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THE MAIN PROBLEMS IN DETERMINING THE LEGAL STATUS OF THE CASPIAN SEA IN THE POST-SOVIET ERA

Açar sözlər: SSRI, Xəzər dənizi, Xəzər dənizinin hüquqi statusu.

Ключевые слова: СССР, Каспийское море, правовой статус Каспийского моря.

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After the collapse of the USSR, three independent states began to divide the area of the Caspian Sea. In accordance with the principle of the succession of states in international law, the question arose about the succession of the legal system by new countries, the rights and duties of the Soviet Union and Iran in accordance with the new realities after the collapse of the USSR. After the collapse of the USSR, the independent republics of Azerbaijan, Turkmenistan and Kazakhstan insisted on the division of the Caspian Sea and expressed their opposition to the succession of agreements concluded between Iran and Russia due to the abundance of oil and gas reserves on their shores.

Russia's approach was based on two fundamental points. The Caspian Sea is a unique inland water basin and cannot be considered a sea from an international point of view. Case law should be applied here. Although the Caspian

Sea has the geographical characteristics of a sea (its water is salty; the dimensions of the Caspian Sea are almost the same as those of the Black and other seas), it cannot be considered a sea because it is closed and has no natural connection with the ocean of the world. In this regard, the 1982 UN Convention on the Law of the Sea (signed in December 1982, entered into force on November 16, 1994) is not applicable, as this document regulates the legal regime of the maritime space. The Ministry of Foreign Affairs of the Russian Federation has repeatedly stated that the Caspian Sea is a reservoir, and its waters and underground resources are the common property of the Caspian littoral states [30, p. 78].

It can be noted that in the issue of the division of the Caspian Sea, as well as in the issue of joint use on fair grounds, the political, but in no case international legal principle of relations between the Caspian littoral states is not applied. In many ways, Iran's approach to determining the legal status and regime of the Caspian Sea is similar to Russia's. Status negotiations began in 1992 shortly after the collapse of the Soviet Union and the creation of new Caspian states. The settlement is complicated by the fact that the Caspian shelf is considered one of the main prospective areas for oil and gas production. The waters are also rich in biological resources and are a convenient route for laying bottom pipelines.

Azerbaijan first proposed the division of water and mineral resources into national sectors. It became the only country in the 1995 constitution to ensure the right to own its own part of the Caspian Sea (Article 11, Clause II). Later, the position of Baku became closer to the Russians and Kazakhs. Moscow and Astana believe that it is necessary to divide the seabed into national sectors and keep the water in common use. On July 6, 1998, the Russian-Kazakhstan agreement on the delimitation of the bottom of the northern part of the Caspian Sea along the modified middle line was signed. On September 23, 2002, a similar agreement was signed between Russia and Azerbaijan on the delimitation of adjacent parts of the bottom of the Caspian Sea.

On May 14, 2003, the countries signed a tripartite agreement on the junction of the demarcation lines of the adjacent territories. Turkmenistan is still not moving towards rapprochement with its CIS neighbors due to an unresolved dispute with Baku over the ownership of the large Kyapaz (known in Turkmenistan as Serdar) oil field. Iran insists on a different approach - the division of the Caspian on the basis of a condominium (states jointly and equally own all mineral and biological resources) or the creation of five equal sectors (20% each). So far, the Caspian "five" have only been able to agree on environmental issues - on November 4, 2003, the Framework Convention on the Protection of the Marine Environment of the Caspian Sea was signed in Tehran.

On April 23, 2002, the first summit of the Caspian littoral states was opened in Ashgabat, and at this meeting the leaders of the "five" tried to converge their positions on the status of the Caspian Sea. The meeting was called constructive, but ended without results even before the final declaration was signed. The second summit was held in Tehran on October 16, 2007 and ended with the signing of a 25-point declaration. In

particular, it was stated that the most important task is the conclusion of the Convention on the legal status of the Caspian Sea, which will become the main document for the settlement of disputes. The parties also declared their sovereign rights to the sea and its resources, and undertook not to give their territories to third countries for aggression.

The third summit took place on November 18, 2010 in Baku. In addition to the final declaration, an agreement was signed on cooperation in the field of security in the Caspian Sea, which regulates the mutual activity of the countries in the fight against terrorism, crime, smuggling and drug trafficking. Iran supports Russia's thesis on the uniqueness of the Caspian Sea, which allows it to be excluded from the generally accepted norms of maritime law. In addition, Iran expressed its support for following a consistent line, explaining that until a new status was worked out, it would be better to leave the agreements between the USSR and Iran as the basis of the existing order. Iran expressed the idea of dividing the sea on the basis of equal rights for all Caspian states. Such a division (i.e. 20% to each side) is beneficial for Iran, whose maritime sector is 12%, provided that the sea is delimited along the median line. This principle is incompatible with the interests of other Caspian littoral states.

It should be noted that Iran insists on determining the legal status of the Caspian Sea as soon as possible, because it is sure that delaying the issue related to the status of the Caspian Sea may lead to the intervention of foreign countries. The essence of the problem lies in the sequence of previously concluded contracts. It is well known that the succession of treaties is provided for in the Vienna Convention on the Succession of States in respect of Treaties (adopted on 23 August 1978) in accordance with paragraph (a). 34. Azerbaijan, Turkmenistan and Kazakhstan

did not recognize the succession of the agreements concluded earlier by the USSR and Iran. The result of their nihilism was that Russia and Iran signed a series of agreements with Western, including American, oil companies without any consent.

The position of Russia and Iran was to adhere to the earlier agreements of 1921 and 1940. These agreements regulated equal rights for swimming in the waters of the Caspian Sea and allowed to create a legal system for using the resources of the Caspian Sea in accordance with the principles of international law. According to the principles of the 1921 treaty between the Soviet and Iranian states, the use of the Caspian Sea is consistent. In particular, Iran is thinking of creating an economic coastal zone with oil production only on its territory, without carrying out uncoordinated measures to extract the reserves of neighboring countries.

Special attention should be paid to Azerbaijan, which not only signs contracts with Western oil companies for its own interests, but also carries out unauthorized oil production in the waters of neighboring Caspian states. When expressing its position on the division of the Caspian Sea, Azerbaijan referred to the *rebus sic stantibus* and the provisions of the Selean state. The legal position of Azerbaijan is expressed by not recognizing the legitimacy of the 1921 and 1940 agreements. The United States stands in solidarity with Azerbaijan, its goal is to strengthen economic and national security and use marine resources. The volume of oil reserves in the Caspian Sea region is so large that it can be considered the third largest oil field in the world after the Persian Gulf and Siberia (Kazakhstan has 50 billion barrels of known oil reserves and is the richest oil producing country). In the region; it is followed by Turkmenistan, Uzbekistan and Russia respectively; Azerbaijan with 5.7 billion barrels). In response to Azerbaijan's statements

regarding the illegitimacy of the 1921 and 1940 agreements, Russia declared that unilateral, uncoordinated operations in the Caspian Sea are illegal. Thus, Russia warned the Caspian littoral states not to recognize the legitimacy of the actions of the Caspian littoral states conducting unilateral operations. As for Turkmenistan, the former friendly state insisted on determining the international legal status of the Caspian Sea in accordance with the 1982 UN Convention on the Law of the Sea.

On February 26-27, 2002, at the international conference "Caspian: legal problems" held in Moscow with the participation of representatives of the Caspian littoral states (the Russian Federation, the Republic of Azerbaijan, the Islamic Republic of Iran, the Republic of Kazakhstan), including the USA, lawyers of the Caspian littoral states, international representatives of organizations and oil and gas companies proposed the establishment of a cooperation organization in the Iranian Caspian Sea. In relation to the Caspian Sea and its resources, only five Caspian littoral states have been recognized as having exclusive rights. The conference participants agreed that there is no legal vacuum in the Caspian Sea and that the legal regime of the Caspian Sea is defined by the existing Soviet-Iranian treaties of 1921 and 1940. At the same time, it was stated that this regime fully meets today's Caspian realities, as it is necessary to develop a new legal status of the Caspian Sea based on a general agreement.

It should be recalled that in 1996, in order to prepare the Convention on the legal status of the Caspian Sea, a Special Working Group (SWG) was established at the level of deputy foreign ministers by the decision of the foreign ministers of the five Caspian littoral states.

On July 19, 1998, Iran and Russia issued a joint statement and proposed three possible scenarios for the delimitation of the Caspian Sea.

According to the first scenario, the sea should be divided based on the principle of condominium.

The second scenario results in the division of the water area, waters, bottom and subsoil into national sectors.

The third scenario, which is a compromise between the first and second options, envisages only the division of the bottom between the coastal states, and the water surface is considered common and open to all coastal states.

Finally, in the agreements on the delimitation of the Caspian Sea (the Agreement between the Russian Federation and the Republic of Kazakhstan dated July 6 on the delimitation of the bottom of the northern part of the Caspian Sea for the purpose of exercising sovereign rights to use the subsoil), 1998 and this Agreement on May 13, 2002 Protocol dated; According to the Agreement between the Republic of Kazakhstan and the Republic of Azerbaijan on the delimitation of the bottom of the Caspian Sea dated November 29, 2001 and the Protocol dated February 27, 2003, three states (Russia, Azerbaijan, Kazakhstan) ensured the condominium regime of the Caspian Sea area. and demarcated the seabed based on a modified median line.

Azerbaijan, which has contracts with Western oil companies, proposed the creation of two consortium projects.

The first consortium includes Azerbaijan and oil companies, and the second consortium includes Azerbaijan and Iran. For its part, Kazakhstan proposed to recognize the Caspian Sea as a sea and to create a Caspian Sea Council with the appropriate name, so that this council exclusively includes the Caspian littoral states. In the latter case, the 1982 UN Convention on the Law of the Sea would come into force, which would be against Russia's interests, as foreign countries could freely use the Baltic Sea-Volga-Caspian Sea channel for navigation.

Currently, the last documented decision of the five Caspian littoral states is the statement of the presidents of the Republic of Azerbaijan, the Islamic Republic of Iran, the Republic of Kazakhstan, the Russian Federation and Turkmenistan (according to the results of the Fourth Caspian Summit; Astrakhan, 2014), where the principles of action agreed by the Parties in the Caspian Sea can be noted: 1) the absence of armed forces that do not belong to the Parties in its sea (paragraph 6); 2) establishment of the national sovereignty of each Party over the coastal sea space within 15 nautical miles and the exclusive rights of each Party to extract aquatic bioresources within the adjacent 10 nautical miles, and then the creation of a common water basin (clause 7); 3) navigation in the Caspian Sea, passage to it only by ships sailing under the flag of each Party (Article 10); 4) Determining the boundaries of the bottom and bottom of the Caspian Sea based on the universally recognized principles and norms of international law in order to exercise the sovereign rights of the parties to the use of the subsoil and other legal economic activities. Under the agreement of the parties, the bottom of the sea and the bottom of the earth (Article 12). We believe that the previous summits (2002, 2007, 2010, 2014) were of a more consultative nature, because decisions regarding the determination of the legal status of the Caspian Sea and the determination of the borders of the sea, which later became a reality, were not prepared. . The summit planned to be held in Kazakhstan in 2018 looks promising. According to Deputy Minister of Foreign Affairs Grigory Karasi, the Convention on the legal status of the Caspian Sea, whose draft was approved by the Russian government in June 2018, will be discussed at this summit of the Caspian heads of state, and in the statement reached in 2014 (paragraph 6, 10- cu Statement) was a clear violation of the above-mentioned agreements, the possibility that Kazakhstan would

hold a series of negotiations with the United States, and then create two agreements. There are military bases in the ports of Aktau and Kurik in the Caspian Sea. On April 19, 2018, the relevant agreement was ratified by the upper chamber of the Parliament of Kazakhstan - the Senate.

Formally, US military bases are created to transport goods to Afghanistan to stabilize and rebuild Afghanistan. The US Navy will transport military and civilian cargo from the Caspian Sea

to Afghanistan via Aktau and Kurik. In reality, contrary to the previously reached agreements, the presence of states that do not belong to the Caspian Sea is a destabilizing factor in the region. It seems logical to grant the status of a demilitarized zone to the Caspian Sea on the condition that every Caspian littoral state is given the opportunity to maintain its own military bases and the use of military bases of other states is prohibited.

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İsmayıl Eltun Riyyət oğlu

POSTSOVET DÖVRÜNDƏ XƏZƏR DƏNİZİNİN HÜQUQİ STATUSUNUN MÜƏYYƏN EDİLMƏSİNDƏ ƏSAS PROBLEMLƏR

XÜLASƏ

Bu məqalədə SSRİ dağılıqdan sonra Xəzər dənizinin hüquqi statusunun müəyyən edilməsi ilə bağlı problemlərdən bəhs olunur.

Исмайлы Элтун Рияят оглу

ОСНОВНЫЕ ПРОБЛЕМЫ ОПРЕДЕЛЕНИЯ ПРАВОВОГО СТАТУСА КАСПИЙСКОГО МОРЯ В ПОСТСОВЕТСКОЕ ВРЕМЯ

РЕЗЮМЕ

В данной статье рассматриваются проблемы, связанные с определением правового статуса Каспийского моря после распада СССР.

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