

SECURITY IN THE CASPIAN REGION IS STRONGHOLD OF INTERNATIONAL LEGAL COOPERATION

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Abstract. The article considers the agreements of USSR period concerning international security in the Caspian Sea region, appearing as important international legal instruments. These agreements touched upon the prohibition on navigation on the Caspian Sea by commercial and navy vessels of non-regional states. Before the breakup of the Soviet Union the legal status of the Caspian, its delimitation, fishing zone, security and navigation mode has been regulated by the agreements between Soviet Union and Iran on equitable terms, in aequale jure, in accordance with international law. After the USSR breakup the Convention on the Legal Status of the Caspian Sea of 2018, having been the result of longstanding negotiations of five countries (Azerbaijan, Iran, Kazakhstan, Russia and Turkmenistan), becomes the crucial international legal document. According to the authors' view, power balance is the most important strategy for providing security in the Caspian region – the sphere of intersection of interests as regional, as well as non-regional, countries.

Key words: national security, militarization, navy vessels, commercial vessels, the Caspian region, Convention, territorial wastes.

1 Introduction

The Caspian Sea in accordance with the Convention on Legal Status is «basin surrounded by land domain» (Official website of the President of Russian Federation) - stumbling point of national interests of Caspian (also non-regional) states not only in the sphere of petroleum development, however, in the sphere of providing security and stability in the region.

In this regard, the consideration of contractual relations between Russia and Iran in the sphere of militarization seem to be actual from scientific point of view. Issues on the militarization of the Caspian Sea, which have been problematic from the times of reigned Russia and remain problematic nowadays, are to be important and topical.

2 Methods

Methodology of the article is based on the principles and categories of dialectics: induction and deduction. Historical analysis of agreements and contracts, concluded in the period from the end of XIX century, has given the option to determine the dynamics for the development of contractual relations between Russia and Iran in the sphere of Caspian Sea militarization. In the process of research the actual materials in the sphere of Caspian Sea militarization have been used from Internet- resources in Russian, English and Persian languages.

3 Results and discussion

The problem on security has become especially acute after breakup of the Soviet Union and three new Caspian states' formation. During existence of Soviet government the issues of national and military security have been regulated by the Agreement on amity and cooperation between the Union of Soviet Socialist Republics (further- USSR) and Persia dated by 26 February, 1921, Convention dated by 27 October 1931 between USSR and Persia on settlement, trade and navigation (Official website, Historical materials), Agreement on trade and navigation between USSR and Iran dated by 25 March 1940 (Habibi-Rudsari, 2013).

Explicit explanation on aspects of providing security is given in articles 5,6 and 7 of the Agreement of 1921. Particularly, in accordance with the art. 5 both Parties had agreed on the following: not to permit formation or dislocation of organizations, or other bodies aiming at fight against Persia and Russia, and also against allied states; also not to let recruiting or mobilization of military personnel into the army or armed forces of such organizations (it.1); prohibit to these states and organizations,

aiming at fighting against other Party (it.2); not to let third Party's army or armed forces locate on their territory with all available approaches if they create a threat to borders, interests or security of other Party (it.3). Article 6 stipulates the rights of Russia to bring the troops in Persia in case if third states attempt to use the territory of Persia for military actions against Russia or boundary intersection. The Parties have agreed on the right of Russian Soviet Government to bring the troops in the territory of Persia for self-protection, particularly, if third Parties make attempts on armed intervention of Persia or turning the territory of Persia into the corps for military actions against Russia threatening to borders of Russian Soviet Federative Socialist Republics (further – RSFSR) or to the allied powers; also if Persian Government after the caution of RSFSR doesn't have capability to avert danger, the interference of RSFSR will be necessary for solving the problem. Article 7 has developed the idea on prevention of third parties into the Caspian Sea. This condition claims: «if the crew of Persian fleet ships consists of these citizens of third Parties who are unfriendly adjusted towards Russia, in that case Russian Soviet Government will have the right for demanding enemies' disposal». The article 16 of Convention between USSR and Persia on settlement, trade and navigation dated by 1931 stipulates the right of only Caspian states' ships presence on Caspian basin (Official website of the Ministry of foreign affairs of the Russian Federation).

Agreement of 1940 develops provisions, stipulated in the agreement of 1921 and in other further agreements. This agreement has emphasized the right for navigation at the Caspian Sea for ships of two countries only – Persia and RSFSR. What concerns foreign personnel, employed at these ships and harbors, should restrain their activities in limits, determined by the contracts.

After the breakup of the Soviet Union abovementioned agreements have ceased to be effective contrary to the Vienna Convention on Succession of States in respect of Treaties (accepted by UN General Assembly dated by 23 August 1978) (UN official website). in spite of intent of Russia and Iran, acting on newly – formed states – previous socialistic republics' whim. Under new conditions, the principles on balance of strength and providing security, which have existed before USSR breakup, have been exploded and have ceased to be in force.

In contradiction to historically developed traditions of Russian fleet's disposal at Caspian basin Kazakhstan and Azerbaijan have opposed the intent on decreasing and prevention of Russian domination, consolidation of role and presence of foreign powers in the Caspian region. Aside from western oil companies, locating at defined water zone of the Caspian Sea in accordance with contracts, concluded by Azerbaijan (Official website of the Islamic Republic News Agency) and Kazakhstan (Official website Association of Central Asia and Russia), the actions of Kazakhstan seems to be revolting, because on April of 2018 the Senat of Kazakhstan has ratified agreement with USA on providing Aktau and Kurik harbors on the Caspian Sea shore for further disposal of American military corps (Official website IRAS). Formal aim for disposal of corps is in military and civil freights on the Caspian Sea through Aktau and Kurik harbors to Afghanistan. Actually, presence of non-regional states is destabilizing factor in the Caspian region. In the context of providing national security, the militarization of the Caspian Sea represents the biggest political and military threat for coastal states and for neighbors (Mendoza Velazco & Rivero Padrón, 2019; Eilzaki & Jalalian, 2016).

Kazakhstan actions are even more so illegitimate and illogical, as far as the status of demilitarized zone has been proclaimed for the Caspian Sea with providing to every Caspian Sea the possibility for disposal of own military corps and prohibition for other countries military corps functioning during V Summit of the Caspian states in August, 2018 in Kazakhstan. The result of this event with participation of five governments has been expressed

on final confirmation of Caspian status which was the subject of longstanding negotiations and discussions, assigned in Convention on the Legal Status of the Caspian Sea. Articles 1, 3, 10, 12 of this Convention are devoted to the national security and militarization issues. Subject mode, bringing the status (military), is regulated point by point. The definition of the «military ship» as the «ship, possessed either of the Party» is provided in article 1, which dismissing any possibility of non-regional states presence. Article 3 of the Convention proclaims the following principles: providing security and stability (it.3), providing consistent military balance of the Parties on the Caspian Sea, conducting force development in limits of reasonable adequacy with considering all interests of the Parties, undamaging security of each other (it.4); maintaining consensual confidence-building measures in the sphere of military activity with transparency and foreseeability in accordance with common efforts on regional security and stability consolidation, including adequacy with internal agreements concluded between the Parties (it. 5); non-presence of armed forces of neither of Parties (it.6); non-provision of own territory to other states for aggression and other military acts perpetration against either of the Party (it.7).

Article 11 regulates the mode on presence, order and conditions for navy vessels and submarines navigation under the flag of own state on peaceful and transparent manner without violation of rules and security. This article also regulates the mode of navy vessels navigation in exceptional instances like emergency when first aid is necessary. After providing first aid these navy vessels have to move from this place to the territorial wastes of own state (it. 2-5).

Article 12 provides immunity for navy vessels and state fleet, using for non-commercial purposes. Depending from any measures for defense (art. 11, it.7) or the request to leave the territorial waste of the Party (art.11, it.14), also inspection or security check or hot pursuit or arrest (art.12) may be implemented in the cases of aggression acts or its propaganda (art.11, it.6 «d»), threat (art.11, it. 6 «a»), acts of force or boarding/launch on water/receiving on boarding any military equipment (art.11, it. 6 «e-f»), pollution act (art. 11, it. 6 «h»), unsanctioned fishing activities (art. 11, it. 6 «i») and research works (art.11, it 6 «j») or collecting information (art.11, it. 6 «c»), all forms of manoeuvres with weapon employment (art.11, it. 6 «b») towards vessels (ships, submarines and etc).

Articles 11 provides international liability «for any damage or loss caused to the other Party as the result of ignorance of laws, rules of coastal state and provisions of current Convention and other norms of international law by any navy vessel or other state ship operating for non-commercial purposes on issues concerning navigation through territorial waste, entering and bringing to anchor» (it.15).

Parties may implement any legal acts in accordance with Convention and international law for providing national security (art.11, it.8,11).

After the signing of Convention on the Legal Status of the Caspian Sea, fully regulating the aspects of national security, as it was mentioned before, it has been prohibited for Kazakhstan to implement their agreement with USA on providing the territorial waste of Kazakhstan and its harbors Aktau and Kurik for USA and free navigation of US navy vessels or state fleet on the Caspian Sea. Implementation of Convention provisions by Kazakhstan is still beyond question.

After the signing of Convention on the Legal status of the Caspian Sea Azerbaijan and Turkmenistan accepted and signed Bucharest Statement on Black Sea – Caspian Sea international transportation route («BSCS international transportation route»). It stipulates navigation of commercial vessels from Romanian harbor Constanta (RO) to Georgian harbor Poti (GE) with using Black Sea channel, further navigating on new channel to Azerbaijan's harbor Alat (AZ), which they call Free Economic Zone, and further to Turkmenistan's harbor Turkmenbashi International Sea Port (TM).



Fig. 1. Report - News agency of Azerbaijan
<https://report.az/ru>

Although it is assumed that there will be the transit of goods from Alat (AZ) on Caspian Sea to Turkmenbashi International Sea Port (TM) by Azerbaijan's commercial vessels do we have the guarantees on complying with the article 10 of the Convention, and that vessels of other countries, even commercial, won't navigate on the Caspian Sea? Are there any guarantees that NATO or USA will not try to use such possibility with bad intentions against Russia, when the new channel, calling Free Economic Zone, will be built? Moreover, a lot of medical – biological labs of USA (in Georgia, Kazakhstan, Uzbekistan, Tajikistan and Ukraine) have already rung Russia.

Such an action of Azerbaijan on signing Bucharest Statement haven't been approved by other Caspian states, particularly, by Russia and Iran, which may cause unfriendly atmosphere, and finally, militarization on the region with all consequences. Unfriendly activity of nearest Caspian neighbors of Iran, enforces Iran to reflect on disposal of navy vessels only with the purpose on providing own national security, because Iran follows the policy of non-aggression and, simultaneously, brave self-protection, which is proclaimed by the Constitution of the Islamic Republic of Iran: «Never we will be colonizer, never we will be the colony».

4 Summary

At that rate and actions of the Caspian states the powers balance is one of the oldest and the most effective models for international relations building. The powers balance should be carried out with a distribution of military forces in which never a one state will be dominant and have supremacy over the other. The balance of forces in the Caspian region should be based on mutual cooperation with a coordinated and proportionate potential distribution, including military, without a threat to all coastal states.

At the same time, the major principle of international law – adherence of states to their international legal obligations – is of vital importance in achieving peace and security in the Caspian region. The new legal instrument – the Convention on the Legal Status of the Caspian Sea of 2018 – provides for the new international legal order, which should be preserved by all member-states. The respect to international law by all member-states is the guarantee of security in the region. The adherence of the Caspian states to the Convention on the Legal Status of the Caspian Sea of 2018, particularly, keeping away from providing the port or territorial waste to non-regional states under any circumstances is extremely important for security on the region.

5 Conclusions

Policy of the Caspian states should be adaptable, should appear as expression of self-sufficient accepted decisions on economic development, ecological prosperity of the Caspian Sea, its petroleum development and, certainly, on security, peace and stability in the Caspian region.

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