

Секция «Юриспруденция»

Legal protection of the Caspian sea: theory and practice

Гейдарова Динара Алимагомедовна

Студент

Российская правовая академия МЮ РФ, Северо-Кавказский филиал, Юридический

факультет, г. Махачкала, Россия

E-mail: angel_dream92@mail.ru

The Caspian Sea, as it is not just a big concentration of water, but a unique natural object and a place of concentration of interests of human community (social, economic, environmental and geopolitical) has ambiguous international legal status which causes complexity of legal regulation and protection of the Caspian Sea.

Not only the water of the Caspian Sea but also its biological resources, subsoil of the continental shelf, the coast and the water area of the sea are subject to legal protection. One of the main problems, hindering development of appropriate environmental legislation which would protect biological resources, bowels and water of the Caspian Sea is unresolved issue of the status of this sea, «a sea or a lake».

Uncertainty of geographical status of the Caspian determines uncertainty of its legal status: if it is an enclosed or semi-enclosed sea, in accordance with the United Nations Convention on the Law of the Sea (1982), each of the coastal states has a 12-mile zone of the «territorial sea», in which it holds a border, and, in addition, in accordance with articles 55, 56 and 57 of this Convention, each of the coastal country has «an exclusive economic zone» which is adjacent to its border at the distance of 200 nautical miles if it does not overlap adjacent «exclusive economic zones» [1]. In the case of intersection of the territorial seas there is delimitation of the seas of the countries-participants and sharing on the median line which is equidistant from the coast lines of the coastal states. On this delimitation the largest sectors go to Kazakhstan, Turkmenistan and Azerbaijan.

Moreover, in accordance with part X of this Convention, the Volga-Don and the Volga-Baltic Channels are considered to be the international waterways and such coastal countries as Azerbaijan, Iran, Kazakhstan and Turkmenistan have the right to freedom of transit through these channels.

In the case of defining the Caspian as an international lake, it is divided among the coastal states and the boundary lines are a continuation of state borders, or division passes along the lines which connect the central point of the lake with the exit points of boundaries of the coastal states on the shoreline. On this delimitation, the sectors of Kazakhstan, Turkmenistan and Azerbaijan considerably would reduce, the sectors of Russia and Iran would increase and the disputed fields of Sardar (Kyapaz), Chirag and Azeri would be not in the sector of Azerbaijan or Turkmenistan, but in the sector of Iran

That situation has an impact of geopolitical and economic priority of interests of the coastal states to the detriment of ecological need to protect the resources of the Caspian Sea.

Rich natural resources of the Caspian Sea include more than 500 kinds of plants, 854 kinds of fishes (about 85% of the world's sturgeon stocks) and oil fields. At the same time, without bringing formal legal and actual status of the Caspian Sea into compliance, rational use of its resources is impossible, and strict division of the Caspian Sea into the sectors among

riparian countries will contribute to a number of problems. In particular, in the development of fishery it should be taken into account that almost all the fish of the Caspian Sea migrates, thus, sprat can be extracted only in the southern part of the sea. In the case of assigning the sectors to the Caspian states, the Russian sprat fleet (as only Russia has industrial fishing for sprat in the Caspian Sea) will cease to function.

Another legal problem of the Caspian Sea protection is in complexity of natural resources development (first of all, oil and gas). The point is that the northern part of the sea refers to the protected area, where industrial exploitation is inadmissible. Not only exploitation, but even seismic exploration of underwater oil and gas resources brings irreparable damage to the Caspian Sea. The problems have aggravated in connection with the rise of the Caspian Sea level: The shoreline has moved on 20-30 km, and as a result, increase in the intensity of storm surges has caused erosion of protective dams and flooding of coastal oil-fields and deposits.

Proceeding from the above, it can be concluded that the Caspian states should set up a regime of conservation and restoration of biological resources of the Caspian Sea by defining its status as a single ecological complex, and bear responsibility for preservation, reproduction and optimal use of its unique natural resources.

In the period from 1991 to 2012 there have been numerous meetings of the Special working group. The meetings were devoted to adoption of the Convention on the legal status of the Caspian Sea. For more than twenty years, the Caspian states have not been able to agree on the issues of joint protection of waters and resources of the Caspian Sea.

The unification of ecological and associated with it legislation of the countries of the Caspian region should become an important step on the way of enhancing the effectiveness of international arrangements on the protection of ecology of this sea. The lack of uniform environmental legislation does not allow these countries to agree on the key issues of protection and use of resources of the Caspian Sea. If they manage to agree on that, subsequently, the terms of the agreements, which are contrary to the national legislation and the interests of individual countries, are not carried out.

All the Caspian states should, in the first turn, bring to a «common denominator» their national legislation which somehow or another concerns the Caspian Sea, whether this legislation is ecological, criminal, administrative or sanitary-epidemiological, etc. This adaptation will allow to eliminate differences in understanding the key purposes of protection of the Caspian Sea resources at the initial stage, and then to exclude possible intersection of national interests in the Caspian zone.

The issues of legal protection of the Caspian Sea is the primary task of diplomats and ecologists of all countries concerned.

Литература

1. United Nations Convention on the Law of the Sea 1982.