабах: за что боролись?, <http://www.svoboda.org/content/transcript/24202115.html> (access: 24.11.2016).

interview “People to whom I talked (in Karabakh) don’t see the future”.¹¹ However, Nagorno-Karabakh before the occupation was one of the well-developed regions of Azerbaijan. Now it is in stagnation. The “economic integration” with Armenia promised by the adviser of the head of the Soviet state M.Gorbachev – A. Aganbekyanin 1987 in France haven’t been put into effect. “As an economist, I consider that Nagorno-Karabakh is more connected with Armenia than with Azerbaijan” he said then¹² Where is the progress? There isn’t any and the sooner the Armenian side accepts that, the better for Armenia and the Armenians of the Nagorno-Karabakh region of the Republic of Azerbaijan. “Nagorno-Karabakh region of the Republic of Azerbaijan” is the formula used in 4 resolutions¹³ of the UN Security Council on Armenian-Azerbaijani Nagorno-Karabakh conflict, calling for termination of occupation. E.g. UN Security Council “Urges the Government of the Republic of Armenia to continue to exert its influence to achieve compliance by the Armenians of the *Nagorny-Karabakh region of the Azerbaijani Republic* with its resolution 822 (1993) and the present resolution, and the acceptance by this party of the proposals of the Minsk Group of the CSCE”.¹⁴ Resolution 874 says: “Expressing its serious concern that a continuation of the conflict in and around the *Nagorny Karabakh region of the Azerbaijani Republic*, and of the tensions between the Republic of Armenia and the Azerbaijani Republic, would endanger peace and security in the region”.¹⁵ This sentence was repeated in the resolution 884 of Security Council.¹⁶

All infringements on the national territory of the sovereign Azerbaijani state should be responded to with the article 2 “Refraining from the threat or use of force” of the final Act of Conference on Security and Cooperation in Europe: “The participating States will refrain in their mutual relations, as well as in their international relations in general, from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations and with the present Declaration. No con-

¹¹ *Ibidem*.

¹² See “L’Humanité” 1987, 18 XI. See also S.E. Cornell, *The Nagorno-Karabakh Conflict*, Report no. 46, Department of East European Studies, Uppsala University, 1999, p. 13.

¹³ Security Council resolutions, 1993, <http://www.un.org/Docs/scres/1993/scres93.htm> (access: 24.11.2016).

¹⁴ Resolution 853 (1993), Adopted by the Security Council at its 3259th meeting, on 29 July, 1993, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N93/428/34/IMG/N9342834.pdf?OpenElement> (access: 24.11.2016).

¹⁵ Resolution 874 (1993), Adopted by the Security Council at its 3292nd meeting, on 14 October, 1993, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N93/557/41/PDF/N9355741.pdf?OpenElement> (access: 24.11.2016).

¹⁶ Resolution 884 (1993), Adopted by the Security Council at its 3313th meeting, on 12 November, 1993, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N93/631/20/PDF/N9363120.pdf?OpenElement> (access: 24.11.2016).

sideration may be invoked to serve to warrant resort to the threat or use of force in contravention of this principle”¹⁷

On the other hand, all four resolutions of the UN Security Council on Armenian-Azerbaijani, Nagorno-Karabakh conflict confirmed “the sovereignty and territorial integrity of the Azerbaijani Republic...”¹⁸ The most authoritative organization in the world recognizes the Nagorno-Karabakh region as an integral part of the Azerbaijan Republic. However, this policy of occupation of 20 percent of the territory of the Republic of Azerbaijan once again was confirmed by refusal of the President of Armenia to sign “The declaration on observance of the sovereignty, territorial integrity and immunity of borders of the states – members of the Commonwealth of Independent States”, signed in Moscow on April 15, 1994.

Out of 12 member-states of the CIS only Armenia refused to sign this Declaration. It is necessary to emphasize that the Declaration was signed by the President of Russian Federation as well.

The Declaration says:

Heads of members – states of the Commonwealth of Independent States,

Proceeding from aspiration of the people of the states – members of the Commonwealth of Independent States to preserving and strengthening of traditionally close friendly connections and the relations of neighbourliness,

- in view of the importance of the problems connected with consolidation of peace and security in the territories of the member states of Commonwealth, in the context of ensuring all-European and international security, observance of the sovereignty, territorial integrity, immunity of borders of the states – participants of Commonwealth,
- expressing serious concern about armed conflicts of various nature,
- being guided by the universally recognized norms of international law, the purposes and principles of Articles of organization of the United Nations, meetings on safety and cooperation in Europe, and also fundamental documents of the Commonwealth of Independent States,
- respecting the sovereignty, and also confirming territorial integrity, inviolability of borders of each other, refusal of illegal territorial acquisitions and of any actions directed on the partition of another’s territory,
- proceeding from principles of non-interference to internal affairs of each other, equality and self-determination of the people, rejecting and condemning use of force or threat by force,
- realizing coherence of safety of the of Commonwealth,

¹⁷ The final Act of Conference on Security and Cooperation in Europe. Helsinki, April 30 – August 1, 1975, 1987, p. 5.

¹⁸ Security council resolutions, 1993, <http://www.un.org/Docs/scres/1993/scres93.htm> (access: 24.11.2016).

- being attached to the common goal – to strengthening of Commonwealth,
- declare that the member states of the Commonwealth of Independent States:
 1. Provide accomplishment in the relations of principles of the sovereignty, territorial integrity and inviolability of frontiers.
 2. Confirm that, building the relations as friendly, the states will abstain from military, political, economic or any other uniform of pressure, including blockade, and also supports and uses of separatism against territorial integrity and immunity, and also political independence any of the states – members of Commonwealth.
 3. Claim that territory capture with use of force can't be recognized, and occupation of the territory of the states can't be used for the international recognition or imposing of change of its legal status.
 4. Express confidence that observance of the principle of non-interference with internal affairs of each other is an important condition of strengthening friendship and partnership between the states — members of Commonwealth.
 5. Will prevent according to the national legislation the creation and activity on their territories of organizations and groups, and also the actions of individuals directed against independence, territorial integrity of the states — members of Commonwealth, or on an aggravation of the international relations.
 6. Reaffirm their willingness to contribute to the settlement of disputes and conflicts through the use of agreed case by case arrangements envisaged for this purpose in the relevant documents adopted within the Commonwealth of Independent States, the United Nations and the Conference on Security and Cooperation in Europe.
 7. Will regularly during meetings of heads of states–members of Commonwealth discuss issues related to the implementation of the fundamental documents of the Commonwealth of Independent States, international treaties and agreements dealt with in this Declaration issues for their effective compliance.¹⁹

The above-stated Declaration puts it "...respecting the sovereignty, and also confirming territorial integrity, inviolability of borders of each other, refusal of illegal territorial acquisitions and of any actions directed on the partition of another's territory"²⁰

It is necessary to look through other fundamental documents of international organizations, to which Armenian theorists often refer. So, according to the Declaration on the rights of the persons belonging to national, ethnic, religious and linguistic minorities adopted at session of the General Assembly of the United Nations on December 18, 1992 "Persons belonging to national or ethnic, religious and linguistic minorities (in this case the Armenian minority in the territory of the

¹⁹ Declaration on Observance of the Sovereignty...

²⁰ *Ibidem.*

Nagorno-Karabakh region of the Republic of Azerbaijan – A.A.) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination”, as well as “have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group”²¹ (in this case Armenians living in other countries of the world – A.A.). The same was reaffirmed in the documents of the World conference on Human Rights which took place in the capital of the Republic of Austria in Vienna in 1993. At the same time, no document of the UN and OSCE speaks about secession or violent or voluntary accession to other state. Moreover, all documents without exception reaffirm the principle of inviolability of borders and territorial integrity of any state.

It is necessary to touch upon one more issue which Russian theorists insist on with special persistence. It is a question of so-called “common-state”. This idea was supported with the assistance of the Armenian advisers by one of the former leaders of the Russian Federation. It looks like symbiosis of a federal state. In this case, the Nagorno-Karabakh region of the Republic of Azerbaijan gets the status of the subject of international law and voluntarily at any time could terminate this agreement. And it means that, later, in “a lawful way” as independent state entity, by a national referendum, Nagorno-Karabakh can unite with Armenia. Everything was shown and confirmed with the examples of the Crimea and Sevastopol. In that case, there is a question to my colleagues on the idea of a “common-state”. Why not to form common-state in the Russian Federation with the Chechen Republic, or with Tatarstan and Bashkortostan? Russia is a great power and could set an example for others how to form a “common-state”.

At the same time, there is a concept of a confederative state. In this case the countries forming confederation are subjects of international law, members of the international organizations, they lead independent foreign policy, have own armed forces, the legislative and executive bodies. In the second half of the 20th century similar entities took place in Africa: Senegambiya – Senegal and Gambia, the Integrated Arab Republic – Egypt and Syria, the Integrated Republics – the Libyan Jamahiriya and Tunisia which broke up after a while, leaving no trace.

In the modern world there is a concept of a federal state which consists of certain subjects who aren't subjects of international law. In the USA, Brazil, Mexico, Australia or India the territory of the country consists of separate states; in Argentina and Canada of provinces, Switzerland of cantons, Germany and the Republic of Austria of lands and so on.

In a federal state subjects have neither armed forces nor external political connections or actions, however they enjoy uniform currency, uniform general federal

²¹ Declaration on the rights of the persons belonging to national, ethnic, religious and linguistic minorities, <http://www.un-documents.net/a47r135.htm> (access: 24.11.2016).

budget and so on. Constitutions of such states as Argentina, Canada, the USA, Germany, Switzerland, don't recognize federated members' right to secession.

Nowadays, Russia has exploited «self-determination of peoples» principle more than any other. Some time ago Russia under the slogans of «rescue» of its citizens in sovereign Georgia tore away from it Abkhazia and South Ossetia, and now using the principle of «self-determination of peoples» is tearing away from sovereign Ukraine its part – Crimea. Following this principle Russia can distribute a Russian passport to citizens living in the adjacent countries, and first of all in those sovereign countries which were formed in the post-Soviet area. And it means that Russia will under the slogan of protection of the citizens on «a lawful basis» under the machine guns take and attach new territories to Russia. Thanks God, we have “self-determination of peoples» principle which, as the president of Russian Federation once said, nobody has cancelled yet. However during Chechen wars Russia refused to accept self-determination principle and preferred to restore constitutional order.²² In that case, why Azerbaijanis, Georgians, Ukrainians cannot restore territorial integrity and constitutional order on their own territory? In Chechnya they called insurgents terrorists, in Ukraine – militiaman, rebels. Where is the logic? This is the logic of substitution of the law with force.

The newly-fledged theorists on “self-determination of peoples” principle should take a look at a Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations adopted at UN General Assembly session on 24 October 1970. It says, “nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour”. And further: “Every State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State or country”²³

²² Первая чеченская кампания 1994-1996 годов, <https://ria.ru/spravka/20141211/1037221201.html> (access: 24.11.2016).

²³ 2625 (XXV). Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, <http://www.un-documents.net/a25r2625.htm> (access: 24.11.2016).

Conclusion

The above-mentioned claims that neither UN nor OSCE has the power to preserve the inviolability of the national territory of any subject of international law. In that case we will return to the past when “divide and conquer” principle dominated. However, we are in the 21st century when robbery is consigned to the past.

Abstract

The article deals with one of the main principles of international law – the principle of self-determination. The author analyses main legal documents reflecting the principle. It is argued that the principle does not contradict to another main international law principle – the territorial integrity principle. The author argues that states distort the notion to suit it to their political interests.

Key words: Self-determination, nation, territory, border, principle, annexation, sovereignty, state, autonomy

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Unification of Mechanism of International Legal Regulation of the Trade and Economic Relations of Modern States and the Republic of Azerbaijan

Introduction

Specifications of international trade and economic relations of countries are largely determined by the successful development of mutually beneficial and equitably international economic co-operation and partnership that are needed to consolidate the positive political changes and the creation of the material basis of the global community. However, many solutions to these problems depend on the efficiency and effectiveness of the compliance with international legal norms and principles, particularly, in international economic relations, as through these rules and principles there can be a certain world order, ensuring their normal functioning.

On the other hand, improvement of international trade and economic relations at the current stage of development of bilateral relations contributes to the expansion of the scope and to the reinforcement of the universality of the basic international legal norms and principles. These trade and economic relations, as the most important element (part) of international economic relations, are regulated mainly within interstate (economic) treaties and agreements, the key factor of which is the requirement for intra-national legislation, since it contains provisions governing the legal regime of these ties, according to the economic development interests of a particular country.

In addition, such ties, of course, can be adjusted by the relevant international legal acts (conventions), adopted in the activity of international, trade or other economic organizations such as the WTO, IMF, UNCTAD etc., as well as the decisions taken during international conferences. This circumstance has great importance for the issue of unification of the mechanisms of international legal regulations of modern trade and economic relations of states.

It should also be borne in mind that the process of internationalization of the economies, the deepening of the international division of labour is caused by the disproportion of development of certain industries in different countries, which, in turn, arises from the uneven distribution of labour and natural resources, different levels of skills of personnel and, as a consequence, difference in the level of development of scientific and technological potential. The increment in the degree of specialization of production in one country creates the conditions which contribute to building a system of mutual economic relationships, where the activities of economic entities and financial institutions have transnational nature.¹

Research

Moreover, in the course of globalization and liberalization of current trade and economic relations, the development of any country, including the newly sovereign countries of the former Soviet Union, largely depends on its integration ability into the global economic system. Obviously, as long as a state remains isolated from the world economy, domestic production will not be able to fully suffer the stimulus, in particular, the international competition.

To avoid all this, a number of objective factors and circumstances should be taken into account. One of them, in our opinion, is that the process of integration into the world economic system of trade must begin with the development of the domestic concept, which, of course, takes into account the modern trends in the development of these relations in the scale of international economic relations and the formation of appropriate mechanisms of international legal regulations of these relations. The solution and regulation of these issues is possible within the context of compliance with the requirements, related with the international economic security and establishment of a new economic world order.

Herewith, it is also important to determine the optimal parameters of the interaction and interdependence of national and the world economy, to provide the necessary level and structure of the national economic complex, which should guarantee the possibility of seamless connectivity to the system of international economic relations in the absence of any long-term threat to or other external dependence, especially monetary and financial sources of economic growth.

Characteristically, liberalization policy has led gradually to the expansion of actual economic environment available to producers and investors, thereby speeding up the process of globalization of a major part of the world economic system. In other words, the policy of liberalization set in motion a process in which the world eco-

¹ И.П. Блищенко, *Международно-правовые проблемы государств входящих в СНГ*, "Московский журнал международного права" 1997, No. 1, p. 40-41.

conomic system began to be a single market and a single production zone with regional and national sub-sectors. Cross-border links in the manufacturing, commercial and financial processes are intertwined to such extent that the economic situation in any country is sensitive to events taking place abroad.

In the interest of integration of new sovereign states to the international economic relations, these countries should adopt the system of regulation of the national economy to modern methods, principles and rules that are widely used by the international community in order to achieve the increase of efficiency of its functioning. Mechanisms of regulation of foreign economic relations should be established, which would include economic instruments, supplemented by instruments of administrative regulation, such as licensing, quotas, etc., if necessary.

These issues play an important role in the multilateral system of regulation of modern trade and economic relations established after the creation of the WTO,² which cover not only the international trade of goods but also trade of services, including issues related to intellectual property, investment activities etc. It is noteworthy that the share of full participants in the multilateral system of regulation of such relations accounts for the vast majority of world trade in goods and trade in services.

The development of the global economic system is characterized by an intense process of internationalization of the national economies of the modern states. The result of this process is the formation of stable production and economic inter-state relations on the basis of international division of labour.³ At the same time “as a result of the internationalization of scientific and technological progress, the global market speedily defines the forms of organization of production and quality indicators of products targeting both the external and internal consumption”⁴

In the matters of legal regulation of international trade and economic relations special role belongs to the international private law norms, which regulate property and relations related to property, i.e. these rules governing civil legal relations that are complicated by a foreign element. In another situation, the government, performing obligations committed to the international economic agreement (contract) can provide its legal entity entitled to conclude trade and economic contract which is governed by intra-law.

The need to reflect the public interest in the norms of other emerging areas of international law has increased with the development and complications of international economic relations, expansion of commercial ties, for example, in the norms of international economic law and international trade law.

² H. Matejka, *Mer Caspienne. Questions de coopération économique*, “Cahiers d'études sur la Méditerranée orientale et le monde turco-iranien” 1998, Vol. 67, No. 4, p. 38.

³ *Доклад оценочной миссии Всемирного Банка от 10 октября 1996 года*, Вашингтон 1997, p. 19.

⁴ В. Томас, *Неш Дж. Внешнеторговая политика: опыт реформ*, Москва 1996, p. 40.

With regard to the needs of a modern state, it is currently impossible to satisfy them without direct interaction with each other. It may be noted that the objective interest of almost any country is to participate in international economic relations and develop trade and economic ties.

Thus, it is objectively necessary to ensure legal regulation of issues such as the conditions of access of goods of one state to the other markets, measures to regulate trade and the protection of the national market, the degree of state intervention in the trade and economic processes, and some other issues, because of the interaction of the national economies and commodity markets of different countries. These issues should be regulated primarily by international economic (trade) rights in conjunction with the fundamental principles of contemporary international law.

On the other hand, the nature of the interaction of international trade law with the norms of domestic (i.e., civil) rights remains primarily the same as that of the whole interaction between international and intra-national law.

Numerous bilateral and multilateral economic agreements on cooperation, trade, seafaring etc. not only shaped the principles of international commercial law, but also contributed to the development and establishment of the legal regime of trade and economic relations of states and the legal basis for their complex. A certain legal position of economic entities in these relationships regulates the issues of the application of tariff and non-tariff measures, the procedure for trade settlements, the transit issues of goods, shipping, resolution of commercial disputes and other.

Special agreements (“contractual treaties”, “agreements-contracts”, etc.) have a certain theoretical and practical significance widespread in today’s economic and trade relations that contain specific legal obligations. This mainly regards contracts for the supply of an agreed list of goods of a particular situation (for example, on the occasion of the joint construction of an industrial facility within the framework of scientific and technical cooperation or on the basis of related supplies and etc.).

International experience

However, after the Agreement on establishment of the World Trade Organization was signed and due to emergence of a number of special trade documents, certain differentiation of existing law and order in international trade and economic relations occurred in the WTO system. For instance, within the agreement on trade of civil aircraft equipment, states-participants have abolished all customs duties and other forms of taxation, as well as quantitative restrictions on imports of the products, that were incompatible with the provisions of other agreements.

Revealing the features of this differentiation, it is appropriate to note that in the course of analysed agreement, special zones of trade of civil aircraft equipment were formed, such as a free trade zone for one group of products (goods) on a global scale.

In addition, one of the fundamental principles of international economic law (and not only) is the principle of the greatest propitiousness, enshrined in the WTO legal documents. In the case, it does not guarantee the benefits that flow from the agreement on trade in civil aircraft for the states-members. One of the conditions guaranteed by the receipt of these benefits is mandatory adherence to the agreement.

As a specific international legal regime has been developed in accordance with that agreement, it can be considered a part of all elements of the legal system, which operates on the basis of the WTO itself.

As regards the general international legal system, it is able to regulate the behaviour of participants in international economic relations, referring to the relationship of business entities in the economic and trade relations, as well as to act as a regulator in the relations of subjects of international law in general.

Such sectors (and sub-sectors) of contemporary international law, as the international economic law, international sea (air and space) law, international trade (finance, customs, transport) and other branches of law have formed, developed and improved.

It is noteworthy that the selection of these sectors (and the subsectors), including private international law, have been conditioned and predetermined, firstly, by the objective necessity of a more effective legal regulation of certain complexes (systems) of international relations. Secondly, by the emergence of large groups of similar legal norms, which are linked by common object of regulation and thirdly, by the creation of a historical conditions that contributed to the emergence in the international arena of a large group of new sovereign states, including the Republic of Azerbaijan, etc.

At the same time as “accompanying” facts of this circumstance, such fact as the rapid increase in the volume of world trade in comparison with the growth of the global commodity production; liberalization⁵ of the world economy, combined with globalization of international relations can be noted, according to the official data of the UN, WTO, and UNCTAD et al.

Thus, liberalization of international economic relations, including economic and trade relations, was carried out using a wide range of specific measures. It may be noted, for example, that in countries with «transition» economies the change in management mode required the disengagement of the state from the production of goods and services almost in all economic complex, as well as the formation of institutions and regulatory frameworks that could be adapted to the needs of a market economy.

As for the industrially developed states, where substantial liberalization also took place, in particular, the regime of state regulation of the activity of private sector and the adjustment of certain legislative framework in order to achieve compliance with the new requirements, for example, in the financial and environmental areas.

⁵ A. Boltho, *The Return of Free Trade?*, “International Affairs” 1996, Vol. 72, No. 2, p. 47-50, <https://doi.org/10.2307/2624354>.

The advantage of the liberalization of the world economy cannot be underestimated, since it has gradually resulted into the expansion of real economic (over the last decade), and legal space available to producers and investors, thereby speeding up another process: a large part of the globalization process of the world economic system.

All those and much more favour the fact that a place in modern international economic relations trends, covering, of course, trade-economic relations require a uniform (or same type) approach to their regulation, especially in the relevant multilateral and provide for the unification of international legal norms, mechanisms and provisions of this regulation.

Especially, proposals were clearly formulated on this subject in the documents of the UN Conference on Trade and Development at its eighth session (Cartagena-de-Indias, Colombia, in 1993).⁶ The basis of these proposals, as we know, was the idea according to which the further development of international trade should be determined by economic (but not other) factors; in the regulation of trade and economic ties should be given preference to their versatility, clearly defined international legal basis.

So, a still relevant question remains about the most appropriate (and simple) scheme of the general trade and economic relations by means of the creation and use of free trade zones, which contribute, in particular, to the reduction of the autonomy of national authorities in the field of foreign trade. However, the extent of this reduction depends directly on the share of trade with other parties, such as regional grouping in total trade of member countries.

Summing up, we can conclude that the need to regulate the trade and economic relations of multilateral, international legal basis, that is, the need to use the agreed norms, principles and unification of the mechanisms regulating their foreign trade activities appearing objectively, exists and is growing due to the deepening of the individual processes (internationalization of national economies, the creation of regional formations, the growth of interdependence and interaction between national trade and economic systems, the creation of free trade zones etc.) that are important for the formation of a new international economic order.

There remains the tendency to the formation of regional trading blocs, the functioning of which is matched upon trade and economic policy meets the interests of member countries of the regional associations. The degree of coordination and implementation of trade policy depends on the depth of integration and the objectives defined by the Treaty on Economic Integration.⁷

The issues of unification of regulatory mechanisms of modern trade and economic relations of the important role belong to the so-called free economic zones or

⁶ *Действующее международное право*, Т. 3, ред. Ю.М. Колосов, Э.М. Кривчикова, Москва 1997.

⁷ П.П. Дюмулен, *Всемирная торговая организация*, Москва 1997.

free trade zones (free trade area – FTA) which, despite the different approaches and debate about their activities, continue to prove the multi-faceted effectiveness.⁸

Within many economic indicators and statistical data currently there are more than 700 such zones, including 40 areas of trade and warehouse type and more than 300 types of industrial zones (export production zones – EPZ). One of the features is that the highest number of FTA acts in industrialized countries: geographically, there are about 130 such areas in Europe and more than 190 in the United States; also FTA has widely spread in the newly developing countries and so on. So, according to some records of these countries in 1994 there were more than 300 EPZs, more than 100 were at the stage of “arrangement” and more than 50 at the planning and preparation stage.

The universal acclaim of the economic efficiency of the FEZ (FTA) and their ubiquitous presence even led to the creation of national and international organizations, regulating and supervising the operation and development of free trade and economic activity. Thus, the biggest of them are the National Association of Free Trade Areas (USA), the Asia-Pacific Economic Co-operation and some others.

These institutions of modern international trade and economic relations, called free economic zones as main tool for economic development in their annual reports regularly show rapid growth characteristic of the FTA and EPZs. For example, in 1996 the total volume of exports in EPZs has increased up to \$25 billion compared to \$17 billion in 1990, while the number of employees employed in them has exceeded 3 million people; 1 million more than in 1990, etc.⁹

The fact that appears to be important is that growing competition in world economic relations has forced many large companies, primarily related to export and import, to re-evaluate their activities and thoroughly reflect on the advantage of the FTA.

The edges of the increased international competition to intensify the development of SEZs in various parts of the world have been affected by the fact that companies have become more aware of the benefits provided by the FTA, trying to achieve in the area of obtaining such status, even though it requires a certain amount of time and money.

The mechanism is quite simple – since a product is considered to be in “international trade”, formal customs declarations and the duties or government excise taxes are delayed. This allows traders to carry out several operations with the goods before they come to the domestic (national) market. In this case, if the finished product is exported, no fee shall be paid for any materials required for its production, imported

⁸ Д. Карро, П. Жюйар, *Международное экономическое право (перевод с франц. яз.)*, Москва 2002, р. 27; Т.П. Данько, З.М. Окрут, *Свободные экономические зоны*, Москва 1998, р. 297-302.

⁹ *General Agreement on Tariffs and Trade*, Geneva 1994, p. 65.

in the zone from another state. For example, these benefits have been widely used in recent years within American pharmaceutical industry.

It is a fact that the finished pharmaceutical products are subjected to a much lower duty than the imported materials needed for their manufacture. The product may contain one or two imported materials which may be subject to a taxation of 13.5 per cent, and the end product of 3.7 or 6.9 per cent. In case the pharmaceutical company sells its products for export, for production of which it requires imported raw materials through FTA, taxes on the purchase of the raw materials for it are not levied.

It is worth noting that the rapid growth of FTA management forced the US Customs Service to start the reform of the activity in relation to the new economic situation, in the course of which the authority was created, FACET, dealing with problems in the relationship between customs and FTA.

One of the typical examples of modern American FTZ is the port of Houston, the multi-functional nature of which (also known as the Malcolm Baldrige area) attracted a lot of attention and interest in the business and trade and business circles all over the world and contributed to a further economic development of the port. Practice also shows that in the area of trade it seeks to satisfy the economic needs of the clients, which differentiate the region from many others in that provided limited opportunities.

In recent years, only in the area of general purpose, it received more than 110 thousand tons of goods worth \$360 million. Acting under the administration of the port FTZ provides customers with a wide range of services (warehousing, providing warehouses, indoor parking, barns, etc.). Only the general-purpose zone has 12 sections, four of them owned by the port authority. They can be leased for the construction of various facilities; this also includes Technical Park located along the shipping channel, the container terminal and cargo handling company. Other 8 sections designed to provide services to private companies, some of which are used for storage of liquid chemicals and petroleum products, car garage storage, warehousing of steel products, pipe rolling, etc. By the way, a number of branches in the zone of Baldrige received the status of FTA, allowing to expand activities of the various national and foreign trade companies there, such as D'pon" (for the production of chemical products), "Fibro refiners" (cleaning of petrochemical products), "Varco Shaffer" (assembly refinery equipment), and others. There are also areas of the zone involved in the distribution of cars and electronic products industry, imported by 60 wholesale companies from Asia and Far East.

Characteristically, the FTZ status enables a variety of operations on warehousing, repackaging and remarking of goods and products and products outside the scope of its services; then, upon receipt of orders, goods are either exported to other countries without duty or imported to the domestic US market.¹⁰

¹⁰ Действующее международное право.

There is another feature: FTA is not limited to ports or small areas, spreading its sphere of influence to other regions in recent time. Global FTA by their very nature, of course, differs from local or regional FTA. However, the main principle is freedom of trade, elimination of tariffs and duties, promotion of investment, and all that determines the nature and content of liberalization in trade relations appears to be the principle by which countries should be guided in their foreign trade activities, cooperation and partnership.

Some international legal documents are of special importance in the field of creating the contemporary FTA. So, in 1993, the Agreement on the establishment of the North American Free Trade Area (NAFTA) entered into force, concluded between the United States, Canada and Mexico, one of objectives of which is to create the world's largest single economic and trade area with an annual production volume of more than \$6 trillion, a huge amount, resulted in the addition of gross domestic product of three economies. The free movement of goods, investment and services are carried out through this zone in accordance with the agreement since in 1994 the abolition of national tariffs designed for 15 years has begun.¹¹

With regard to investments, in particular, Mexico has pledged to significantly reduce and then eliminate all general limits on investment activities in its territory of US and Canadian banks. These measures, according to Mexico, should attract considerable foreign capital in the country. In the opinion of the United States and Canada's large amounts of money invested in the Mexican economy will contribute to both well-being of Mexicans, and strong demand for US goods. As the creators of NAFTA think, spent money will return with a vengeance when Mexico will be a country prosperous in economic terms, as well as a kind of corridor for the North Americans to gradually enter the promising South American trade markets.

This and other facts in modern trade and economic relations do not testify any neo-colonialist ambitions of strong States in relation to other, weaker countries. The point seems to be, that particularly South Americans, as well as northerners tend to have a higher level of liberalization of trade and economic relations between them and the elimination of any kind restrictions, barriers and obstacles to trade carried out in the region.¹²

Still in 1991, some Latin American countries signed the agreement on creation on the territory of Argentina, Brazil, Paraguay and Uruguay free trade zone – Mercosur, the creation of which was one of the first examples of a market mechanism of integration and cooperation between them. It is known that for a short time, a year after the signing of the agreement, these countries were able to increase trade between themselves by nearly 50 per cent, customs and taxes were reduced by 47 per

¹¹ B.G. Ramcharan, *Development and International Economic Cooperation*, "Annuario de Derecho Internacionali" 1988, Vol. 2, p. 119-122.

¹² Т.П. Данько, З.М. Окрут, *Свободные экономические зоны*, p. 304.

cent and decreased thereafter every six months by another 7 per cent; in 1995, turnover increased to 10 billion dollars.

Another important fact for the formation of modern international trade and economic relations, their quantitative and qualitative indicators, is also an agreement signed in Madrid between the European Union and Mercosur, which envisage the intensification of economic cooperation till 2001 and establishing a free trade area after that; assumed that the new Euro-South American free trade area will cover about 570 million consumers, i.e. 200 million ahead of NAFTA.

It is also possible to note that Europe, in terms of liberalization of trade and economic relations as well as the processes of market integration, has since 1960s undertaken a concerted effort which was mostly promoted by the functioning of the EFTA (European Free Trade Association). Regardless of structural changes and rearrangements inside the association, they enjoyed rights of free tariffs and restrictions to trade in industrial goods, fish and some agricultural products.

In the Middle East great practical interest is evoked by the original experience of Dubai (UAE), which has become the largest centre of free trade between nations. In just a decade, the Jebel Ali became an FTZ, with all the modern trappings of liberalization. It has also become a "tax haven", where international trading companies and other business entities enjoy the exclusive economic freedoms, benefits and advantages of modern international trade.

In particular, the FTZ located around the port, was originally chosen by multinational corporations as an ideal base for warehousing and distribution of its products in the countries of the Persian Gulf. Over the years, the purpose of the FTZ expanded: in addition to the distribution of tasks and functions, it has come to play an important role in production, trade and services sector.

The rapid growth in trade with the help of two ports (Jebel Ali and Rashid) that are among the 20 largest ports in the world, and the airport, which was the second best in functioning capacity as well as commodity turnover in the Middle East (after Cairo), has expanded the service area to the region, that means entire Middle East, the Asian sub-continent, Africa and some other adjacent regions. Recent data suggest that this FTA includes more than 700 companies from 60 countries, and their total investment amount to more than 1.5 billion. USD.¹³ FTA, an independent enterprise, has a lot in common with the companies with limited liability.

Moreover, the administration of the zone is the sole regulatory body for these businesses, which do not need any memorandum or articles of association of the company (the minimum share capital is about 250 thousand USD, even though in special cases this amount may be different). There are many advantages and benefits that are provided to foreign companies in the FTA, for example, 100% foreign ownership; businesses in the area do not need any local partner, as it is required for most

¹³ P. Weil, *Le droit international économique*, Paris 1972, p. 8-9.

international trading firms and companies in the Middle East; the zone itself acts as a nominal sponsor; there is no problem with the employment in these companies and firms; there are no restrictions on the employment of local residents, in contrast to other similar FTA; 100% capital transfer and export earnings that are not subject to any taxes, and others.

Convenient strategic economic and trade position of Jebel Ali are of paramount importance, as it is located on the trade halfway between East and West, which is easily to overcome through the favourable communications using different vehicles.

There is specific scientific and practical interest in the experience of the creation of the free economic zones (of any type) in the Russian Federation and other CIS countries, for which, by the way, for a long time there was no appropriate legal framework. Laws adopted in the last decade in Russia, Azerbaijan and other NIS during radical economic reforms have moved the solution of the problem from the dead point.

It is noteworthy that 12 of the new sovereign countries signed an agreement on creation of free trade zones April 15, 1994 in Moscow, (a special law on this issue was signed by the President of the Republic of Azerbaijan on Oct. 8, 1996), Act 1 of which set out the fundamental goals and objectives of this international legal instrument.

Along with this, said it speaks of gradual abolition of customs duties, taxes and charges having equivalent effect and quantitative restrictions in mutual trade; elimination of other barriers to the free movement of goods and services as well as the establishment and development of an effective system of mutual settlements and payments on trade and other transactions; on the coordination of trade policy in relation to countries that are not parties to this Agreement; on the harmonization of legislation of the contracting parties to the extent that is necessary for the proper and effective functioning of the free trade zone, and others.

This agreement is seen to regulate multilateral trade and economic relations, brings the special nature of the framework, along with the political obligations of the parties, establishes the commitment to expand and deepen these relations, economic cooperation and partnership. However, it is intended to promote the interests of the contracting parties to conclude a variety of commercial transactions, foreign trade contracts, and the revitalization of the various subjects of market relations in a fair and democratic manner.

Conclusions

Also it can be concluded that the diversity of the processes of liberalization and globalization of modern trade and economic relations between the states does not represent, of course, all the factors and characteristics of the current world economic situation. However, they draw in detail on the major trends and directions

in development of the regions of economic freedom, which is an integral part of the process of unification of the mechanisms of these relationships that can be used to achieve integration into the world economy and the intensification of trade and economic relations of states.

Abstract

The article deals with unification of mechanisms of international legal regulation of trade and economic relations of modern states. The conclusion is that the diversity of the processes of liberalization and globalization of modern trade and economic relations between the states does not reflect all the factors and characteristics of the current world economic situation. However, they draw in detail the process of unification of the mechanisms of these relationships that can be achieved by integration into the global economy and the intensification of trade and economic relations of states.

Key words: Unification mechanisms, WTO, economic globalization, CIS, NIS, Azerbaijan, integration, FTZ

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National Identity and International Cooperation

The Case of Azerbaijan

Introduction

The theory of security suggests that national security can be divided into five sectors – namely, military, environmental, political, economic, and societal.¹ Societal threats are about identity and the balance (or lack thereof) that can be found within any given state. Nowadays, preserving the coherence of national identity poses a significant challenge to any state. The main reason for this are increased interactions and interdependency of different societies. The identity of any society can be understood as a community of people based on ethnic, cultural, religious characteristics and common mode of life. Since “societal sector concerns the sustainability, within acceptable conditions for evolution, of traditional patterns of language, culture and religious and national identity and custom”,² the nature of globalized world is itself a main threat to national security. The dilemma is whether to cooperate and take part in the life of international community or restrain oneself for the sake of national security. Is international cooperation, leading to further integrating with “others” and preserving “us”, possible at the same time?

¹ B. Buzan, O. Waever, J. de Wilde, *Security. A New Framework for Analysis*, London 1998, p. 8.

² B. Buzan, *People, States and Fear. An Agenda for International Security Studies in the Post-Cold War Era*, London 1991, p. 20.

The concept of identity in international relations

The problem of self-identification is, in our opinion, one of the significant problems, if not the most significant one. The fact of identification claims spiritual resemblance. Spiritual unity in turn can often be questioned. The incentive for doubt is the domination of ideologies. For instance, in spite of all attempts of ideologists of panslavism to persuade Ukrainians to spiritual resemblance and mental unity of Russians and Ukrainians, the latter do not feel the resemblance. Moreover, the anti-Russian sentiments have always been alive.

The image of cultured European has always been of special appeal to us, peoples of the Southern Caucasus. European cities, especially medieval ones, age-old universities, libraries, museums, art galleries, halo of Latin and European mentality which allowed 400 years ago to proclaim habeas corpus as the principle of existence. European mentality and its attractiveness for the Southern Caucasians is the reality. However, the question is how “united” the European mentality is, and if a person develops European identity, then with whom does one identify? With the Germans, the French or the English?

To what extent are the Jews united, for two thousand years raising their glasses saying “Next year in Jerusalem”? There are deep contradictions amid Jews both historical-cultural and religious, for example, between the Ashkenazi and Sephardic Jews. Jews, appearing for the many in the world as monolith are divided ethno-nationally.

In our opinion, self-identification is akin to intimation. Intimation is any projection on oneself of external circumstances, events or indications. For instance, people feel fear when they hear about accidents which happened to other people, as if it these were definitely going to happen to them, or absolutely unconsciously they live a life of famous films. In our childhood we were wandering with heroes of Cooper, searching for the gold in Alaska with Elam Harnish, we were participants of Bonaparte’s Italian campaign, and were by Leonid’s side in Thermopiles. In our opinion, the intimation of this kind is a display of self-identification.

Self-identification can be unconscious and reflex. For instance, in primary school, my mother was sure that she was Russian, and Lenin was her grandfather. It was impossible to make her change her mind; so total was the ideological programme which underlay Soviet education. This kind of self-identification has an absolutely unconscious character.

Self-identification of a man of culture has a reflex character. This kind of man is distinguished not only by reproduction of cultural values but also by reflection, by thinking of culture. For instance, in the area of absolute spiritual values there are Azerbaijani classical mugham, Bach’s fugues and Deep Purple. The first option is that someone has never heard of them. The second variant is that one just enjoys the music. The third one is to think of it in the context of world musical culture.

The fourth variant is possible when one thinks of relevance of music in the area of human spirituality.

The reflex consideration of lasting, stereotyped and spiritual bond not only with mugham but also with Bach and Deep Purple is fragment of modern Azerbaijanis self-identification. We call the attitude to music a fragment of self-identification because I am sure that there are certain levels of self-identification. And that's another matter that everyday life neutralizes reflection. It is often not important for us to make clear who we are: Azerbaijanis – the same as Southern Azerbaijanis, Turks – the same as Turkish people, Caucasians – the same as Lezghins, Chircasians, Balkars, Europeans or eastern people. Life makes us think when there is a necessity to solve acute problems.

Today in Azerbaijan some people want to make us believe that national-cultural values are temporary phenomena. It is characteristic that sometimes former Soviet party leaders who have become democrats talk of that. However, if there are no national-cultural values then there is no a nation. Because national-cultural values are mental category, this is a type of self-consciousness and relation to the world. If the consciousness of vegetarian is a temporary phenomenon then we can think that some day there will not be any vegetarians. However, the attitude to eating meat characteristic to vegetarians is mental phenomenon which is supported by ideology.

But one can be unaware of this ideology and happily and imperturbably eat meat till he or she gets to know the vegetarian reflection and it impresses him or her. Just the same way one can be unaware of mugham, Turkic peoples, Azerbaijanis, Bach and Deep Purple. The Jews for two thousand years could have been unaware of Jerusalem and did not aspire to it. Thereby the reflection on culture and history supposes first of all the knowledge and certainly the availability of ideologies.

On this assumption, I think that correlation of oneself at mental level with ancient Greek consciousness does not at all suppose the ethnic identification. Generally speaking, ancient Greek consciousness is an emblematic phenomenon in the history of human spirit. Anyone can become related with this consciousness, it is not marked nationally. These kind of mental phenomena look like religious values not assuming any concrete ethnic, national or cultural identity. Ancient Greek mentality is universal information which will always guide everybody irrespective of national and religious identity.

And that's another matter that one must know about it. Ancient Greek identity assumes as minimum the knowledge of it. To know and to remain indifferent is impossible. Therefore I am convinced that classical gymnasium where humanitarian education is built on deep study of ancient Greek and Latin is a must-be. This is contributing to creating common spiritual space that unites humanity. Even if different nations do not share such fundamental features of national identity as historic territory, or homeland; common myth and historical memories; a common, mass public culture; common legal rights and duties for all members and a common economy

with territorial mobility for members,³ the creation of common space of spiritual values and symbols will help them to cooperate.

Cooperation among nations and the impact of identities

The problem of the self-identification is also of great urgency for the promotion of cooperation among nations. However, in my opinion, the phenomenon of national identity is a problem only when not properly understood. If promoters of any national identity accept the fact that a nation mustn't be understood as an ethnically homogeneous community, then ethnic groups would feel secure and comfortable with national identity and the political institutions that correspond to it. Another error is to suppose that the common public culture required for national identity must be monolithic and all-embracing, as D. Miller puts it.⁴ A public culture may be seen as a set of understandings about how a group of people is to conduct its life together. In my opinion, Caucasian nations have very close public culture and it forms a solid base for future cooperation.

After the collapse of the Soviet Union, several models of international cooperation in post-Soviet area have been proposed. Recent events across the post-Soviet area have transformed the role of western institutions and significantly influenced the types of cooperation they have been proposing to NIS. At the same time Russia has emerged as a power ambitious to attract former Soviet countries to organizations *which it had created*. Equal cooperation, not suppression, is being promoted by former leader of the Soviet empire as a model of coexistence.

What is cooperation? Cooperation means that the cooperating sides have identical interests; in the context of a haphazard and barely predictable process (which is world politics), the idea of "interests" comes to the fore as the gist of international cooperation.

Cooperation denies violence: as a political process it presupposes that violence is excluded from the relations between sides that have common interests. It is important to note that the absence of violence between the cooperating sides should not be prompted by political or ideological considerations or an injunction. It should stem from the logic suggested by identical (even if temporary) interests.

Does the model proposed by Russia, namely Eurasian Economic Union, answer the description? According to a Russian scholar, in contrast to the Eurasian model, European integration had six founders, three of whom had almost equal economic, territorial and demographic potential. However, Russian domination makes the rest dependant on its willingness to make concessions. Even current German leadership

³ A. Smith, *National Identity*, New York 1991, p. 41.

⁴ D. Miller, *On Nationality*, Oxford 1999, p. 40.

is of different nature, it doesn't have the intention to restore the heroic past and this is another distinctive characteristic of Eurasian model – it lacks trust. Smaller states are suspicious of the big one.⁵ Trade wars with Belarus and its energy dependence on Russia were mentioned by the author as a Russian way of influencing the neighbours. Z. Brzezinski's in the interview for the Spiegel says that "he is (i.e. Putin) almost deliberately antagonizing more than 40 million people in a country next door which, until very recently, was not driven by any hostility towards Russia"⁶ support the above mentioned opinion of the Russian scholar.

As for the Caucasus region, since the beginning of 19th century, after the conquest by the Russian empire, state-building here was Russian interpretation of western models which it had been copying since Peter the Great. For until now, European "information" has reached the Caucasus, particularly Azerbaijan, indirectly and communication noise, as cybernetics has it, distorted this information in every possible way. But today Azerbaijan has the unique historical chance of directly communicating with the West.

The representative of European model of cooperation, i.e. the head of the European Commission Office in Baku Alan Waddams noted several years ago: "For the past 200 years, Azerbaijan has been moving toward Europe, but in recent years this movement has greatly accelerated." Europe is trying to create a single European civilizational expanse, counting on the fact that the stability of this expanse outside Europe proper will mean stability and prosperity for Europe itself. A civilized and genuinely democratic, Southern Caucasus will give Europe another non-European Europe on its borders. This new Europe, which, without joining the EU (something it has not been promised), will for all intents and purposes be a fragment of Europe on the borders of Europe proper and Russia is playing a vitally important role in the current political alignment of the EU. To draw historical parallels, this kind of European enlargement to the East is reminiscent of the historical expansion of the Greek culture to the East and creation of the Hellenic world. It is important to note that a very specific cultural area was created in the East, which, despite Greek influence, could not be identified with the culture of Hellas. This is why it is customary to talk about the Hellenic culture in which Eastern motifs are also clearly represented.

John J. Mearsheimer wrote in 2014 "Most liberals, on the other hand, favored enlargement (of NATO), including many key members of the Clinton administration. They believed that the end of the Cold War had fundamentally transformed international politics and that a new, post-national order had replaced the realist logic that used to govern Europe. ... The aim, in essence, was to make the entire

⁵ Е. Трещенков, *Европейская и евразийская модели интеграции. Пределы соизмеримости*, "Мировая экономика и международные отношения" 2014, No. 5, p. 33.

⁶ *Brzezinski zu Russland*. "Wir befinden uns im Kalten Krieg", <http://www.spiegel.de/politik/ausland/interview-mit-brzezinski-usa-russland-im-kalten-krieg-a-1040744.html>, 14 VIII 2016.

continent look like Western Europe.”⁷ The strivings of the West are indeed promoting peace in the region, since if there is stable peace in the Caucasus all the advantages of a pro-European lifestyle will most likely be manifested. Europe’s economic, socio-cultural, political, and ultimately civilizational attractiveness in the present-day world is utterly clear. And its geopolitical strategy is aimed at “spreading” Europe, or the contemporary West European civilization, to the Southern Caucasus in a civilized way.

“And so the United States and its allies sought to promote democracy in the countries of eastern Europe, increase economic interdependence among them, and embed them in international institutions” Mearsheimer continues.⁸ Unfortunately, the counterparts of the West are indeed using the different playbook and not a liberal one.

So, what is the way out? “Azerbaijan’s political and security situation is heavily influenced by its geographic position, squeezed as it is between the Russian Federation and Iran”⁹ says EU Country Strategy Paper. However, as it was mentioned above, today Azerbaijan has the unique historical chance of directly communicating with Europe. I am deeply convinced that all the integration processes and participation in them by Azerbaijan, on the one hand, the EU and USA, on the other, and, finally, Russia, on the third, should be interpreted in the context of a titanic struggle to truly draw Azerbaijan into the Western civilizational space.

Conclusion

Today, we can sometimes hear phrases like: “I don’t think there is such a thing as the West anymore.”¹⁰ However, even if the West ever loses its civilizational identity, there is mental construct of the West, the symbol of the West. There are western mental ideals such as pluralism, rule of law, collective leadership, and primacy of private property. Since, as it was mentioned above, peoples of South Caucasus are attracted by values of European culture, this is a positive starting point for deepening the cooperation among nations. Preserving the originality of “us” alongside with discovering and strengthening common values with “others” is the most efficient way to solve the problem set by the question posed at the beginning of the article. In my opinion, genuine globalisation should be a spiritual not an economic one.

⁷ J.J. Mearsheimer, *Why the Ukraine Crisis Is the West’s Fault The Liberal Delusions That Provoked Putin*, “Foreign Affairs” 2014, Vol. 93, No. 5, p. 83.

⁸ *Ibidem*, p. 84.

⁹ Country Strategy Paper 2007-2013, *Azerbaijan, European Neighborhood and Partnership Instrument*, p. 9, http://ec.europa.eu/world/enp/pdf/country/enpi_csp_azerbaijan_en.pdf, 14 VIII 2016.

¹⁰ The words of the German ambassador to China, Michael Schaefer in Hans Kundnani’s *Leaving the West Behind*, “Foreign Affairs” 2015, Vol. 94, No. 1, p. 115.

Abstract

The article deals with the impact of construction of identity on international cooperation. The author argues that since self-identification claims spiritual resemblance rather than material one, the creation of common space of spiritual values and symbols can strongly contribute to strengthening cooperation among nations. That common space by no means leads to losing the original characteristics of its components (i.e. nations). On the contrary, mental ideals concerning governing a state and society can assume a universal character, regardless of time and space and be incorporated into political and social life of different nations.

Key words: identity, cooperation, nations, the West, Azerbaijan, Europe, globalisation, self-identification, spiritual values, civilisation, culture

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Cyclic Tendencies in the Investment Sphere of the Economy of the Azerbaijan Republic and the Ways of Improvement of Investment Policy of the State (government)

Theory

The national economy of any country demands a certain volume of investment resources for the implementation of reproduction process. Development of investment policy is largely determined by the macroeconomic condition of the national economy.¹ Under any economic system, savings of the population are a considerable source of investment.² Therefore, it is possible to note that there are a lot of reasons for attracting foreign investment into the national economy, but one of the main reasons is the low level of fees in the country, lack of necessary means in the funds created for restoration of fixed capital, etc. The state, in order to eliminate shortages in this area, pays much attention to attracting foreign investment into national economy. For this purpose, the state creates investment policy. The main directions of the state investment policy are: creation of favourable investment environment; development and implementation of the state investment programs; development of the national investment legislation; development of infrastructure of the investment market; increase in the volumes of investment, increase of their efficiency and improvement of their structure due to the growth of innovative investments.³

¹ *Национальная экономика: учебник*, ред. В.А. Шульги, Москва 2002, р. 118.

² *Экономическая теория: учебник*, ред. А.Г. Грязнова, Т.В. Чечелева, Москва 2005, р. 407.

³ *Национальная экономика: учебник*, ред. П.В. Савченко, Москва 2005, р. 393-394.

To regulate social and economic development of the country, the state has to create proportions between the branches of the national economy, and also by means of economic and legal mechanisms has to regulate rational use of capital investments and the profit, received from the investment activity. Certainly, in any industrial or social sphere, emergence, restoration, or expansion of economic entities as well as provision of employment in these spheres without investment, is impossible. From this point of view, the use of profit held by these economic entities has to be the focus of attention of the state, thereby to give an impetus to reinvestment process.

Placing investments abroad, foreign investors are guided by various purposes and motives: search of sale markets; receiving additional, cheap sources of raw materials and cheap and qualified labour; decrease in costs of production of products due to use of local advantages; existence of natural resources or location of the country. However, the main goal of the investment of foreign capital is gaining higher profit.⁴ Therefore, regulation of investment activity held by the state has great importance. Thus, the increase in foreign investment resources and especially gaining profit on investment activity, creation of rational proportions in structure of national economy by regulation of the profit received from an investment activity, and also the formation and development of the social infrastructure correspond to high production potential that persistently requires an even greater increase in the role and functions of the state regulation.

Countries with economies in transition have been tackling this issue for a long time. So, upon the transition from one economic system to another the structure of national economy obviously changes. Besides, in the first period of economy in transition, there is an export of the capital from the country which happens in different ways. However, in spite of the fact that this process, as well as structural changes, requires all sorts of caution, it is less important. Structural changes are the main attribute of a transitional economy. Needless to say that one of main and defining purposes of a transition period is the formation of multi-structural economy. The state privatizes enterprises and organizations which were earlier on the balance or under the control of the state to encourage private business and to minimize a role of the state in the economy. Transformations include the implementation of a large scale privatization of property – transformation of a considerable part of state property into other various forms of economy.⁵ This method is known as the common and it is the only relevant to market economy. Meeting the increasing socio-economic needs of the members of the society aims at the full and efficient use of existing productive capacity. From this perspective, the role and the importance of foreign investment is extremely huge. This method is known as the common and

⁴ *Ibidem*, p. 751.

⁵ Е.Ф. Борисов, *Экономическая теория: учебник*, Москва 2005, p. 69.

the only one relevant to market economy. Meeting the increasing socio-economic needs of the members of the society aims at the full and efficient use of existing productive capacity. From this perspective, the role and the importance of foreign investment is extremely increased. Increase in macroeconomic indicators in the country requires a gradual increase of the role and the necessity of major strategic areas in the structure of gross national product.

Privatization is a very important process that takes place on a national scale. Thus, the state transfers its functions in the economy to entrepreneurs working in the private sector. To implement this function, they need sufficient capital. Lack of major fixed assets in the country creates the need to attract foreign investors and their foreign investment into the country. At this stage, the state is obliged to attract foreign investors. Investments attracted into the country are invest into various sectors of the economy. Foreign investors are attracted basically to the areas of low risk and high profit margins. For this reason, foreign investment attracted to the country is directed to the production area that satisfies the above mentioned criteria. However, no matter in which area foreign investment is directed, it at the same time has to finance the relevant infrastructure. Such a distribution of foreign investment allows national entrepreneurs to participate in infrastructure projects, and to receive a profit from them. In addition, foreign investment that is attracted to the economy of the country meets the needs of the economy in the region, which brings together companies that have invested in these investments. From this point of view, not only the shortcomings of the domestic market are repaid, but also there is a production of goods suitable for export. Here it should be noted that the state has to organize cooperation so that its attention is directed on those areas of national economy which need development. For example, in area of high technologies, being new and not having analogues in national economy, the need for production and services is satisfied by import.

Practice

After Azerbaijan gained independence and choice in a market economy as an economic system, in accordance with the interests of foreign countries and their economic subjects creating opportunities for the development of the national economy, there is a need to deepen investment, especially foreign investment activity. In a real situation the regulation and management of investment activity on the part of the state is dictated by the modern period. Along with the multiplicity of international economic relations of Azerbaijan, one of the main directions is to increase the inflow of foreign investment into the country. These processes are evident in statistics:

Chart 1. Investment aimed at the economy and GDP (million dollars)⁶

Years	All sources of investment (taking into account foreign investment)	Foreign investment (million dollars)	Foreign investment (as a percentage of the total volume)	Domestic investment (million dollars)	Domestic investment (as a percentage of the total volume)	GDP
1995	544,1	375,1	68,9395	169	31,0605	2415,2
1996	932,1	620,5	66,5701	311,6	33,4299	3180,8
1997	1694,5	1307,3	77,1496	387,2	22,8504	3960,7
1998	1932,2	1472	76,1826	460,2	23,8174	4446,4
1999	1571	1091,1	69,4526	479,9	30,5474	4583,7
2000	1441,4	927	64,3125	514,4	35,6875	5272,8
2001	1 561,80	1 091,80	69,9065	470	30,0935	5707,7
2002	2796,6	2234,9	79,9149	561,7	20,0851	6235,9
2003	4326,3	3371	77,9188	955,3	22,0812	7276,0
2004	5922,8	4575,5	77,2523	1347,3	22,7477	8680,4
2005	7118,5	4893,2	68,7392	2225,3	31,2608	13238,7
2006	8300,4	5052,8	60,8742	3247,6	39,1258	20983,0
2007	12066,1	6674,3	55,3145	5391,8	44,6855	33050,3
2008	16222	6847,4	42,2106	9374,6	57,7894	48852,5
2009	13 033,50	5468,6	41,958	7564,9	58,042	44297,0
2010	17 591,40	8 247,80	46,8854	9 343,60	53,1146	52909,3
2011	21 588,90	8 673,90	40,1776	12 915,00	59,8224	65951,6
2012	25 777,80	10 314,00	40,0112	15 463,80	59,9888	69683,9
2013	27 340,00	10 540,90	38,5549	16 799,10	61,4451	74164,4
2014	27 907,50	11 697,70	41,916	16 209,80	58,084	75188,4

Looking at statistics, we can confidently say that the investment process in the country proceeds in such a way that domestic investment is ahead of foreign investment that generates the process of „deepening of capital”. According to A. Hansen – autonomous investment associated with such changes in technology that require increased capital per worker. This process I would define as the process of “deepening of capital”.⁷ Foreign investment refers to investments that are “expanding capital”. A. Hansen defined capital expansion – stimulated investments are connected with the provision of capital to unemployed workers and new workers on the basis of existing technology. This process could be called “the expansion of

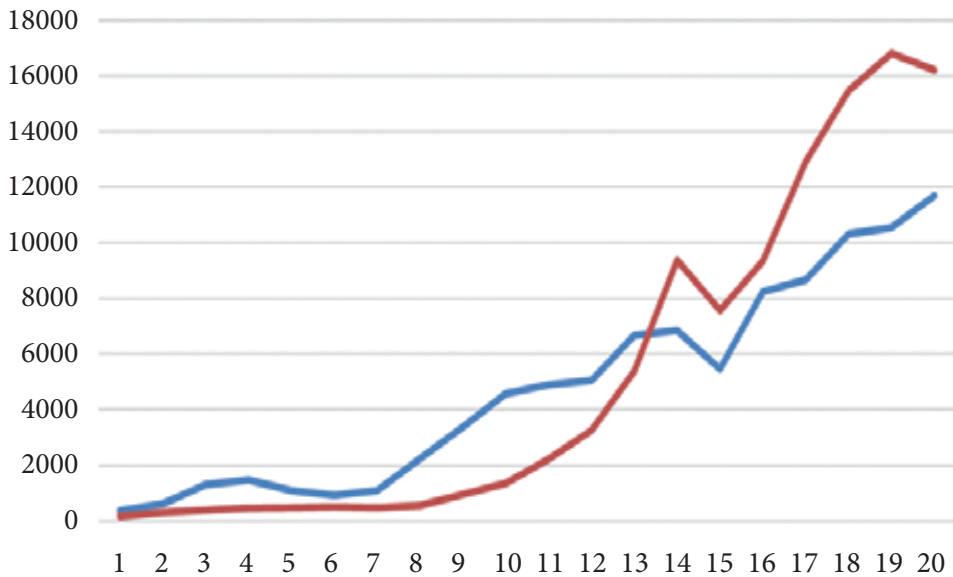
⁶ The State Statistical Committee of the Republic of Azerbaijan, <http://www.stat.gov.az/source/finance/az/004az.xls>, 15 VIII 2016.

⁷ Э. Хансен, *Экономические циклы и национальный доход*, Москва 1959, p. 262.

capital”⁸ While foreign investment is mainly used in the extracting sphere, domestic investment is used in the real sector, which needed upgrading. According to the table, one can clearly see cyclical manifestations of the investment environment in Azerbaijan.

Chart 2

Cyclic tendencies in the investment sphere in AR⁹

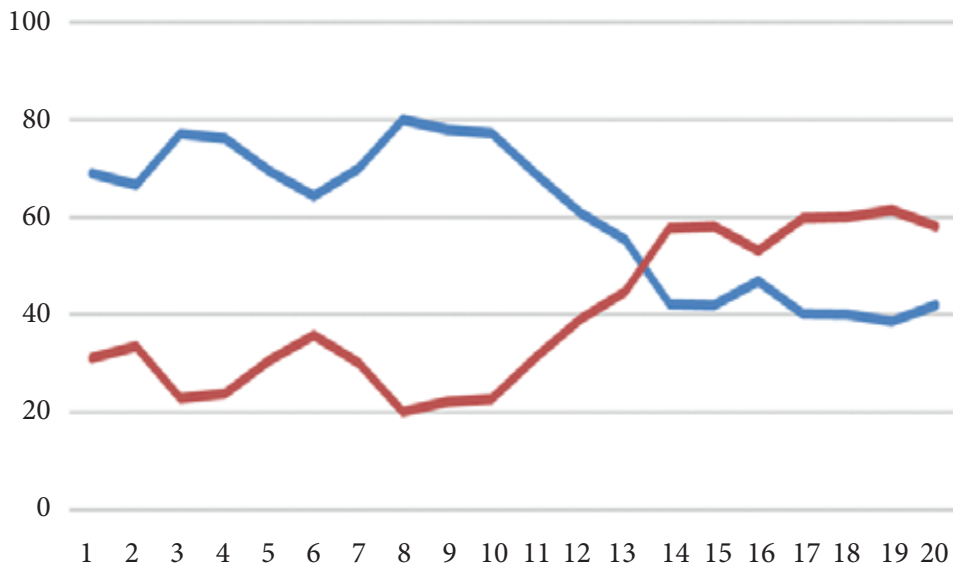


(Million US dollars, blue line – foreign investment and red line – domestic investment)

⁸ *Ibidem*, p. 262-263.

⁹ The graph is based on The State Statistical Committee of the Republic of Azerbaijan.

Chart 3
Cyclic tendencies in the investment sphere in AR¹⁰



(Percentage, blue line – foreign investment and red line – domestic investment)

During the past years, with the aim of developing the country's economy, one of the initial moments of wide implementation of economic reforms and implementation of the policy of the government in this direction is indeed the inflow of capital, which gave a strong impetus to economic development. Taking into account the regulation of the domestic market by the attracting large amounts of foreign investment, it is necessary to take into consideration the impact of foreign investment on the economy. The impacts are:

Attracting new equipment and technologies to national economy. No matter in what form foreign investment into the country is attracted, the investors are obliged to introduce new equipment and technology to the sphere in which they will carry out their activity, because the competitiveness of their products at the international level is directly related to the appropriated equipment and technology. Investment aspects of scientific and technical activity of the states require special attention. The system of international scientific and technical cooperation aimed at solving theoretical and practical problems of modern fundamental and exact sciences, covering international scientific and technical relations, consisting of inter-

¹⁰ Ibidem.

national technical and technological relations, international training and safety of scientific and technological achievements.

Regulation of international scientific and technical cooperation is carried out by the Institute of International Law. The Institute deals with international investment, international trade and international administrative law. In the market of cooperation there are following forms of international scientific and technical knowledge and services: joint research works; custom-made scientific and technical works; exchange of technical documentation (sale and transfer); exchange of samples and materials; rent of the scientific and technical equipment; purchase and sale of licenses; exchange of technological processes; joint ventures of production of new equipment and technology.

In foreign states in the course of design and building of industrial and other facilities international engineering is used.

Within scientific and technical cooperation there is a movement of scientific knowledge and cross-border technologies, often in the form of goods (especially services, license), investments, and help.

Assignment of the potential which is available in the country, but undisclosed or little used. The revival in national economy which happened thanks to attraction of foreign investments starts having impact on other spheres of economy as well. These and other spheres which were earlier out of control and out of attention have already become necessary and irreplaceable. So, the economy sectors which only had a potential have already turned into real sectors.

Increase in export and formation of the import-substituting industry. One of innovations which foreign investments can bring into national economy is the revival of the branches directed on import. A new investor starts production and services which the receiving country has imported for a long time. Firstly, there is a demand for this production and services in domestic market. Secondly, the recipient country makes concessions to foreign investors in this field. For example, Azerbaijan constantly imports a certain part of its sugar. The reason is that Azerbaijan, being part of the USSR, imported these products from allied countries that have it in abundance, which halted the development of this sector in our country. Sugar is an irreplaceable product in daily life. Production of sugar is also an important sphere of investment. Taking into account the demand for sugar in Azerbaijan as well as agricultural potential of Azerbaijan, it can be regarded as more beneficial sphere for investment.

Assignment of the regions that are rich with natural resources and manpower. The state, regulating domestic market, first of all, carries out its regulating functions. That is, it for the purpose of providing the corresponding image and a standard of living of the population it interferes in this and other spheres of economy, and also in economic processes. If a foreign investor wants to make investments in regions that are rich with natural resources and labour, it is possible to

assume that his desire and the purpose of the state coincide. However, such assumption usually doesn't justify itself as the state doesn't perceive this desire of foreign investors clearly. In fact, no state will try to discourage such activities, and investors do not give up their ideas easily. However, complete identification of all capacities of regions with the hidden potentials and the involvement of foreign investors to these regions has to become one of important duties of the state in this sphere. The goods and services produced in such regions can meet requirements of domestic market, and to become aimed at export. For example, placement of alpine skiing bases in mountain zones – experience of foreign countries is irreplaceable here. Attracting firms engaged over years in this sphere, the state creates conditions for development of tourism in this region.

Opening of new workplaces and formation of production standards. Among the macroeconomic changes created by foreign investments in national economy, opening of new workplaces and increase of employment of the population are the most important. It's obvious that foreign investors introduce new production standards in the newly opened workplaces. The most basic issue on a par with the new equipment and technology is the management culture – the establishment of the Institute of Management is important for the economy of the country.

The use of new forms of entrepreneurship. Of course, for countries that have recently gained their independence, such as Azerbaijan, any changes that may occur in the field of entrepreneurship should be considered as innovation. Along with it, foreign investors are obliged at the expense of investments into national economy, to introduce new technologies, equipment, ways and control of management, and also to apply the new appropriate forms of entrepreneurship.

Infrastructure development. A foreign investor, for their normal functioning should pay attention to the availability of appropriate infrastructure in the area in which they operate. If the investor sees the absence of the necessary infrastructure in the country, they may refuse to invest in this country. In this situation the country should encourage the participation of foreign investors in infrastructure projects. Of course, if the state itself can provide an appropriate infrastructure, there is no need to resort to such measures. A foreign investor who starts operating, updates and modernizes infrastructure connected with his activity. At this point, macroeconomic changes begin to occur and that could have an impact on the domestic market. First of all, the work is provided to the staff engaged in infrastructure projects. All workers working on infrastructure projects, both permanent and temporary, are considered employed. For creating the domestic market infrastructure, necessary materials, equipment, etc. are bought. In short, if in various sectors of the economy foreign investment is attracted, we can imagine how many new fields of activity would be created only for the provision of infrastructure in these areas, and the old spheres will develop even more intensely. It should be noted that, one of the key directions of the use of foreign capital investments is development of market

infrastructure of the processing and marketing enterprises, and also the enterprises which are engaged in storage of agricultural products.¹¹

The country which attracts foreign investment on a large scale has to avoid excessive money supply in the domestic market. In fact, foreign investments include not only the money supply, because foreign investment capital can come in other forms, too. Only through investments involved in production, extraction of raw materials, agriculture, tourism and other areas of the country new workplaces open, and wages grow. Besides, it increases also profit of the local enterprises which partially participate in activity of the foreign enterprises. For these and other similar reasons the quantity of money supply in domestic market increases. Therefore, the government should pay attention to such moments. So, excessive money supply can lead to irreversible crisis of economy. It should be noted that one of the key directions of use of foreign capital investments is the development of market infrastructure of processing and marketing enterprises, and also the enterprises which are engaged in storage of agricultural products.¹²

During regulation of domestic market the elements of domestic market surely have to be defined. In each country there is a producer market, a consumer market and a capital market. The unity of these markets forms domestic market of the country. If investments from abroad are attracted in national economy, the structure of these three elements of domestic market will change. For example, the change of structure of the market of the producer can happen as follows: if foreign investments are attracted to the sphere of extraction and processing of raw materials, then need for experts of this sphere will grow and the requirement will reach maximum. Certainly, putting investments will carry out changes in infrastructure of this sphere and the need for workers of the sphere of infrastructure will increase. Thus, changes of producer market are an important attribute that is formed by the foreign investments. If we talk about the impact of foreign investment on the consumer market, it may be noted that the impact of foreign investment on the producer market means that they have impact on consumer market too. Firstly, there will be expansion of the consumer market and then it will change the industrial structure of spheres in which large foreign investment is attracted. Consumer market will develop far and wide and will enter a new stage of development.

On the capital market, the situation is a little different. Because, in contrast to the producer market and to the consumer market, the capital market cannot react quickly to changes. The first reason of that is the main catalyst for attracting foreign investment into the country – the weak development of the capital of the domestic market of the country. That is, if the capital market in the country was sufficiently developed, then there would be no need for foreign investment. The foreign invest-

¹¹ Государственное регулирование экономики, ред. Т.Г. Морозова, Москва 2002, р. 145.

¹² *Ibidem.*

ment attracted to the country, first of all, fill emptiness of domestic capital market. This provides development and normal functioning of domestic market.

Besides elements of domestic market there is its structure too. This structure is difficult enough. No matter which sector of the domestic market receives foreign investment, they have an impact on other sectors. However, there may be some sectors and areas on which this effect is very small. At this time the regulating function of the state is revealed. The state sends one part of profit resulting from foreign investment to the underdeveloped industries which are very important for the country. By that way the state tries to eliminate disadvantages of domestic market.

Conclusions

Thus, one can come to such conclusion that regulation of domestic market by foreign investments is done by direct or indirect elimination of shortcomings of the domestic market.

It should be noted that over the time participation of local investments will get the high level of value in development of economy. Along with the increase in profit of local citizens and creation of a situation of increase of a social state, this factor provides economic security of the country. As the world practice shows, formation of major part of economy at the expense of the foreign capital in the future can lead to the economy of this country to a certain degree falling under the influence of the owner of this capital. Therefore, a positive aspect is that government carries out a corresponding policy for the purpose to provide more investment activities held by local businessmen. It should be noted that acceleration and improvement of activity in this direction can help to achieve even big results. That is, the government has to introduce such innovations in investment policy that arise the interest of persons who want to invest the capital in national economy.

Abstract

As foreign investments begin to give return, internal investments of the country begin to grow. But this tendency depends on the investment policy of the state. Therefore the author of article describes the main directions of investment policy of the state and analyzes a tendency of growth and lowering of foreign investments on the example of the economy of Azerbaijan. The conclusions connected with investment policy of the state are complex and specific proposals are given.

Key words: investment, investment policy, cyclic tendencies, economy of the Azerbaijan

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Formation and Dynamics of European Union's Southern Caucasus Policy

Disintegration of the socialist bloc and the Soviet Union led to the creation of new independent states on the political map, which resulted in the need of shaping a new European security policy. The collapse of totalitarian communist system also affected the policies of EU regarding the post-communist states. Because of this European Union began forming its Eastern European policy. The policy had a two-pronged approach: first, it allowed EU to carry out various projects in the former USSR countries, including Southern Caucasus states, by providing technical help. Second, it allowed European Union to establish political and economic relations with different states, including Southern Caucasus countries.¹

Changing approaches of the EU to Southern Caucasus

It is important to note that European Union reactivated its policies in regards to the Southern Caucasus even before the collapse of Soviet Union as a result of the armed conflicts that have taken place in the countries during the late '80s. In 1987, one of Mikhail Gorbachev's key economic advisors, Abel Aganbekian held a meeting with representatives of Armenian diaspora in France. The publication of details of the meeting became a catalyst for the beginning of Nagorno-Karabakh conflict. According to de Wall, during the meeting Aganbekian stated that: "I would like to hear that Karabakh has been returned to Armenia. As an economist, I think there are greater links with Armenia than with Azerbaijan. I have made a proposal along these lines, and I hope that the proposals will be solved in the context of pere-

¹ A.M. Hasanov, *Modern International Relations and Azerbaijan's Foreign Policy*, Baku 2005, p. 752 (in Azeri).

stroika and democracy”. Aganbekian’s views were reported in the French Communist newspaper *L’Humanité*, which was available in the Soviet Union. It was with his intervention that Azerbaijanis first became aware of an Armenian campaign against them.”²

At that time, Armenian diaspora in France made serious efforts to promote the positive image of Armenia in Europe and Armenians residing in the Nagorno-Karabakh area. In 1990, Moscow based “Komsomolskaya Pravda” newspaper referred to the interview given by the representative of the Dashnaktsyutun party, A. Papazian to French Fifth Channel, in which he stated that Armenian diaspora is being mobilized. He later added that in a number of countries including United States, Canada, France, Lebanon, etc. Armenian diaspora initiated recruitment process for volunteers willing to travel to Armenia.³

Armenian and Georgian diaspora in France closely observed the events taking place in the Southern Caucasus at the time. Russian researcher Yumatov notes that: it is not a coincidence that Paris was actively engaged in the mediation process of the Nagorno-Karabakh conflict, as well as the conflicts that have taken place in Georgia. He adds that prior to the disintegration of the USSR, and shortly afterwards European Union had no common strategy in regards to Southern Caucasus region. After the collapse of the Soviet Union Southern Caucasus turned into the crossroads of interests of regional (Russia, Iran, Turkey) and non-regional (USA, European Union, China, Arab states, etc.) actors. The access to the water area of Black and Caspian Sea, and the resources present that can be transported to EU is the best explanation to the reason for the clash of interests in this geographic region by.⁴

After the ratification of Maastricht Treaty in 1993, conflict resolution became the cornerstone of European Union’s Southern Caucasus policy. In the context of existing conflicts, Southern Caucasus started being regarded as a region influencing EU security. Since the beginning of 1990s, because of both regional and European interests, the idea of Southern Caucasus as a factor in European Union’s policy was formed.

After the collapse of the USSR, European Union faced the need to establish relations with a number of new states. During that period, the knowledge of Southern Caucasus was quite limited. As a result, European Union saw these territories as a region bordering Russia in the north, China in the east, Afghanistan in the east, Iran in the south and Turkey in the southwest. It is important to note that the ap-

² T. De Waal, *Black Garden. Armenia and Azerbaijan through Peace and War*, New York–London 2003, p. 337.

³ M. Chikin, *Why Did They Hesitate So Long? Foreign Media Observe Situation in Southern Caucasus*, “Komsomolskaya Pravda” 1990, 19 I, p. 2 (in Russian).

⁴ K.M. Yumatov, *Evolution of EU Policy in Southern Caucasus*, “Tomsk State University Herald” 2012, No. 1 (17), p. 126-131 (in Russian).

proach formed in the EU was reflected in a TACIS (Technical Aid to the Commonwealth of Independent States), the programme that has been developed right after the collapse of the USSR. The fact that EU exhibited a common approach to the newly independent states by signing standard cooperation and partnership agreements without taking into consideration specific features of each state illuminates that European Union did not have a specific plan. However, later EU changed its approach regarding the post-Soviet states from the common approach to a more geography-based one.

Soon after the disintegration of the Soviet Union, EU initiated the "TACIS" programme in 1991 with an aim to assist in a number of fields, such as the creation of infrastructure; carrying out of democratic reforms; transition to free market economy; deepening of cooperation in customs, trade and transport spheres. In addition, on 31st of December 1991 European Union initiated the process of establishment of political and economic ties with ex USSR states, including countries of Southern Caucasus.

From the other perspective, Europe's approach can be explained by the presence of natural resources in the Caspian Basin. This region includes the closely connected Southern Caucasus, oil and gas producing Central Asia states. This approach was reflected in TRACECA (Transport Corridor Europe-Caucasus-Asia) and INOGATE (Interstate Oil and Gas Agreement) initiatives aimed at deepening of cooperation in transport and energy sectors. In 1993-1994, because of this approach European Union started shaping conceptual plan of its Southern Caucasus policy. For instance, in 1993 in Brussels, during a ceremony attended by representatives of three Southern Caucasus states, TRACECA Europe-Caucasus-Asia agreement was signed.⁵

It is important to note that, the question of broadening of geographic borders of TRACECA plan to Iran and Afghanistan was high on the agenda in 2007, during the final year of TACIS programme. In 2004 European Union's special representative on Southern Caucasus stated that from the economic point of view, EU is looking at the region in the context of EU-Turkey-Azerbaijan and Russia-Georgia-Azerbaijan-Iran transport lines.⁶ As a result, this approach significantly broadened the boundaries of region. In addition, the energy factor helped to form a division between energy rich Central Asian region and EU's energy security shaping transit region of Southern Caucasus.

Later, the European Commission decided to review its regional policy due in connection with the proximity of the Black Sea. It is important to note that this

⁵ I.V. Bolgova, *The Problem of Security on the Outskirts of Europe. Location South Caucasus*, „Europe's Current Problems" 2011, No. 2, p. 81-103 (in Russian).

⁶ Heikki Talvitie, EU Special Representative for the South Caucasus, speech at the Centre for European policy, Brussels, 9 XI 2004.

approach was put forward in the 1990's by the European Parliament. In 1996, this European legislative body directed its attention to the Black Sea region, because it served as an access point to Southern Caucasus, by urging to review the potential of BSEC (Black Sea Economic Cooperation Organization) with a goal to improve relations with the region.⁷

From EU's perspective of ensuring the safety of energy resources, Southern Caucasus is closely linked to the wider issue of Europe's security. Unstable situation in the states and regions bordering EU has always been in the centre of attention.

Previously, from the perspective of regional security, Southern Caucasus was seen as a broader Caucasus region by including Northern Caucasus, which belongs to Russian Federation. Because of this approach it was considered that the resolution of existing conflicts in Southern Caucasus is impossible without finding the settlement of disputes in the North Caucasus. This was reflected in a number of documents issued by the European Parliament's and European Commission. For instance, the European Commission used the term "Transcaucasia" until mid 1990's.⁸

In addition, one of the resolutions adopted by the European Parliament dedicated to the Transcaucasia states the importance of working "towards finding a negotiated solution to the political crises which affect the Caucasus as a whole and Transcaucasia in particular, applying the same general criteria and taking account of possible interaction between various potential trouble spots" as an important direction of EU policy.⁹

For example, it is important to note that European Commission worked on a document titled "Relations with Transcaucasian republics – European Union's Strategy" and referred it to European Parliament and European Council. EU's energy interests best explain drafting of a document on common European strategy.¹⁰ However, at the end of 1990's the term Transcaucasia vanished from European political vocabulary, because such approach to the region did not take into account Europe's foreign and security concerns. Instead, European politicians adopted two terms: "Southern Caucasus" and "Southern Caucasus states".

At the same time, some post-Soviet politicians, mainly representing Russia, have shown tendency to look at the European security through the lens of a wider region

⁷ European Parliament, *Resolution on the Communication from the Commission entitled Towards a European Union Strategy for Relations with the Transcaucasian Republics*, COM (95)0205 – C4-0242/96, 24 IX 1996, <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A4-1996-0279&language=BG>, 7 IV 2011.

⁸ European Commission, *Commission from the Communication. Towards a European Union Strategy for Relations with the Transcaucasian Republics*, COM(95) 205 final, Brussels, 31 V 1995, <http://aei.pitt.edu/4329/1/4329.pdf>, 15 III 2014.

⁹ European Parliament, *Resolution on the Communication from the Commission entitled Towards a European Union...*

¹⁰ I.V. Bolgova, *EU's Southern Caucasus Policy*, "Caucasian Digest" 2008, Vol. 5, No. 37, p. 339 (in Russian).

ranging from Vancouver, Canada to Vladivostok, Russia. During his presidency, Dmitriy Medvedev urged his colleagues to sign a renewed treaty on European security, in order to tackle the existing and potential challenges. At that time, President Medvedev believed that such a treaty would provide a judicial foundation for equal and common security. This proposal was put forward for the first time in June, 2008 during Berlin Conference by President Medvedev, who later returned to the matter in October, 2008; a few month after events in South Ossetia and Abkhazia.¹¹

Southern Caucasus as a continuation of Eastern Europe

At the same time, European Union started shaping its relations with countries in the region by signing bilateral agreements with each state of Southern Caucasus region in 1996. In 1999 these treaties have taken effect. At that time there was no common view on Southern Caucasus region within the European Union. According to the integration policy existing in EU at that time, Southern Caucasus was seen as a continuation of Eastern Europe and because of this, many believed that European values are present there. By fostering the values of democracy, free market, human rights and social prosperity European Union accelerated the integration of the region into Europe. Therefore, the treaties signed between EU and Azerbaijan, Armenia and Georgia aimed to develop these values.¹² H. Huseynova believes that signing of Partnership and Cooperation Agreement between EU and Southern Caucasus states in 1996 was dictated by the need to shape European policy in the region and to turn it into an important player. Another reason is that Brussels considered the countries of the region its strategic partners.¹³ However, it is important to note that since then European Union pursued a two level policy in the region: EU worked on shaping its policy on regional level in addition to fostering relations with each country of Southern Caucasus individually.

In 2001, during Swedish presidency of the European Union, the then Foreign Affairs Minister Anna Lindh, High Representative for the Common Foreign and Security Policy Javier Solana and the European Commissioner for External Relations Chris Patten arrived in Southern Caucasus on an official visit. According to the official information, the purpose of the visit was to state the importance of Southern Caucasus region in the EU foreign policy and to make European Union a more

¹¹ G. Pashayeva, *European Security and Unregulated Conflicts in Southern Caucasus*, "MGI-MO Digest" 2010, No. 6 (15), p. 46-52 (in Russian).

¹² N. MacFarlane, *Western Engagement in the Caucasus and Central Asia*, London 1999, p. 9-12.

¹³ H.K. Huseynova, *Azerbaijan in the Systems of European Integration Processes (1991-1997)*, Baku 1998, p. 138-140 (in Azeri).

important player in the region.¹⁴ It is important to note that during the preparation stage of the visit in the January of 2001, Policy Planning and Early Warning Unit (PPEWU) focused on the possible role of European Union in the stability and security of the region. The document released by the PPEWU stated, “European politicians have to look for new opportunities aimed at prevention of conflicts, conflict resolution, in addition to supporting and optimizing post conflict peace building efforts”.¹⁵ Finally, in 2003 the European Union created a post of Special Representative for the Southern Caucasus.

On December 12, 2003, a section called “Building Security in our Neighborhood” of a newly released document titled “A secure Europe in a Better World. European Security Strategy” looks at the Southern Caucasus through the lens of neighbouring states. This document states that “It is in our interest that enlargement does not create new dividing lines in Europe. We need to extend the benefits of economic and political cooperation to our neighbours in the East while tackling political problems there. We should now take a stronger and more active interest in the problems of the Southern Caucasus, which will in due course also be a neighbouring region”.¹⁶

In 2003, when speaking on the European security strategy, the High Representative for the Common Foreign and Security Policy Javier Solana added that it is important to carry out systemic preventive policy in Macedonia or Congo, Bosnia or Southern Caucasus in order to avoid possible future problems in the region.¹⁷

Geographic proximity of Southern Caucasus and the fact that the region shared similar cultural and historic values played a big role in shaping of EU’s Southern Caucasus policy. As a result of shared values some analysts referred to Southern Caucasus by calling it “The Europe from Brest to Baku”. Resolutions adopted by the European Parliament always stressed the long and successful history of cooperation between Europe and Southern Caucasus region. In this sense, the fact that all three states of the Southern Caucasus have joined the European Neighborhood policy meant that European Union saw the potential and similar problems existing in the region, which have to be tackled in order for Southern Caucasus to function as a region.

However, the differences existing between the states of Southern Caucasus prevented it from obtaining a status of an independent region. Some analysts believe that regardless of the existing interdependence, mutual friendship or existing hos-

¹⁴ C. Patten, A. Lindh, *Resolving a Frozen Conflict*, “Financial Times” (London) 2001, 20 II.

¹⁵ P. Eavis, S. Kefford, *Conflict Prevention and the European Union. A Potential Yet to Be Fully Realized*, “Searching for Peace in Europe and Eurasia” 2002, <http://www.conflict-prevention.net>, 23 IX 2011.

¹⁶ *A Secure Europe in a Better World. European Security Strategy*, Brussels, 12 XII 2003, p. 8, <http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf>, 26 X 2012.

¹⁷ J. Solana, *L’UE – Pilier d’un monde nouveau*, “Le Monde” 2003, 23 IX.

ilities, Southern Caucasus cannot be considered as an independent region. Those experts prefer to regard the region as a crossroads of interests of Iran, Turkey and Russia. In addition, experts see Southern Caucasus as a complex region that includes a number of obvious and subtle challenges that have to be tackled, including the existing Nagorno-Karabakh Conflict between Azerbaijan and Armenia, the issue of Caspian Sea status, as well as, conflicts in South Ossetia, Abkhazia and Georgia, strained relations between Georgia and Russia and others.¹⁸

Conflict resolution became one of the key elements of EU policy in the post-Soviet states after the Maastricht treaty has taken effect. European Union's policy in this geographic and geopolitical area is based on the Common Foreign and Security Policy (CFSP) and existing conflicts in the post-Soviet area directly influence European security system. Existing conflicts in Southern Caucasus and Moldova became one of the key issues in the EU policy, because political instability in states bordering the Union gained more attention in Brussels. As a result, mitigation of conflicts in the neighbouring post-Soviet region became one of the key tasks for the EU. In 2004 the EU began sending missions to Georgia in the framework of the CFSP.¹⁹

It is important to note that, formally, EU missions were unrelated to regional conflicts. Those missions served as force aiming to prevent the outbreak of instability. In order to do this the EU discussed the possibility of conducting such missions bypassing the European Security and Defence Policy (ESDP), a component of CFSP, and carry them out as a part of European Commission programmes. At the end, it was ruled that these missions have to be undertaken in the framework of ESDP. Conducting the missions under the ESDP proved to be easier to monitor and evaluate and made EU's presence in Georgia more valuable.²⁰

However, European Union's EUJUST THEMIS mission has not led to significant achievements. First, it took a long time to take care of the technical and logistic challenges. Second, frequent changes in higher echelons of Georgia's ruling elites left a negative mark on the efficiency of the mission. In addition, Georgian authorities preferred American experts to their European colleagues. EUJUST THEMIS resulted in drafting and adoption of the criminal justice reform plan. Later, adoption of this strategy became one of the principles of the Action Plan signed between Georgia and EU in the framework of European Union's Neighborhood Policy. Also,

¹⁸ B. Coppieters, *EU Policy on the South Caucasus*, <http://www.europarl.europa.eu/meet-docs/committees/afet/20040120/wider%20europe%20caucasus.pdf>, 18 V 2014.

¹⁹ *Council Joint Action 2004/523/CFSP of 28 June 2004 on the European Union Rule of Law Mission in Georgia*, EUJUST THEMIS, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:228:0021:0024:EN:PDF>, 11 VII 2013.

²⁰ X. Kurowska, *The Rule of Law Mission in Georgia*, EUJUST THEMIS, [in:] *European Security and Defense Policy. The First Ten Years (1999-2009)*, eds. G. Grevi, D. Helly, D. Keohane, Paris 2009, p. 203-204.

some of EU experts serving as members of the mission later became employees of European Union's Special Representation office in the region.²¹

EU's representation in Georgia also employed nine advisors for Georgia's Border Service who also contributed to drafting of border control policies. However, unlike EUJUST THEMIS mission, border activities carried out in the framework of ESDP have not attained the EU "mission" status.²²

European Neighborhood Policy and Southern Caucasus: New Opportunities

The end of the 20th century, as well as the beginning of the 21st century has been marked with the enlargement of European Union after some Baltic and Eastern European states joined the bloc. These political changes led to broadening of European borders and the need to deepen cooperation with the new neighbours. In order to tackle the new challenges European Union adopted a programme called "Wider Europe – Neighbourhood: A new Framework for relations with our Eastern and Southern Neighbours" in 2003.²³ Member states' Foreign Affairs Ministers have been instructed to draft and present proposals regarding the integration of Southern Caucasus states into the above-mentioned programme. On May 12, 2004, European Commission proposed the European Neighbourhood Policy, which was adopted in June²⁴. By doing so, European Union signalled that Southern Caucasus is a part of European sphere of interests.

As a part of European Neighbourhood Policy, European Union offered assistance to its neighbours, including Southern Caucasus states, in various spheres, such as governance; economy; trade; etc. In addition, European Union aimed to promote certain values, including respect for human dignity, freedom, democracy, equality, the rule of law and the protection of minorities. This principles have been reflected in the "Wider Europe – Neighbourhood: A new Framework for relations with our Eastern and Southern Neighbours" document.

²¹ *Ibidem*, p. 205-208.

²² M. Merlingen, R. Ostrauskaite, *EU Peacebuilding in Georgia. Limits and Achievements, The European Union and Peacebuilding. Policy and Legal Aspects*, eds. S. Blockmans, J. Wouters, T. Ruys, The Hague 2010, p. 285.

²³ *Wider Europe – Neighbourhood. A New Framework for Relations with our Eastern and Southern Neighbours*, COM (2003) 104 final, Brussels, 11 III 2003, http://ec.europa.eu/world/enp/pdf/com03_104_en.pdf, 10 I 2009.

²⁴ *Communication from the Commission, European Neighbourhood Policy, Strategy Paper*, COM(2004) 373 final, Brussels, 12 V 2004, http://ec.europa.eu/world/enp/pdf/strategy/strategy_paper_en.pdf, 10 I 2009.

According to the European Neighbourhood Policy rules, it is intended to have an Action Plan between the sides. The rules state that each neighbouring country has to be approached differently and the Action Plans signed between the sides have to have different objectives and schedules for completing them.²⁵

Finally, in 2006, an Action Plan between EU and each Southern Caucasus state was signed and adopted. A Russian researcher, I.V. Bolqova, argues that Neighbourhood policy includes individual and regional approaches. At the same time, European Union follows a complex regional approach regarding the Southern Caucasus.²⁶

Analysts note that, prior to signing and adoption of Action Plans, there was a rivalry between Southern Caucasus states, with each state trying to get the proposal first. Each state understood the definition of regional cooperation differently. When speaking of Armenia's perception of regional cooperation, Yerevan saw it as a chance to avoid isolation. At the same time, Armenia considered that the issue of Nagorno-Karabakh should not be negotiated under the Action Plan, because the document is a bilateral agreement while there is another party to the conflict. The position of Azerbaijan was different; Baku stated that unless the settlement to Nagorno-Karabakh conflict was achieved, Armenia would not be a part of regional cooperation projects.²⁷

Georgia also had its own view regarding the issue of regional cooperation. Tbilisi offered cooperation in a broader Black Sea region, as opposed to the proposed Southern Caucasus. Georgia believed that the "The New Friends of Georgia" group that consisted of Poland, Romania, Bulgaria and Baltic states would allow Tbilisi to promote national interests in the EU better. This approach gave momentum to cooperation in the framework of Black Sea Synergy cooperation initiative.²⁸ It is important to note that a similar strategy has also been chosen by other post-Soviet states seeking closer cooperation with European Union, for example Ukraine.

In the framework of European energy security policy, Southern Caucasus region is seen, both from economic and geographic perspective, as an important energy area of Caspian basin. In the context of diversification of energy sources Southern Caucasus plays an important role, as a producer of natural resources and transit region from Central Asia to European Union.²⁹

²⁵ *Ibidem*.

²⁶ I.V. Bolqova, *EU's Southern Caucasus Policy*, p. 339 (in Russian).

²⁷ International Crisis Group, *Conflict resolution in the South Caucasus. The EU's Role*, Europe Report, No. 173, 20 III 2006, p. 15-16.

²⁸ Communication from the Commission to the Council and the European Parliament, *Black Sea Synergy – A New Regional Cooperation Initiative*, COM (2007) 160 final, Brussels, 11 IV 2007, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0160:FIN:EN:PDF>, 10 I 2009.

²⁹ H.K. Huseynova, *Azerbaijan in the Systems of European Integration...*, p. 138-140 (in Azeri).

Thus, the main achievements of EU's Southern Caucasus strategy are the following: transition from traditional approach from post-Soviet region to shaping relations on individual basis, transition from unilateral technical assistance to participation of states in trans-regional projects.

Eastern Partnership as a unified partnership format: problems and perspectives

During the meeting of EU Member States Foreign Affairs Ministers on May 26, 2008, Polish and Swedish minister proposed the new format of cooperation between EU and parties to European Neighbourhood Policy (Azerbaijan, Georgia, Armenia, Ukraine, Moldova, and Belarus). The new initiative was named Eastern Partnership and played an important role in the transition of cooperation to the new unified format.³⁰

European Commission and European Council received information and working documents regarding the Eastern Partnership initiative on December 3, 2008.³¹ The official beginning of the Eastern Partnership took place during a meeting on May 7, 2009 in Prague. During the meeting the key principles, prospects for future cooperation have been laid out and the Joint Declaration has been made.³²

Eastern Partnership consists of two main approaches. First, it is used as a multilateral forum for promoting European standards, legislation; sharing successful experience and knowledge in the field of implementation of reforms. Eastern Partnership also serves as a forum for discussing and improving bilateral relations with Partner countries by way of, eventually, signing Association Agreement instead of a Partnership and Cooperation Agreement. The aim of Eastern Partnership is a gradual integration of Partner state's economy in addition to establishing free trade zones, if a Partner state is a member of the World Trade Organization. Other issues may include liberalization of visa regime as well as integration of energy markets with a goal to promote cooperation in the field of energy security.

As the member states of Eastern Partnership programme Azerbaijan, Georgia, Armenia, Ukraine and Moldova took part in negotiations regarding the Association

³⁰ *Polish-Swedish Proposal, Eastern Partnership*, 23 V 2008, www.tepsa.eu/docs/draft_proposal_eastern_partnership.pdf, 14 V 2011.

³¹ *Communication from the Commission to the European Parliament and the Council, Eastern Partnership*, COM (2008) 823 final, Brussels, 3 XII 2008, http://ec.europa.eu/europeaid/where/neighbourhood/eastern_partnership/documents/eastern_partnership_communication_from_the_commission_to_the_european_parliament_and_the_council_en.pdf, 14 V 2011.

³² *Joint Declaration of the Prague Eastern Partnership Summit*, Prague, 7 V 2009, http://ec.europa.eu/europeaid/where/neighbourhood/eastern_partnership/documents/prague_summit_declaration_en.pdf, 14 V 2011.

Agreement with the EU. As a result of three years of negotiations four countries: Georgia, Armenia, Ukraine and Moldova received an offer to sign the agreement, during Eastern Partnership summit on November 28-29, 2013 in Vilnius. However, on September 3, 2013 during the visit to Russia, the President of Armenia Serzh Sargsyan stated that after the talks with President Putin, he wants to see Armenia as a member state of the Customs Union, a Russia-led programme, and that he will not sign the Association Agreement with European Union.³³ Indeed, Armenia did not sign the Association Agreement during Vilnius summit and later it became a member state of the Customs Union.

It is important to note that instigative steps taken by the Russian government and radical moves made by Georgian leadership in response to the threats led to a short-lived war. Because of the war, Russia recognized the independence Georgian breakaway regions of South Ossetia and Abkhazia, a move that has changed the geopolitical map of Southern Caucasus. This situation required immediate attention from the perspective of both regional states and EU's, in terms of making necessary amendments in the Common Foreign and Security Policy. On September 1, 2008, an emergency meeting dedicated to the matter took place. According to the final document, starting from September 15, 2008 a civil mission to Georgia was to be deployed in order to carry out observations.³⁴ The mission started on October 1, 2008 because of agreements signed with Georgia and Russia on 12 August 2008 and 8 September 2008 respectively.

However, observers could not reach the territories of South Ossetia and Abkhazia because leadership of the breakaway regions denied access to these regions. In addition, Russian officials stated that after August events Moscow recognizes Abkhazia and South Ossetia's independence and does not support EU mission there. Russian officials believed that local authorities successfully enforce domestic security of the breakaway regions, while Russian military guarantees its security from foreign threats. Without a doubt, Russian position can be best explained by the fact that the presence of international observers in South Ossetia and Abkhazia will weaken Moscow's influence.

Overall, European Union's mission in Georgia led to certain positive developments, such as: partial de-escalation of the conflict, disseminating of more objective information and providing opportunities for communication between conflicting parties.

Charap and Welt note that there are certain risks associated with the mission. They argue that, should the violence escalate again, unarmed observers with limited

³³ *Armenia Intends to Join Customs Union*, <http://ria.ru/economy/20130903/960485143.html>, 26 X 2013.

³⁴ *Council Joint Action 2008/736/CFSP of 15 September 2008 on the European Union Monitoring Mission in Georgia*, EUMM Georgia, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:248:0026:0031:EN:PDF>, 28 IX 2011.

authority will be unable to influence the direction of the conflict and at best they will be able to escape the region safe, while at the worst case scenario these observers will become “targets”. However, the head of EU Observation mission described the situation on the ground as “very calm”.³⁵

The analysis of events that have taken place in Southern Caucasus indicates that while European Union’s policy in the region became more proactive, the Union is still dependent on the balance of power. Interestingly, Oliver Reisner put similar idea forward in 2003.³⁶

The five day war of 2008, Armenia’s rejection of Association Agreement in 2013 and subsequent integration into Customs Union, ceasing of Association Agreement negotiations between EU and Azerbaijan and proceeding with talks on the renewed Strategic Partnership treaty indicate that the policies carried out by the EU regarding the Southern Caucasus and Eastern Partnership states for more than twenty years can be labelled as unsuccessful. In a way, EU’s lack of success in the region was predicted in 1999 by Herzig who argued that inability to prioritize issues in political agenda would cost much in the regards to the EU’s policy in Southern Caucasus.³⁷

Conclusion

In conclusion, it is important to note that rapprochement between Southern Caucasus states and EU is a long-term systematic process. From one point of view, Southern Caucasus’ integration is complicated due to existing conflicts within the region. There is a general agreement within EU that without resolution of existing disputes long-term stability cannot be achieved. From a different perspective, EU is faced by the presence of other powers such as Russia, USA, Turkey, Iran and others, which prevents European Union from strengthening its positions in this geographic region.

Abstract

The article analyses the formation of European Union’s Southern Caucasus policy, as well as its dynamics and direction. It is shown that EU’s Southern Caucasus policy started in the form of assistance provided by the former to the latter, which evolved to the form of relations between EU and separate states representing the Southern Caucasus region.

³⁵ S. Charap, C. Welt, *A More Proactive U.S. Approach to the Georgia Conflicts*, Washington, DC 2011, p. 24.

³⁶ O.Reisner, *The South Caucasus. A Challenge for Europe*, Berlin 2003, p. 7.

³⁷ E. Herzig, *The New Caucasus. Armenia, Azerbaijan and Georgia*, London 1999, p. 114-117.

The article reviews EU's main approaches to the Southern Caucasus region during previous 20-25 years and concludes that Southern Caucasus states' integration with EU is long term and a step-by-step process.

It is noted that Southern Caucasus states' integration is being complicated by the presence of domestic problems within the region, such as, the existence of armed conflicts, which have not yet been resolved. At the same time, it is noted that the EU's policies in the Southern Caucasus region are faced with international problems. Thus, even though European Union tries to be proactive in regards to its regional policy, the efforts of the union are still dependent on the balance of power.

Key Words: European Union, Southern Caucasus, energy security policy, Eastern Partnership

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Ukrainian Crisis of 2014 and Changing Regional Conditions for National Security of Azerbaijan

Introduction

In the early 1990s, the united Soviet state disappeared to be replaced with an anarchically organized regional political system; the fifteen independent states started working on their foreign policy. Russia remained the only geopolitical actor that could project its influence on the regional scale and the key security factor for the newly independent states (NIS).

Russia opposed all attempts by the NIS to withdraw from its “near abroad” and move closer to the extra-regional poles. In the 1990s, in a time of acute domestic problems, Russia manipulated the ethnopolitical conflicts in the NIS – the Armenian-Azeri conflict and the conflicts in Georgia and Moldova.¹ The Baltics, which left the zone of Russia’s “special interests” to a great extent thanks to the West’s rigid position, remain the only precedent. The Kremlin was too weak to oppose this action. In the 2000s, power in Russia became centralized; high oil prices increased its economic opportunities, which added to the Kremlin’s determination to insist on its exclusive status in the post-Soviet space to prevent, first and foremost, the enlargement of NATO and the EU. The war with Georgia in August 2008 and the cur-

¹ I have in mind Russia’s unofficial support to the separatist movements in Azerbaijan, Georgia, and Moldova: Nagorno-Karabakh, South Ossetia, Abkhazia, and Transnistria (for example, see: B. Coppeters, *The Politicisation and Securitisation of Ethnicity. The Case of the Southern Caucasus*, “Civil Wars” 2001, Vol. 4, No. 4, p. 74-75, <https://doi.org/10.1080/13698240108402488>; A. Malashenko, *Postsovetskie gosudarstva Yuga i interesy Moskvy*, “Pro et Contra” 2000, Vol. 5, No. 3, p. 42-43; S.E. Cornell et al., *Regional Security in the South Caucasus. The Role of NATO*, Washington, DC 2004, p. 16; A. Utkin, *Mirovoi poriadok XXI veka*, Moscow 2002, p. 400-401; A. Mörrike, *The Military as a Political Actor in Russia. The Cases of Moldova and Georgia*, “The International Spectator” 1998, Vol. 33, No. 3, p. 119-120, <https://doi.org/10.1080/03932729808456825>).

rent developments in Ukraine can be cited as the open use of Russian armed forces against the NIS. The unprecedented Western pressure on the Kremlin that followed can be read as the worst crisis in their bilateral relations since the Cold War. This is a factor and an indicator of the changing regional conditions of security of the NIS.

Azerbaijan, a post-Soviet and geopolitically very attractive state, is directly affected by the emerging context. The article below will tackle this issue as well as general regional effects of the Ukrainian crisis.

The Regional Security System in the Post-Soviet Space

The regional system that appeared in the post-Soviet space in the early 1990s is best analysed by the Theory of Regional Security Complexes,² which describes the region as a “centred great power regional security complex”.³ At the time of its emergence, it included Russia and four sub-complexes (Latvia, Lithuania, Estonia; Belarus, Moldova, Ukraine; Azerbaijan, Armenia, Georgia; and Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan). The region’s development was accompanied by structural changes, the main one being EU membership for the Baltic republics. These changes suggest that the concept of Post-Soviet Security Macrocomplex (PSM) is much better suited to the current political structure that represented by one power (Russia) and three local security complexes (Belarus, Moldova, Ukraine; Azerbaijan, Armenia, Georgia; and Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan).

The specifics of the region’s political structure directly affect the security dynamics inside it; this dependence is best assessed by the parameter of *(in)stability of the political structure of the regional security system* (RSS).⁴ The latter rests, in my opinion, on the following three components: internal weakness/strength of the states in a regional system; (a)symmetry of strength and (a)symmetry of vulnerability among them; as well as (im)maturity of their mutual relations. The PSM demonstrates the obvious asymmetry of weakness/strength, threats and vulnerabilities, the fact that it consists mainly of weak states, and the absence of adequate cooperative

² The original concept of regional security complex identifies it as “a group of states whose primary security concerns link together sufficiently closely, so that their national securities cannot realistically be considered apart from one another”, see B. Buzan, *People, States and Fear. An Agenda for International Security Studies in the Post-Cold War Era*, Colorado 1991, p. 190.

³ B. Buzan, O. Wæver, *Regions and Powers*, New York 2003, p. 55-61.

⁴ For more details, see: J. Eyvazov, *Structural Factors in the Development of the Regional Security Systems (A Post-Soviet Central Eurasia Case Study)*, “Central Asia and the Caucasus” 2012, Vol. 13, No. 1, p. 79-102; J. Eyvazov, *The Regional Security System in the Post-Soviet Space. Political Structure, Environment, and Transitivity*, “The Caucasus & Globalization” 2014, Vol. 8, No. 1-2, p. 7-33.

practice in regulation of security dilemmas present in their relations. According to my classification, the PSM is a *negatively asymmetrical RSS*;⁵ its structural specifics still directly affect security of the regional states and the relations among them.

The PSM consists mainly of states that face very serious national security challenges and are highly vulnerable: all the states, Russia included, have to cope with severe internal problems, as well as with obvious or latent conflicts in mutual relations. There is also an obvious asymmetry in their military and economic strength/weakness components.

Russia is the only power in the PSM, which makes it an asymmetrical RSS. Here we are dealing with a cardinal strength asymmetry because the RF and the other PSM states are separated by a wide gap in terms of the key parameters of national power. The problems of the post-Soviet transit did not deprive Russia of its status of a power, but the vulnerabilities of that period do not allow us to describe it as a strong state. Nonetheless, it is less vulnerable when compared to the other PSM members than they are in their relations with Russia. This means that the strength asymmetry is complemented by the vulnerability asymmetry, which is reflected in mutual perceptions and conduct within the entire RSS.

Azerbaijan's Security Policy

Azerbaijan, as part of the PSM, was affected by its structural specifics – it had to deal with the territorial claims of Armenia. When the Soviet Union disintegrated, armed clashes in the disputed territory of Nagorno-Karabakh developed into a full-scale war, in which Baku lost control over Nagorno-Karabakh and seven adjacent districts (about 20 percent of its territory) occupied by Armenia.

Despite the cease-fire that the regime established in 1994, the conflict remains unsettled; nothing much has been done to liberate the occupied Azeri districts. This armed conflict still determines the security agenda of Azerbaijan.

⁵ In accordance with the parameters of the (in)stability of the political structure, I singled out four types of RSS: (1) a *positively symmetrical RSS*, in which all states are more or less equally strong with almost the same mutual vulnerability level; (2) a *negatively symmetrical RSS*, in which all the states are more or less equally weak with a more or less equal level of mutual vulnerability; (3) a *positively asymmetrical RSS*, in which some of the states are strong and others are weak, while the degree of vulnerability of the former to the latter is much lower than the degree to which the latter are vulnerable to the former. Furthermore, the stronger states predominate both quantitatively and qualitatively (they can maintain moderation and cooperation in the dynamics of regional security relations); (4) a *negatively asymmetrical RSS*, in which some of the states are strong and others are weak, while the degree of vulnerability of the former to the latter is much lower than the degree to which the latter are vulnerable to the former. The weak states outnumber the strong ones, while the qualitative capabilities of the strong states are not sufficient to maintain moderation and cooperation in the regional security relations dynamics.

This explains why the military aspects of Azerbaijan's security figure prominently in its agenda. The huge military budget (the fourth largest among the PSM countries, the first three being Russia, Ukraine, and Kazakhstan) and the active growth in the republic's military-technological potential devour the money that could be spent on other purposes.

The Nagorno-Karabakh problem is much easier to assess from the point of view of the geopolitics and security relations in the post-Soviet region. Therefore, the PSM concept is needed to understand the problem.

The PSM structural asymmetry is especially clearly seen in the vast power potential gap between Russia and the NIS. Moreover, the Kremlin perceives this space as a zone of its exclusive interests and influence. The reality of the post-Soviet period demonstrates that the Nagorno-Karabakh, as well as other armed conflicts is among main instruments of control over this space: Georgia, 2008 and Ukraine, 2014 are two most graphic examples of how this works.

Under Abulfaz Elçibey (1992-1993), Azerbaijan was trying to move away from its post-Soviet political identity. This meant a prompt withdrawal of Russia's armed forces from the republic, refusal to join any post-Soviet integration projects, and the course toward drawing closer to Turkey and the West. It was at that time of Azerbaijan's post-Soviet independence that Russia exerted the strongest pressure, the Nagorno-Karabakh conflict being its main instrument. Svante Cornell put this as follows: "Elçibey refused to sell his soul for the country's gain – or even to let the Russians think he would sell his soul while actually crafting long-term strategies to build independence... In all fairness, the Elçibey government's hand was weak and its chances of success limited. Russia had decisively taken the Armenian side at the time of the Khojaly massacre and the fall of Shusha, months before Elçibey was even president. Indeed, Moscow's simple ambition was to get Elçibey out of power by whatever covert means possible, and there was little, short of a total surrender, that could have changed its mind."⁶ Russia's support of Armenia in the war in Nagorno-Karabakh was the main factor of Azerbaijan's military defeats, resulting in the political crisis of 1993 that cost Elçibey his presidency.

Heydar Aliiev, who came to power in June 1993, balanced out the bias toward Turkey and the West; the republic resumed its CIS membership; in May 1994 the sides of the Karabakh conflict signed a Russia-brokered cease-fire agreement.

While normalizing relations with Russia, the Aliiev administration also developed the republic's relations with the West – in September 1994, Azerbaijan and several international oil tycoons signed a "Contract of the Century" on developing the Azeri, Chirag, and Gunashli oil fields. In this way, the West became involved, on a long-term basis, in Caspian oil and gas projects. In October 1998, an agreement

⁶ S.E. Cornell, *Azerbaijan since Independence*, Armonk 2011, p. 71, *Studies of Central Asia and the Caucasus*.

was reached on the project for laying the main route for Azeri oil export – the Baku-Tbilisi-Ceyhan (BTC) pipeline.

In 1997, Georgia, Ukraine, Azerbaijan, and Moldova formed the GUAM, a regional structure actively encouraged by the United States. The participants expected to strengthen their international position and finally settle the armed conflicts in their territories.

Nothing much changed in Azerbaijan's foreign policy course when Ilham Aliiev became president in 2003; the republic, however, acquired important levers of its advancement – two pipelines (the BTC and the Baku-Tbilisi-Erzurum gas pipeline) were commissioned one after another in 2006 and 2007; they brought huge amounts of Azeri energy resources to the world market and huge amounts of currency to the republic's coffers, thus stirring up unprecedented economic growth. As the key hub of energy transit, Azerbaijan offered alternative access to the Caspian's energy resources; the republic's clout in world politics increased accordingly.

The Rise of Contradictions between Russia and the West

The relations between Russia and the West (the U.S. and the European Union) are the most important factor of geopolitics and security in the PSM. Azerbaijan could not isolate itself from these impacts; however, the transregional functions of energy transit and economic self-sufficiency ensured by the oil and gas projects allowed it to respond to the changing situation and even influence it to a certain extent. The developing confrontational trends between the RF and the West might create new security challenges for Azerbaijan and significantly curb its political and economic potential.

At the early stages of its post-Soviet existence, Russia was extremely weak. Its semi-ruined economy and the deep ideological crisis were exacerbated by the anarchy in its political system. The Russia-West relations during the first years of Boris Yeltsin's presidency are best described as a "honeymoon". In Russia, there were more or less widely shared expectations that the country would set up a political community common with the West, while the West expected that Russia would set up functional democracy and a Western-style market economy. The thaw of the early 1990s, however, soon ended to be replaced with another period of misunderstanding. The NATO's eastward expansion, bombardment of Serbia, and active involvement of Western companies in the energy sphere of the NIS were enough to alert the Kremlin. But at that point in time Moscow was too weak to stem the unfavourable developments.

The myth that Russia could be integrated with the international community based on Western values was gradually withering away; post-Soviet Russia returned

to the traditional idea of its great power nature with its own zone of influence in the post-Soviet space.

Under Vladimir Putin's administration Russia's political course across the post-Soviet space was becoming clearer and more resolute. The classical levers for ensuring regional interests were used and improved; in the 2000s, Russia learned how to use new, economic (including energy-related) levers when dealing with its "near abroad" and in the game against the West. In his article "Missia Rossii v XXI veke" (Russia's Mission in the 21st Century), Anatoly Chubais, one of the most influential administrators of the 1990s, formulated a new concept of the Kremlin's revised policies.⁷ He wrote about a "liberal empire" and "liberal imperialism" to justify Russia's economic expansion across the CIS as "the only and unique natural leader" in this space where "the size of its economy and the living standards of its citizens were confirmed."

These mechanisms were complemented by the efforts to limit Western influence by setting up post-Soviet reintegration structures, such as the CSTO, the Union State of Russia and Belarus, EurAsEC, the Customs Union (CU), the Common Economic Space (CES) and the Eurasian Economic Union (EEU), expected to tie together what was left after the latest eastward expansion of NATO and the EU in the Baltics.

The first "Ukrainian gas crisis" of 2006 (when Russia suspended gas supplies to Ukraine and the EU) was seen in the West as the Kremlin's effort to promote its political interests. To diminish its dependence on Russia, Europe started looking for alternative sources of fuels which added to Azerbaijan's political weight.

In May 2009, the EU Summit in Prague approved the idea of a Southern Gas Corridor (SGC) to ensure the stable supply of Caspian and Middle Eastern gas to Europe. In January 2011, during the visit of José Manuel Barroso, President of the European Commission, to Azerbaijan, the sides signed a joint declaration on the SGC. This meant that Azerbaijan agreed to take part in the project that would supply Europe with Caspian gas.

In 2011, Turkey and Azerbaijan announced that they were planning to build a Trans-Anatolian Natural Gas Pipeline (TANAP); the corresponding agreement was signed on 26 June, 2012 by Prime Minister of Turkey Erdoğan and President of Azerbaijan İlham Aliev. At the first stage, gas from the Shah Deniz gas fields (2nd phase) was to be moved to Turkey and Europe.⁸

Early in June 2013, the international consortium developing the Shah Deniz-2 preferred the Trans-Adriatic Gas Pipeline (TAP) to Nabucco-West as the route for transporting gas from Azerbaijan to Europe.

⁷ See: A. Chubais, *Missia Rossii v XXI veke*, "Nezavisimaia Gazeta" 2003, 1 X.

⁸ TANAP's initial annual carrying capacity is 16 bcm; starting in 2018.

The disagreements on gas supplies between Russia and the West added political weight to Azerbaijan. However, the aggravation of RF-West contradictions, to be more exact, rise in their political component, might have produced an opposite effect. The decision on TAP of June 2013, which rejected the larger Nabucco-West project, was prompted, among other things, by practical considerations: the Kremlin's sharp response should be better avoided. The geography of Nabucco-West would have meant open competition with Russia. The tension between Russia and Azerbaijan, very much obvious during the international discussions of Nabucco (late 2012-July 2013), subsided as soon as the TAP project was chosen or, rather, when Nabucco-West was pushed aside.

Georgia, 2008 and Ukraine, 2014: New Rules of the Game in the Region

The war between Russia and Georgia in August 2008 and the Ukrainian crisis of 2014 demonstrated that the situation has changed and that the "game" will be played according to new rules. In the post-Soviet region, this meant that Russia would protect its interests by all means, including openly used military force. At the macro-regional level, it meant that, for the sake of these interests, the Kremlin was ready to escalate the conflict with other powers interested in the region.

Georgia and Ukraine, two post-Soviet states, went further than the others toward integration into the EU and NATO, which explains why Russia recognized the independence of South Ossetia and Abkhazia, annexed Crimea, and stirred up armed separatism in southeast Ukraine.

Very much like the events in Georgia in 2008, the Ukrainian crisis of 2014 confirmed that Russia was the only power present in the PSM ready to use force to protect its interests in the region. This is a strong argument used by those who talk about the political system in the post-Soviet space as unipolar. As we know, on 1 March, 2014 President Putin asked the RF Federation Council for permission to use armed forces in Ukraine; this ensured the referendum of 16 March in Crimea on joining Russia. Very much like in Georgia's case, the West clearly demonstrated that it was resolved to stop at economic and political pressure and would not resort to the use of force.

Azerbaijan's First Reaction

The events in Ukraine have stirred up apprehension in Azerbaijan. During the post-Soviet period, both states had established a wide spectrum of ties and occupied

similar positions on key international issues. Further developments, however, were fraught with much greater risks than disrupted cooperation.

According to the Russian version, Crimea was reunified with Russia on the strength of a referendum among the peninsula's population; it served, if not as a legal, at least as a political precedent of the way territorial issues could be settled. The same applies to the recognition of the independence of Abkhazia and South Ossetia, which occurred six years before. Certainly, the expert and political community of Azerbaijan actively discussed both issues. Russia's determination to "punish" those NIS that refused to accept its interpretation of regional politics and the vague and, not infrequently, delayed responses of the West were convincing that either the "Ukrainian" or the "Georgian" scenario could be implemented by Kremlin in Nagorno-Karabakh.

Moreover, confronted with the need to take sides, Baku lost its previous freedom of political manoeuvre. On the one hand, there was the principle of territorial integrity, which served as the axis of Baku's foreign policy, and the partner relations with Ukraine. On the other, there was Russia determined to go to all lengths.

On 18 March, Foreign Minister of Azerbaijan Elmar Mamedyarov explained the position of Azerbaijan in relation to the events in Crimea. He supported the territorial integrity of Ukraine and pointed out that the problem should be resolved in full accordance with the Constitution of Ukraine.⁹ On 27 March, Azerbaijan was one of 100 states that voted for the Resolution of the U.N. General Assembly confirming the territorial integrity of Ukraine and denouncing the Crimean referendum as illegal.

At that point, there were no serious complications between Baku and Moscow because the position of Azerbaijan was fully justified by the fact of Armenian occupation of part of Azeri territory. Moreover, very much as before, Baku carefully avoided any demonstration of its progress toward integration with the EU and NATO so as not to irritate the Kremlin; it preferred to remain equidistant from the Euro-Atlantic and Eurasian vectors. At that time, Moscow was distracted with what was going on in Ukraine and still looking for the best possible ways to legitimize unification with Crimea. This never happened while Moscow found itself under Western pressure; it was facing sanctions, international isolation, and a crippled economy at home.

⁹ See: *Azerbaijan Supports Early Restoration of Stability in Ukraine*, News.Az, 18 III 2014, <http://news.az/articles/politics/87228>, 3 V 2015.

Possible Developments: Risks and Limitations for Azerbaijan

So far, 2015 has done nothing to move the Ukrainian crisis closer to settlement. The obvious involvement of Russian armed forces in Donbass, and the deepening contradictions between the Kremlin and the West leave no doubts that the crisis will not be resolved any time soon. Meanwhile, continued confrontation is fraught with structural changes and the changes in many other spheres and, therefore, new security challenges for Azerbaijan.

Structural risks. First of all this work will try to assess the Ukrainian crisis from the point of view of the development of the RSS in the post-Soviet space so as to identify the changes in the fundamental conditions of the national security of the regional states.

Armed conflicts are the key indicator of instability in any RSS. Throughout its history, the PSM remained a scene of armed conflicts, which were not only limited to its sub-complexes (Transnistria, Nagorno-Karabakh, Abkhazia and South Ossetia, Tajikistan, and southeastern Ukraine), but also characterize certain processes going on in Russia, the only pole of the PSM (in the Northern Caucasus). There are several other features (economy, technology, and political regimes) of the post-Soviet region that allow us to describe it as a negatively asymmetrical RSS.

In the conditions of a negatively asymmetrical RSS, its tendency toward conflict is generated not so much by the strength asymmetry as by the internal weaknesses of the states involved, which are fully aware of their vulnerability. This explains their rivalry, the extreme forms of which are war and a security dilemma. In these conditions, the only pole of the system must establish control over it and build a strict hierarchy in order to protect itself and neutralize “external threats”. The empirics of the region offer enough arguments in favour of this – the events of the 1920s, when Bolshevik Russia engulfed the states that appeared on the ruins of the Russian Empire, and the events of the 1990s-2000s, when the RF tried to preserve the CIS zone within its geopolitical orbit.

The history of the PSM is the history of the attempts of its only pole to remain in control. In the 1990s, Russia was not strong enough to restore its previous domination; it could exploit the even greater weakness of the NIS to contain their desire to move closer to alternative poles. In the 2000s, centralization of power in Russia and high oil prices strengthened its military and economic potential. This did nothing, however, to alter in any noticeable way its relations with the NIS, or to make them more mature. The obvious strength asymmetry in the PSM with predominantly immature relations adds to the structural instability in the region and intensifies the perceptions of vulnerability and external threats among the members.

The Ukrainian developments launched acute geopolitical rivalry at the macro-regional level, which does nothing for the stability of the regional structure. The present tension between Russia and the West brings to mind the Cold War. No

matter who is responsible for the crisis, we can say that (1) Russia, which annexed Crimea and supported the separatists in the southeast of Ukraine, invited Western pressure (the strongest since the Cold War), which can only be restrained at huge costs; (2) Russian society, which for a long time had been taught to regard the West as a source of trouble for their country, closed ranks around its leaders; (3) the conflict is spreading to new spheres and resources (mutual economic sanctions, military exercises, revision of military strategies, greater spending on defence and so forth).

The solutions are fairly obvious. Either restoring the status quo – Russia returns Crimea, discontinues its support of the separatists in Donbass, and recognizes the present borders of Ukraine – or the U.S. and the EU accept the new political reality of Crimea being part of the RF and divided Ukraine. In either case, there will be clear winners and losers. In the short-term perspective, no scenario will allow the retreating side to save its reputation of a great power.

In the event of a zero sum game, Russia, which has long time been talking about its special interests in the region, should be prepared to face serious risks outside and especially inside the country. A retreat on one of the pivotal issues will deprive the Kremlin of public support with very negative repercussions for the state's political stability. These ideas and the image of the West as an enemy of Russia plotting against it have become part and parcel of public life in Russia. This means that the Kremlin cannot return to the status quo.

Any power has political interests abroad, as well as economic considerations and social obligations inside the country. The Russian economy is “in tatters” because of Russia's confrontation with the West¹⁰ – this also might deprive the Kremlin of public support. If we exclude a regime change in Russia any time soon, we should expect that amid the steadily declining economy, the administration will have no choice but to rely on mobilization scenarios. It might launch “a splendid little war” as a “consolidating resource” – some territories can be “reunited” with Russia, while the independence of others recognized. The future area is obvious – the objective strength asymmetry and the strong conviction that Russia has special interests in the “near abroad” make it a “consolidating resource.”

Reintegration projects were the main tool expected to resolve the mounting internal and external problems. From the very beginning of the Ukrainian crisis, they figured prominently in what the Kremlin was doing. On 29 May, 2014, Russia, Belarus, and Kazakhstan signed the Treaty of the Eurasian Economic Union. The fact that much was done to persuade Armenia not to sign the Association Agreement with the EU and join the EEU shows that its importance went far beyond its declared economic consequence. The EEU's political and ideological leanings are

¹⁰ In 2014, capital outflow from Russia reached \$150 billion, while the exchange course of national currency dropped by half.

obvious – politically, it is expected to institutionalize the zone of Russia's influence (something which the CIS did not do), while socially, its consolidating function was its main ideological lever.

The two mechanisms of mobilization – a “splendid little war” and reintegration projects – are obviously interconnected. Let us go back to the very beginning of the Ukrainian crisis. In view of the progress that had been achieved during the presidency of Victor Yanukovich, the Kremlin expected the then President of Ukraine to reorient the country from Euro-Atlantic to Eurasian integration.¹¹ In November 2013, Kiev suspended the preparations for signing the Association Agreement with the EU scheduled for the Vilnius Summit of Eastern Partnership. This stirred up mass protests in Kiev, which cost Yanukovich his post; he was replaced with pro-Euro-Atlantic leaders, to which the Kremlin responded with the Crimea-Donbass scenario.

The Russia-West relations have been reduced essentially to a zero sum game, which means that similar scenarios can be implemented in all the other post-Soviet states. There are large communities of Russians and Russian-speakers in almost all of them; some of these states already have “frozen conflicts” and “out of control zones”.

This scenario is more probable in the post-Soviet states that look to the West, yet under the macro-conditions described above it might be used for domestic consolidation, which extends the list of potential targets. The following are the key factors of potential trouble: (1) geopolitical importance; (2) the level of involvement in post-Soviet integration projects, economic links and political relations with Russia and the West; (3) territorial disagreements or even conflicts with neighbours; (4) the shares of the Russian and Russian-speaking population, its compact settlement, and the attitude toward the policy of the state.

The first, third and, partly second set of problems are the most critical for Azerbaijan.

Under present conditions, the geopolitical attractiveness of Azerbaijan is a negative rather than positive factor, which might transform it into a target of uncompromising rivalry among the great powers. Despite its consistent political relations and economic ties with Russia, Azerbaijan prefers to limit its involvement in reintegration processes to the fairly amorphous CIS format. However, its geographic location and communication functions do not allow it to stay away from these processes: it is hard today, and will be harder tomorrow, to find convincing arguments in favour of a balanced political course. Fully aware that no efficient Eurasian integration is possible without Azerbaijan because of its geographic location and communication

¹¹ In April 2010, Russia and Ukraine signed the Kharkov Agreements, which extended the presence of the Black Sea Navy of the RF in Crimea; in July, the Supreme Rada passed the Law on the Non-Aligned Status of Ukraine.

potential, the Kremlin will increase its pressure on Baku. The fourth set of factors can be described as positive. The Russian community of Azerbaijan is scattered across the country and it has no problems with the people in power.

Examining development of the situation we cannot exclude the possibility that the PSM may undergo serious structural changes. The states might fall apart or unite, while the system may change its polarity; the current structural instability suggests that this cannot be excluded, albeit in the long-term perspective.

Strategic limitations. The Ukrainian crisis has created situational problems that may make it much harder for Azerbaijan to carry out its security strategy.

The situation taking shape at the macro-regional level limits the foreign policy leeway of Azerbaijan, which prefers to remain at an equal distance from the West and from Russia. In the worsening macro-conditions and obvious bias toward the zero sum game, Baku is finding it increasingly harder to preserve foreign policy flexibility.

This has already affected the chances of settling the Karabakh problem, the key issue on the state's security agenda. In the mid-2000s, when the republic started earning huge amounts on its oil exports, it poured more money into many spheres, including defence. Within a short time, Azerbaijan modernized its armed forces and increased their fighting efficiency. There were plans to use military force to liberate Nagorno-Karabakh and the regions around it still occupied by Armenia. The leaders of Azerbaijan did not exclude this if and when diplomatic measures had been exhausted. The present macro-conditions have made this alternative prohibitively risky.

While earlier Baku could, in principle, expect that Russia would remain neutral if the active stage of the war between Armenia and Azerbaijan was revived, today the price of this neutrality might be too damaging to its independence and sovereignty. Russia cannot afford "losing an ally" (Armenia). This will dent its reputation of a power with a special regional status and will probably bury its reintegration projects. Under the unprecedentedly strong pressure of the West and the gradually worsening economic situation inside the country, this also will undermine everything the Kremlin has been doing to consolidate the country's population.

Moreover, if the relations between Russia and the West go from bad to worse, the Kremlin might increase its pressure on Baku. In the conditions of a full-scale zero sum game at the macro-regional level Azerbaijan and the other geopolitically attractive NIS will have to admit that their foreign policy possibilities are limited and that they are going to have to make a choice between the Euro-Atlantic and Eurasian political identity.

As it develops, the Ukrainian crisis also is exerting economic pressure on Azerbaijan. Without going into the finer details of how the Ukrainian events affect oil prices, I will point to the obvious. Very much like during the Russian-Georgian war of 2008, in 2014 oil prices, the main source of Russia's income, are being used

to “bring Russia to its senses.”¹² Even if this cannot be called a consolidated effort, the West is interested in this lever for putting pressure on the Kremlin; all the other post-Soviet states that rely on energy resource exports as the main source of income are also suffering – in Azerbaijan, oil and gas account for nearly 70% of its income.

In view of this, stalemate at the macro-regional level will infringe on the republic's economic potential. High oil prices allowed the republic to accumulate about \$50 billion in its international reserves. If the unfavourable economic situation continues, the state's high social expectations and obligations formed during the “fat 2000s” might exhaust these reserves fairly soon.

Conclusion

The Ukrainian crisis reflects certain trends in geopolitics and security in the post-Soviet region. The crisis can be described as an apex of the clash of two opposing geopolitical trends – the West wants to strengthen post-Soviet geopolitical pluralism to gain consistent access to the region, while Russia wants to preserve it as the zone of its special interests and influence.

The resultant situation presupposes changes in the regional structures and the national security conditions of the post-Soviet states. This increases the structural instability in the PSM. The states involved are facing greater structural risks and, therefore, military threats, which figure high on their national security agenda and are accompanied by contracting economic capabilities and chances for political manoeuvring.

Throughout the entire period of its independence, Azerbaijan balanced out its relations with the West and Russia. However, if the present situation continues, it will find it much harder to preserve the equidistance from both poles. If this trend continues to reach the zero sum game stage, it will be accompanied by increased external pressure on the republic. This might transform geopolitically attractive Azerbaijan into a field of uncompromising rivalry between the powers fraught with very negative effects for the republic's security.

In a situation in which structural risks are coming to the fore and economic and behavioural limitations are growing more obvious, the best choice is not to become a trophy in the geopolitical game. The republic should exercise caution, consistency, and patience and clearly demonstrate that its foreign policy is geared toward its most important national interests. Partners and opponents alike should be aware that Azerbaijan is guided by its earlier declared interests and by international law. This alone will minimize the effects of the political choice of a small state living amid structural instability and severe rivalry among the powers that “call the tune.”

¹² Since July 2014, the price of Brent oil has dropped by half.

This is true not only of Azerbaijan. Seen at the systemic level, the situation looks like the acute stage of structural instability in the RSS. Any inconsistency in the behaviour of its actors, their hasty or careless actions, will add to the overall indefiniteness and unpredictability and will further undermine the already far from structurally stable system, thus increasing the possibility of the use of force.

Abstract

The paper analyzes the impact of the current Ukrainian crisis on the security dynamics of the post-Soviet region and national security of Azerbaijan. The events that have been unfolding in Ukraine since 2014 can be described as the most acute crisis in the relations between Russia and the West since the end of the Cold War, while the emerging situation is fraught with changes at the regional level and in the security context of all the post-Soviet states. These changes have added to the region's structural instability. Azerbaijan, as a regional state, is facing greater structural risks accompanied by much fewer economic and political opportunities to implement its national security strategy.

Keywords: the Ukrainian crisis, post-Soviet space, regional security system, Post-Soviet Security Macrocomplex, structural instability, Russia, the West, Azerbaijan, national security.

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Ethnic and Religious Diversity of Azerbaijan in the Middle Ages

Introduction

The ethnic and linguistic picture of Azerbaijan in the medieval period could be characterized as a mosaic. Diverse religious and ethnic groups prevented the society from becoming integrated into one unit in pre-Islamic Azerbaijan. Islamization and Turkification influenced Azerbaijani ethnic identity; and the formation of a new ethnic system was a result of this process. Conversion to Islam under the Caliphate in the 7th – 9th centuries led to a significant turning point in Azerbaijani historical destiny.

The aim of this work is to map the ethnic and religious picture of historical Azerbaijan and to present a distinct approach for understanding the roots and depth of the problem of national identity.

Geopolitical localization: a border country at the intersection of different cultures

Azerbaijan is a border area between many cultures. As such, it has experienced influences from many directions in its national development, which is quite typical of many ethnic groups in border areas or zones of transitional cultures. Nestled between the triangle of Europe, Middle East and Central Asia, Azerbaijan has historically felt their ethno-linguistic and cultural influence.

I would like to explain the etymology of Azerbaijan and to make clear when the term became implemented in Northern Azerbaijan. The term “Azerbaijan” was used both in a geographical and in a political sense. Its origin shows that first of all this name emerged as a political term; in that the name of Azerbaijan derives from the name of Atropatene, an ancient kingdom in Southern Azerbaijan, which in turn, derives from the name Atropates, a satrap under the Achaemenid Empire. The

original etymology of this name is believed to have its roots in the Zoroastrian religion. The name “Atropates” means, “Protected by the (Holy) Fire”.¹ As mentioned by Strabo, this country was called Atropatene after the name of its first ruler Atropates, so literally it means “The Land protected by the (Holy) Fire”.² In the times of the Sasanian Empire the name of Azerbaijan began to be applied to the north of the Arax River. The Sasanian shahinshah Khosrow I reformed administrative system and established a new province, the northern *kust*, which was called “the part of Adurbadghan”. This is proved by the inscription on the wall of the Derbent fortress: “This and here –hence upwards Adurbadagan, in the year of 37, its amarqar Dariush made”.³

So, “Azerbaijan” as a term for the administrative unit was in use during the Sasanian Empire and starting from the 5th century, this name was applied to the area north of the Arax River. In my opinion, the main reason for applying the name Azerbaijan to the north is due to the fact that a population speaking in old Azeri was settled in both parts. In other words, that settlement of the Azeri-speaking population to the north of the Arax River cemented the South’s name in the North.

The 9th century traveller, Al-Yagubi, referred to the territory north of the River Arax as “Azerbaijan al-Alya” (upper Azerbaijan).⁴ Certainly the north did not immediately acquire this name; medieval sources for a long time continued to use different terms such as: Shirvan, Arran, Karabakh and Ganjabassar. More broadly, it began to be used with the birth of the Azerbaijani national identity at the end of 19th and beginning of the 20th centuries. In the context of WW I and during the Civil War in Soviet Russia, Azerbaijan had the historical opportunity to gain its independence, and representatives of the Azerbaijani intelligentsia created a democratic republic and named it Azerbaijan on May 28, 1918.

Pre-Islamic Azerbaijan

Ethno-linguistically, the population of Caucasian Albania had a diverse picture in antiquity. According to Strabo, the “Albanians speak twenty-six languages from the want of intercourse and communication with one another”.⁵ The ancient and early medieval sources mention such ethnonyms as the Utis, Qarqars, Amazons, Sovdehs, Caspians, Maqs, Mards, Amards and Leqs. In pre-Christian Albania the population

¹ A. Kasravi, *Azeri ya zaban-e Bastane Azerbaijan*, Tehran 1938, p. 8.

² Strabo, *Geography*, Cambridge 2014.

³ M.S. Gadjiev, S.U. Kasumova, *Srednepersidskie nadpisi Derbenta VI veka*, Moscow 2006, p. 41.

⁴ Yakūbi, *Kitāb al-Boldān*, prepared for publication by M.J. de Goeje, Laydin 1892, 217,19, *Bibliotheca Geographorum Arabicorum*, 7.

⁵ Strabo, *Geographica*, XI, 4,6.

worshipped celestial bodies, fire, as well as gods and goddesses similar to the Greek ones. The goddess Selena was the most revered of all. Some researchers believe that the tree of life, often encountered in the Albanian material culture samples is linked to the worship of Selena.⁶ Interestingly, in the contemporary Azerbaijan there are a number of shrines with worshipped trees. Also there are the most remote and isolated mountainous villages such as Khinaliq, Buduq, Qriz, and etc. whose population has still managed to preserve its ancient way of life. They each have a unique and dying out language attributed to the Caucasian group of languages, which are still unclassified – no one else speaks or understands these languages. The population each of these villages represents one of the Albanian tribes, mentioned by Strabo. My observations in these villages show remnants of old traditions – the inhabitants still make the moon shaped stones in shrines of Muslim Sheikhs.

During the Early Middle Ages politically, pre-Islamic Azerbaijan and the Caucasian Albania were under Sasanian Iran. Christian Caucasian Albania had its own Bible in one of the Caucasian Albanian languages namely old Udi, which was found by Zaza Aleksidze in 1996 and then deciphered in 2003. Presently this language is spoken by about 5,000 people in the Azerbaijani village of Nij in the district of Qabala. As Zaza Aleksidze pointed out, the term “Caucasian Albanian” refers to the liturgical and perhaps administrative language that was prevailing in the Caucasian state of Albania in Christian times (from roughly 300 to 700 AD). This does not necessarily mean that Caucasian Albanian was the only “official” language used in Caucasian Albania, all the more since there is sufficient evidence to suggest that Caucasian Albania had been a multilingual statehood in antiquity.⁷ Caucasian Albania is mentioned as Arran in the Arabic sources, and more likely, Arranian language was the old Udi language was very close to Udi.

One of the Arab geographers Yaqut ibn Abdullah al-Hamawi (1179-1229) mentions Azeri language of the Azerbaijan population.⁸ A sample of the Old Azeri language has been found in the “Safinah-e Tabrizi”, an important manuscript from the 14th century and this is not the only sample of this language. In addition, the language of Khalkhal Tats is considered to be a remnant of Old Azeri.⁹ Also, the Talysh language and the language of the population of Kilit village in Ordubad (Nakhchivan AR), which existed until the 1950s, are remnants of Old Azeri. Apparently, under the name Azeri Arab geographers meant not one, but several ethnic groups and this name isn't associated with ethnicity, but with religious affiliation, since they were fire worshippers.

⁶ A.A. Карахмедова, *Христианские памятники Кавказской Албании*, Баку 1986.

⁷ *The Caucasian Albanian Palimpsest of Mt. Sinai*, eds. J. Gippert et al., Vol. 1-2, Turnhout 2008, p. 65.

⁸ Yakūbi, *Kitāb...*, p. 1955-1957.

⁹ *Safinah- 'i Tabriz/gird'āvārī va bih khaṭṭ-i Abū al-Majd Muhammad ibn Mas'ūd Tabrizī*. Tihārān: Markaz-i Nashr-i Dānishgāhī, 1381 [2003], p. 533.

If one summarizes all the information about the ethnic picture of pre-Islamic Azerbaijan, it could be described as a multi-ethnic society with various religious faiths. Inhabitants of the northern part of country linguistically belonged to the Ibero-Caucasian and Nakh-Dagestan groups, Iranian and partly to the Turkic group of languages. And among these analphabetic ethnic groups only the Old Udi language, which was probably the official language of the Caucasian Albanians, had its own alphabet. Obviously, the population of Azerbaijan spoke partly Iranian dialects, one of which was Azeri, and a written remnant of this language was found in the “Safinah-e Tabrizi”. Both Old Udi and the Azeri languages more likely were not predominant and they couldn't become a nationwide language. Turkic tribes in Azerbaijan before the Seljuk influx held the same position.¹⁰ One can conclude that this is one of the reasons why the country has often been subjected to occupation; the population was not able to unite against the invaders because of religious and linguistic diversity.

Conversion to Islam and its ramifications

The dissemination of Islam in Azerbaijan during the Caliphate in the 7th-9th centuries occurred both forcibly and willingly. As Jonathan P. Berkey points out, this particular epoch was of special importance in that it saw the crystallization of the religious traditions which have survived into the modern era, and which formed the backdrop to the emergence of the new religion which traces its origins to the preaching of Muhammad in western Arabia.¹¹

The historical realities of Azerbaijan under the Arab Caliphate show us the contradictory attitude of Arab conquerors to the non-Arab Muslim population. They did not consider non-Arab Muslims genuine believers, because they didn't speak Arabic, as a result of this they couldn't understand Quran verses. The oppression of the Arab conquerors led to a number of revolts against the Caliphate. One of the significant revolts – the Khorramite movement – arose in Azerbaijan at the end of 8th century and grew stronger at the beginning of the 9th century when Babek became its leader. According to the Arabic sources, his original name was Hassan,¹² which shows that he was Muslim before joining to the Khorramite movement. This fact proves that there were reverse conversions to the pre-Islamic beliefs

¹⁰ L. Aliyeva, *Mutual Influence of Religious and Ethnic Processes. In Case of Azerbaijan*, “International Journal of Art and Sciences/Humanities and Social Sciences” 2013, Vol. 2, No. 4, p. 335-340.

¹¹ J.P. Berkey, *The Formation of Islam. Religion and Society in the Near East, 600-1800*, Cambridge 2003, p. 3, *Themes in Islamic History*, 2.

¹² Abu Ja'far Muhammad ibn Jarir Tabari, *Ta'rikh al-rusul wa al-muluk*, Leiden 1964-1965, III, 1015.

at that time. As Azerbaijani historian Z. M. Buniyatov pointed out, the etymology of “khurramite” derives from “khur” or “khvar” which means sun and holy fire.¹³ Zoroastrianism, which was the pre-Islamic religion of the most of the Azerbaijani population, was main ideology of this movement. Objectively, it shows that people who were converted to new religion forcibly or willingly because of its advantages, returned to their old religious traditions, covering themselves under the guise of Islam. Although the movement was defeated, such anti-Arab movements were one of the reasons for the collapse of the Abbasid caliphate.

Along with converting Azeris to Islam, Arabs also settled masses of Arabic tribes in Azerbaijani territories, but the Semitisation or Arabisation of Azerbaijan did not happen like in other East countries such as Egypt, Syria and others – moreover, in Azerbaijan these tribes were assimilated inside of the local population. According to Arab historical sources, the first settlers were Nizaris, who most likely brought early Shia beliefs to the country. Therefore the Azerbaijani population was familiar with Shia Islam from its very beginning. It should be underlined that after the collapse of the Caliphate Shia Islam could spread not only in Azerbaijan, but also in the territories, that were further from the centres of the Islamic World. In 1957, near the village Zmeysky in Northern Ossetia, V.A. Kuzneytsov’s archaeological expedition found an amulet at an Alan catacomb from 10th-12th century, which is linked to Shia tradition.¹⁴ This fact proves that Shia Islam strengthened after the collapse of the Abbasid Caliphate and that Shia Islam was able to spread widely under the influence of the Buyid dynasty of Iran.

From the very beginning Zoroastrians who converted to Islam mixed their old tradition with the new religion. For example, among the Islamicized population of Central Asia and Iran, a Zoroastrian burial custom based on exhibiting a corpse in a shack and waiting for the flesh to disintegrate was continued. The bodies were buried in special vessels (ossuaries) or without them in the grave (on the bottom, or in a niche), focused on Kybla, towards Mecca.¹⁵

The restructuring of the ethno-linguistic character of the country was a long historical process. In changing their religious identity from Zoroastrianism to Islam the local population started to identify itself as Muslim – “musulman” in contrast to Azeri, who were associated with Zoroastrianism. Later, after the Seljuk influx, locals who were converted to Islam were considered to be Turks and those converted to Christianity were traditionally considered Armenian. This process led to the Turkification and Armenisation of the Albanians and perhaps a part of the Azeris. In any case it was a gradual process.

¹³ Z.M Bunyadov, *Azərbaycan VII-IX əsrlərdə*, Elm. Bakı 2008, p. 217.

¹⁴ V.A. Kuznetsov, *Zmeyskiy katakombnyy mogil'nik (po raskopkam 1957 g.)*, [in:] *Arkheologicheskiye raskopki v r-ne Zmeyskoy Severnoy Osetii*, t. 1, Ordzhonikidze 1961, p. 135.

¹⁵ A.A Khismatullin, V.Y Kryukova, *Smert' i pokhoronnyy obryad v islame i zoroastrizme*, Saint-Petersburg 1997, p. 89.

Prominent Azerbaijani writer, historian and educator Abbasqulu Agha Bakikhanov, the nephew of the last khan of Baku, in describing the ethnic picture of North-east Azerbaijan in the early 19th century writes: “The districts situated between the two cities of Shamakhi and Qodyal, which is now the city of Qobbeh, include Howz, Lahej, and Qoshunlu in Shirvan and Barmak, Sheshpareh and the lower part of Boduq in Qobbeh, and all the country of Baku, except six villages of Turkmen, speak Tat”.¹⁶ Currently, most of the Tat population, mentioned by A. Bakikhanov identify themselves as Azerbaijani and speak in Azerbaijani Turkic. Only in Jorat and Khyzy, areas close to Baku, can one still find a minority of Tats, who identify themselves as a “Daghly” (Mountainous) and who speak “Daghly” language; also Tats live partially in some villages of Guba and in the village of Lahij in the Ismayilli district. Even the Tats-Daghlies, who have kept their self-identification, simultaneously identify themselves as Azerbaijani.

For more than a millennium and a half, the fortunes of the peoples of Transcaucasia have been closely, at times inextricably, bound up with those of the Turkic world. Standing at the “crossroads of empires”, Transcaucasia was often a major thoroughfare through which the predominantly Turkic nomads of the Eurasian steppe lands entered the zone of sedentary cultures of the Eastern Mediterranean basin.¹⁷ To briefly recapitulate this historical sketch, I’ll try to refocus my research on a brief narration about the penetration of Turkic tribes into Azerbaijan. As Peter Golden writes, early Armenian and Georgian historical accounts contain a variety of anachronistic information on the activities of Turkic peoples living in close proximity to Transcaucasia. It is only with the appearance of the “European” Huns in the mid-fourth century, however, that we may begin to speak of a genuine interaction between the Turkic peoples and the populations of Transcaucasia. Audrey Altstadt also agrees about the penetration of Turkic tribes into Azerbaijan before the Seleucids. In the late Roman (Byzantine) times, Caucasia was invaded by constantly warring Sasanian and Byzantine forces as well as by various Turkic tribal confederations, who controlled the steppes north of the Caucasus chain and often acted as Byzantine allies against Iran.¹⁸ The 10th century Arab traveller Ibn Haukal describes the ethnic picture of country before Turkification: “It is said that this mountain, which is close to Derbend, contains above seventy different tribes, who have each a particular dialect, and under-

¹⁶ A. Bakikhanov, *The Heavenly Rose-Garden. A History of Shirvan & Daghestan*, prepared for publication by W. Floor, H. Javadi, Washington, DC 2009, p. 18.

¹⁷ P. Golden, *The Turkic Peoples and Caucasia*, [in:] *Transcaucasia, Nationalism and Social Change. Essays on History of Armenia, Azerbaijan and Georgia*, ed. R.G. Suny, Ann Arbor 1996, p. 45-68.

¹⁸ A. Altstadt, *The Azerbaijani Turks. Power and Identity under Russian Rule*, Stanford, Calif. 1992, p. 2, Hoover Press Publication.

stand not one the language of another".¹⁹ So, a common language for interethnic communication was needed.

According to Haukal, who travelled to Azerbaijan at the beginning of the 10th century, there was a tangible community of Christians in Azerbaijan of that time.²⁰ In the Author's point of view, Islamisation of Azerbaijan ended around the 11th century during the Seljuk Empire, when the country acquired a significant proportion of Turkic inhabitants. Unlike the previous period, the Seljuks preferred Sunni Islam and they played a great role in saving formal authority of the Abbasids.

Religion is one of the necessary elements for the formation of both an ethnic system and its total ethno-psychological consciousness. Historically, religious belief has played a decisive role in the emergence of different identities for a number of ethnic groups. Similarly, Islam was a pivotal factor for uniting Arab tribes under the *umma*. Pre-Islamic Arab tribes which were dispersed and lacked unity also had different religious beliefs. The variety of rituals of idolatry led to the disintegration of people with the same ethnic and linguistic origin. As Bernard Lewis indicates, for Muslims the basic division is that of faith, of membership of his religious community.²¹ Nearly the same opinion is noted by Karen Armstrong, who writes that the political and social welfare of the *ummah* would have sacramental value for Muslims.²² As for Azerbaijan, the process has developed in a completely different way. Obviously, Islam was an accelerating factor in the integration of various tribes with different origins in one ethnic system. From a religious point of view, Azerbaijani Muslims have defined themselves as a part of the *umma*, however, as an ethnicity, Azerbaijani people differentiated themselves from other Muslims. In other words, religious and ethnic self-awareness separated from each other in the case of Azerbaijan.

Azerbaijani scholars strive to illuminate their early ethnographic history and to quash their neighbours' claims (based on different interpretations of historical documents and/or other sources) to land that the Azerbaijanis have long inhabited and regard as their patrimony.²³ The concept of the indigeneness of Azerbaijanis has been largely proved by recent research from the Department of Genetics of Max Planck Institute. The most popular concept of historiography in Azerbaijan these days is that Turkic tribes were ancient inhabitants of the country, which, however,

¹⁹ Ibn Haukal, *Kitāb Masālik wa-Mamālik tasnīf*, the oriental geography of Ebn Haukal: an Arabian traveller of the Tenth Century. Translated from a Manuscript in his own Possession, collated with one preserved in the Library of Eton College, by Sir William Ouseley, Knt. LL. D. London: printed, at the Oriental Press, by Wilson & Co. Wild-Court, Lincoln's Inn Fields, for T. Cadell, jun. and W. Davies, Strand, 1800, p. 159.

²⁰ Masudi, *Meadows of Gold*, New York-London 2013, VIII, p. 151, 183.

²¹ B. Lewis, *Middle East and the West*, New York 1964, p. 70, *An Encounter Book*.

²² K. Armstrong, *Islam. A Short History*, New York 2002, p. 6.

²³ A. Altstadt, *The Azerbaijani Turks...*, p. 5.

is completely denied by the same research.²⁴ Analysis of DNA-based tests show that the Azerbaijani population is indigenous and has close genetic ties with European and Near Eastern groups. Any relationship with Turkic-Mongolian nomadic groups of Central Asia is scanty or non-existent, but Turkic self-consciousness is very high among the Turkic speaking populations. Moreover, the DNA results for Turkey show the same picture; the majority of haplogroups are primarily shared with Middle Eastern, Caucasian, and European populations, such as haplogroups E3b, G, J, I, R1a, R1b, K and T which form 78.5% of the Turkish Gene pool (without R1b, K, and which notably occur elsewhere, it is 59.3%).²⁵

This fact proves that even a small ethnic component is able to impose its linguistic features during the long historical process. In other words, the dominant language is not the index of the dominant in quantity *ethnos*, in point of fact, the language of a small number of ethnic groups can become a nationwide language.

Before the results of the Caucasian DNA project of the Department of Genetic of the Max Planck Institute, the most popular concept about the ethnic roots of Azerbaijanis in country was a belief that the Turkic tribes have been the ancient inhabitants of country, contrary to the Soviet and western historiography which express a concept of Turkification of Azerbaijan after the 11th century: “Only in the 11th century, with the influx of nomadic Oghuz tribes under the Seljuk dynasty, did the country acquire a significant proportion of Turkic-speaking inhabitants. The original population began to mix with immigrants, and the native idiom of the Iranian family of languages was gradually replaced by a dialect that evolved into a distinct Azeri-Turkish language”.²⁶ But this “significant proportion” of immigrants left only a scanty print on the DNA haplogroup of population. Moreover, the Near Eastern J1 genome is more noticeable than the Central Asian haplogroup types. However, this fact didn't lead to Arabization, but as we can see, on the contrary, Turkification of the population. It is difficult to answer the question why this happened, nevertheless, I'll try to explain this process. First of all, Turkification was long and continuous process. Even after collapse of the Caliphate the Turks became a powerful authority in many countries. The Seljuk conquest was the first challenge for the Caliphate, at the same time; the Seljuk Empire became a factor which survived the dignity and authority of the Abbasid Caliphate. We should emphasize that the Seljuks, who brought changes into the sphere of the Abbasid caliphate, were

²⁴ I. Nasidze et al, *Testing Hypotheses of Language Replacement in the Caucasus. Evidence from the Y-chromosome*, “Human Genetics” 2003, Vol. 112, p. 255-261; I. Nasidze, H. Schädlich, M. Stoneking, *Haplotypes from the Caucasus, Turkey and Iran for nine Y-STR loci*, “Forensic Science International” 2003, Vol. 137, No. 1, p. 85-93, [https://doi.org/10.1016/s0379-0738\(03\)00272-x](https://doi.org/10.1016/s0379-0738(03)00272-x).

²⁵ C. Cinnioglu, *Excavating Y-chromosome Haplotype Strata in Anatolia*, “Human Genetics” 2004, Vol. 114, No. 2, p. 127-148, <https://doi.org/10.1007/s00439-003-1031-4>.

²⁶ T. Swietochowski, B. C. Collins, *Historical Dictionary of Azerbaijan. Asian/Oceanian Historical Dictionaries*, No. 31, Maryland-London 1999, p. 3.

essentially of a politico-religious order. In other words, Seljuks utilized the religion of Islam as a tool for their rule. It can be observed that from this period to the early Modern period, the Turks had a commanding authority in almost the whole Middle East. It can be assumed that the population of Azerbaijan began to use Turkic as a common language, because of its authority and credibility. Unlike their Christian neighbours, the Armenians and Georgians, the Azerbaijani population, as well as the Seljuks and their successors in Azerbaijan were Muslims, therefore the religious factor also contributed to linguistic unification.

Conclusions

Studies show that the ethnic map of Azerbaijan in the Middle Ages was not homogeneous, moreover, the echo of this period are still evident in the country. Along with Azerbaijani Turks, the Azerbaijani nation has a plenty of non-Turkic substrata or subdivisions. These persistent ethnic groups belong to the Caucasian and the Iranian linguistic groups. I would like to emphasize that regardless of the similarities in the religious tradition and elements of culture with Iran we may differentiate and distinguish our identity and culture from Iran. This can be observed not only among the Azerbaijani Turks, but also among the Iranian-speaking ethnic groups such as the Tats, the Talyshs and the Kurds.

Abstract

The article analyses the ethnic and religious composition of the Medieval Azerbaijan, taking into account DNA-based tests, which show that the Azerbaijani population is indigenous and has close genetic ties with European and Near Eastern groups. Linguistically, Azerbaijani population, alongside with the Turkic people, belonged to the Indo-Iranian and the Caucasian family of languages in the Middle Ages. Anthropological observations prove that Azerbaijan is still keeps its diverse ethnic picture.

Keywords: Medieval Azerbaijan, Ethnic composition, Old Azeri, Caucasian Albania, Palimpsest, Udi

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The European Social Charter and its Implementation in the Republic of Azerbaijan

Introduction

Since its accession to the Council of Europe on 25 January 2001, the Republic of Azerbaijan has become a party to 60 international agreements, amongst those 219 included in the list of the treaties of this regional organization. Eight more treaties have been signed, but not yet ratified¹ by Milli Majlis² of the Republic of Azerbaijan.

Until the end of the last century, legal awareness of the community in Azerbaijan was focused mainly on civil and political human rights because of the country's political and social context. Therefore, the interest to learn social rights was kept in the background. Nevertheless, the objectives of the social-economic programs carried out by the state nowadays, as well as the achievements of Azerbaijani government's internal policy that is mainly directed at improving the social welfare of the population have led the state to attach more attention to the problems of social human rights. In this regard, the legal nature of the European Social Charter and the human rights guaranteed by this instrument have also been the subject-matter of various research.

¹ See: The official web-site of the Council of Europe: www.coe.int.

² "Milli Majlis" means "National Assembly" (or Parliament), which is the legislative branch of government in Azerbaijan.

Overview of the history of the European Social Charter

By setting out social and economic human rights in the spheres of housing, health-care, education, employment, legal and social protection, movement of persons, and non-discrimination, the European Social Charter is the natural complement to the European Convention on Human Rights, which protects civil and political rights. One of the four charters³ of the Council of Europe aiming to promote the integrated protection of a wide range of social rights, the European Social Charter, was opened for signature on 18th October 1961 and entered into force on 26th February 1965. Although during the last decade of the past century three amending Protocols to the Charter were adopted in order to increase the number of rights protected by it (1988 Additional Protocol No. 1), reform the control mechanism based on reports (1991 Turin Protocol No. 2), and provide the collective complaints procedure (1995 Protocol No. 3), it was completely revised in 1996 through the adoption of a new European treaty – the Revised European Social Charter (ETS No. 163⁴). Many scholars and experts consider that through the adoption of the revised Charter, as well as, the entry into force of the Additional Protocols providing for a system of collective complaints in 1998, the European Social Charter has been fundamentally re-launched since the mid-1990s. The 1996 European Social Charter (revised) is gradually replacing its “predecessor”, the initial 1961 Social Charter. The revised Charter combines, in a single instrument, the rights guaranteed by the 1961 Charter with a certain number of amendments, plus the rights guaranteed by the Additional Protocol of 1988 and new rights.

According to Gerard Quinn, Professor of Law and former Vice President of the European Committee of Social Rights, the European Social Charter “comprises a ‘productive factor’ in our market economies and helps to advance social cohesion. Just as important, it constitutes a ‘civilizing factor’ in our democratic cultures by avoiding severe social dislocation that can afford to breathe space for political extremes”.⁵

³ Other three charters of the Council of Europe are: 1985 European Charter of Local Self-Government (ETC No. 122), 1992 European Charter for Regional or Minority Languages (ETC 148), and 1996 European Social Charter (revised).

⁴ Conventions and agreements of the Council of Europe opened for signature between 1949 and 2003 were published in the “European Treaty Series” (ETS Nos. 001 to 193 included). From 2004, these series are continued by the “Council of Europe Treaty Series” (CETS No. 194 and following).

⁵ *The legal status of the European Social Charter – taking interdependence and indivisibility of human rights seriously*, by Gerard Quinn, Strasbourg, 28 VIII 2005, CDL-UD (2005) 021 rep Or. Engl.

Azerbaijan's accession to the European Social Charter: General issues and associated questions about the Charter

As pointed out by Maud de Boer-Buquicchio, Deputy Secretary General of the Council of Europe in the seminar held in Helsinki in 2011, the Charter, in its first incarnation, was the proverbial “sleeping beauty”, having little impact on the law and practice of the State Parties and even less visibility for the public at large. It was only after 1989 following the revolutions in Eastern Europe that a political consensus to elevate the status of social rights finally emerged...” From the late 1990s, member states of the Council of Europe were invited to learn the European Social Charter so that they were prepared to ratify it, as well as pursue an internal course of policy action according to the principles embedded in the said treaty. Yet, before it, in the mid 1990s the Parliamentary Assembly of the Council of Europe was intending to ratify the European Social Charter and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment as the main conditions for the membership to the organization, along with the Convention for the Protection of Human Rights and Fundamental Freedoms. Since that time, the Charter has come to be considered one of the constituent documents of the Council of Europe.⁶ In 1997, a summit of state and government leaders of the member states of Council of Europe held in Strasbourg set an obligation to implement the social standards as they were prescribed in the European Social Charter and other documents of the organization.⁷ These processes logically resulted in the current situation where precise terms are in place for a state accepted as a member of the Council of Europe to sign and ratify the Charter.

In its Opinion No. 222 (2000) on “Azerbaijan’s application for membership of the Council of Europe”, the Parliamentary Assembly of the Council of Europe noted that Azerbaijan undertook, inter alia, “to sign the European Social Charter within two years of its accession and ratify it within three years of its accession, and to strive forthwith to implement a policy consistent with the principles contained in the Charter”.⁸ So, in January 2001, upon joining the Council of Europe, Azerbaijan undertook a commitment to ratify the Charter no later than the January of 2004.⁹

⁶ *The European Social Charter of the 21st Century*, Coe Publishing-1997, Colloquy organized by the Secretariat of the CoE, p. 36.

⁷ *State Program on the implementation of the norms provided for by the European Social Charter*, approved by the Presidential Order of the Republic of Azerbaijan, dated April 7, 2003, No. 1193.

⁸ Opinion of PA of the CoE on *Azerbaijan’s application for membership of the Council of Europe*, No. 222, dated June 28, 2000, paragraph 14, and subparagraph “h”.

⁹ *State Program on the implementation of the norms provided for by the European Social Charter*, approved by the Presidential Order of the Republic of Azerbaijan, dated April 7, 2003, No. 1193.

The Revised European Social Charter was signed on behalf of the Republic of Azerbaijan on October 18, 2001, on the 10th anniversary of the re-establishment of independence of the Republic of Azerbaijan.¹⁰ It was ratified by Milli Majlis on 6th January 2004 with two declarations. One of these declarations had already been made upon signing the Revised Charter, according to which the Republic of Azerbaijan “would be unable to guarantee the application of the provisions of the Charter in the territories occupied by the Republic of Armenia until these territories are liberated from that occupation”.¹¹ As it is up to the State Parties, in conformity with Part III, Article A of the Revised Charter, the Republic of Azerbaijan in the second declaration considered itself bound by the following Articles of Part II of the Charter: Articles 1 (right to work), 4 (right to a fair remuneration), 5 (right to organize), 6 (right to bargain collectively), 7 (right of children and young persons to protection), 8 (right of employed women to protection of maternity), 9 (right to vocational guidance), 11 (right to protection of health), 14 (right to benefit from social welfare services), 16 (right of the family to social, legal and economic protection), 20 (The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex), 21 (right to information and consultation), 22 (right to take part in the determination and improvement of the working conditions and working environment), 24 (right to protection in cases of termination of employment), 26 (right to dignity at work), 27 (right of workers with family responsibilities to equal opportunities and equal treatment), 28 (right of workers’ representatives to protection in the undertaking and facilities to be accorded to them) and 29 (right to information and consultation in collective redundancy procedures).¹²

The relevant instrument of ratification was deposited with the Secretary General of the Council of Europe on September 2, 2004. According to Article K of the Revised European Social Charter, it enters into force on the first day of the month following the expiration of a period of one month after the date of the depositing the instrument of ratification, acceptance or approval.¹³ Accordingly, the European Social Charter has been an integral part of the legislative system of Azerbaijan since November 1, 2004.¹⁴ Although the Constitution of the Republic of Azerbaijan envis-

¹⁰ The Democratic Republic of Azerbaijan, the first democratic republic of the East, was declared independent on May 28, 1918. But that republic survived only 23 months until the Russian Bolsheviks military invasion.

¹¹ Declaration of the Republic of Azerbaijan contained in the instrument of ratification of the European Social Charter deposited on 2 IX 2004 (Original is in English).

¹² *European Social Charter, collected texts*, 6th ed., CoE Publishing, updated on 30 VI 2008, p. 113.

¹³ The Revised European Social Charter of 1996, Article K, paragraph 3.

¹⁴ According to Article 148, part II of the Constitution of the Republic of Azerbaijan, “international treaties to which the Republic of Azerbaijan is a party, constitute an integral part of the legislative system of the Republic of Azerbaijan.”

ages the method of incorporation for the domestic implementation of international legal norms¹⁵ implying that international treaties ratified by the parliament become, where relevant, automatically part of the Azerbaijani legal system, the European Social Charter, because of its specific character, can hardly be directly implemented in the territory of Azerbaijan. In my view, except for a few exclusions encountered in the practice of some State Parties,¹⁶ the Charter should be considered a non-self-executing treaty¹⁷ and, therefore, requires ‘implementing legislation’ — a change in the domestic law of a State Party enabling it to fulfil treaty obligations.

So, upon ratification of the Charter, a new State Party undertakes several commitments, including:

1. To eliminate disparities between commitments on Charter and domestic normative legal acts, as well as internal administrative practice;
2. To work out the first report and following circular reports on the implementation of Charter in time;
3. To participate in meetings of the Governmental Committee as a full member.¹⁸

During the preparation stage to ratify the Charter, a complete analysis of the current legislation and practice associated with the rights protected by the Charter is carried out by the Member States of the Council of Europe. The exemplary consequence of this process in Azerbaijan was the adoption and fulfilment of the “State Program on the implementation of the norms provided for by the European Social Charter” approved by the Presidential Order No. 1193 of the Republic of Azerbaijan dated 7 April 2003.

During the period between the Charter’s entering into force and presenting the first report, there is an opportunity to eliminate the inconsistencies between the legal provisions, as well as administrative practice of the State concerned and its commitments arising from the Charter. Azerbaijan’s first step on this way was taken even before the Charter came into force within its territory when amendments were made to four articles of the Labour Code of the Republic of Azerbaijan on September 1, 2004, which entered into force on September 14 of the same year.¹⁹ Amended

¹⁵ The Constitution of the Republic of Azerbaijan of November 12, 2015, Article 148 (II).

¹⁶ In a 1984 decision, German Federal Labour Court affirmed that national courts were bound by the obligations contained in the Charter whenever they had to interpret the lacuna in the law on industrial disputes. Direct applicability of Article 6(4) on the right to strike has been acknowledged by the Dutch Supreme Court in its decision No. NJ 1986/668, dated 30 V 1986. Besides, in 1995, Belgian State Council based on Article 6 of the Charter in annulling one of its internal administrative act – thereby acknowledging it as a source of law.

¹⁷ An international treaty is generally not self-executing when it merely indicates principles without providing rules giving them the force of law. *West’s Encyclopedia of American Law*, eds. J. Lehman, S. Phelps, Farmington Hills 2005, p. 61.

¹⁸ *European Social Charter; Short Guide*, CoE Publishing, Germany, Koelblin-Fortuna-Druck, IX 2000, p. 93-94.

¹⁹ Law of the Republic of Azerbaijan *On Some Amendments to the Labour Code of the Republic of Azerbaijan*, dated September 1, 2004, No. 729-IIQD.

articles of the Code mentioned by the relevant law, whose adoption is connected with the implementation of the Law “On the Ratification of the European Social Charter”, are the following:

- 1) Article 31 (Collective agreements) — two new provisions were added to the list of the obligations of a collective agreement’s parties concerning the rights specified in the Revised Charter’s Article 26 (the right to dignity at work).
- 2) Article 77 (Workers’ guarantees in case of the termination of employment contract) – a provision added, according to the Article 24 (the right to protection in cases of termination of employment) of the Revised Charter, specifies that in the case of termination of employment as a result of the changing of the owner of an enterprise, the employer should pay the employee a compensation at least in the amount of his/her three monthly salary.
- 3) Article 247 (Labour rights of workers under age of 18 and the specifications of such rights) – with a view to bringing the mentioned article to the conformity with the revised Charter’s Article 7 (the right of children and young persons to protection) a new sentence was added increasing the effective exercise of the right of young persons to protection. Arising from the requirement of the 6th paragraph of the said article of the Charter, it emphasizes that the time spent by persons under 18 years in vocational training during the working hours shall be considered as part of the working day with the consent of the employer.
- 4) Article 250 (Prohibited occupations for the employment of persons under 18 years) – like the previous one, amendment to this article was made due to Article 7 of the revised Charter. Resulting from the purposes of paragraph 3 of the mentioned article of the Charter, a new provision was added to the Article 250 of the Labour Code prohibiting the employment of persons to whom the legislation on compulsory education applies for such jobs since such jobs would deprive them of the full benefits of their compulsory education.

After the Charter had come into force in the territory of Azerbaijan, in order to bring the legislation into conformity with the Charter requirements, very few amendments were made to legal acts, since the government considered that most of the normative legal provisions, for example, amendments to the Law of the Republic of Azerbaijan “On Trade Unions” passed by Milli Majlis on October 10, 2006, were already in line with the commitments taken under the Charter. Let us look at a few examples. One of these amendments made in the Preamble to the law specifically mentioned the European Social Charter, by which the State shall guarantee the protection of rights of trade unions, as well as social and economic rights and legal interests of their members.²⁰ Another addition made to Article 2 of the Law providing that the legislation of the Republic of Azerbaijan shall not restrict the

²⁰ Law of the Republic of Azerbaijan *On Trade Unions*, dated February 24, 1994, No. 792.

trade unions' rights laid down in the European Social Charter, as well as in the international legal norms and the conventions of International Labour Organization.

Before reviewing the national reports on the European Social Charter which have been submitted by the Republic of Azerbaijan to the Council of Europe, in order to observe the chronology of the events, it should be mentioned that for the purposes of the election of the members of the European Committee of Social Rights, Azerbaijan was included in Group II (three seats) (no seat vacant) together with Belgium, Bulgaria, France, Luxembourg, Moldova, Netherlands, Romania and Turkey, according to the allocation order of the Council of Europe's Member States.²¹

National reports on the implementation of the Charter commitments and conclusions of the European Committee of Social Rights on them

A critical stage for Azerbaijan, in the implementation process of the Charter's provisions, began with the preparation of the **first national report** on the European Social Charter (revised). The report was presented to the Council of Europe on December 4, 2007. It should be noted that the said report became the first of those national reports submitted under the new system for the submission of reports adopted by the decision of the Committee of Ministers of the Council of Europe of 3 May 2006.²² In the conclusion of the European Committee of Social Rights,²³ it is noted that the deadline for submitting the 1st report on the application of the Revised Charter to the Council of Europe was 31 October 2007, and Azerbaijan submitted it on 4 December 2007. As it was mentioned above, this report was submitted under the new reporting system, where the provisions of the Charter are divided into four thematic groups so that each provision of the Charter is reported on once every four years. According to the division of the thematic groups, Azerbaijan's first report was concerned with the accepted provisions of the articles belonging to the first thematic group titled "Employment, training and equal opportunities." The report covered the situation of the Charter's implementation with regard to Articles 1 (the right to work), 9 (the right to vocational guidance), 20 (the right of men and

²¹ Decisions adopted by the Committee of Ministers at the 881st meeting of the Ministers' Deputies (14 IV 2004).

²² European Social Charter (revised)/European Committee of Social Rights, Conclusions 2008 (AZERBAIJAN), Articles 1, 9, 20 and 24 of the Revised Charter, November 2008.

²³ The function of the European Committee of Social Rights is to assess from the legal point of view the conformity of national law and practice with the European Social Charter and the Revised Charter. Examining national reports, the European Committee of Social Rights draws "conclusions", where it decides whether the situations in the countries concerned are in conformity with the European Social Charter or not.

women to equal opportunities), 24 (the right to protection in cases of termination of employment) during the applicable reference period between 1 November 2004 and 31 December 2006. The Conclusion of the Committee of Social Rights on the report was concerned with seven situations and contained one conclusion of conformity about the application of Article 24, and 1 conclusion of non-conformity on the situation concerning Article 20 of the Charter. As regards the only article on the basis of which the situation in Azerbaijan was estimated to be in line with the Charter requirements, the Committee's decision was based on the grounds upon which an employment contract may be terminated at the employer's initiative, prohibited dismissals may be allowed in certain situations, including remedies and sanctions specified in the labour legislation of Azerbaijan. It was pointed out in the conclusion that further information was requested on the situation in question. In respect of Article 20, the Committee's conclusion of non-conformity derived from the fact that Azerbaijani legislation, namely Article 241 of the Labour Code prohibited the employment of women in underground mining and all other labour-intensive jobs, which is considered to contradict the principle of equality enshrined in Article 20 of the Revised Charter.²⁴

As regards other five situations concerning Articles 1§1, 1§2, 1§3, 1§4 and 9, since the provided information was not detailed enough for the satisfactory assessment from the legal point of view, the Committee without deferring its conclusion stressed that it needed further information in respect of them. Therefore, the Committee requested the government of Azerbaijan to provide such information in the next report on articles in question.

Azerbaijan's **second report** on the implementation of the Charter (revised) dealt with the accepted provisions, namely Articles 11 (the right to protection of health) and 14 (the right to benefit from social welfare services), both of which belong to the second thematic group – “health, social security and social protection” – under the new reporting system. In this case again just one situation – regarding Article 14§2 - out of 5 contained in the conclusion of the Committee was found to be in conformity with the Charter requirements. So, upon estimating the general legal framework, cultural and charity projects and events carried out by “Heydar Aliyev Foundation” in the sphere of the social services, the number and degree of involve-

²⁴ In its “Conclusions 2008 (Azerbaijan)” the European Committee of Social Rights analysing the information provided by Azerbaijan on the implementation of the right to protection in cases of termination of employment protected by Article 20 of the Revised Charter, notes that whilst the 1961 Charter did prohibit the employment of women workers in underground mining, as well as in other dangerous, unhealthy or arduous work, this was modified in the Revised Charter, where the prohibition for women to carry out such jobs was limited to the case of maternity. Therefore, bearing in mind “social developments” which have operated since the drafting of the original Charter, the Committee considers there is no longer a justification for excluding women from all labour intensive jobs or from employment in underground mining.

ment of non-profit organizations in providing social welfare services, as well as in checking the quality of such services, the European Committee of Social Rights considered that the public participation in the establishment and maintenance of social welfare services – requirement of paragraph 2 of Article 14 – is provided by Azerbaijani Government.²⁵

As regards the non-conformity conclusions of the Committee on the second report, non-conformities were found in relation to paragraphs 1 and 3 of Article 11. With regard to paragraph 1, upon which State Parties undertake to take appropriate measures to remove, as far as possible, causes of ill-health, the reason why such a conclusion was made about non-conformity was that the rate of infant and maternal mortality was manifestly higher²⁶ in Azerbaijan than in other European countries.²⁷ As regards paragraph 3 of Article 11 providing for an obligation to prevent diseases and accidents, the Committee stated that although Azerbaijan had ratified ILO Convention No. 162 on Asbestos²⁸ and work was underway to prohibit the use of asbestos, Azerbaijan is not in conformity with Article 11§3 on the grounds that legislation does not prohibit the sale and use of the said mineral.

Azerbaijan submitted **the third national report** concerning the thematic group “labour rights” on November 11, 2009. Since Azerbaijan has accepted Articles 4-6, 21-22, 26 and 28-29 from this group, just one article – Article 2 (the right to just conditions of work) belonging to the “labour rights” group was not covered in the said report. The Committee’s assessment of the report resulted again in 1 conclusion of conformity in respect to Article 6§3 and two conclusions of non-conformity with respect to Articles 4§1 and 5. Of 15 situations contained in the relevant chapter of the Committees’ Conclusions 2010 (Azerbaijan), 12 situations were not assessed because of the lack of satisfactory information submitted on the implementation of the articles in question.

With regard to Article 4, paragraph 1 belonging to the State Parties’ commitments on decent remuneration, the Committee recalled that to be considered fair,

²⁵ European Social Charter (revised)/European Committee of Social Rights, Conclusions 2009 (AZERBAIJAN) Articles 11 and 14 of the Revised Charter, January 2010, p. 14-15.

²⁶ Analyzing the situation in respect with the Article 11 of the Charter, the European Committee of Social Rights referred to the figures stated by *ibidem* and the World Health Organization, which relevantly specified that in Azerbaijan the infant mortality rate amounted to 73 deaths per 1000 live births in 2006, and the maternal mortality rate amounted to 82 deaths per 100 000 live births in 2005.

²⁷ In its Conclusions (2005) on Lithuania (p. 336-338), the European Committee of Social Right had stressed out that to comply with Article 11§1, the main indicators of a country’s state of health must reflect an improvement and not be too significantly below the average for all European countries, or between urban and rural areas or between regions.

²⁸ It was a mistake of the European Committee of Social Rights experts, since Azerbaijan had not ratified the mentioned Convention of the ILO by the date of the conclusion of the Committee. (It has not been ratified by Azerbaijan up today).

a net minimum wage should amount to no less than 60% of a net average wage while this indicator was 32% in Azerbaijan for the reference period up to 31 December 2008. Therefore, the country's situation in this respect was judged not to be in conformity with the above-mentioned article. Another conclusion of non-conformity on Azerbaijan's third national report as declared by the Committee is related to Article 5 – the right to organize, where the Committee pointed out that in practice, the free exercise of the right to form trade unions in multinational companies had not been established.²⁹ As the Labour Code of Azerbaijan has detailed provisions concerning conciliation and arbitration, which are the subject matters of paragraph 3 of Article 6, the Committee's only conclusion of conformity on the third report regarded this situation.³⁰

Azerbaijan's **fourth national report** on the implementation of Articles 7-8, 16 and 27 of Social Charter (revised) was registered by the Secretariat of the Council of Europe on 3rd December 2010. In this report, according to the fourth thematic group "Children, families and migrants", the Government of Azerbaijan provided the Council of Europe with the information on the situation regarding the rights of children and young persons (Article 7), employed women (Article 8) to protection, the right of the family to social, legal and economic protection (Article 16), and the right of workers with family responsibilities to equal opportunities and treatment (Article 27). After the assessment of the information contained in the mentioned report the Committee's position that has been stated in its Conclusions 2011³¹ and concerned 19 situations resulted in 7 conclusions of conformity in respect to Articles 7-8 and 27, and two conclusions of non-conformity with respect to Articles 7 and 8. As it is seen, the assessment on 10 situations has not been completed, the reason of which was pointed out by the Committee the lack of satisfactory information submitted on the implementation of the articles, namely Article 7§1, 7§2 and 7§3, 7§7, 7§9 7§10, 8§5, 16, as well as 27§1 and 27§3. As to the Committee, the incomplete and inadequate nature of the information contained in the report has resulted in a large number of deferred conclusions. For example, regarding the Ar-

²⁹ On the basis of the "International Trade Union Confederation (ITUC) 2007 Annual Survey of Violations of Trade Union Rights", The European Committee of Social Rights stressed that the government of Azerbaijan can conclude agreements with multinational enterprises, which set aside labour laws. Such agreements must be ratified by the Parliament. It is alleged that the content of these agreements is known neither to trade unions nor to the labour inspectorate. It revealed that there were also allegations concerning the obstacles for creating and running trade unions, and for the workers to join trade unions in multinational companies operating in Azerbaijan.

³⁰ European Social Charter (revised)/European Committee of Social Rights, Conclusions 2010 (AZERBAIJAN) Articles 4-6, 21, 22, 26 and 28-29 of the Revised Charter, XII 2010, p. 13-14.

³¹ Since the European Committee of Social Rights in practice proclaims its conclusions on the national reports approximately a year after they are registered in the Secretary, this conclusions on the status of the implementation of the Charter provisions in Azerbaijan were completed in December of 2011 and publicly announced in January 2012.

Article 7§1 (Prohibition of employment under the age of 15) although the Committee notes the facts of conformity of the Labour Code to the Charter it stresses out that “the effective protection of the rights guaranteed by this article, cannot be ensured solely by legislation; the legislation must be effectively applied in practice and rigorously supervised. So, states are required to monitor the conditions under which it is performed in practice”. The Committee asks how the situation in respect to the implementation of Article 7§1 regarding work done at home is monitored in practice. Another example regards the next paragraph of the same Article – the Article 7§2 (Prohibition of employment under the age of 18 for dangerous or unhealthy activities). The Committee has recalled that, however, if such work (employment under the age of 18 for dangerous or unhealthy activities) proves absolutely necessary for vocational training, workers may be permitted to perform it before the age of 18, but only under strict, expert supervision and only for the time necessary. That’s why it has also been left for the next report to specify whether there are exceptions regarding vocational training or for young workers who have completed training and what is the regulatory framework in such cases. The number of such examples can be increased. But we do not see a necessity for this since it became clear that the Committee considers the report information incomplete when there is no information about how the legislative provisions are applied in practice and how their implementation is supervised over.

The fifth national report of Azerbaijan,³² concerns accepted provisions of the Revised Charter relating to the right to work (Article 1), the right to vocational guidance (Article 9), the right of men and women to equal opportunities (Article 20), and the right to protection in cases of termination of employment (Article 24). The Committees Conclusions on this report of which date is November 12, 2012, have been published in January 2013. It was concluded that pending receipt of the information requested the situation in Azerbaijan is in conformity with the requirement of full employment policy prescribed in the Article 1§1 of the Charter. As regards the 2nd paragraph of Article 1 (prohibition of discrimination in employment), the Committee noted that the positions in the civil service were reserved for citizens of the Azerbaijani Republic,³³ this is irrespective of the powers or authority of the post. The Committee found that this restriction/ban on foreign nationals being employed in the civil service went beyond that permitted by the Charter. At the same time, it was pointed out that there was no shift in the burden of proof in discrimination cases. The Committee deferred its conclusion because of the absence of the information on the right to free placement protected by the Paragraph 3 of the concerned Article 1. The situation on the vocational guidance was found not

³² Reference period of this report is 1 I 2007 to 31 XII 2010.

³³ Law of the Republic of Azerbaijan *On Civil Service*, dated July 21, 2000, No. 926-IQ, Article 14.1.

to be in conformity with Article 1§4 of the Charter on the ground that the right to vocational guidance has not yet been established as guaranteed. The same ground became the main reason for the Committee's conclusion of non-conformity with regard to the Article 9 – Right to vocational guidance. The Committee concludes that the situation in Azerbaijan is not in conformity with Article 20 of the Charter on the grounds that: first, there is no shift in the burden of proof in gender discrimination cases; second, the legislation prohibits the employment of women in underground mining and other “labour intensive jobs”.³⁴ Right to protection in case of dismissal protected by Article 24, was considered to be properly protected in Azerbaijan, and the situation was also assessed to be in conformity with the mentioned article of the Charter.³⁵

The sixth national report of Azerbaijan covering the application of the provisions contained in the Revised Charter's articles 11 (right to protection of health) and 14 (right to right to benefit from social welfare services) relating to the thematic Group 2 – Health, Social security and Social protection was registered by the Secretariat of the Council of Europe on 19 September 2013. Although the Committee's conclusions on the 2nd thematic group were declared on December 2013, in relation to Azerbaijan as well as to Portugal, who delayed presenting the reports to the Secretary, the conclusions were published late in 2014. With regard to the 2nd national report of Azerbaijan presented in 2008, conclusions on the 6th report contained just one case (once again on the same paragraph (Article 14§2) to be in conformity with the Charter requirements. On three cases, the Committee concluded that the situations were not in conformity with the standards; while one case was not assessed because of the adequate information had not been supplied.³⁶

The seventh national report covers the accepted provisions related to Thematic Group 3 “Labour rights”.³⁷ The deadline for submitting the 7th report was 31 October 2013. The Committee conclusions on this report, submitted on February 4, 2014, have been published in January 2015. They concern 16 situations. In compare with previous national reports the last mentioned one seems to be prepared more detailed and professionally, so the Committee, to examine the situation needed further information in respect just of one situation – the situation related to Article 29 (the right to information and consultation in collective redundancy procedures). Nevertheless, the conclusions can't be considered satisfactory for the government of Azerbaijan since they contain just two conformity cases out of fifteen assessed situ-

³⁴ Labor Code of the Republic of Azerbaijan from February 1, 1999, approved by the Law No. 618-IQ, Article 241, paragraph 1.

³⁵ European Social Charter (revised)/European Committee of Social Rights, Conclusions 2012 (AZERBAIJAN) Articles 1, 9, 20, and 24 of the Revised Charter, November 2012.

³⁶ European Social Charter (revised)/European Committee of Social Rights, Conclusions 2013 (AZERBAIJAN), Articles 11 and 14 of the Revised Charter, May 2014.

³⁷ The reference period for this report was from 1 I to 31 XII 2012.

ations. Conclusions of conformity related the Articles 4§2 (increased remuneration for overtime work) and 21 (the right of workers to be informed and consulted) of the Revised Charter. 13 conclusions of conformity have been declared in respect to the rest paragraphs of the Article 4 and other articles related to the “Labour rights” 12 of which had not been assessed because of the lack of satisfactory information during the assessment process of the third national report of Azerbaijan.³⁸

Azerbaijan’s **eighth national report** related to the Thematic Group 4 “Children, families and migrants” that covers the Charter articles 7, 8, 16 and 27. The reference period of the report was 1 January 2010 to 31 December 2013. The Committee’s conclusions relating to this report concerned 19 situations: 9 conclusions of conformity, and 9 conclusions of non-conformity. In respect of the situation related just one provision (Article 8§2 of Revised Charter), the Committee needed further information in order to examine the situation.³⁹

Conclusions

At a glance at the development and implementation history of the European Social Charter, as well as its current status and current approaches to the rights protected by it, it is evident that “despite its undoubted achievements, it has not succeeded in having quite the impact for which its proponents would have wished. Moreover, its place in the overall scheme of European human rights mechanisms in the twenty-first century remains somewhat uncertain”.⁴⁰

The following table, based on the review of the effectiveness of the implementation of the European Social Charter in the example of the Azerbaijani reporting practice could support the above-said conclusion:

³⁸ European Social Charter (revised)/European Committee of Social Rights, Conclusions 2014 (AZERBAIJAN), Articles 4-6, 21-22, 26 and 28-29 of the Revised Charter, January 2015.

³⁹ European Social Charter (revised)/European Committee of Social Rights, Conclusions 2015 (AZERBAIJAN), January 2016.

⁴⁰ P. Alston, *Assessing the Strengths and Weaknesses of the European Social Charter’s Supervisory System*, New York University School of Law, 2005, p. 3-4, *CHRGJ Working Paper*, No. 6.

Statistics on the national reports submitted to and assessed by the European Committee of Social Rights (ECSR) on the implementation of the European Social Charter (ESC)⁴¹

National Reports (NR)	Number of situations contained in the NR	Number of situations on which the ECSR's decision		
		contains conclusion of conformity	contains conclusion of non-conformity	requires further information for the assessment
1st NR	7	1	1	5
2nd NR	5	1	2	2
3rd NR	15	1	2	12
4th NR	19	7	2	10
5th NR	7	2	4	1
6th NR	5	1	3	1
7th NR	16	2	13	1
8th NR	19	9	9	1
Total	93	24	36	33

As can be seen, although all the questions put in the report form have been replied by the Government of Azerbaijan, only less than 65 per cent (if take the statistics of the first four reports, it will be just 40 per cent) of the information provided thereby was considered to be fit for deciding whether the situations found were in conformity or contradiction with the Charter commitments. It proves that although an intensive preparation period is carried out for any new State Party, those preparations and/or propagations do not yield enough impact on the implementation of the Charter. In cases when the Committee needs further information for assessing the situation, at least one year before the examination process starts, it requires that a State Party provide additional information on the relevant question, that is available to obtain, at best, four years after the Committee's conclusions. So, when social rights of a group of individuals or a part of the population are violated, for example in 2008, because of the lack of enough information on the situation in the report, the Council of Europe may have an opportunity to consider it in 2013. How effective its Committee's conclusion of non-conformity will be and when the violation of rights shall be eliminated after that conclusion is not known yet. That is why, in order to make the Charter a social constitution of Europe as intended, time-consuming control mechanisms over its implementation should be replaced with a more effective supervision system.

⁴¹ The table has been prepared according to the information contained in the mentioned conclusions of ECSR. Statistical figures related to the specified national reports are stressed out in different parts of the relevant conclusions separately.

To achieve such a system, first of all, there is a need to simplify the work of the Charter's control bodies, so as to reduce the current workload. Besides, targeting more problematic situations would make the Committee's work more efficient.

Regional trust to the political activity of the Council of Europe, as well as, the comprehensive approach to the rights protected by and the implementation mechanism foreseen in the Social Charter, international legal commitments of a State Party deriving from the Charter should be adequate with the opportunity of expressing a political will. As mentioned above, because of the occupation of 20 per cent of its territories, Azerbaijan has declared that it will be unable to guarantee the application of the provisions of the Charter in the territories occupied by the Republic of Armenia until these territories are liberated from the occupation. This statement is not related to Azerbaijan's commitments in respect of approximately one million refugees and internally displaced people (IDPs), since the European Social Charter does not contain such a provision concerning its non-application in relation to this category of persons. However, given the fact that social rights of all these people are violated because of the fact of occupation, it should be pointed out that the effectiveness of the European Social Charter would never be attained in the entire territory of Europe unless decisive measures are taken against the culprits of such gross violations.

As concerns people currently residing in the occupied territories of Azerbaijan, one based on the case-law of the European Court of Human Rights could conclude that it is the State of Armenia under whose jurisdiction these territories fall, which should be held responsible for possible violations of the Social Charter vis-à-vis those people.

Another issue regarding the implementation of the Social Charter in the Member States is the fact that in its decisions, the European Committee of Social Rights does not sometimes take into account the mentality factors and their strong impact on a particular community's daily and normal lifestyle. This issue emerges mainly in the assessment of situations regarding women's rights to equal opportunities with men. The Committee underlines that "among the reasons for the low participation of women in the social, political and public life of the country are the existing traditional stereotypes of the image of a woman in a society, whose role is limited by the boundaries of family. This situation demands a new approach to the national gender equality strategy".⁴² Although the government of Azerbaijan has been taking regular measures in order to comply with its international commitments to ensure a more active participation of women in the social, economic and political life of the country, the point of view of the majority of Azerbaijani community about the participation of women in the country's public and social life is different from the beliefs

⁴² European Social Charter (revised)/European Committee of Social Rights, Conclusions 2008 (AZERBAIJAN), Articles 1, 9, 20 and 24 of the Revised Charter, November 2008, p. 14.

that exist in the West. Unlike in the Western countries, people's views in Azerbaijan are mainly concentrated on family life, which is the most significant factor for the building of a healthy and strong society. Taking such facts into consideration, it is to be noted that hasty decisions, including instigating a State Party to a completely new approach against its majority's moral values, and dramatic changes in their mind-set could cause undesirable results in the life of the whole society (decrease in the birth rate, increase in the number of unmarried women, divorces, etc.). Indeed, rights and responsibilities of a woman are equal to those of man, but they are not identical either from physical or mental perspectives, as equality and sameness are two very different things and the basic right of a woman is to be respected for her mind and for being the person that she is.

To contribute to the building of a more social and inclusive Europe, the European Social Charter can have a considerable future ahead, provided its potential is fully realized and especially, the interpretation of this instrument by the European Committee on Social Rights takes all European nations' moral peculiarities and thus its commentaries are better understood. Besides, the adequate implementation of domestic legal acts, and unless the political conflicts between State Parties that have a strong impact on the realization of social rights are fairly solved in the region, the Charter is likely to be unable to overcome current obstacles to its full implementation.

Abstract

In the article, the European Social Charter, the core of the European social model is studied from the perspective of its potential implementation challenges in the Republic of Azerbaijan. Azerbaijan's efforts for the due fulfillment of the Charter obligations are analyzed in light of its legislation and legal practice, as well as in the context of the government's relevant national reports that have been submitted to the Council of Europe up today. Further, theoretical and practical problems impeding the treaty's full implementation in the country are identified. The article also deals with issues relating to the Charter's international and domestic legal status concerning its implementation in the territories of State Parties.

Keywords: human rights, Council of Europe, European Social Charter, European Committee of Social Rights, social rights, national reports, European social model, control system, Azerbaijan and the Council of Europe, Revised Charter, thematic groups, new reporting system, case law, sexual discrimination, conclusions on the Charter.

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Development of the System for Protection of Women's Rights in International and National Laws in the 21st Century

The foundations of the system for protection of women's rights in international law

Human rights and freedoms, being the basis for the development of any society, were reflected in international documents only in the 20th century. However, already in the 18th century, the concept of human rights in its modern sense had been developed: man is naturally endowed with certain inalienable rights that should not be violated by the state; respect for human rights is a prerequisite for decent human existence.

At the present stage of development of national and international laws, the principle of gender equality was established within the framework of the system for protection of human rights and freedoms. The struggle for women's equal political rights along with men started in European countries at the beginning of the 20th century. It should be emphasized that women in Azerbaijan gained the right to participate in the political life already in 1918. In comparison, women in Spain gained right to vote in 1931, in France in 1944, in Italy in 1946 and in Kuwait in 2006.

Comprehensive, equal rights of women were stipulated in the international legal instruments after World War II. Establishment of the United Nations has led to the development of a comprehensive system of human rights. The UN Charter signed in San Francisco on June 26, 1945 can be considered the first international instrument based on the principle of respect for human rights. The Charter has obliged a sufficiently wide range of agencies and organizations to fulfil the obligations with regard to human rights. UN General Assembly has adopted a significant number

of conventions and declarations regarding the human rights and in particular the rights of women.¹

At the same time mechanisms to protect the rights of women were developed. On December 10, 1948 the Universal Declaration of Human Rights was adopted by resolution of the UN General Assembly. On the basis of Article 16 of the Declaration, men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to establish family. In this article, it was stipulated that marriage may be entered into only with the free and full consent of the intending spouses.

Thus, the foundations of the system for protection of women's rights in international law were postulated in 1948. The pace of development of society, globalization and integration processes, as well as economic development in the world have led to the need to entrench all the rights and freedoms of women in the Convention. As a result of the foregoing, the UN General Assembly adopted the "Convention on the Elimination of All Forms of Discrimination against Women" on December 18, 1979 by resolution 34/180.² This Convention gave impetus to secure equal rights for women in all spheres of life and even in national legislations. All the mechanisms of the United Nations on human rights are divided into statutory and treaty ones. Statutory mechanisms operate on the basis of the UN Charter and include the Human Rights Council (formerly the Commission on Human Rights), Special procedures (often they are called as the special rapporteurs on human rights) as well as the Universal periodic review. The treaty bodies are functioning on the basis of UN international instruments on Human Rights. International instruments provide for the establishment of special bodies to monitor the implementation of these documents – UN Committees on Human Rights. The Committee on the Elimination of Discrimination against Women which was established under Article 17 of the Convention protects women's rights. The Committee reports annually on its activities to the General Assembly through UN Economic and Social Council.

The review of the States' reports by Committee is not an adversary process. The Committee does not put pressure on the states, but rather draws attention to the weaknesses of the policy of a particular state with the help of comments and questions.

On October 6, 1999 the UN General Assembly adopted the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women stipulating the possibility of individual complaints from individuals who claim to be the victims of violation of any of the rights set forth in the Convention by the

¹ L.V. Korbut, S. V. Polenina, *The Conventions and the Declarations on the Rights of Women and Children*, Moscow 1998.

² Конвенция о ликвидации всех форм дискриминации в отношении женщин, http://www.un.org/ru/documents/decl_conv/conventions/cedaw.shtml, 8 VIII 2016.

state – the party to the Protocol. In accordance with the Optional Protocol, in cases where the Committee receives reliable information indicating grave or systematic violation of rights set forth in the Convention by a state party, the Committee invites that state to cooperate in investigation of the information and to this end, to submit its comments with regard to the received information. In those cases where it is justified and with the consent of the state, the investigation may include a visit to its territory. After examining the findings of such investigation, the Committee transfers these findings with comments and recommendations to the state. The establishment of the system for protection of women's rights under the United Nations, and the formation of a special Fund for Women (UNIFEM) and the *Council of Europe Gender Equality Commission* have led to the strengthening of the system and mechanisms to protect the women in the world.

Women policy in Azerbaijan

In the first years after regaining independence in 1991, basic norms for the protection of human rights were adopted in Azerbaijan. This historical period was accompanied not only by the construction of the rule of law, but also the occupation of territories by Armenia. As a result of aggression, there are more than one million internally displaced persons and refugees in Azerbaijan, 700,000 of them are women and children. All this left its mark on the development of women's movement in Azerbaijan. Particular importance was given to the rehabilitation and reintegration of women refugees and internally displaced persons in the society. Despite all the difficulties, Azerbaijan ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1995 and its Protocol in 2001.

The Beijing Conference of 1995 gave a new impetus to the improvement of the system of women's rights in Azerbaijan. As a result, a framework and primary mechanism for the specialized system for protection of women's rights was established in Azerbaijan. In 1998 President Heydar Aliyev signed an order "On Increasing women's role in Azerbaijan and strengthening their social protection", followed by the decree on "Implementation of Women Policy" in 2000. As a result, a governmental body responsible for state policy on all aspects of the promotion and protection of women's rights and their empowerment was created. This was a very important achievement in strengthening the institutional framework to address the key gender issues on a high governmental level, including better implementation of international conventions. In 1998 the first report of the Republic of Azerbaijan was submitted to the *United Nations Committee on the Elimination of Discrimination* against Women.

In 2006, Committee for Women Affairs in Azerbaijan was reorganized into the State Committee for Family, Women and Children Affairs. Law of the Republic of

Azerbaijan “On guarantees of gender equality” was adopted as well. The purpose of this Law is to ensure gender equality by eliminating all forms of discrimination on sexual identity, creating equal opportunities in political, economic, social, cultural and other spheres of public life.

Since the adoption of the Law “On guarantees of gender equality” in 2006, important amendments have been made to other legislation. In order to resolve women’s problem several state programs that incorporate gender components have been approved in Azerbaijan. For example, the State Program on Poverty Reduction and Sustainable Development contains a set of measures aimed at ensuring women’s employment, including fostering women’s entrepreneurship, and providing gender equality in the process of developing small enterprises. A separate section in the Employment Strategy for 2006-2015 envisages the wide application of flexible forms of work for women that would allow better reconciliation of family and career and the realistic stimulation of their work in the economic sector.

The development Concept “Azerbaijan-2020: the vision of future”, the National program for Action to Raise Effectiveness of the protection of Human Rights, State Program on Azerbaijan Youth 2011-2015 and National Strategy on Combating Domestic Violence are all aimed at ensuring and promoting the rights of women and achieving their full development and advancement.

After the implementation of a series of governmental programs and conducting special training for women we can see a considerable increase in their activeness in different spheres. Such major events as the National Congress of Azerbaijani Women, conferences on women’s leadership, and workshops of female lawyers, journalists, entrepreneurs and NGOs have been very important in demonstrating the enormous potential of women and their ability to make changes for the better in society.

The development of Azerbaijan in political, economic and social directions was accompanied by the improvement of national legislation. For example, Article 6 of the Criminal Code of the Republic of Azerbaijan establishes the principle of equality before the law. Persons who have committed crimes are equal before the law and subject to criminal liability irrespective of race, nationality, religion, language, sex, origin, property and official status, beliefs, membership of political parties, trade unions and other public associations as well as other circumstances.

At the same time, special criminal penalties for violation of citizens’ equality have been established. As per Article 154 of the Criminal Code of the Republic of Azerbaijan, violation of citizens’ equality based on race, nationality, religion, language, sex, origin, property and official status, beliefs, membership of political parties, trade unions and other public associations, causing damage to the rights and legitimate interests of citizens shall be punished by a fine of 150-600 USD or correctional labour for up to one year.

If in the 1990s only specific work on the adoption and implementation of the system for protection of the rights and freedoms of women and children was carried

out, now the national legislation of Azerbaijan is being improved in specific areas. For example, not only the sphere of protection of women's rights but also the specific areas as the protection of women's reproductive rights, fight against early marriages, rehabilitation of women who are victims of violence, etc. are being covered.

In 2010, Azerbaijan adopted the Law of the Republic of Azerbaijan «On Prevention of Domestic Violence.» This law establishes and regulates the activities carried out in the direction of prevention of violence committed through abuse of close relatives, current or former co-residents, negative legal, medical and social consequences generated by them, social security, legal assistance for the victims of domestic violence, and elimination of the circumstances that lead to domestic violence. On the basis of this law, new concepts for protection of women's rights have been included in national legislation, for example: domestic violence, victims of domestic violence, physical or psychological violence as a result of domestic violence, application of unlawful restrictions with economic nature as a result of domestic violence, sexual violence, shelters and protection order.

Creation of a special database, centres for the rehabilitation of victims of violence and the implementation of protection order were a novelty for the national legislation. At the moment, the protection order has already implemented in the courts of the Republic of Azerbaijan. This innovation also shows that the continental legal system, to which Azerbaijan belongs to, has the features of the Anglo-Saxon legal system.

An integral part of the fight against domestic violence is also the fight against early marriages. For this purpose, coordinating and comprehensive work is carried out in Azerbaijan. For example, based on changes in the Family Code in 2011, the marriage age in the Republic of Azerbaijan is set to 18 years. Afterwards, special criminal penalties for forced marriage of women and persons under the legal age have been adopted. In 2012, the amendments to the Criminal Code of Azerbaijan were entered into force and on the basis of which, forcing a woman to enter into marriage shall be punished with a fine of two thousand to three thousand manat (about 2000-300 thousand euro) or imprisonment for up to two years. The same action committed against a person under the age of consent is punishable by a fine of three thousand to four thousand manat (about 3-4 thousand euro) or imprisonment for up to four years.

Thus, improvement of legislation, work with families living at risk, and the use of publicity campaigns have produced some results and confirmed the feasibility of the government's policy in this area.

The foregoing does not mean that today there are no problems in the protection of women's rights in Azerbaijan. Today, work is being conducted on strengthening of the further advancement of women and their active participation in political, economic and public life, etc.

International cooperation and the system of protection of women's rights

Not depending on the region where the international regional human rights system is established, in the course of its formation it is necessary to consider the doubtless advantages peculiar to the European system of monitoring, and also the difficulties in putting into practice the requirements of the European Convention on Human Rights.³ The literature on the subject states that one of the most important principles underlying the European Convention is the principle of subsidiarity. There are three basic characteristics of the system envisaged by the Convention. First, the listed rights and freedoms are just the minimum standards. Member States may stipulate in national legislation or any other international agreements a wide range of rights to be protected, rather than provided by the Convention, which in any case is not exhaustive. Second, the Convention does not contain uniform rules. It sets the standards of behaviour, allowing the Member States freedom of selection of means for their implementation. Finally, as it has been repeatedly emphasized by officials of the European Union, first of all the national authorities themselves should find the right balance between the interests of society which are often varying considerably and the protection of the fundamental rights of individuals. They do it easier than international monitoring bodies. The last one of these characteristics is best of all described in the doctrine of "margin of appreciation", according to which democratic societies retain considerable freedom of action in determining what is necessary. It also applies to the control conducted by the Court.⁴

At the regional level, Azerbaijan for many years has very closely cooperated with the Council of Europe in the area of protection of women's rights. The result of this cooperation was the Inter-Ministerial Conference of the Council of Europe on "Gender equality: bridging the gap between *de jure* and *de facto* equality" in Baku. The adoption of the Strategy on Gender Equality by Council of Europe (2014-2017) spurred the state to take decisive steps at legislative level.

The literature also notes that Member States do not fully implement their obligations on submission of periodic reports required by the Convention on the Elimination of All Forms of Discrimination against Women, and it should be the subject of a special response from the competent authorities of the United Nations.⁵ It points to the fact that the United Nations system for the protection of women's rights should be improved together with changes in problems.

³ S.V. Polenina, *Women's Rights in the System of Human Rights. International and National Aspect*, Moscow 2000, p. 47.

⁴ M. Entin, *International Human Rights Guarantees. The Experience of Europe*, Moscow 1997, p. 2-13.

⁵ *Human Rights of Women*, "University of Pennsylvania Press" 1994, 1 I, p. 355-357.

Thus, new calls and emerging challenges concerning the equality of women and the fight against discrimination based on sexual identity should be resolved profoundly.

The system of protection of the women's rights in Azerbaijan can be a model for the development of gender equality of many countries. For example, through international bilateral treaties, Azerbaijan has already exchanged its experience in this area with Morocco, Kuwait, Jordan and other countries. The development of mechanisms for the protection of women's rights at the international and national levels is one of the main goals and objectives not only of the United Nations, regional organizations but also of the countries. The future development of the whole humanity depends on the development of the system for protection of rights and freedoms. International law is transformed and developed simultaneously with the development and emergence of new appeals to the international community and it is also relate to the development of the system for protection of the women's rights as one of the fundamental areas of human rights and freedoms.

Conclusions

International agreements and conventions set standards for gender equality and make governments accountable for the legal and political commitments they have made. They still remain important in providing gender equality and women empowerment.

Since The Republic of Azerbaijan ratified CEDAW on 30th June 1995, it has fostered changes in national laws and practices. After Azerbaijan ratified the Optional Protocol to the Convention in 2001, an environment where women and girls can enjoy all their human rights had been improved. It promoted the advancement of women as a major part of its commitment to ensure a society and an economy where women can play a full role, where their contributions are acknowledged and valued, where they can make choices about their lives and where they can live free from fear of violence.

Azerbaijan closely cooperates with international bodies, and international standards are being followed by legislation in the field of protection of women and children rights. The legislative, judicial, administrative measures that the Republic of Azerbaijan had adopted during the last decade give outstanding results. As confirmation of the above, it should be noted that there are no sectors to which women have not c have decreased.

Future steps in the field of protection of women rights have already been defined by the Government. In this regard, as stipulated in "Azerbaijan 2020: Look into the Future" Concept of Development, Family strategy, Child Strategy, and Child Code will be adopted. The newly adopted Development Concept "Azerbaijan 2020: Look

into the Future” once again proved that the gender problems remain in the center of attention. A number of such special documents as a “National Action Plan on Gender Equality”, “Azerbaijan’s family strategy”, creation of the system to monitor evasion of education and early marriages are being worked out for the implementation. It has become a practice to integrate gender equality perspective into domestic legal research, legislation or to solve social problems.

This article aims to review the provisions and implications concerning gender equality in International Conventions and agreements, and discuss its potential impact on Azerbaijan’s efforts for gender equality.

Abstract

Azerbaijani Government is fully committed to ensuring gender equality in all spheres and better protection of women’s rights as we consider these factors fundamental to building real democratic society.

Since the establishment of the State Committee for Family, Women and Children Affairs in 2006 this governmental body with a ministerial portfolio has been responsible for formulating and pursuing state policy on all aspects of promotion and protection of women’s rights and women empowerment. This is a very important achievement in improving institutional framework to address the key gender issues on a governmental level, including better implementation of CEDAW obligations. Since the considerably short period of its establishment, the Committee has achieved a lot and is still sparing no effort in establishing a comprehensive legal and practical framework for ensuring equal rights and opportunities for women and girls in Azerbaijan. We, however, acknowledge that there is much to be done in the future and naturally we will face certain challenges on our way.

Key words: international conventions, women’s equal rights, improvement of national legislation, women refugees

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