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1-бөлім

ХАЛЫҚАРАЛЫҚ ҚҰҚЫҚТЫҢ ӨЗЕКТІ МӘСЕЛЕЛЕРІ

Раздел 1

АКТУАЛЬНЫЕ ПРОБЛЕМЫ МЕЖДУНАРОДНОГО ПРАВА

Section 1

ACTUAL PROBLEMS OF INTERNATIONAL LAW

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THE PROTECTION OF COPYRIGHT IN THE DEVELOPMENT OF NEW DIGITAL TECHNOLOGIES

There is an assumption that as a type of intellectual property, copyright has become more vulnerable and at risk due to the new technologies and digital information. It can be argued that a digital world allows people to copy easier, cheaper and faster copyrighted materials, therefore increasing the threat of copyright infringement. For example any person is able to copy, reproduce or distribute to public a large number of copyright work such as music, photocopies or literary works through the internet. Recent technological advances, in particularly high-speed Internet connections have helped make the legal storage and dissemination of such works more efficient and marketable. By considering a current situation, the author raises a legal question whether a legal framework for the protection of the copyright is effective or not. To answer for the question, the author shows some problems which have been emerged around copyright such as file sharing, illicit copying and piracy and refers to a number of cases which based on Anglo-American legal system. By reviewing the legal framework against copyright infringement such as the Copyright, Designs and Patents Act 1988 (CDPA) and the Digital Millennium Copyright Act 1998(DMCA), the authors concludes that regardless of mass digitization, copyright is still considered to be an useful and appropriate protection for copyright owners.

Key words: copyright infringement, digital technologies, peer-to-peer file sharing, copying, piracy.

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Жаңа сандық технологиялардың даму кезеңіндегі авторлық құқықты қорғау

Қазіргі уақытта жаңа технологиялар мен ақпараттық қоғамның қарқынды дамуы – зияткерлік меншік құқық түрлеріне, әсіресе, авторлық құқыққа ықпал етуде. Өйткені, тәжірибе көрсетіп отырғандай кез келген адам авторлық құқық материалдарына сандық технология арқылы оңай, арзан әрі жылдам қол жеткізіп авторлық құқықтың өрескел бұзылуына жол беріп отыр. Мысалы, кез келген азамат интернет-ресурс арқылы авторлық құқықтың объектілері болып табылатын миллиондаған бейне, музыка және әдебиет туындыларын еркін көшіріп, қайта шығарып не жариялы түрде тарата алады. Қазіргі қалыптасқан жағдайды ескере отырып, автор ағымдағы заңнаманың авторлық құқықты қорғаудағы жай-күйі туралы мәселені көтереді. Осы сұраққа жауап беру мақсатында авторлар англо-американ заң жүйесіндегі кейстерге сүйене отырып, авторлық құқыққа қатысты файлмен бөлісу, заңсыз көшіру және сандық қарақшылық тәрізді құқықбұзушылықтарға тоқталады. Авторлық құқықбұзушылыққа қарсы заңнамаларға, әсіресе, Ұлыбританияның 1988 жылғы Авторлық құқық, Дизайн және Патент туралы және Құрама Штаттардың 1998 жылғы Сандық Мыңжылдық Авторлық құқық туралы заңдарына шолу

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жасайды. Мақала соңында авторлар сандық технологияға қарамастан, авторлық құқық өзінің өзектілігі мен негізділігін жоғалтпағандығы туралы қорытынды жасайды.

Түйін сөздер: авторлық құқықбұзушылық, сандық технологиялар, файлдарды ортақ пайдалану, көшіру, қарақшылық.

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Защита авторских прав в условиях развития новых цифровых технологий

В связи с развитием новых технологий и цифровой информации авторское право как вид интеллектуальной собственности стало более уязвимым и подверженным риску. Как показывает реальный мир, цифровые технологии позволяют людям копировать более примитивные, более дешевые и быстрые материалы, защищенные авторскими правами, что увеличивает угрозу нарушения авторских прав. Например, любое лицо может копировать, воспроизводить или распространять большое количество авторских произведений, таких как музыка, фотокопии или литературные произведения через интернет. Последние технические достижения, особенно в области высокоскоростного подключения к Интернету, помогли сделать хранение и распространение таких произведений более эффективным и востребованным на рынке. Оценивая текущую ситуацию, авторы поднимают правовой вопрос об эффективности правовой основы защиты авторских прав. Чтобы ответить на этот вопрос, авторы указывают некоторые проблемы, возникшие по поводу защиты авторского права, такие как совместное использование файлов, незаконное копирование и пиратство и ссылаются на ряд кэйсов, основанных на англо-американской правовой системе. Проведен анализ зарубежного законодательства по защите авторских прав: Закон 1988 года «Об авторских правах, дизайнов и патентах (CDPA)» и Закон 1998 года «Об авторском праве в цифровую эпоху (DMCA)». В заключении авторы приходят к выводу, что независимо от массовой цифровизации авторское право не утратило своей актуальности и достоверности.

Ключевые слова: авторское правонарушение, цифровые технологии, совместное использование файлов, копирование, пиратство.

Introduction

In recent years, digital technology has touched almost all our public and private lives, performing the way that we communicate with one another and engage with the world around us. The digital technology not only has changed the way in which entertainment and media are consumed and distributed, but it also has broken the functions related to these manners. Because of this challenge, laws also have attempted to keep pace with new digital developments. Copyright is one of the legal sphere that has been especially affected by new technologies and activities (Klein, Moss and Edwards, 2015:1).

Such rapid changes in a digital age have serious effect on copyright, for example, any individual can reproduce and distribute millions of copies of works, namely music, motion of pictures and photographs through the internet. In fact, people tend to cause extensive and wide-ranging infringement. Also, it is widely accepted that to sue against individuals who want to take advantage of copyright owners' works is more difficult (Klein, Moss and Edwards, 2015:2).

Methodology

This article will, therefore, discuss some of the main reasons why copyright has become a worrying issue during a digital age. It will be questioned, whether copyright is irrelevant in a digital age, and if not, to what extent have digital technologies affected copyright. I argue that as a property right, copyright becomes still applicable to current realities due to a digital age. This article will focus on some case laws and legislations based on world experience. The structure is organized as follows. In part one I will focus on the different definitions of copyright. Secondly, the results of digitization concerning copyright will be viewed. The third part will cover some infringement activities, which undermines copyright. Finally, the current legal acts concerning copyright in terms of digital technology will be considered by taking into account their rules against copyright infringement.

Defining of copyright

It seems fair to point out that there are range of sources from the academic`s publication to statutory materials which aim to define copyright. Lawyers and scholars have proposed their own definitions of copyright; for example, copyright is defined as a range of exclusive rights regarding to some cultural goods such as literature, newspapers, photographs, drawings, artworks, movies, music, and plays(Andrews, 2005: 256-282). It also regulates computer software and databases. In spite of its territorial nature, copyright has wide importance. Therefore, this has caused international and national attempt to harmonize and to ensure constancy of approach (Aplin and Davis, 2013: 47). Copyright might be subsist in works of copyright holder that are kept in a material form. It has been argued that nobody can elaborate why people say «subsist» instead of «exist». However, it is worth saying that copyright will not be granted unless the necessary preconditions are carried out by the work and subsisted by copyright automatically (Hunter and Patterson, 2012:33). Some people say that copyright is described as an instrument for regulating a clashing area, because a considerable number of authors attempt to control over significant things such as knowledge, information, and culture. As a result, copyright signifies «hitting a balance» which means the clash of interest between the position of «the copyright holders» and 'the consumers». Therefore, it might be called as the clash-and-balance of paradigm, which causes binary expressions: property v. commons, owners v. users, public domain v. exclusivity (Borghi, 2011:1).

It has been suggested by most academic that copyright is assortment of property rights. However, the foundation of these rights could be disputable in terms of the aim of the rights and the protection. There are two approach, which dominate copyright theory. The first approach of copyright is 'natural law» which relies on labor and personality and another one is a state policy to attain set goals (Spinello and Tavani, 2004:308).

It is widely accepted that the definition 'copyright' might be contained in different types of statutory materials such as acts, bills, treaty articles, regulations and directives. Although these statutory materials have varied approaches about the definition of copyright around the world, they have the same fundamental principle of copyright, which has been founded by key treaties such as Berne convention and Rome convention (Herman, 2013: 23). For example, the phrase 'copyright' refers to property rights that include some descriptions of work e.g. original literary, dramatic, musical, artistic works, sound recordings, films [broadcast], and the typographical arrangement of published editions (Copyright, Designs and Patent Act 1988, s 1). In addition, there are some acts, which include a considerably more number of the works of copyright, namely the Act on Copyright and Neighboring Rights (as amended 1998) of Germany. It states that copyright includes, in particular, works of language, such as writings, speeches and computer programs, musicals, works of pantomime, works of fine art, photographic works, cinematographic works, and illustrations of a scientific or technical nature like drawings, plans, maps, sketches, tables and three- dimensional representations (Act on Copyright and Neighboring Rights 1965 (GER) s 2(1)).

Thus, summarizing the different interpretations, copyright might be defined as the right to create and use some cultural, essential works or goods.

Discussion

The Digital disruption. In the late 1990s, the digital revolution led to far greater changes in copyright`s history. For instance, translating information into a digital format and shifting in communication and media from analogue to digital (Westbrook, 2010: 56). Studies have demonstrated that whereas in the late twentieth century cassettes and vinyl records were replaced by compact discs, in the beginning of a new millennium, physical retail activity was replaced by tele market by virtue of the powerful World Wide Web (Doyle, 2013:27). As the popularity of the internet increased, a significant number of end users could see huge profits from a digital world, greater possibilities and finer access. Also, new technology allowed consumers to make money from intellectual property and as a result, it raised some questions regarding to copyright in a digital age (Klein, Moss and Edwards, 2015:18).

There are some crucial outcomes of digitization in which copyright needs to be thought about, talked about and regulated. The first outcome of digitization opened possibilities for the copyright affluent who made profits from the licensing of copyrights such as making, copying and distributing media faster and cheaper. It also had potential for the copyright poor who are known as the end users of copyrighted material (Schell, 2016: 104). Apart from it, some common people took advantage of digital technology by the distribution and copying of copyrighted materials through alternative websites. Thus, everyone could copy easier and cheaper

through digital technologies. Contrary to the copies of previous time, the quality of digital copy tends to make reproductions more complicated to manage because of being perfect (Klein, Moss and Edwards, 2015:18).

The second outcome related to digitization was the collapse of boundaries. Some boundaries of copyright have been challenged by alteration due to a digital age. For example, published in 1993, the editors of the collection *Music and Copyright,* Frith and Marshall gave two reasons for the increasing academic and professional importance in copyright. Firstly, one obvious cause of complication in legal definitions of copyright was new technologies related to the storage, sound and picture. Secondly, the culture relating to globalization motivated some multinational companies to look for the «harmonization» of copyright beyond the boundaries of national states (Klein, Moss and Edwards, 2015:19).

The third outcome of digitization was amendments to copyright, which were made nationally and internationally. Meanwhile, new copyright policies, legislation and international copyright agreements were a main response from individual states (Ke Steven, 2011: 375-412). Furthermore, the main concepts and notions of copyright were shared by the members of agreements and treaties, namely TRIPS, which responded to the new demands of a digital age. As before, copyright was seen as a system of incentives, so, recently it has been changed to a system which allows copyright holders maximum protection (Klein, Moss and Edwards, 2015:19-20). Therefore, digitization not only has made unlicensed access and distribution of copyrighted work easy, but also it has brought about considerable amendments in the legislation of copyright.

Issues around copyright in terms of digital environment

It could be argued that copyright in the digital environment shows the battle between copyright holders and consumers due to infringement such as file sharing, illicit copying and piracy. While some individuals tend to say that unmanageable peer-to-peer (P2P) file sharing has affected all copyright industries detrimentally, others believe that illegal copying of copyright might be the largest danger to copyright industries and some others are concerned about the emergence of ordinary movie, music and video games (Murray, 2016:276).

One of the most important phenomena of widespread unauthorized sharing of sound recordings, music, computer software, games, movies, and videos across the internet was a change in the law (Edwards and Waelde, 2009:183) as was held in *Sony Music Entertainment (Ireland) Ltd and others* v *UPC Communications Ireland Ltd*, where there was a huge problem. For instance, in November 2012, the agent of the Plaintiffs` clarified that through the defendant`s internet provider, people had illegally uploaded around 7500 copies of 250 songs within one month ([2015] IEHC 317, [2015] E.C.D.R. 23 [4]).

Additionally, peer-to-peer file sharing (P2P) has become a well-known activity on the internet. P2P file sharing is the process of sharing and transferring digital files from one computer to another (Deflem, 2013: 75). It means that end-users can share some contents between each other on the internet. The file sharing of unlicensed copyright works allows people to share various sorts of files ranging from music to movies (Rowland and Macdonald, 2005: 504).

A further significant principle of using P2P file sharing was highlighted in the case *Twentieth century Fox film Corporation and others* v *Sky UK Ltd and others* in that the consumers organize the Popcorn time application on their devices to view content and it shows what movies and TV programs are available. Then the application will start to download the content via the BitTorrent protocol, if any works have been chosen. Being a BiTorrent client, the application starts to identify peers over the internet to get necessary content. After that, BiTorrent helps a file of content, namely movies to be divided into plentiful pieces and computers anywhere in the world. In order to download a file, the BiTorrent client should collect those pieces and assemble them into a content file to view ([2015] EWHC 1082 (Ch), [2015] ALL ER (D) 229 [19]).

Another reason for using BiTorrent is that the pieces of the content file are assembled in a special order, but it depends on accessibility from peers. The content file will not be ready to view unless all the pieces have been assembled. Yet there is a feature of BiTorrent called a sequential downloading and it aims to start from the beginning of the content. Users can view a file or watch some of the movie or TV programme as soon as a stream starts. Finally, the entire content file might be downloaded and saved on the user`s device in a temporary folder (Mosco, 2017: 112).

Moreover, issues around copyright take place in other types of copyright infringement such as literal copies, usually called as pirated copies. For example, recent figures from the Recording Industry Association of America (IRAA) Web site and the Institute for Policy Innovation (IPI) provides some facts that the music industry loses $ 12.5 billion annually because of the piracy. It has been argued that

to some extent music, movie, software, video, and game industries lose $ 58 billion dollars every year. Therefore, those figures have been used frequently and have been reported on by industries in order to attract the general public to their plight (Fisk, 2011:82-83).

Additionally, the most popular kind of piracy in today's world is online piracy. One well-known type is related to hardware suppliers' illicitly loading software. The software is usually installed by the hardware supplier into the hard drives of computers, tablets, or mobile devices and the devices are sold with the software pre-installed (Murray, 2016:242). This can be illustrated by cases such as *Microsoft Corporation* v *Electro-Wide Limited and Atlantic Business Systems Limited*, where Microsoft claimed that it' s operating systems software had been engaged in the unauthorized copying by the defendants and the copies were disseminated unlawfully. Microsoft alleged that the defendants have engaged in piracy campaign. In other words, these copyright infringements present a more modern image of copyright for lawyers and scholars to determine strengths and weakness of copyright and indicates the necessity of effective legal regulation.

Results

Law enforcement vs copyright infringement. It has been argued that intellectual property laws, in particular, copyright laws are still necessary in a digital environment. Today the expression of ideas (images, words and sound) might be kept in files and as a rule, the file is considered as another way of storing the expressed idea. Despite the format of storage, the core principles of copyright remain the same and it is fair to say that copyright will be modified for the internet eventually (Rowland and Macdonald, 2005: 491).

Nowadays there are some legal acts in Anglo-American legal system, which regulate copyright infringement effectively in terms of digital technology and digital environment. One of the important act is the Copyright, Designs and Patents Act 1988(CDPA), which is a valuable example of the potential of the rights protected and the harmonization is reached between the interests of copyright holders and consumers (Philips, Durie and Karet, 1997:10). Regarding copyright infringement the Section 16(1) (a) of the CDPA entitles the exclusive right to reproduce the work to the copyright holders in that work. Additionally, Section 16(2) provides that a person who without the license of the copyright owner does, or authorizes another to do, any of the acts restricted by the copyright, might infringe copyright in a work.

Another significant copyright act in digital environment was the Digital Millennium Copyright Act 1998(DMCA), which was enacted by the US Congress in 1998. The DMCA aimed to avoid «pirates», who copied and distributed the digital copies of the works. Since DMCA protects computer software, it has accumulated a significant control (Carrier, 2009:163). Before the DMCA there was reason for action against anyone who circumvented any sort of technological control without infringement (Sookman, 2005:143). The meaning of circumvention is to «decrypt an encrypted work, to descramble a scrambled work or in other words to deactivate, avoid, bypass digital measures, without the permission of the copyright holder (Carrier, 2009:180). The DMCA in principle provided US copyright law with two provisions. While copyright owners 'protection against the circumvention of digital rights management' of the work of copyright are provided by Title I of the DMCA, the four safe harbor provisions are established by Title II of the DMCA (Ellis Jr, 2013:315).

In addition to aforementioned acts, the Digital Economy Act 2010(Act) was introduced in November 2009, and received royal assent on April 2010. It focused on the use of digital copyright. There were some goals but one of the main goals was related to the copyright provisions in the Bill, which meant to make it easier for copyright owners to realize their rights in a digital environment (Barron, 2011:315). The capability of copyright owners to control the actions of significant infringers is raised by the Act. For example, Section 3 of the Act provides that internet service providers (ISP) will have a duty to 'notify subscribers of copyright infringement reports'. Section 4 of the Act states that depending on a request by right holders or the request of a code by the Office of Communications, ISPs will have a duty to provide a 'copyright infringement list' to right holders (Griffin, 2010:251). Therefore, it can be considered that the digital age caused the rise of some statues, which have been mentioned above. It is fair to say that while these statues might have diverse doctrines or approaches against infringement, it is necessary to say that they play a key role to reduce the amount of online infringement of copyright.

Conclusion

In conclusion, it should be noted that the irrelevance of copyright in terms of a digital age has been the subject of widespread debate and contro-

versy. This article has attempted to assess critically some of the main arguments of the breadth of the discussion on the irrelevance of copyright in digital environments as has appeared amongst lawyers and academics. Although there are a considerable number of sources and approaches to define copyright as a property right, they indicate the same core principle of copyright which came down from Berne and Rome conventions. It also appears that the rise of mass digitization in the late XX century added a significant change in copyright law from replacing some old devices to making copyright much easier and faster. What is more, it destroyed boundaries between states creating the globalization of culture. An additional point is that digital environment led to a change in the system of copyright affecting it nationally and internationally and altering from the system of incentives to the system of protection copyright. In relation to the irrelevance of copyright, the essay demonstrates the multiplicity of problems around copyright such as peer-to-peer file sharing, illegal copying and piracy. In order to explain these infringement activities some examples have been given from case law, showing how they are detrimental for copyright holders. In order to explain file-sharing activity, some reasons for using communications protocols such as BitTorrent were given. While some people appear to say that copyright has outlived its usefulness or digital environment has destroyed copyright, making it irrelevant, copyright should be viewed as a useful and safe protection for copyright holders. The regulation of copyright by the acts such as Digital Millennium Copyright Act or Digital Economy Act is liable to emphasize this position. To summarize, I argue that despite the legal and technological challenges faced by it, the concept of copyright is still relevant in a digital age.

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ТРАНСШЕКАРАЛЫҚ СУДЫ ҚОРҒАУ САЛАСЫНДАҒЫ ХАЛЫҚАРАЛЫҚ ҚҰҚЫҚ ҚҰРАЛДАРЫ

Экологиялық қауіпсіздік жүйесінде трансшекаралық суды қорғау саласындағы проблемалар ерекше орын алады. Соңғы жарты ғасырда трансшекаралық су ресурстарына қатысты әлемде 500-ден астам халықаралық қақтығыстар орын алды. Трансшекаралық су ресурстарын пайдалану проблемалары су объектілерін үйлесімсіз салу, ластанудың ауысуы әрекеттеріндегі келіспеушіліктердің көзі болды. Сонымен бірге, БҰҰ деректері бойынша адамзат тарихында 3600-дан астам келісім жасалды, олардың көпшілігі кеме қатынасы, шекараларға, балық аулауға қатысты, ал XIX ғасырдың ортасынан бастап табиғи ресурс ретінде суды пайдалануды реттейтін 400-ден астам келісім жасалды. Мақалада ішкі суды және трансшекаралық өзендерді қорғау саласындағы халықаралық экологиялық құқықтың құралдары қарастырылады. Ішкі суларға қатысты құқық халықаралық экологиялық құқықтың көне бөлігіне жатады. Экологиялық проблемаларды реттеу элементтері бар алғашқы ережелер XVIII ғасырда пайда болды және негізінен трансшекаралық кеме қатынайтын өзендерді пайдалану мен қорғауға қатысты болды. Мақалада Еуропадағы трансшекаралық суға қатысты халықаралық құқықтың қарқынды дамуы көрсетіледі және трансшекаралық өзендерді қорғау саласындағы су қатынастарын реттейтін негізгі құжаттарға назар аударылады, сонымен қатар трансшекаралық суды қорғау саласындағы халықаралық экологиялық құқықтың құралдары ретінде халықаралық ұйымдардың рөлі қарастырылады.

Түйін сөздер: ішкі сулар, қорғау, трансшекаралық сулар, конвенция, қағида, ластану, комиссия, өзен бассейні.

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Instruments of international law in the sphere of transboundary water protection

In the system of ecological safety, problems in the field of transboundary water protection hold a special place. More than 500 international conflicts have taken place in the world over the past half-century concerning transboundary water resources. The problems of use of transboundary water resources were a source of disagreements in attempts of uncoordinated construction of water objects, transfer of pollution. At the same time, according to the UN, more than 3,600 agreements have been concluded in the history of mankind, most of them related to navigation, borders, fishing, and since the middle of the XIX century more than 400 agreements have been concluded regulating the use of water as a natural resource. The article considers the instruments of international law in the sphere of protection of internal waters and transboundary rivers. The law concerning internal waters belongs to the oldest part of the international ecological law. The first rules containing elements of a regulation of problems of the environment have arisen already in the XVIII century and generally concerned use and protection of the transboundary navigable rivers. In article it is shown the dynamic development of international law concerning transboundary waters in Europe, attention is paid to the basic documents regulating water relations in the sphere of protection of transboundary rivers and also the role of the international

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organizations as tools of the international ecological law in the sphere of protection of transboundary waters is considered.

Key words: internal waters, protection, transboundary waters, convention, principle, pollution, commission, river basin.

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Инструменты международного права в сфере охраны трансграничных вод

В системе экологической безопасности проблемы в сфере охраны трансграничных вод занимают особое место. В мире за последние полвека в отношении трансграничных водных ресурсов имело место более 500 международных конфликтов. Проблемы использования трансграничных водных ресурсов были источником разногласий при попытках несогласованного строительства водных объектов, переносе загрязнений. В то же время, по данным ООН, за всю историю человечества заключено более 3600 соглашений, большинство из которых касались судоходства, границ, рыболовства, а с середины XIX века заключено более 400 соглашений, регулирующих использование воды как природного ресурса. В статье рассматриваются инструменты международного права в сфере охраны внутренних вод и трансграничных рек. Право, касающееся внутренних вод, относится к старейшей части международного экологического права. Первые правила, содержащие элементы регламентации проблем окружающей среды, возникли уже в XVIII веке и в основном касались использования и охраны трансграничных судоходных рек. В статье показана динамика развития международного права, касающегося трансграничных вод в Европе, уделено внимание основополагающим документам, регулирующим водные отношения в сфере охраны трансграничных рек, а также рассматривается роль международных организаций как инструментов международного экологического права в сфере охраны трансграничных вод.

Ключевые слова: внутренние воды, охрана, трансграничные воды, конвенция, принцип, загрязнение, комиссия, бассейн реки**.**

Кіріспе

XXI ғасырдың басында әр түрлі аймақтардағы су объектілерінің, су тасқындарының және судың жетіспеушілігінің ластануы едәуір өсті. Әлем халқының алтыншы бөлігі – бір миллиардтан астам адам таза суға қол жеткізе алмайды. Сондықтан «адамның суға құқығы» үгіті жүргізілді, ал 2003 жыл «тұщы судың халықаралық жылы»[1] деп жарияланды. Трансшекаралық суларды қорғау (өзендер, көлдер, жер асты сулары) ерекше қиындықтармен байланысты. Су ресурстарына қатысты даулар көптеген халықаралық қақтығыстар тудырды, мысалы, Түркия мен Сирия, Израиль және Палестина автономиясы арасындағы қақтығыстар. Трансшекаралық сулар туралы халықаралық құқық нормалары су және тұщы су экожүйелері атқаратын көптеген функцияларды көрсетеді (McCaffrey, 2001: 514).

Сонымен қатар, ол осы жүйелерге тән зиян түрлерін анықтайды. Ішкі суларға қатысты құқық халықаралық экологиялық құқықтың ең көне бөлігіне жатады және ең толық реттеуді қамтиды.

Ғылыми зерттеу әдістері

Ғылыми мақаланың мақсаты трансшекаралық су ресурстарын пайдалану мен қорғауда халықаралық құқықтың қалыптасуы, дамуы және қазіргі жағдайының үдерісін қарау, оның ішінде осы саладағы негізгі халықаралық-құқықтық актілердің құқықтық мәртебесін және мазмұнын талдау.

Ғылыми зерттеулердің жалпы мақсатына жету үшін келесі әдістер пайдаланылды: Тарихи талдау әдісі және диалектикалық әдіс – трансшекаралық суларды пайдалану және оларды экологиялық қорғау бойынша мемлекеттердің әдеттегі құқықтық және заңнамалық тәжірибесін қалыптастыру мен дамытуды зерттеуде; жүйелік әдіс – негізгі ұғымдарды анықтау кезінде; салыстырмалы құқықтық әдіс – зерттеу саласындағы

[1] БҰҰ Бас Ассамблеясы 20.12.2000 ж. № 55/196 Қарары.

халықаралық құжаттардың нормаларын және ережелерін талдау кезінде.

Пікірсарап

Трансшекаралық суларды қорғау мәселелерін реттеуде халықаралық құқық саласындағы шетелдік және отандық ғалымдардың А.В. Вылегжанин, В.Л. Толстых, M.X. Stephen C. McCaffrey, Ю.Х. Рысбеков, М.О. Трояновская, М.А. Рязанова еңбектерінде бірқатар пікірталастар болды. Мәселені талқылау нәтижелері аталған ғалымдардың мақалалары, оқулықтары және монографияларында, сонымен қатар диссертациялық жұмыстарында көрініс тапты.

БҰҰ халықаралық су ағындарын кеме қатынасына емес қолдану құқығы туралы Конвенциясы қазіргі кезде трансшекаралық су ресурстарын басқарудың кешенді құқықтық негізін ұсынатын жалғыз құқықтық құжат болып табылады.

Т.Г. Калиниченко пікірінше Халықаралық су құқығын көптеген ұйымдар кодификациялауға тырысты: Халықаралық құқық институты, Халықаралық құқық ассоциациясы, Жеке құқықты унификациялау халықаралық институты. Біріккен Ұлттар Ұйымының Халықаралық құқық комиссиясы осы тақырыпты кодификациялауға алған. Халықаралық қауымдастық 1958 және 1982 жылғы Теңіз құқығы туралы БҰҰ конвенциялары сияқты тиісті конвенциялар даярлауы керек. Кодификация қайта қарау, түсіндіру, ескірген нормадан бас тарту, жаңа заң ережелерін қалыптастыру үшін жүзеге асырылуы қажет. Бұдан басқа, дәстүрлі нормалардың шарттық нормаларға айналуы керек (Калиниченко, 2005: 33).

К.А. Юлдашева көзқарасы бойынша көптеген елдерде өзендердің трансшекаралық су ресурстарының нақты анықталған мәртебесі жоқ (Юлдашева, 2010).

Нәтижесінде осы мәселені заңды түрде бекіту, трансшекаралық суларды қорғаудың маңызды мәселелері қарастырылатын кешенді құжат қажет. Оны дайындау кезінде трансшекаралық өзен мәселелерін реттейтін халықаралық шарттар туралы мәліметтер базасын жасау, осы шарттардың жіктелуін жасап, олардың тиімділігін талдау; әртүрлі экономикалық және құқықтық құралдарды қолдану арқылы трансшекаралық өзендерді тиімді пайдалану мен қорғау механизмін әзірлеу тәсілдерін анықтау қажет.

Негізгі бөлім

Алғашқы өркениеттердің пайда болуы ірі өзендермен Инд, Ганг, Ніл, Евфрат және Тигр байланысты болды. Ежелгі уақыттың өзінде су ресурстарының шектеулі мөлшерін пайдалану бойынша қақтығыстар пайда болды (Bruhac, 1993: 252).

XVIII ғасырда Еуропа мен Солтүстік Америкадағы өнеркәсіп пен сауданың өркендеуі су кеңістігін қарқынды пайдалануына әкелді. Бұл кезеңде үлкен өзендерде навигацияның өсуі болды. XIX ғасырдың ортасында индустрияландыру мен халықтың өсуі есебінен суды пайдаланудың жаңа түрлері дамыды. Өнеркәсіптік өндіріс және энергия өндірісі үшін суды (өзендер, каналдар, көлдер) пайдалану қажетті шарт болды. Навигация мақсатында су кеңістігін пайдалану саласында Ұлыбритания мен Америка Құрама Штаттары 1794 жылы жүк тасымалдау мәселелері бойынша алғашқы келісімшарт Джей шартына[1] қол қойды.

Л. Оппенгейм – Г. Лаутерпахт айтуынша, Джей Шарты бойынша екі ел де аралас комиссияларға маңызды шекаралық дауларды қарауға, сондай-ақ Ұлыбритания тарапынан теңіздегі әскери қақтығыстардың құқықтарын және АҚШ тарапынан бейтараптық міндеттемелерін орындауға қатысты барлық дауларын беруге уәде берді (Толстых, 2009: 255).

1794 жылы АҚШ пен Ұлыбритания арасындағы достық, сауда және навигация туралы қабылданған Джей туралы келісімге 19 қарашада Лондон арнайы комиссары, АҚШ Жоғарғы Сотының мүшесі Джей және Ұлыбритания Сыртқы істер министрі Лорд Гренвилл қол қойды. Келісімнің мақсаты 1783 жылғы Версаль шартында бірқатар мәселелерді орындамағаны туралы Құрама Корольдіктің және Құрама Штаттардың арасындағы дауларды шешу болды. Джейдің айтуынша, Құрама Штаттар мен Британ аралдарының арасында тасымалдауды жүзеге асыратын екі жақтың кемелері үшін келісімшарт сол режимді орнатқан, алайда Вест-Индиямен сауда жасайтын американдық кемелердің тоннасы 70 тоннаға шектелді. Бұл кемелерге тауарды Батыс Үндістаннан тек Құрама Штаттарға ғана экспорттауға рұқсат етілді. АҚШ-Канада шекарасындағы мүк саудасына рұқсат етілді және Миссисипи өзенінің бойындағы екі жақтың

[1] 19.11.1794 ж. Достық, сауда және теңізде жүзу туралы шарт.

да навигация құқығы бекітілді. 1783 ж. Версаль бейбітшілік шартына сәйкес Құрама Штаттарға шығарылған аумақтарда Ұлыбритания шекараларын тазалауға міндеттеме алды. Келісімде Америка Құрама Штаттарының Канадамен шекараларын және Солтүстік Американдағы 1775-83 жж. революциялық соғыс кезінде олар келтірген зиянды өтеуге байланысты тараптардың өзара мүліктік және қаржылық талаптарын реттеу үшін аралас англо-американдық комиссияларды құру қарастырылған. Джей келісімі 1795 ж. 24 маусымда АҚШ Сенатымен ратификацияланды, 1795 ж. 28 қазанда күшіне енді.

Джей келісімшартында АҚШ пен Канаданың аумақтық шекарасын анықтау үшін аралас комиссияларды құру, Англиядағы американдық азаматтардың қарызының мөлшерін анықтау және т.б. қарастырды. Егер британдық кемелерге Құрама Штаттардың барлық порттарына кіруге рұқсат етілген болса, американдықтар британдық Вест-Индиямен саудаға тек 70 тоннадан аспайтын кемелерде ғана рұқсат етілді. Кофе, какао. мақта, сірне, қант, кофе, какао тауарларын кіргізуге тыйым салынды. АҚШ-та Джей келісімі наразылық туғызды және келісім толық тең құқылы болған жоқ (Трояновская, 2016).

XVIII ғасырдың аяғында 1792 жылдың қараша айында француз конвенті Шельдт пен Маас өзендеріне қатысты (екеуі де Франция, Бельгия және Нидерланды арқылы өтетін) декрет қабылдады. Француз революциялық үкімет осы қаулыда бірде-бір халықтың әділетсіздік жасамай, өзенді пайдаланудың айрықша құқығын және жоғарыда тұрған тіршілік иелерінің бірдей артықшылықтарға ие болуын болдырмау құқығын өздігінен қолдана алмайтындығын жариялады (Французская буржуазная революция, 1941).

Трансшекаралық өзен суларын пайдалану туралы келісім Рейндегі кеме қатынасы бостандығын орнатқан 1814 жылғы Париж бейбітшілік шартында бекітілді, ал 1815 жылғы Вена конгресінің қорытынды актісінде Еуропадағы барлық халықаралық (кеме жүзетін) өзендерде: Эльбе мен Дунай бойында кеме жүзу еркіндігі қағидасы жарияланды. Атап айтқанда, халықаралық өзендерде кеме қатынасы сауда тасымалы үшін ашық болатыны және ешкімге тыйым салынбайтыны қарастырылды. Аумағы арқылы кеме жүзетін өзен өтетін немесе шекара ретінде қызмет ететін елдер осы өзен бойында кеме қатынасының ережелерін бірлесе белгілеу керек болды (Ключников, 1925: 116). Вена конгресінің қатысушылары трансшекаралық өзендердегі кеме қатынасын реттеу құқығы басқа мемлекеттердің қысымынсыз және араласуынсыз пайда болатын мәселелерді ерікті және әділ негізде шешетін жағалаудағы мемлекеттерге тиесілі деп санады. Бұл жағдай XIX ғ. ортасына дейін сақталды, бірақ содан кейін халықаралық кеме қатынасы өзендерінің құқықтық режимі дамыған капиталистік державалардың қысымы, олардың жағалаудағы мемлекеттердің істеріне араласуы немесе отаршылдықтың кеңею жағдайында бұрынғыдан да орнықтырылды.

Мәселен, отарлау мәселелері бойынша 1884-1885 жылғы Берлин конференциясында 14 мемлекеттің қатысуымен (Германия, Франция, Ұлыбритания, Ресей, Бельгия, Португалия және Құрама Штаттары қоса алғанда) Конго бассейнінде және оның Үнді мұхитқа дейінгі жақын аудандарында сауда және қозғалыс еркіндігі туралы шешім қабылданды. Конго өзенінде кеме қатынасы жөніндегі халықаралық комиссия бекітілді және кеме қатынасы мәселелері реттелінді. Дегенмен, іс жүзінде комиссия құрылмады және сауда кеме қатынасы еркіндігі тек оны құрған отаршылдық күштермен ғана пайдаланылды (Мартенс, 1899: 695).

Халықаралық сот мекемелерінің рөлі трансшекаралық су ресурстары институтын кодификациялауды жеңілдететін халықаралық құқықтық дәстүрді анықтау болып табылады. Бұған мысал – 1929 жылы қаралған Одер өзені бойынша іс болып табылады (Permanent court of...).

1929 жылы Халықаралық әділ соттың тұрақты Палатасы Одер бойынша комиссия туралы іс бойынша шешімде шектес мемлекеттердің кеме қатынасына қатысты мүдделері «жалпы құқықтың негізі» болып табылатынын анықтады, ол бойынша өзенді барлық ағысы бойынша қолдануда барлық жағалау мемлекеттерінің толық теңдігі және бір жағалау мемлекеттерінің басқаларымен салыстырғандағы кез келген артықшылықтарын алып тастау керектігі айтылды (№ 5, 23, 27 шешімдері). Бүгінгі күні ірі еуропалық өзендерде кеме қатынасы еркіндігі халықаралық құқықпен қамтамасыз етілген. Трансшекаралық суларды кеме қатынасына емес мақсатта пайдалану жиі қақтығыстарды тудырады. Аймақтың климаттық жағдайы және әлеуметтік-экономикалық жағдайына қарай сандық (суды жинау) немесе сапалы мәселелер (судың ластануы) алдыңғы қатарға шығарылады. Сандық мәселелер бойынша әдеттегі қақтығыс өзеннің жоғарғы ағысындағы мемлекеттің өзеннің төменгі жағындағы

мемлекеттердің зарарына суды бөгеуі болып табылады.

Қолдану мен қорғауға қатысты қарама-қайшы мүдделердің теңдігіне қатысты қағидалар сапаға (судың ластануы) қатысты сұрақтар бойынша дауларды шешу процесінде пайда болды: елеулі трансшекаралық зиян келтіруге тыйым салу 1937 ж. Маас өзені бойынша делимитациялау туралы іс бойынша Халықаралық әділ соттың тұрақты палатасының шешімінің және 1957 ж. Лану көлі ісі бойынша арбитражды шешімінің пәнін құрады. Трансшекаралық су ресурстарын тұрақты бірлесе қолдану қағидасы федеративті негізде құрылған мемлекеттерде, мысалы Швейцария[1], АҚШ[2], Германияда[3] шиеленістерге қатысты сот шешімдерінде көрсетілген. Бұл қағиданың халықаралық құқықпен мойындалуы оның заңды міндеттемейтін 1966 ж. Халықаралық өзендер суларын қолдану Хельсинки ережелерінде бекітілуіне мүмкіндік берді[4] (Рысбеков, 2011).

Залал келтірмеу және трансшекаралық су ресурстарын тұрақты бірлесе қолдану қағидасы 1997 ж. БҰҰ Халықаралық су ағындарын қолданудың кеме жүрмейтін түрлері құқығы туралы Конвенциясында кодификацияланды (Convention on the.., 1997). Сонымен қатар БҰҰ Халықаралық сотының Габчиково-Надьмарош жобасы туралы дау бойынша шешімінде расталды[5].

1977 жылы Чехословакия мен Венгрия арасындағы Өзара экономикалық көмек жөніндегі кеңес шеңберінде Дунайдағы құрылыс туралы келісімге және болашақта Габчиково (Чехословакия) және Надьмарош (Венгрия) қалаларында өзара байланысты екі гидроэлектростанция кешенін бірлесе пайдалану туралы келісімге қол қойылды. 1988 жылы Венгрия үкіметі жобаның өз бөлігін орындаудан бас тартты, ал 1989 жылы Венгрия жобадан шығады. Экономикалық ынтымақтастық жөніндегі кеңес ыдырағаннан кейін Словакия Дунайды біржақты тәртіппен жауып тастады және Гавчиководағы ГЭС-тің бөлігінде қақтығысты тудырды (Краткое изложение решений.., 2006).

XX ғ. 90-жылдардың басында, социалистік лагерь құлағаннан кейін және Өзара экономикалық көмек жөніндегі кеңес таратылғаннан кейін, Надьмарош-Габчиководағы гидроэлектрстанциялар кешені құрылысының айналасында жаңжалды жағдай пайда болды. Венгрия мен Чехословакия бір-біріне экологиялық, экономикалық, саяси сипаттағы, тіпті мемлекеттік шекараның өту сызығын (Словакияның пайдасына) өзгерту талабына дейін әртүрлі өзара талаптарды көрсете бастады. Словакиядағы гидроэлектростанция құрылысы Словакия мен Венгрия арасындағы қарым-қатынастарындағы терең дағдарысқа себеп болды. Словакияның гидроэнергетикалық орталығын іске қосқаннан кейін, Братислава мен Будапешт арасындағы дау ұзаққа созылған халықаралық қақтығысқа айналды. 1992 ж. Венгрия Словакияға Халықаралық Сотқа, Еуропадағы қауіпсіздік және ынтымақтастық кеңесіне, БҰҰ Қауіпсіздік кеңесіне шағым берді. Габчиково-Надьмарош ісі Халықаралық сот қарауға қабылдаған халықаралық «су даулары» арасындағы алғашқы іс болды (Рысбеков, 2009: 84 б).

Бұл іс жалпы табиғи ресурстарды бірлесе қолдану тұжырымдамасына маңызды үлес қосты. Сот атап өткендей, Чехословакия бірлескен ресурсты біржақты бақылауды жүзеге асыру арқылы халықаралық құқықты бұзды және Венгрияны Дунай өзенінің табиғи ресурстарын пайдалануда әділ және негізді үлесті алу құқығынан айырды (Вылегжанин, 2012: 330).

XIX ғасырда суды қорғаудың сандық және сапалық аспектілері бойынша бірқатар мемлекетаралық келісімдер жасалған соң, XX ғасырда халықаралық келісімдер саны тұрақты өсті. Солтүстік Америкада негізінде Халықаралық біріккен комиссия құрылған 1909 жылғы 11 қаңтардағы шекара сулары туралы шарт шекаралық суларға қатысты АҚШ пен Канада арасындағы ынтымақтастықтың институционалдық негізін орнатты[6] (Utton, 1991).

Еуропадағы маңызды серпін Екінші дүниежүзілік соғыстан кейін Рейндегі жағалау мемлекеттердің ынтымақтастығы нәтижесінде туындаған.

Швейцариядан ағысы басталатын Рейн бассейні Боден көлі арқылы өтіп, 1320 км-де Солтүстік теңізге құяды, тоғыз елде 50 миллион адам тұрады. XIX ғасырда арнасы түзетіліп және каналдармен байланыстырылған өзен XX ғасырдың ортасында ластанудың өте жоғары

[1] 1878 ж. және 1892 ж. Швейцарияның Федеративті соттарының шешімдері туралы

[2] Канзас және Колорадо штаттары арасындағы дау

[3] 1927 ж. Дунайдың жер астына кетуі туралы дау бойынша Веймар Республикасы Конституциялық соты шешімі

[4] 1966 ж. Хельсинкиде өткен елу екінші Конференция есебі

[5] БҰҰ Халықаралық сотының № 92 шешімі

[6] 1909 ж. 11 қаңтардағы АҚШ пен Канада арасындағы шекараласу туралы АҚШ пен Ұлыбритания арасындағы шарт

деңгейіне жетті. 1950 жылы одан әрі ластанудың алдын алу мақсатында Рейнді ластанудан қорғау жөніндегі Халықаралық комиссия құрылды. Құрамында Швейцария, Франция, Германия, Люксембург және Нидерланды бар жағадағы мемлекеттермен құрылған бұл бейресми орган 1963 жылы ресми мәртебеге ие болды[1].

1979 жылы күшіне енген Рейнді химиялық ластанудан қорғау туралы конвенция белгілі бір зиянды заттардың шығарылуын азайту арқылы судың сапасын жақсартуға ұмтылды (Lammers, 1984).

Алайда Конвенция үмітті ақтамады. Әсіресе, зиянды деп жіктелген заттардың барынша рұқсат етілген мөлшерін белгілеу қиынға соқты (Nollkaemper, 1996).

Рейн бассейніндегі ынтымақтастық Рейннің өзін қорғауымен шектелмейді. 1960 жылдардың басында Боден, Мозель және Саар өзендері бойынша халықаралық комиссиялар құрылды. Комиссия жағадағы мемлекеттердің суды ластанудан қорғау және Рейн бассейніндегі басқа комиссиялармен ынтымақтастық жөніндегі қызметін үйлестіреді.

Германия, Франция және Люксембург жағадағы мемлекеттер ретінде 1961 жылы Мозельді ластанудан қорғау жөніндегі халықаралық комиссия құрған болатын. Сонымен қатар, Германия мен Франция тиісті комиссия құру бойынша Саар туралы бірдей хаттамаға қол қойды. Суларды қорғау бойынша бірлескен қызметті, атап айтқанда, басқа ұйымдармен үйлестіруді жетілдіру мақсатында, 1991 жылы екі комиссия Трирде бірлескен хатшылық құрды.

Боден көлінің бассейні Германияның, Австрияның, Швейцарияның, Лихтенштейннің және Италияның аумағында орналасқан. Көлдің аумақтық мәртебесі толығымен реттелмеген, дегенмен жағадағы мемлекеттер суды қорғауға да қатысы бар бірқатар келісімдерде пайдалану режимін анықтады. Боден көлінің суларын қорғау жөніндегі халықаралық комиссия 1959 жылы Боден көлін ластанудан қорғау туралы Келісім негізінде құрылған. Келісім 1961 жылы күшіне енген Комиссия 1967 жылы Боден көлін санитарлық қорғау жөніндегі директивалар дайындады, олар үнемі жаңарып отырды (Lake Constance/Bodensee...).

Германия, Австрия және Швейцария 1966 жылы Боден көлінен Су алуды реттеу туралы келісімде сандық көрсеткіштерді анықтады. 1973 жылы Германия, Австрия және Швейцария арасында жасалған Боден көлі бойынша кеме қатынасы туралы келісім қосымша ластау көздерін реттеуді көздейді. Осы Келісімнің негізінде, Боден көлі бойынша кеме қатынасының халықаралық комиссиясы құрылды. Сонымен бірге, Швейцария мен Германия Констанц пен Шаффхаузен арасындағы Төменгі көл және Рейн бойынша кеме қатынасы туралы келісіміге қол қойды (Transboundary Rivers and.., 1996)

Алғашқы проблемалар 1986 жылы 1 қарашада Базельге жақын химиялық заттар қоймасында өрт шыққан кезде және Рейнде бірнеше тонна улы заттардың өртті сөндіру суымен бірге Рейнде қалуы кезінде пайда болды, нәтижесінде өзен экожүйесі ұзындығы 200 км зақымдалды.

Апаттан кейін әзірленіп 1987 жылдың 1 қазанында қабылданған, сондай-ақ, Мозелль мен Саарға дейін таралған «Рейн іс-қимыл бағдарламасы», жағадағы мемлекеттер алдына нақты мақсаттар қойды. Өзен экожүйесінің жағдайын бұрын мекендеген түрлерді, мысалы, албыртты қайтадан Рейнде пайда болатындай қалпына келтіру керек болды. Сонымен қатар, өзен ауыз су көзі болуға тиіс болды. Бағдарлама өзендегі шөгінділердегі зиянды заттардың құрамын азайтуды да мақсат етті. Осы міндеттерді орындау «Албырт 2000» бағдарламасы бойынша жүзеге асырылды.

1986 жылғы 1 қарашада Еуропадағы ең ірі экологиялық апаттардың бірі Рейнде болды. Швейцарияның Базель қаласындағы Сандос химия зауытында өрт 30 тонна пестицидтер, сынап және басқа да ауылшаруашылық химия өнімдерін өзенге шығаруға әкелді. Рейн қызыл түске ие болып, өзен аймағындағы адамдарға үйден кетуге тыйым салынды, Германияның кейбір қалаларында су құбырлары жабылды. Ластану 10 күн ішінде Солтүстік теңізге жетіп, нәтижесінде, кейбір бағалаулар бойынша, жарты миллион балық қаза болды, кейбір түрлері мүлдем жоғалып кетті.

Қоғамдық қарқынды әсерден кейін, 1987 жылы 2000 жылға дейін есептелген «Рейн іс-қимыл бағдарламасы» қабылданды. Сондай-ақ ол «Албырт 2000» деп аталды, себебі ол осы күнге дейін сезімтал балықты өзенге қайтаруға бағытталған болды. Биліктің белсенді іс-әрекеттерінің нәтижесінде өзенге шығарылатын нитраттар мен фосфордың мөлшері 50%-ға, ал кейбір басқа ластану 80%-дан 100%-ға дейін төмендеді. Албырт 1997 жылы өзенге қайта оралды. Қазіргі кезде «Рейн-2020» бағдарламасы

[1] Рейнді ластанудан қорғау жөніндегі Халықаралық комиссия құру туралы Берн келісімі

өзенді жүзу үшін жеткілікті түрде тазартуға бағытталған (Буровский, 2015: 450).

«Рейн» және «Албырт 2000» іс-қимыл бағдарламалары өз мақсаттарына қол жеткізді және оларды ішінара асырды. Бағдарламаларды жүзеге асыруға заңды міндеттемелердің жоқтығын өтеп, су қорғау саласындағы халықаралық ынтымақтастықтың жаңа бағдарларына ықпал еткен ең күшті саяси қысым көмек берді.

Қазіргі уақытта трансшекаралық ағындарды пайдалану мен қорғауды реттейтін екі әмбебап халықаралық құжат қабылданды. Оларға 1992 жылғы Трансшекаралық су ағындары мен халықаралық көлдерді қорғау және пайдалану туралы конвенция, 1997 жылы Халықаралық су ағындарын кеме қатынасына емес қолдану құқығы туралы конвенция жатады.

Көпжақты халықаралық шартқа БҰҰ ЕЭК 1992 жылғы Трансшекаралық су ағындары мен халықаралық көлдерді қорғау және пайдалану туралы конвенция жатады. Конвенция 1996 жылы 6 қазанда күшіне енген және оның аймақтық бағытта болуына қарамастан (аймақтағы 56 ел), 2003 жылдан бастап басқа өңірлердегі мемлекеттердің Конвенцияға қосылуға жол берілетіндіктен ол әмбебап деп аталына алады (Convention on protection.., 1992)

Рамолық конвенция қатысушы мемлекеттерді тұрақты даму тұжырымдамасын дамытатын трансшекаралық суларға қатысты белгілі бір принциптер мен шараларды жүзеге асыруды міндеттейді. Осы негізде он жыл аясында субаймақтық деңгейде келісімдер бекітілген: Маас (1994 және 2002), Шельдт (1994), Дунай (1994), Одер (1996) өзендері, португалдық-испандық шекара сулары бойынша (1998 ж.) және Рейн (1999) өзені бойынша конвенциялар мен келісімдер. Бұл құжаттардың жинағына Эльбаны қорғау жөніндегі халықаралық комиссия туралы келісім[1], Германияның Нидерланды, Польша және Чехиямен жасасқан шекаралық су туралы келісімдері жатады.

Дүниежүзілік денсаулық ұйымымен бірлесе Трансшекаралық ағын сулар мен халықаралық көлдерді қорғау және қолдану туралы 1992 жылғы Конвенцияға Су мен денсаулық туралы хаттамаға қол қойылды. Хаттамаға 1999 жылы 36 мемлекет қол қойды. (Bosnjakovic, 2009). БҰҰ ЕЭК Су ағындары туралы Конвенциясына қатысушылардың тұрақты ынтымақтастығы Женевадағы хатшылықтың қолдауымен жүзеге асырылады. Осы Конвенцияның негізінде халықаралық форумдар мен сараптамалық бірлестіктердің тиімді жүйесі құрылды.

XXI ғ. күн тәртібінде экожүйелерді қорғауға бағытталған шаруашылық ауқымда суды кешенді пайдалануды дамыту туралы талап ұсынылған болатын. Су экожүйелерінің жұмыс істеуін қамтамасыз ету үшін су ресурстарын кешенді басқару су қоймасына тұтастай алғанда қолданылуы керек.

1992 жылғы БҰҰ ЕЭК Су ағындары туралы Конвенциясының 2-бабының 6-тармағына сәйкес су ағыны ғана емес, сонымен бірге оның қоршаған ортасы да қорғауға жатады (Convention on protection.., 1992). Дунайды қорғау жөніндегі конвенцияның пәні өзеннің бүкіл гидрологиялық аумағы яғни өзен бассейнінің экожүйесі болып табылады. Рейнді қорғау туралы конвенцияның ауқымы өзеннің негізгі ағынын, сондай-ақ онымен байланысты жер асты суларын қамтиды.

Кешенді көзқарасқа сәйкес, БҰҰ ЕЭК Рамолық конвенциясы мен оған негізделген арнайы келісімдер судың әртүрлі антропогендік қысымын реттеуге бағытталған. Судың сапасын жақсарту арқылы теңіз ортасын қорғау қамтамасыз етілуі тиіс. Конвенциялар су көздерін ұтымды пайдалану және сақтау туралы міндеттемелерді қамтитындықтан сандық аспектілерді де қозғайды.

БҰҰ ЕЭК Конвенциясының 9-бабының 2-тармағының ұсынысы жағадағы мемлекеттердің бірлескен органдарын құруды көздейді. Суды қорғау жөніндегі халықаралық комиссиялардан басқа, мысалы, Эльба, Маас, Шельда және Одер, Дунайды қорғау жөніндегі Халықаралық комиссия (Дунай туралы Конвенция) және Рейнді қорғау жөніндегі Халықаралық комиссия (Рейн туралы Конвенция) құрылған.

Еуропалық одақта 2000 жылы 22 желтоқсанда Су саясаты туралы Рамолық директива күшіне енді[2]. Ол жерасты суларын қоса алғанда аумақтағы барлық су объектілеріне қолданылады. Директива ЕО-қа мүше мемлекеттердің су заңнамаларын түбегейлі өзгерістуге бағытталған. Ол жер үсті суларын, жағадағы теңіз суын және жер асты суларын қорғаудың рамолық рәсімін белгілейді. Директиваның мақсаты функционалдық әртүрлілікті ескере отырып, оны кешенді пайдалану (Директива Европейского парламента.., 2000)

[1] 1990 ж. 8 қазандағы Эльбаны қорғау бойынша Халықаралық комиссия туралы келісім

[2] 2000 ж. 23 қазандағы Еуропа Парламенті мен Кеңесінің 2000/60/EG Директивасы Қауымдастықтың су саясаты саласындағы қызмет шегін бекітті

Еуропадан тыс трансшекаралық суларды қорғау туралы халықаралық құқық аз серпінді дамыды. Бірнеше ондаған жылдарға созылған Халықаралық құқық Комиссиясы шегіндегі келіссөздер нәтижесінде, 1997 жылы Халықаралық су ағындарын кеме қатынасына емес қолдану құқығы туралы конвенция қабылданды (Convention on the.., 1997). ЕО қосқанда 35 мемлекетпен ратификациялаған БҰҰ ЕЭК су ағындары туралы Конвенция трансшекаралық суларды пайдалану кезіндегі әрбір тараптың міндеттерін (2-8-бап), сондайақ трансшекаралық су ағыны бір жағалау аймағында шекаралас мемлекеттер ретіндегі тараптардың міндеттерін саралайды (9-16 баптар) (Convention on the.., 1997).

35 мемлекет – Конвенцияның 36-бабы 1-тармағының ережелеріне сәйкес күшіне ену үшін қажетті ратификациялаудың ең аз саны. Қазіргі уақытта Конвенцияның қатысушылары: Скандинавия елдері, Еуропалық Одаққа мүше мемлекеттер (Венгрия, Германия, Греция, Испания, Италия, Люксембург, Нидерланды, Португалия, Франция), еуропалық мемлекеттер (Ұлыбритания, Ирландия, Черногория, Таяу Шығыс елдері (Иордания, Ливан, Катар, Йемен), бірқатар африкалық мемлекеттер, сондайақ Орталық Азияның бір мемлекеті – Өзбекстан болып табылады.

Аталған Конвенция 1997 жылы қабылданғаннан соң 17 жыл өткеннен кейін 2014 жылдың 17 тамызында күшіне енді. 1997 жылы Конвенция кодификациялау актісі ретінде бұрын әдеттегі құқық, жұмсақ құқық, іс жүргізу құқығы актілері және халықаралық құқықтың жекелеген жалпы қағидалары түрінде қолданылған су ағындарын қорғау мен пайдаланудың әр түрлі ережелерін жинақтайды (Рязанова, 2016)

1997 ж. Халықаралық конвенциядан басқа трансшекаралық суларды қорғауды көздейтін аймақтық келісімдерге: 1978 жылғы 22 қарашадағы АҚШ пен Канада арасындағы Ұлы көлдерде судың сапасы туралы келісім; 1978 жылғы 3 шілдедегі Боливия, Бразилия, Колумбия, Эквадор, Гайана, Перу, Суринам және Венесуэла арасындағы Амазон өзенінің бассейнінде ынтымақтастық туралы келісім; 1979 жылғы 19 қазанда Паранадағы Аргентина, Парагвай және Бразилия арасындағы ГЭС-ның бірлескен құрылысы туралы үкімет келісімі; 1987 жылғы 28 мамырдағы Ботсвана, Мозамбик, Танзания, Замбия және Зимбабве арасында ортақ Замбези өзенінің жүйесін экологиялық ұтымды басқару бойынша іс-шаралар жоспары туралы келісім, 1996 жылғы 2 желтоқсандағы Бангладеш пен Үндістан арасындағы Фараккедағы Ганг өзенінің суларын бірлесе қолдану туралы шарт жатады.

Трансшекаралық суды басқаруға бірнеше халықаралық ұйымдар үлес қосады. Халықаралық су ассоциациясы (International Water Association) Ұлыбританияда құрылған және оған шамамен 130 мемлекет (олардың ұлттық комитеттері арқылы), 750-ден астам ұйым және 9 мыңға жуық жеке адам қатысады. Оның мақсаты тұщы су қоймаларының жағдайын жақсарту. Ол ауыз сумен қоса, сумен жабдықтау, сумен қамтамасыз ету, жалпы су сапасын басқару мәселелерімен айналысады. Қауымдастықтың айрықша құзыреттілігі саласында ең жаңа басқару технологияларын жасау және енгізу, қоршаған ортаны бақылау және халықаралық өзендердің жалпы мәселелерін жариялау болып табылады. Қауымдастықтың құзыретіне кіретін басқа да мәселелер су ресурстарын басқару бойынша БҰҰ-ның уәкілетті ұйымдарымен бірлесіп жұмыс жасау, Дүниежүзілік су кеңесіне (World Water Council), Дүниежүзілік су әріптестігі бағдарламасына (Global Water Partnership) және Сумен қамтамасыз ету және суды тазалау бойынша консультативтік кеңестің (Collaborative Council on Water Supply and Sanitation) жұмысына қатысу болып табылады. Қауымдастық су ресурстарын басқарумен айналысатын негізгі халықаралық қауымдастықтардың арасындағы топтарды байланыстыратын Су ресурстары бойынша қауымдастықтардың өзара әрекеті жөніндегі халықаралық комитеттің құрылтайшысы болды (International Water Association...). Су бойынша халықаралық зерттеу қауымдастығы (International Water Resources Association) 1971 жылы құрылған және су шаруашылығын басқару мәселелерімен айналысады, бұл басшылықтың барлық аспектілеріне – биологиялық және химиялықтан бастап институционалдық және әлеуметтік-экономикалық мәселелерге дейін назар аударады. Ол Халықаралық су журналын (Water International Journal – WIN) жариялайды (International Water Resources...) Еуропалық су ассоциациясы (European Water Association) 1981 жылы су ресурстарын басқару мен жақсартуға және су ресурстарын пайдаланудың барлық мәселелеріне арналған тәуелсіз үкіметтік емес және коммерциялық емес ұйым ретінде құрылды. Оның жұмысына Орталық және Шығыс Еуропаның барлығына жуық мемлекеттерінің өкілдері, соның ішінде ЕО, Норвегия және

Швейцария, сондай-ақ бұрынғы КСРО елдерінің көпшілігі қатысады. Ассоциацияның мақсаты – су ресурстарын басқару мәселелері бойынша конференцияларды, кездесулерді және жұмыс топтарын ұйымдастыру арқылы соңғы техникалық және басқарушылық әзірлемелер туралы ақпарат беру. Ол Еуропалық су ресурстарын басқару журналын шығарады және Еуропалық қоршаған ортаны қорғау агенттігінің Европа бойынша Бас директоратымен, Еуропалық стандарттау жөніндегі комитетімен, Еуропалық қоршаған орта агенттігімен және Еуропалық парламентпен бірлесе байланыс жасай отырып жұмыс атқарады. Қауымдастық құрамына еуропалық елдердің 29 ұлттық бірлестігі кіреді (European Water Association...). Халықаралық су шаруашылығы институты – дамушы елдерде су шаруашылығын басқару және су ресурстарын ауыл шаруашылығында қолдану мәселелерімен айналысатын ғылыми-зерттеу ұйымы (International Water Management…). Трансшекаралық су ресурстары мәселесін шешуге бағытталған қызметте басты орынды БҰҰ-ның шеңберінде қабылданған Жаһандық су серіктестігі халықаралық бағдарламасы (Global Water Partnership*)* алады. Оның қызметі су бойынша трансшекаралық бастамаларды, соның ішінде трансшекаралық су ресурстарын тиімді басқару жүйесін тереңдете құруға бағытталған (Transboundary Cooperation...). Осыған байланысты Ніл өзенінің бассейні маңызды, өйткені оның аумағында көптеген елдер орналасқан: Бурунди, Конго, Египет, Эритрея, Эфиопия, Кения, Руанда, Судан, Танзания, Уганда, сондай-ақ, Ангола, Ботсвана, Лесото, Маврикий, Мозамбик, Намибия, Свазиленд, Танзания, ОАР, Замбия және Зимбабвені қосатын Оңтүстік Африка мемлекеттерінің достығы. Трансшекаралық су ресурстары мәселелерімен басқа да ұйымдар, соның ішінде ЮНЕСКО, Дүниежүзілік банк, Дүниежүзілік денсаулық сақтау ұйымы, түрлі институттар, қорлар және т.б. айналысады. XX ғасырдың соңғы онжылдығында осы ұйымдардың көпшілігі жұмысын кеңейтуге, бірлестіктерге біріктіруге және т.б. тенденциясы байқалды. Себебі, бүгінгі күні үнемі ақпарат алмасусыз ресурстарды басқарудың өзекті мәселелерімен айналысу қиынға соғуда. Сонымен қатар, бүгінгі күні осы ұйымдардың алдында тұрған проблемалар өткен мәселелермен салыстырғанда әлдеқайда күрделі.

Қорытынды

Көптеген мәселелер, мысалы, XX ғасырдың ортасы – гидроэлектростанциялардың құрылысы, навигация және басқалары – қазір көптеген өңірлерде шешілген немесе олар бойынша нақты әзірленген өзара әрекеттесу құрылымы бар. Бүгінгі проблемалар – ағынды суларды бақылау, сумен жабдықтауды, суды және жағалаудағы аудандардың ластануы барлық мүдделі мемлекеттер мен білікті мамандардың қатысуын талап етеді. Сонымен бірге трансшекаралық су ресурстарын басқарудың, оның ішінде әлеуметтік-экономикалық мәселелердің барлық аспектілері бойынша ынтымақтасу қажет. Осы себепті трансшекаралық су ресурстарын басқарумен айналысатын үкіметтік емес ұйымдардың болуы заңды және негізді болып көрінеді.

Қазіргі заманғы халықаралық құқық теоретиктерінің пікірінше, БҰҰ халықаралық су ағындарын кеме қатынасына емес қолдану құқығы туралы Конвенциясы «трансшекаралық су ресурстарын басқарудың кешенді құқықтық негізін ұсынатын жалғыз құқықтық құжат» болып табылады (Калиниченко, 2005: 33). Ол ортақ су ағындарына қатысты мемлекеттердің әрекетін анықтайтын екі негізгі қағиданы белгілейді – әділ және ұтымды пайдалану және шекаралас мемлекетке елеулі зиян келтірмеу міндеті.

Су бақылау арқылы елдің экономикасын және әлеуметтік саласын табысты модернизациялауға мүмкіндік беретін маңызды геоэкономикалық және стратегиялық даму ресурсы болып табылады.

Елдер арасындағы су қатынастарын реттеу экономикалық және экологиялық қауіпсіздік тұрғысынан өте маңызды. Бұл міндет өзендердің су балансын сақтауға, трансшекаралық ағын су ресурстарын бірлесе пайдалану мен қорғауда ортақ ұстанымды қалыптастыруға, олардың ластануына және сарқылуына жол бермеуге бағытталуы керек.

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INTERNATIONAL LEGAL REGULATION OF FOOD SAFETY ON THE EXAMPLE OF THE EUROPEAN UNION AND THE EURASIAN ECONOMIC UNION

The problem of food safety has been one of the most pressing issues for many centuries. But over the last three decades this issue has become more acute. Today unsafe foods represent not only a huge danger to everyone's health, but also one of the most important global threats to healthcare and food security. Therefore, ensuring food safety is one of the main factors determining people's health, and the most important task and responsibility of all States and the world community as a whole.

The main purpose of this research is to study the international legal experience of the ensuring food safety on the example of the two largest regional integration associations-the European Union and the Eurasian economic Union. As part of this study, the food legislation of the EU and the EAEU was considered, as well as a comparative analysis of the most important provisions and parameters of the main legal documents in this area with the use of the synchronic method of comparative research. In order to obtain more detailed and reliable information on the issues of the studied topic, the article considered various scientific works and studies of many foreign, domestic and Russian scientists, as well as guides, collections, brochures and guidance materials of such international and national organizations as FAO, WHO, IFC and «KAZNEX INVEST». As a result, the study identified the main differences and similarities, as well as the advantages and disadvantages of the two food laws. Given the fact that the problem of food safety covers the interests of everyone and all countries of the world, to date, there is not much studies devoted to the international legal and comparative analysis of regulatory documents of the EU, the EAEU and the Republic of Kazakhstan, regarding food safety. Therefore, this research article will allow to get acquainted not only with the basic legal framework, but also the basic requirements of the EU and the Eurasian economic Union in ensuring food security.

Key words: food safety, the European Union, the EAEC, food.

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Еуропалық Одақ пен Еуразиялық Экономикалық Одақ үлгісінде азық-түлік өнімдерінің қауіпсіздігін халықаралық-құқықтық реттеу

Тамақтанудағы қауіпсіздік мәселесі көптеген ғасырлар бойы өзекті мәселелердің бірі болып табылады. Дегенмен соңғы үш жылда аталған сұрақ неғұрлым өткір сипат алуда.

Қазіргі таңда қауіпсіз емес тамақтар тек адам денсаулығы үшін қауіпті ғана емес, сондай-ақ денсаулық сақтау саласы мен азық-түлік қауіпсіздігіндегі ғаламдық қауіптің бірін құрайды. Сондықтан азық-түліктің қауіпсіздігін қамтамасыз ету адам денсаулығын анықтайтын маңызды

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факторлардың бірін құрайды және мемлекеттің, жалпы тұтастай әлемдік қоғамдастықтың маңызды міндеті болып табылады.

Аталған зерттеудің негізгі мақсаты азық-түлік қауіпсіздігін қамтамасыз етудегі негізгі екі ірі аймақтық интеграциялық одақ – Европалық Одақ пен Евразиялық экономикалық одақ үлгісіндегі әлемдік-құқықтық тәжірибені зерттеу. Аталған жұмыс аясында ЕО пен ЕАЭО азық-түлік заңдарын қарастыру, сондай-ақ осы саладағы негізгі құқықтық құжаттардың негізгі ережелері мен параметрлерін салыстырмалы зерттеудегі синхронды әдісті қолдана отырып салыстырмалы анализ жасалды. Мақаладағы зерттеліп отырған тақырып сұрақтары бойынша толық және жан-жақты ақпарат алу мақсатында әртүрлі отандық, ресейлік және көптеген шетелдік зерттеу жұмыстары, жинақтар, брошюралар мен ФАО, ДДҰ, ХҚК және «KAZNEX INVEST» секілді ұлттық және дүниежүзілік ұйымдардың нұсқау материалдары қарастырылды.

Жүргізілген зерттеу жұмысы нәтижесінде ЕО пен ЕАЭО азық-түлік қауіпсіздігі саласындағы заңдардың ұқсастығы мен өзгешелігі, өзекті мәселелері мен келешегі анықталды.

Аталған мақала ЕО пен ЕАЭО азық-түлік қауіпсіздігін қамтамасыз ету саласында негізгі нормативтік-құқықтық талаптармен танысуға мүмкіндік береді.

Түйін сөздер: тамақтану қауіпсіздігі, Еуропалық Одақ, ЕАЭО, азық-түлік өнімдері.

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Международно-правовое регулирование безопасности пищевых продуктов на примере Европейского Союза и Евразийского Экономического Союза

Проблема безопасности питания является одной из актуальнейших тем на протяжении многих столетий. Но за последние три десятилетия данный вопрос стал приобретать более острый характер. Сегодня небезопасные продукты питания представляют собой не только огромную опасность для здоровья каждого человека, но и одну из значимых глобальных угроз в области здравоохранения и продовольственной безопасности. Поэтому обеспечение безопасности продуктов питания является одним из главных факторов, определяющих здоровье людей, и важнейшей задачей и обязанностью всех государств и мирового сообщества в целом.

Основной целью данного исследования является изучение международно-правового опыта обеспечения безопасности пищевых продуктов на примере двух крупнейших региональных интеграционных объединений – Европейского Союза и Евразийского Экономического Союза. В рамках данной работы было рассмотрено продовольственное законодательство ЕС и ЕАЭС, а также проведен сравнительный анализ важнейших положений и параметров основных правовых документов в данной сфере с применением синхронического метода сравнительного исследования. С целью получения более подробной и достоверной информации по вопросам исследуемой темы в статье были рассмотрены различные научные работы и исследования многих зарубежных, отечественных и российских ученых, а также руководства, сборники, брошюры и инструктивные материалы таких международных и национальных организаций, как ФАО, ВОЗ, МФК и «KAZNEX INVEST». В результате проведенного исследования были определены основные различия и сходства, а также проблемы и перспективы законодательства в области пищевой безопасности ЕС и ЕАЭС. Данная статья позволит ознакомиться с основными нормативно-правовыми требованиями ЕС и ЕАЭС в сфере обеспечения продовольственной безопасности.

Ключевые слова: безопасность питания, Европейский Союз, ЕАЭС, пищевые продукты.

Introduction

The problem of food safety has always existed. However, this problem has become a matter of growing international concern only in the last three decades.

For the first time the concept of «food safety» was considered independently only in the mid-90s of the twentieth century and was originally part of the concept of food security.

It should be noted that, today, in international legal documents there is no single legal concept, and everyone interprets it in own way. Nevertheless, taking into account all possible variants of interpretations given in international documents and national legal acts, the «food safety» can be understood as a state of reasonable assurance that food products, under normal conditions of their use, aren't harmful and don't pose a danger to the health of present

and future generations, determined by compliance of food products with the requirements of sanitary rules and norms and hygienic standards.

The urgency of the problem of food safety increases every year. With food in the human body can receive significant amounts of substances dangerous to his health. According to foreign scientists with food in the human body receives about 30-80% of pollution (Никифорова, 2009:3). Therefore in order to make human nutrition as safe as possible, various normative documents have been developed. Because in accordance with General Assembly resolution A/RES/70/1, improving food safety is a critical factor for achieving the sustainable development Goals(Transforming our world: the 2030 Agenda for Sustainable Development, 2015).

Today unsafe food posing increasing global threats to health and pose a risk to the health of everyone. According to the WHO, nearly one in ten people suffers with various diseases resulting from the consumption of contaminated food, resulting in die annually, more than 420 thousand people (Food safety, 2017). Factors such as environmental degradation, scientific and technological progress, globalization of food trade, demographic changes and growth in the number of vulnerable groups, the development of bioengineering and biotechnologies, the increase in the number of cases of food toxic infections, the emergence of new pathogens, bacteria, viruses, parasites and the creation of various chemicals can be considered as the causes of development and increase of unsafe and harmful food products. The protection of global health and the preservation of the gene pool from the dangers of food origin is therefore a crucial responsibility and a major interest of States and non-state actors, as well as the world community as a whole.

To date, there are a large number of legal documents on food safety at both the national and regional levels, an example of which can serve such regional economic integrations as the EU and the EAEU.

Methodology

The methodological basis of scientific research is the system of comparative analysis method, namely the synchronic method of research. This method made it possible to consider and identify the main differences and similarities between the food laws of the EU and the EAEU. Also in the course of research the general methods of scientific cognition such as historical, analysis and synthesis and special methods: formal-legal, structural-functional and comparative-legal were applied. The application of the above methods has led to a thorough, qualitative analysis of the norms of both foreign and national law in the field of food safety.

Literature review

The problem of food safety has been studied by many foreign scientists and experts in the field of ecology, agriculture, veterinary medicine, economics, statistics and law. For example, Ronald H. Schmidt and Gary E. Rodric in his work «Food Safety Handbook», which is a single comprehensive guide articles, considered the main issues of food safety. The authors studied the main types of hazards (biological, chemical and physical) for food, various control systems and intervention strategies for reducing risk or preventing food hazards, as well as the main international standards such as Codex Alimentarius, HACCP and EU experience in the field of genetic modification.(Schmidt, 2003). In the book «Food Safety Standards in International Trade. The case of the EU and the COMESA» of O. Osiemo Chapter 2 «EU food safety standards» has become useful for this study, where the controversial aspects of the EU food safety policy based on Regulation 178/2002, as well as the role of EFSA and its relationship with the European Commission are discussed (Osiemo, 2017). However, in most scientific studies the legal aspects of food safety were considered only indirectly/ So questions of food safety indirectly, but are touched upon in works of such foreign authors as Marion Nestle, Cynthia A. Roberts, Huub Lelieveld, Kimberly M. Thompson, Richard A. Williams, L. Lacovone, etc.

This topic was also indirectly studied by Russian scientists. D.A. Dimitriev and N. In. Horaskina in his training manual «Food Safety» examined the concept of quality and food safety and regulation food security (Димитриев, 2011). T.E. Nikiforova in the book «Safety of food raw materials and food» reviewed the history of the development of the concept of «food safety» and the system of hazard analysis at critical control points (HACCP) (Никифорова, 2007).

However, the most relevant to this topics are guidelines collections, brochures and guidance materials produced by the Food and Agriculture Organization (FAO), the World Health Organization (WHO), the European Commission, the International Finance Corporation, the National Agency for export and investment «KAZNEX INVEST» and etc. For example, in «Assuring Food Safety and Quality: Guidelines for Strengthening National Food

Control Systems» (FAO and WHO), the concept of food safety and control is given, its basic principles (integrated farm-to-table concept, risk analysis, transparency, regulatory impact assessment) are described, the Alimentarius Code is analyzed, and the main types of food hazards are considered (Assuring Food Safety and Quality, 2003). In turn, the European Commission's «Food safety. From farm to fork: safe and healthy food for everyone» examines and analyzes in detail the European food safety policy (Food safety .From farm to fork: safe and healthy food for everyone, 2014).

Many articles by foreign researchers are also devoted to this topic. For example, Stefania Negri, in her research paper «Food Safety and Global Health: an International Law Perspective», studied the issue of food security in the context of international human rights law and the relationship between safe food and free trade and the possibility of their unification (Negri, 2009). In the article «The Structure of European Food Law» the Director of the European Institute of Food law Bernd van der Meulen described the stages of formation of the European food law, considered the basic principles of General food law, as well as the rights and obligations of all participants in the food chain (Bernd, 2013).

Results and discussion

Food policy of the EU defines the security health of the population and protection of consumer interests in relation to food as one of the main priority objectives of the Union in the field of food safety. Implementation of this goal is achieved through the establishment of high food safety standards and an integrated approach to food safety control.

For the first time, high food safety standards were developed by the European Commission and published in the White paper on food safety in 2000. Being the basis of the legal system of safe and quality food production and animal feed, the White paper contained proposals, which were aimed at making EU food policy into a proactive, dynamic, coherent and comprehensive instrument to ensure a high level of human health and consumer protection. For example, one of the points of action in the White paper was the development of a regulation on the official control of food and feed safety.According to the White paper, all links in the food and animal feed production chain had to be subject to mandatory official control. Responsibility for safe food production was shared among operators, national authorities and the European Commission(White Paper on Food Safety COM/99/0719, 2000). Thus, the measure proposed by the Commission involved a more systematic and consistent implementation of the «farm-table» policy, covering all sectors of the food chain, including feed production, primary production, food processing, storage, transport and retail.

The next proposal by the EC was the establishment of an independent European food authority, whose main goal was to promote provision of a high level of protection of health of consumers regarding food safety and to restore and preserve consumer confidence(White Paper on food safety, 2001).

The legislation of the EU is governed by a number of legal instruments: regulations, directives and decisions. However, food legislation in the most part consists of regulations which are legislative acts of direct action that has the force of law and prevail over national law, directly applicable in all member States of the EU.

The basic document of the EU in the field of food safety is the General food law or Regulation 178/2002 «On the establishment of General principles and requirements in food law, on the establishment of a EFSAand on the establishment of a food safety procedure», adopted in 2002 by the European Parliament and the Council.

This law defines the general principles and requirements of the legislation in the field of food law, eneral concepts of food legislation at the level of the EU, as well as provides a consistent approach to the development of national food legislation of the countries that are members of the Union (Законодательство ЕС и РБ в области безопасности пищевой продукции, 2011). The Regulation applies to all stages of the production, processing and sale of food and feed products, except for products intended for domestic consumption or home processing, use or storage of food products. It identified the basic requirements for food safety, which lies in the fact that the launch into circulation of foodstuffs is prohibited, and they are considered to be dangerous if harmful to health or unfit for human consumption.

The regulation defines «food products» to which, in addition to all substances or products intended or implied that they are intended for human consumption in processed, partially processed or not processed form, also include beverages, chewing gum, as well as all substances, including water, which are added to foodstuffs in their manufacture, processing or handling. In accordance with Article 2 to «food products» does not include: feeds; live animals, if they are not intended to be put into circulation for human consumption in food; plants prior to harvesting; medicinal products; cosmetics; tobacco

and tobacco products; narcotic or psychotropic substances; residues and contaminants (Regulation No 178/2002, 2002).

The provisions of the Regulations regulate all activities in the food processing production chain, from primary production to supply to the consumer. It assigns an important place of responsibility and self-control by the manufacturer, and also establishes the basis and principles of supervision carried out by public audit institutions. The regulation provides for the establishment of appropriate measures for emergency situations, in accordance with which all food products, regardless of their type and origin, and on all fodder means in the presence of a serious danger to human health and animal and the environment may be subject to uniform procedures.

The objectives of EFSA are scientific advice, as well as scientific and technical support in lawmaking and Community policy in all sectors that directly or indirectly affect the safety of food and feed products. The security authority shall provide independent information on all matters in these industries and shall inform in the event of a risk occurrence. It acts as an independent scientific Advisory body and thus contributes to the smooth functioning of the domestic market (Regulation No 178/2002, 2002).

In addition to the basic EU legislation on food safety, there has been developed and «Hygiene Package», which is a set of independent EU regulations developed within the framework of Regulation No. 178/2002 defining the general hygienic requirements for food products produced or imported into the EU. Acts of this Package allow to build a food safety system on the principle of «from farm to table». It consists of the following important documents:

1. Regulation No. 852/2004 of the EP and of the Council on the hygiene of foodstuffs, which defines the general rules on food hygiene for participants in economic activities, as well as on hygiene of industrial premises, requirements for transport, equipment, household waste, packaging and labelling (Regulation No 852/2004, 2004).

2. Regulation No. 853/2004 on specific hygiene rules for food of animal origin, which establishes special rules and requirements for managers of food enterprises in the scope of hygiene of food products of animal origin, both processed and non-processed (Regulation No 853/2004, 2004)

3. Regulation No. 854/2004 on specific rules for the organisation of official controls on products of animal origin intended for human consumption, which establishes special rules concerning the organisation of official controls concerning products of animal origin, applies only in respect of activities and persons to which applies the Regulation (EC) No. 853/2004. It establishes special import procedures for non-EU countries and introduces the need for identification marks for various products of animal origin, as well as details of special requirements for processing of meat, fish, dairy and other products of animal origin (Regulation No 854/2004, 2004).

4. Regulation No.882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules, which establishes general principles for official controls aimed at verifying compliance to established rules. It obligates the EU member States to ensure compliance with the requirements of the food legislation and to organize a system of official control «operators of the food business» (by the legal entities themselves and individual entrepreneurs) (Regulation No 882/2004, 2004).

Thus, the General food law and the main subsidiary Regulations concerning food hygiene, the organization of control and verification of compliance with EU legislation, with the force of the law, have formed a single harmonized database of legal acts that apply in all member States of the Union. Aimed at achieving food security, these acts extend their actions to all stages of the food chain, starting with the production and processing of food and feed, ending with their sale to the end user, placing the responsibility not only on operators, national authorities and the Commission, but also on the consumer. All this ensures a high level of protection of human life and consumer interests in relation to food, while ensuring the effective functioning of the domestic market.

The EAEU also pays great attention to the issues of food safety, which are an integral part of food security. According to the agreement on the EAEU, food products are included in the list of products to which the Union establishes mandatory requirements in the field of technical regulation. The principles of technical regulation of the EAEU require the development of common technical regulations for the member States for each category of food products, which is released into circulation in the single territory of the Union. The purpose of such regulations is to ensure that all products entering the market satisfy with these regulations in all respects (Договоро ЕАЭС, 2014).

Technical regulations of the CU have a direct effect on the entire customs territory of the EAEU, and since their entry into force, the national norms established for the regulatory objects of the regulations no longer apply. Moreover, if there are no special

reservations, additional requirements excessive in relation to the system of technical regulations of the vehicle are not allowed. Products for which the CU technical regulation has entered into force shall be safe and shall be put into circulation in the territory of the Union only on condition that it has passed the necessary conformity assessment procedures provided by the regulations (Требования к упаковке, маркировке и этикетированию в ЕАЭС, 2015).

It should be noted that in accordance with the Treaty on the EAEU, international, regional standards can be applied on a voluntary basis to fulfill the requirements of the technical regulations of the Union and assess compliance with the requirements of the technical regulations of the Union, and in case of their absence (before the adoption of regional standards) – national standards of member States. Also, the EAEU allows apply the national legislation of the member States of the Union, unless a separate sectoral technical regulations are developed for a category of food products.

Currently, one of the main horizontal regulations in the field of food safety is the Technical regulation TR CU 021/2011 «On food safety», which provides general requirements for food products that are put into circulation in the territory of the member States of the Union.

The regulations establish the most detailed list of obligatory General safety requirements to objects of technical regulation, provides necessary safety standards of production while its production and the address. In the process of production of food products related to the safety requirements of such products, the manufacturer must develop, implement and maintain procedures based on the principles of HACCP. In the Technical regulations, as in the EC Regulation No. 178/2002, also defines the concept «food products». Under it, in accordance with Article 4, recognizes «products of animal, plant, microbiological, mineral, artificial or biotechnological origin in the natural, processed form, which are intended for human consumption, including specialized food products, drinking water, packaged drinking mineral water, alcoholic products (including beer and beverages based on beer), soft drinks, biologically active food additives, chewing gum, ferments and starter cultures of microorganisms, yeast, food additives and flavorings, as well as food raw materials». It is noteworthy that the regulation also defines the concept of «food safety» – the state of food products, indicating the absence of unacceptable risk associated with harmful effects on humans and future generations, which is not in the EU Regulation No. 178/2002.

Provisions define forms and procedures of the assessment of conformity of objects of technical regulation to requirements of this technical regulations and assigns responsibility on the member States of the Union for control of observance of requirements of this technical regulations concerning food products and related to this the processes of production, storage, transportation, realization and utilization connected with requirements to it is performed according to the legislation of the member state of the EAEU (ТР «О безопасности пищевой продукции», 2011).

The food safety control system of the EAEU is based to a greater extent on conformity assessment, in which products should be designed to be safe on the basis of its comparison with the specification according to technical regulations. Comparison is carried out by studying the properties of the final product, including its safety parameters. In the EAEU food safety control system, the key element of safety assurance is the confirmation or verification that the key product meets all the indicators set out in the technical regulations and/or individual standards. (Аянбаев, 2017:160).

In addition to Technical regulations TR CU 021/2011, the Eurasian economic Commission has developed special or vertical technical regulations for greater detail of its norms and special procedures for assessing and confirming conformity of food products. The main such regulations include:

1. Technical regulations of the CU «On safety of grain» (CU TR 015/2011), applies to put into circulation a grain used for food and feed purposes, the processes of its production, storage, transportation, realization and utilization, sets in the requirements of the security, forms of the evaluations of the security and procedure of confirmation of conformity. This regulation doesn't apply to grain intended for seed purposes, and products of grain processing (ТР «О безопасности зерна», 2011).

2. The technical regulation of the CU «On safety of meat and meat products» (CU TR 034/2013), which establishes safety requirements for products of slaughter and meat products and related requirements to the processes of production, storage, transportation, sale and disposal, as well as requirements for marking and packaging of slaughter products and meat products that are ensuring the free movement of products, released into circulation on the customs territory of the EAEU (ТР «О безопасности мяса и мясной продукции», 2013).

3. The technical regulation of the CU «On safety of certain types of specialized food products, including dietary therapeutic and dietary preventive nutri-

tion» (TR CU 027/2011), which applies to certain types of specialized food products: for nutrition of athletes, pregnant and lactating women, food products of dietary therapeutic and dietary preventive nutrition, including baby food, and establishes conformity assessment and a list of requirements for the production, storage, transportation processes, disposal and disposal, as well as the marking process (ТР «О безопасности отдельных видов специализированной пищевой продукции, в том числе диетического лечебного и диетического профилактического питания», 2012).

4. Technical regulations of the CU «Safety Requirements for food additives, flavorings and technological AIDS» (TR TS 029/2012), applies to food additives, complex food additives, flavorings, technological auxiliary agent; food products in terms of content, food additives, biologically active substances of flavors, residual quantities of technological AIDS. Regulation define safety requirements to objects of technical regulation, rules of identification of objects of technical regulation, and also forms and procedures of the assessment of conformity of objects of technical regulation to requirements of these Technical regulations (ТР «Требования безопасности пищевых добавок, ароматизаторов и технологических вспомогательных средств», 2012).

As noted earlier, the technical regulations of the EAEU have a direct effect on the territory of the member States of the Union. Upon their entry into force, the system of products ' entry into the market is simplified, excluding excessive procedures of conformity assessment, avoiding unnecessary regulation, common documents of conformity of products are applied. All this contributes to the reduction of technical and administrative barriers, which are significant from the point of view of creating a single market. However, in addition to the norms and requirements which set out in these regulations, which must be implemented in order to sell safe products, the member States have their own national legislation in the field of food safety.

The basic law of the Republic of Kazakhstan on food safety is the law of the Republic of Kazakhstan № 301-III «on food safety» dated July 21, 2007, which establishes the legal basis for food safety to protect human life and health, the legitimate interests of consumers and environmental protection in the territory of Kazakhstan. Its provisions apply to food products produced in Kazakhstan and imported to the territory of Kazakhstan, except for home-made food products intended for personal consumption. Under food products, the Law means « raw materials, food products, organic food products, special-purpose food products, drinking water, food additives and biologically active food additives consumed by humans, feed and feed additives used by animals that are sources of food for humans».

The law also establishes requirements for food safety and all processes of its development, production, turnover, utilization and destruction, established by the legislation of Kazakhstan on food safety and determines the competence of the government of Kazakhstan and Authorized bodies. According to the provisions of this law, the subjects of development, production, turnover, utilization and destruction of food products are responsible for compliance with the requirements specified in the law (Закон РК «О безопасности пищевой продукции», 2007).

In order to implement the Law of the RK of July 21, 2007 «On food safety», the government of Kazakhstan adopted a number of subordinate regulatory legal acts, which are devoted to separate stages of the food process. They are:

1. Rules for disposal and destruction of food products that pose a danger to human and animal life and health, the environment,

2. Rules of enrichment (fortification) of food products subject to sanitary and epidemiological surveillance,

3. Rules of approval by the authorized bodies of conformity of processes of development, production, turnover, utilization and destruction of food products, compliance of machines and equipment, materials and products used in the development, production, turnover, utilization and destruction with the requirements established by the legislation of the Republic of Kazakhstan on food safety,

4. Rules of control over compliance of food products in the processes (at the stages) of its development, production, turnover, utilization and destruction, compliance of processes of development, production, turnover, utilization and destruction of food products with the requirements established by the legislation of the Republic of Kazakhstan on food products safety,

5. Rules for assigning registration numbers to objects of production and etc. (Перечень нормативных правовых актов, принятие которых необходимо в целях реализации Закона РК «О безопасности пищевой продукции»).

It is important to note that the approach for normative regulation of the process of the movement of the food chain, starting with design and finishing with its realization and destruction, is borrowed from the EU experience.

Thus, the food legislation of the Republic of Kazakhstan consists of a large number of regulatory legal acts concerning the issues of food safety, covering the entire stage of production. It is noteworthy that after the country's accession to the EAEU and WTO, these laws were brought into compliance with international requirements and standards, which will allow easier access of domestic products to world markets in future.

Conclusion

The two largest integration associations: the EU and the EAEA have a fairly large regulatory framework relating to food safety issues, which were formed on the basis of the most effective national approaches of the member States of each Union and the experience of foreign countries. For example, the legislative bases of both Unions use the American HACCP system, which provides for a system of quality control in the production of food products according to the level of risk criteria.

The study of legislation in the field of food safety, both Unions revealed some common features and differences in the legal regulation of food safety in the EU and the EAEU. For example, one of the similarities in the legislation of both Unions is the purpose of food control in the EU and the EAEU. It is the protection of human life and health, prevention of actions misleading buyers, environmental protection and ensuring the free circulation of safe and quality food products. Also, the general requirements of food safety coincide, which consist in the fact that food products that are in circulation should be safe.

The EU and the EAEU use the HACCP system as a tool for ensuring food safety, the principles of which are reflected in EC Regulation No. 852/2004 and in the TR of the EAEU No. 021/2011. However, the interpretation of these principles is different in these regulations. For example, in the EAEU, in the implementation of food production processes, procedures based on the principles of HACCP should be developed, implemented and maintained by the manufacturer. Identification of hazards is limited to those that may, in the course of production, produce products that do not meet the requirements of the vehicle. Verification of the effectiveness of control measures should be carried out of testing the final products for compliance with the requirements and documentation necessary to confirm implementation of concrete measures (ТР «О безопасности пищевой продукции», 2011). In the EU, the HACCP requirements apply to all levels of the post-primary production and supply chain. Economic entities are obliged to identify any dangerous factors, even those that are not specified in the legal acts, as well as to establish and regularly carry out procedures for the verification of the effectiveness of control measures. Documents and records in the EAEU should be kept to demonstrate the effectiveness of the HACCP system (Regulation No 852/2004, 2004).

Another difference is that in the EAEU there is a combination of both vertical and horizontal approaches, which is expressed in the fact that the criteria and requirements for food products are scattered or supplemented in different technical regulations, while in the EU, where the approach is purely horizontal, all the criteria are collected in one single EU Regulation. Also, one of the most important differences between the two laws is the difference in approaches to food safety control. It consists in the fact that the basis of the EU food control are preventive measures based on risks under the «farm-table» scheme, that is, safety check is carried out at the level of production processes and re-checked at the stage of finished products. In turn, the approach of the EAEU is based on the control of compliance with technical requirements and standards of finished products.

It should be noted that the EU food legislation does not define the concept of «food safety», as does the technical Regulation of the EAEU, but, nevertheless, Regulation 178/2002 prohibits the introduction into circulation of dangerous food products, which are considered such products if they are harmful to health and unsuitable for human consumption in food.

The principle of flexibility, as an approach to the implementation of regulatory requirements, can also be considered an important difference between the two laws. The difference is that the EU, given the diversity of food supply, which also includes traditional products, has a flexible approach within the framework of the food control system. The EU provides small business entities engaged in the production of traditional products, the right to exercise acertain flexibility in the use of HACCP in their work. Thus, according to EC Regulation No. 852/2004, the requirements of the HACCP system «shall be provided with adequate elasticity so that they can be applied in every setting, including in small enterprises» (Regulation No 854/2004, 2004). In turn, the EAEU technical regulations, norms and rules are applied equally regardless of the size of the business entity, the volume of production or the use of traditional methods in production, thereby not providing for any exceptions.

Taking into account the existence of certain similarities in the two legal systems in the field of food safety, the food legislation of the Unions still has more differences, which relate to the basic normative tools and approaches to product safety, organizational structure, the role of economic entities and their requirements within the framework of the food control system, etc.

Despite the fact that both systems are very effective, their difference has a big impact on businesses wishing to export their products to the EAEU or the EU, as well as for countries seeking to harmonize with one of the Unions. For example, the EAEU legal system contains a large number of general and sectoral technical regulations, which form the basis for food control, which is supported by national laws, regulations and standards of the member States of the Union. And if a separate sectoral regulation has not yet been developed for a category of food products, then the national legislation of the participating country applies to such category of products. Therefore, in order to meet the requirements of the EAEU, business entities must take into account compliance with the technical regulations of the EAEU and the laws of the member States.

The EU has chosen a different approach in this regard. The EU regulations have the force of laws that prevails over the national legislation of the member States, thereby creating a single harmonized base of horizontal legal acts that are uniformly applied in all member States. And since the unified system is used in all member States, it simplifies the achievement of compliance for operators of the food market and, therefore, increases the possibility of exporting products to the territory of the Union member state.

Thus, the EU and the EAEU, despite different approaches to ensuring food safety, establish strict control over food safety through the application of the relevant regulatory framework, regulatory methods, systems and control procedures, which allow them to realize one of the most important goals – toensure the protection of health and well-being of the population.

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ON EFFECTIVENESS OF «SOFT» LAW THE CASE OF UN TREATY BODIES INSTRUMENTS

The article discusses the capacities of international law to provide for «rule of law» internationally given the lack of comprehensive enforcement mechanisms and critically assess the concept and practices of «soft» law in this context.

The author starts by surveying the probable explanations why states observe international legal norm even without a proper enforcement that would include the interest of the powerful, convenience, desire for better international socialization. The article then proceeds to discuss whether these arguments apply to «soft» law«.

Further, the author deals with the question of how international human rights law is similar to and/or different from other International law and examines the case of the «Views» and «General Comments» of the UN human rights treaty bodies to find out whether it is an effective mechanism to protect human rights and whether they make (if at all) states to adhere to their human rights commitments both domestically and internationally.

Key words: international law, soft law, obedience without enforcement, human rights law, UN treaty bodies, legal scholarship, «Views» and «Comments» of UN treaty bodies, non-binding international norms, non-binding instruments.

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«Жұмсақ құқық» тиімділігі мәселелері: БҰҰ келісім-шарттық органдарының құралдары мысалында

Мақалада халықаралық құқықтың өз «басымдығын» халықаралық деңгейде қамсыздандыра алу мүмкіндігі мәселесі «жұмсақ» құқықтың атқарушылық механизмдердің жетіспеушілігі және оның идеясы мен тәжірибесіне сыни көзқарастың болуы тұрғысынан қарастырылады.

Автор осындай, оның ішінде «күшті» акторлардың мүдделері, прагматизм және халықаралық қоғамдастыққа тиімді араласу секілді жағдайлардағы мемлекеттердің халықаралық-құқық нормаларын не себепті сақтайтындығының түсініктемелеріне шолу жасаған.

Сонымен қатар, автор адам құқықтарына қатысты халықаралық құқық басқа да салалардағы халықаралық құқықтан айырмашылығы қандай және жалпы ұқсастықтары мәселесін көтереді. Бұған мысал ретінде БҰҰ келісім-шарттық органдарының кейсі алынып, олар адам құқықтарын қорғау және мемлекеттердің өз міндеткерліктерін ел ішінде және халықаралық деңгейде орындауды талап ету бойынша тиімді құралдары болып саналуын қарастырады.

Түйін сөздер: халықаралық құқық, жұмсақ заң, мәжбүрлі түрде мойынсыну, адам құқықтары туралы заң, БҰҰ келісімшарт органдары, заңгерлік стипендия, БҰҰ шарттық органдарының «Көзқарастары» және «Түсініктемелері», міндетті емес халықаралық нормалар, міндетті емес құжаттар.

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Проблемы эффективности «Мягкого права»: на примере инструментов договорных органов ООН

В статье рассматривается вопрос о том, насколько международное право способно обеспечивать «верховенство» на международном уровне, учитывая отсутствие механизмов принуждения, и критически оценивать идею и практику «мягкого» права в этом контексте.

Автор дает обзор вероятных объяснений того, почему государства соблюдают международно-правовые нормы в подобных условиях, к которым можно отнести интерес «сильных» акторов, прагматизм, стремление лучше социализироваться в международном сообществе. Затем в статье обсуждается вопрос о том, применимы ли эти аргументы к «мягкому» праву.

Далее автор рассматривает вопрос о том, насколько международное право прав человека аналогично или отличается от других отраслей международного права, в том числе с помощью рассмотрения кейса договорных органов ООН по правам человека для выяснения того, являются они эффективным механизмом защиты прав человека и принуждения государств выполнять свои обязательства как внутри страны, так и на международном уровне.

Ключевые слова: международное право, «мягкое» право, механизмы принуждения, право прав человека, договорные органы ООН, юридическая теоретическая наука, «Мнения» и «Комментарии» договорных органов ООН, необязывающие международные нормы.

Introduction

As Henkin famously said «almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time» (Henkin 1979, p.47). however, it is important to know *why* states consent to be bound internationally. Even a more relevant question these days is why states observe the norms that are *non-binding*, so called «soft» law, is even more relevant. Therefore, the aim of the author is not to evaluate the level of effectiveness of the «soft law», but rather to addresses the problem through the lens of the «why» question considering it from three perspectives and subsequently discussing the following: international law, international human rights law and «Views» and «General Comments» of the UN human rights treaty bodies. The rationale behind such a structure of the argument is that any attempt to provide a full analysis of the problem in question would be incomplete and incoherent without the abovementioned endeavor.

Methods

The author asks why states consent to be bound by international law in general and why (and how well) they observe the nonbinding «soft law» norms in particular. In order to do so, the author takes the case of the «views» and «Recommendations» of the UN treaty bodies.

To know whether a plausible answer has already been articulated earlier, the author surveys legally scholarly literature and considers a number of general theoretical arguments explaining states behavior in regard to international law without enforcement that may be applied both on treaty law and customary law, including that of human rights law as well as nonbinding «soft» law. Theoretically, all argumentation surveyed is placed within the following framework: 1) interests of the powerful, 2) individual and collective interests of states, 3) nature and values of states as legal persons, 4) socialization of states amidst other states within a community.

The author then deals with several specific factors of «soft» law; its capacities to encourage international «hard» law-making and emergence of new international customs; its capacities to initiate domestic changes via participation of states in the negotiations and further domestic pressure resulted from increased awareness of the population of the international human rights discourses. Finally, the article deals with the quasi-legal role of the UN treaty bodies.

Methodologically, the legal analysis of this kind makes it possible to weight the scholarly arguments against the «legal facts» discussed further in the article. More precisely, the article is aimed at providing an answer why the «Views» and «General Comments» of the UN human rights treaty bodies, being non-binding, cannot be seen as sufficiently effective to protect human rights domestically choosing the

most plausible explanation among those given by legal theorists.

Literature Review

International Legal Scholarship; Problem on Enforcement and Obedience: before proceeding to the «soft law» problematics, it appears sensible to discuss the capacities of international law, in its most general sense, to provide for «rule of law» internationally without enforcement, its relevance, and its nature before, finally, to dwell upon usefulness of «soft» law.

The problem why states obey international legal norms and create international legal regimes has been long within the focus of the scholarly interest. The two «classical» paradigms of the theory of international law are the «natural law» that holds that fundamental principles of international law can be found in the essential nature of state-persons (Kunz,1961) and the «positivist» arguing that the rules are only those to which state-persons agree to be bound by that they do not exist independently but are born amidst and by states interactions (Brierly, 1928; Higgins, 1995). As the time passed, the views of the legal scholars become more nuanced as legal studies were increasingly more influenced, apart from traditionally major impact of political and moral philosophy, by the developments of the other fields such as social research, political science, international relations. And, most importantly, rather recent empirical turn in international legal scholarship (Shaffer, Ginsburg, 2012). Thus, the two school of thoughts emerged gradually taking the major position within the legal scholarship: the New Haven school explained the problem of obedience without enforcement through its own argument that combined the power and the choice factors (McDougal, 1952; Reisman, 1990), while critical theory set the task to demonstrate that international law had been neither objective nor rational (Koskenniemi, 2005; Charlesworth and Chinkin, 2000; Anghie, 2007).

A widespread opinion among those outside international lawyers' community is that international law is a failure because there is not any enforcement similar to that in domestic law. International law is, therefore, not a law in a proper sense. This skepticism undoubtedly influences behavior of states, more curious however, it is shared by some international legal experts (Goldsmith J. and Posner E., 1999; Hart, 2012). The others, while accepting some «law-likeness», treat it as «primitive law of unsocial international society» (Allott, 1990, p.417, cited in Dixon, McCorquodale and Williams, 2011, p.12).

But more common position among the circles of legal scholars and international lawyers is quite the contrary to that of Allott; international law is not an equivalent to domestic law because of its nature and aim, unlike domestic hierarchical law forced on subjects and citizens, international law of consent based, thus enforcement issue is not a principle one. The argument goes on saying that international law, accordingly, 1) exists only because states agree on it via observing international customs or being parties to treaties 2) is here to provide orderly and predictable conditions for interstate relations, which is a more convenient and rather mutually beneficial state of affairs, to build voluntarily an international legal system that would structure international society of states and regulate their behavior (Byers, 1999). Therefore, international law impacts and is impacted by international politics (Vagts, 2004). Treating interstate relations as society, they, paradoxically enough, come closer to the «natural law» stance although their take is more «natural» in scientific sense as these are natural scientists that describe and explain the existence of behavior patterns of social animals in their natural habitats that are continuous and are beyond being instinctive.

The point is that the abovementioned arguments seem not to resolve the problem of free riders as well as that of iniquity and abuse by the most powerful, that is deemed inevitable in any social system that lacks enforcement. However, although logically and theoretically, these appear coherent arguments, the empirical studies of international (and even domestic) practice reveal the contrary. According to Waldock (1963), violations of law norms are [statistically] rare in any customary systems (Waldock, 1963, p.2); states, even the most powerful ones are not free from society. According to Henkin, international law is useful and necessary for states; to observe international law is in states' interests and, therefore, the existence of international legal system is an outcome of rational choices of those who create and maintain it. States may opt to abandon that rational behavior only when their security and independence are at stake and then «passions, prides and prejudices» are involved (Henkin, 1979). These arguments stay when we talk about international human rights and «soft law» as well as we may see further.

From the historical perspective, Jennings and Watts (1992) argue that states have been increasingly willing to be bound by international legal norms because international legal system means not only obligation but rights for the state actors. International law gives states considerable freedom of action,

but it is important to acknowledge that it «derived from a legal right not from an assertion of unlimited will». It is also very important that international law development and practices have led to that kind of international order where any international situation may be considered as a legal matter (Jennings and Watts, 1992).

«Realists» would certainly reject this argument, stating that international law is a tool of the powerful to impose their will on the less powerful in pursuit of their national interests, but they are unable to explain why the most powerful states «almost always observe» international law themselves (Scott, 1994). Scott's (1994) take on the question allows to overcome this conundrum. For Scott, the question of states' obedience is irrelevant as they neither «obey» nor «disobey» international law but «act so to demonstrate acceptance to the ideology» (Scott, 1994, p.313).

To sum up, the following arguments have been given to answer the why states obey international law without enforcement: nature, power, interests and choice (collective or individual) as well as socialization. In other words, states observe international legal norm even without a proper enforcement because 1) it is in the interest of the powerful, 2) because it is more convenient for all, 3) because of desire to be full-fledged and respectful members of international society/community.

On International «Soft» Law: «soft» law is even more questionable, at least to some experts (most of whom belong to «positivist» camp) because of its non-binding nature. Nevertheless, soft law instruments have been multiplying and «soft» law is very likely to expand further its influence on behavior of states[1].

There are a number of arguments in favor of «usefulness» of «soft» law. Firstly, it has potential for evolving into «hard» law in the future in two ways; as the first step towards a treaty-making, the subsequent treaty then will refer to it; or via a direct influence on states' practices to the extent that may lead to emergence of a new custom (Boyle and Chinkin, 2007). Secondly, «soft» law-making pushes for more profound and rapid changes both internationally and domestically being, from one hand, a convenient vehicle for negotiations among states who are the sole creators of «hard» law and, therefore, increases external mutual pressure (Shelton, 2006). On the other hand, influencing the attitudes of lawyers and human rights activists who, acting domestically, together with ordinary citizens will then increase internal pressure on their governments. Finally, it is regarded as evidence of *opinio juris* on interpretation and implementation of a treaty (Boyle and Chinkin, 2007).

The arguments on international obedience as well as those on «soft» law potential goods should be born in mind as they will be revisited below while analyzing the relevance of «Views» and «General Comments» of the UN human rights treaty bodies as an international mechanism to protect human rights although the argument would be incomplete without an overview of the distinguished characteristics of international human rights and comparison of this body of law with international law in general.

International Law and/or International Human Rights Law: here the author deals with the question of how international human rights law is similar to and different from other International law.

As a form of international law, international human rights law has the same sources (ICJ, Article 38(1)). There is an extended literature on the subject. For example Simma and Alston's book (1988).survey in greatest details the sources of Human Rights Law in the context of traditional formal sources stipulated by the ICJ, namely «international custom», «jus cogens», and «general principles» (Simma, Alston, 1988). A detailed and profound analysis of human rights law development is that of Buergenthal (2006) and of the impact it makes on states behavior – that is the most questionable and debated issue given the arguments surveyed above – is that of Neumayer (2005) and Hathaway (2017).

International human rights law is distinguished from the other bodies of law in short because international law is about states vs states in regard to how they treat each other, while international humanitarian law is about states vs states in regard to how they treat the individuals that are under their jurisdiction. Thus, under international human rights law, states assume responsibility to enforce international human rights law. In this context, international human rights law and international humanitarian law are related, but distinct from each other (Provost, 2002).

Results

The author surveys role and place of the UN system and its treaty bodies for international law, legal and political nature and impact of «Views» and «General Comments» of those treaty bodies and how do they make (if at all) states to adhere to their

1 For statistics on international human rights instruments see http://www.bayefsky.com

human rights commitments both domestically and internationally.

The UN system is central for international community and international law, but, as it is important to bear in mind that, like international law have no enforcement at least in the direct meaning of the term, the UN system shall not be considered as identical to a national government institutions or supranational government body. However, the empirical fact is that the UN is involved into transformation of international society. The second significant aspect is that the member states operate with the UN to pursue not only their individual interests but collective interests (Roberts and Kingsbury, 1993).

Among the instruments of the UN, there have been both binding treaties and non-binding «soft-law» instruments, but all of them constitute a pillar of international human right. In brief, the United Nations member-states adopted the binding Charter, then non-binding Universal Declaration of Human Rights (which then, arguably, attained the customary law status and, therefore, became binding), then a number binding human rights treaty, namely CERD, ICCPR, ICESCR, CEDAW, CAT, CRC, CMW, and CRPD. Being well aware of the problematic issues mentioned above in this article, the members states eventually agreed to establish the bodies that would monitor the observance of those treaties and opened the United Nations Office of the High Commissioner for Human Rights.

The role of the UN treaty bodies is even more significant as there is no a universal court of international human rights law, thus, these quasi-judicial bodies under the UN treaties possess some quasi-legal enforcement powers: to review states reports on the compliance of domestic standards and practices with treaty rights with subsequent observations and comments; to consider inter-state complaints and individual petition and expresses a «View» as to the presence or absence of a violation; CESCR, CAT and CEDAW, provide for a procedure of inquiry missions to find about systematic or grave violations. Having considered a complaint/petition, committees release their «View» with outline the merits of the case. Once the «View» has been issued, saying that a breach has occurred, the «guilty party» (state) shall submit an 'update' describing the steps it has taken to address the violation. Schmidt (2009) deals in detail with «follow-up» activities by the UN treaty bodies and the OHCHR and Niemi (2003) surveys whether the findings by United Nations treaty bodies have been implemented.

Although, there has been considerable increase in both number of treaties and the extent of participation (Bayefsky, 2001), the implementation record by the state parties is not impressive. According to Human Rights Committee (2012), 70% of the replies are unsatisfactory; only about 30% of the follow-up replies «display a willingness to implement its 'Views' or to offer an appropriate remedy to the victim»; in 2002, remedy itself was provided in only 21% of cases (UNHRC, 2002).

The problematic issues that non-binding nature of the treaty bodies Views» (not surprisingly they are not named «Judgments»). The issue of how to make them binding may be resolved only domestically. Or as Hafner-Burton (2013) put it «international laws and procedures must creep into domestic affairs and be taken up by local advocates in order to be effective (Hafner-Burton 2013, p.11). General observation reveals the picture that gives little grounds to be optimistic (Neumayer 2005; Risse and Ropp 2013). Although there are a number of good examples. Krommendijk (2015) describes good practices in the Netherlands, New Zealand and Finland. In the Czech Republic, the Ministry of Justice was reorganized for the purpose of implementation of the «Views» of the UN Human Rights Committee; the Supreme Court reopened a case in Spain after a communication to the Human Rights Committee was made by two previously convicted individuals and its «View» stated that violations had been conducted (ILA, 2004, p.17).

Thus, as we see, although more and more states express their will to be a party to human rights treaties, much fewer have demonstrated good record in terms of observing the procedures of the UN body that monitor these treaties. As it has been shown above, it is true in regards to the «Views» issued by corresponding Committees.

The next question is the situation with the treaty bodies' pronouncements as they are given an authority to interpret the treaties they monitor through the process of writing «General Comments» or «Recommendations» on the nature of obligations. So far, there have been over a hundred «General Comments» mainly by CERD, CCPR, CESCR, CEDAW, and CRC.

Three is no universally agreed position of the legal nature of those «Comments» and «Recommendations». Thus, the Human Rights Committee and the Committee against Torture have pointed that the legal norms which the treaty bodies monitor are binding for the States parties and, therefore, their pronouncements «are more than mere recommendations that can be readily

disregarded» (cited in ILA, 2004, p.5). The most common position of legal experts, however, is that the findings of the treaty bodies are not binding interpretations of the treaties. What do the courts say?

Here are some examples provided by the International Law Association. The Constitutional Court of Spain noted that «the Committee was not a court and that its views did not constitute a binding interpretation of the ICCPR». Similar position was taken by the Supreme Court of Ireland (ILA, 2004, p.3). South Africa, however, agreed to rely upon the Committee under international law to interpret the ICCPR «where the Constitution uses language similar to that which has been used in the international instruments». In the view of the Federal Court of Australia, the Committees' interpretations, although lacking «precedential authority in an Australian court», shall be considered as valid (ILA, 2004, p.5).

The main argument in favor of the treaty bodies «General Comments» is that they shall promote better behavior of states regarding the legal norms of international human rights law via facilitating better understanding of international human rights standards. Although they are not binding, the states that are the parties to a corresponding treaty may and shall wish to know what do the obligations, they have consent to be bound to, mean precisely. For example, Foreign Minister of Norway stated that although the recommendations of the monitoring committees were not legally binding, his government «attach[ed] great importance to them» as guidelines in the efforts to ensure implementation of the human rights treaties (cited in ILA, 2004, p.9).

Discussion

As it has been shown above, more and more states are ready to become parties to international human rights treaties, but fewer states are willing to change their behavior domestically in regards to human rights obligations only because them, being the United Nations members, have established a number of treaty bodies that shall monitor their compliance under those treaties. How can it be explained? Below, the author attempts to apply the legally scholarly arguments to the practices discussed in the above section in order to see which (if any) appears the most probable.

When taking as a premise the «power» argument that is made by both realists and critical theorists, we see that the powerful states are either unwilling or unable to make less powerful states change their domestic practices using the pressure of the UN human rights treaty bodies. Moreover, the benefits for the powerful to do so are not clear. It is much easier and more efficient to exercise pressure on the less powerful unilaterally rather than through complicated mechanisms of multilateral engagements such as the UN.

The «interests» logic suggests that states themselves would like to make international environment more predictable and convenient and therefore, will strive to adhere to some commonly agreed principles. Although it appears to be true as majority of states articulate relatively similar degree of commitments to human rights and join the corresponding treaties, homogenization of domestic adherence to those obligations has not been achieved.

The argument that adherence to human-rights commitments shall derive form «nature» of state-persons is not supported by international practice. It is clear that states are more ready to articulate adherence to human rights intentional legal obligation rather than to fulfill them domestically, which they would do if it was in their «nature» even without any external factors requiring that.

For the «Views», it may be said that the societal argument is the most plausible to explain the states behavior. As for «General Comments», the simple argument has been made that their role is to clarify the meaning of the obligations binding for the signatories to the international human rights treaties. The «Comments» themselves are seen by overwhelming states as nonbinding. Thus, they may or may not take them into account while conducting their domestic policies. Moreover, it has not been any evidence that non-binding «Comments» triggered formation of any biding norms either through treaty conclusion or evolvement of any custom. Therefore, most plausible explanation, is that it is more important for states to be previewed as «good» internationally, than to be «good» domestically.

Conclusions

The analysis above enabled to find the hint on why states, having signed human rights treaties and established monitoring bodies within the United Nations Organization, do not treat their «Views» and «Comments» as binding. Although the literature review on various theoretical approaches within legal scholarship has been rather extensive, the «empirical facts» on domestic legal practices of states appears sporadic and compendious.

This is due to the fact that such matters have been mostly overlooked by legal scholars. It would

be sensible, therefore, to suggest further inquiry, especially those of comparative character, to find out whether – remembering societal argument we have selected among the others as the most preferable – there is a difference between various legal spaces such as European, Latin American, Asian, and Post-Soviet and others in terms of willingness and capacities of the states located within these spaces to allow international human rights law to become a part of their domestic legal and political realities. Comparative studies that would place the problem in the context of dual vs unitary legal systems may also bring to better understanding of these matters in future.

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АКТУАЛЬНЫЕ ВОПРОСЫ АВТОРСКОГО ПРАВА В ИНДУСТРИИ КУЛЬТУРЫ – КОРЕЙСКАЯ ПЕРСПЕКТИВА

Статья посвящена понятию авторского права, актуальным вопросам авторского права, защите авторов, а также понятию неимущественных прав в корейском законодательстве. Авторское право – это набор норм, определяющих правовой статус автора при разработке программного продукта. Закон об авторском праве представляет собой раздел гражданского права, который регулирует коммуникации, связанные с производством и использованием произведений науки, литературы, искусства; он регулируется международными конвенциями о национальном законодательстве и законах об авторском праве. Анализируются история и современное состояние авторского права Республики Корея. Законодательство в сфере авторского права в Республике Корея стало со временем более жёстким. В 1950-х годах общественное мнение в Южной Корее не считало такие действия, как копирование книги, эквивалентными краже. С этого момента корейское законодательство было исправлено несколько раз, чтобы защитить интересы различных индустрий, создающих защищённые авторским правом работы, и привести корейское законодательство в соответствие с международными стандартами, такими как стандарты Всемирной организации интеллектуальной собственности.

Данная статья посвящена анализу проблемы поправок в законе об авторском праве. Автор приходит к выводу о том, что поправки в законе нуждаются в более эффективном законодательном регулировании.

А также повествует о развитии авторского права в Республике Корея. В данной статье автор рассмотрел нормативные акты, регулирующие авторское право, проблемы защиты прав авторов.

Ключевые слова: автор, авторское право, культура, неимущественные права, интеллектуальное право, интеллектуальная собственность.

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Actual issues of copyright in the cultural industry – the Korean perspective

The article is devoted to the notion of copyright, topical issues of copyright, protection of authors, as well as the notion of non-property rights in Korean legislation. Copyright is a set of rules that determine the legal status of the author when developing a software product. The law on copyright is a section of civil law that regulates communications related to the production and use of works of science, literature, art; it is governed by international conventions on national legislation and copyright laws. The history and current state of copyright of the Republic of Korea is analyzed. Legislation in the field of copyright in the Republic of Korea has over time become more stringent. In the 1950s, public opinion in South Korea did not consider such actions as copying books equivalent to theft. Since then, Korean legislation has been amended several times to protect the interests of various industries that create copyrighted works, and to bring Korean legislation into line with international standards, such as the standards of the World Intellectual Property Organization.And also tells about the development of copyright in the Republic of Korea. In this article, the author reviewed normative acts that regulate copyright, the problems of protecting the rights of authors.

This article is devoted to the analysis of the problem of amendments to the law on copyright. The author comes to the conclusion that amendments to the law require more effective legislative regulation.

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And also tells about the development of copyright in the Republic of Korea. In this article, the author reviewed normative acts that regulate copyright, the problems of protecting the rights of authors.
Key words: author, copyright, culture, non-property rights, intellectual right, intellectual property.

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Мәдениет индустриясындағы авторлық құқықтың өзекті мәселелері – Корей болашағы

Мақала авторлық құқық ұғымы, авторлық құқықтың өзекті мәселелері, авторлардың құқықтарын қорғау, сондай-ақ Корея заңнамасындағы мүліктік емес құқықтар туралы түсініктерді құрайды. Авторлық құқық – программалық бұйымды әзірлеуге қатысты автордың құқықтық жағдайын анықтайтын заң шығаратын нормалар жиынтығы. Авторлық құқық ғылым, әдебиет, өнер шығармаларын шығару және пайдалануға байланысты қатынасты реттейтін азаматтық құқық тарауы; ол ұлттық құқық пен авторлық құқықты қорғау жөніндегі халықаралық конвенциялармен реттеледі. Корея Республикасындағы авторлық құқықтың тарихы мен қазіргі таңдағы авторлық құқықтың жағдайына талдау жасалған. Сонымен қатар, Кореядағы авторлық құқықтың дамуы туралы баяндайды. Корея Республикасында авторлық құқық саласындағы заңнама уақыт өте қатаң болды. 1950 жылдары Оңтүстік Кореяда қоғамдық пікір кітапті көшірмелеуді ұрлық деп қарастырған жоқ. Содан бері корейлік заңнама авторлық құқықпен қорғалған туындыларды жасайтын түрлі салалардың мүдделерін қорғау үшін және Корей заңнамасын Дүниежүзілік зияткерлік меншік ұйымының стандарттары сияқты халықаралық стандарттарға сәйкес келтіру үшін бірнеше рет өзгертілді.

Бұл мақала авторлық құқық туралы заңға түзетулер енгізу мәселесін талдауға арналған. Автордың пікірінше, заңға енгізілген түзетулер тиімді заңнамалық реттеуді қажет етеді.

Сондай-ақ, Корея Республикасында авторлық құқықты дамыту туралы айтылады. Бұл мақалада автор авторлық құқықты реттейтін нормативтік құқықтық актілерді, авторлардың құқықтарын қорғау мәселелерін қарастырады.

Түйін сөздер: автор, авторлық құқық, мәдниет, мүліктік емес құқықтар, интеллектуалдық құқық, интеллектуалдық меншік.

Введение

Как правило, целью системы авторского права является совершенствование и развитие культуры (Kembrew McLeod, 2005: 108). Для того чтобы иметь возможность писать литературные или художественные произведения, авторы должны получать вознаграждение за свой труд. Есть два способа, с помощью которых они могут быть вознаграждены, первый – это патронаж, а другой – авторское право. С точки зрения протекции авторами являются по усмотрению (James Boyle, 2008: 22), а авторское право является гораздо более стабильным решением. В некотором смысле авторское право является сделкой между публикой и автором, в результате чего общественность подкупает автора создавать новые работы в обмен на ограниченный коммерческий контроль над новым произведением автора, которое приводит его к работам (Kembrew McLeod, 2005a: 108).

Корея также является обществом, в котором интересы правообладателей все чаще укреплены. Законодательная власть предоставила недавно разработанные права для авторов путем быстрого и многократного пересмотра Закона об авторском праве. С другой стороны, чтобы сдерживать слишком усиленные права, правительство пытается разработать схемы для того, чтобы оправдать некоторые незначительные нарушения. Суды также находят пути, чтобы сохранить хрупкий баланс между правами и использованием. В этом отношении есть юридические вопросы: Кто автор? Что такое авторское право? Каковы законные права автора?

Корея, одиннадцатая по величине экономики в мире, является шестым по величине рынком международной торговли с США. С глобализацией экономики две страны иногда сталкиваются с враждебными торговыми отношениями. Совсем недавно такой конфликт всплыл в области защиты авторских прав. Под американским влиянием Соглашение Всемирной торговой организации по торговым аспектам прав интеллектуальной собственности было и остается основным источником воздействия на систему интеллектуальной собственности в Корее (Uruguay Round Agreements Act, 1994: 108).

Несмотря на прямое и косвенное влияние США на развитие защиты авторских прав в Корее, культурные и юридические различия между Кореей и США ограничили такое влияние. Поскольку Корея готова открыть свой юридический рынок для иностранных юридических фирм с 2005 года, а объем международной торговли продуктами интеллектуальной собственностью и человеческими капиталами будет увеличиваться, то разработка закона об авторском праве в Корее имеет важное значение для американских юристов-практиков и ученых (UK Lawyers Lobby Korea to Open Legal Market, 2002: 20). Чтобы выявить барьеры на пути защиты интеллектуальной собственности в Корее, важно получить четкое представление о том, как культурные, правовые и исторические переменные определяют прогресс и пределы защиты авторских прав в Корее. Соответственно, в настоящей статье рассматриваются эти три фактора в отношении разработки защиты авторских прав в Корее.

Республика Корея (Южная Корея) признана мировым лидером в онлайн-революции. Так, Южная Корея стала пионером в продвижении онлайн-учебных материалов и предоставлении государственных услуг.

В Южной Корее, как и в остальном мире, важной мерой успеха Интернета является то, в какой степени он действует свободно и открыто.

Успешный подход к регулированию Интернета должен создать надлежащий баланс между законными интересами правообладателей и необходимостью защиты свободного потока информации в Интернете. В этом анализе рассматривается Закон об авторском праве с точки зрения свободы слова, обсуждается влияние закона и его реформирование, с тем чтобы привести его в соответствие с международными стандартами в области прав человека. Корейский Закон об авторском праве с внесенными в него поправками включает всеобъемлющую систему защиты авторских прав. В этом анализе основное внимание уделяется тем положениям, которые имеют особое значение для свободы выражения мнений в Интернете.

Цель этой статьи – предоставить всесторонний анализ проблемы авторского права в соответствии с международной практикой. Вместе с тем, выяснить недостатки и особенности регулирования авторских прав в Корее и ответить на все актуальные вопросы.

Для повышения практической ценности статьи используются дескриптивные и сравнительные методы. Определяются оптимальные способы правового регулирования авторских прав с использованием метода сравнения.

Основная часть

Появление авторских прав в Республике Корея

История корейского авторского права датируется 1908 годом, когда во время японской оккупации Кореи было подписано международное соглашение между США и Японией, касавшееся защиты промышленной собственности в Корее (Youm, 1999-2000: 276). Главный современный закон Республики Корея в сфере авторского права – Закон об авторском праве был подписан 28 января 1957 года (Washington Journal of Law, 2011: 6). Этот закон защищал работы в течение жизни автора и 30 лет после его смерти и включал в себя положения о добросовестном использовании. Более поздние версии также имели положения по таким вопросам, как моральные права. В закон были внесены 14 поправок, включая две консолидации (в 1986 и 2006 годах) (Korean Copyright Act, 2009: 432). Поправки 1986 года увеличили период действия авторских прав до 50 лет после смерти автора и включали в себя другие изменения, приводившие корейское законодательство в сфере авторского права в соответствие с Всемирной конвенцией об авторском праве (Washington Journal of Law, 2011: 6). По состоянию на 1999 год, нарушения авторских прав преследовались тюремным заключением сроком до трёх лет и штрафом до трёх миллионов корейских вон (Youm, 1999-2000: 276). По состоянию на 2012 год, в консолидированную версию закона от 2006 года в последний раз вносились изменения законопроектом № 9265 от 22 апреля 2009 года (Korean Copyright Act, 2009: 432).

Законодательство в сфере авторского права в Республике Корея стало со временем более жёстким (Washington Journal of Law, 2011: 6). В 1950-х годах общественное мнение в Южной Корее не считало такие действия, как копирование книги, эквивалентными краже (Park, 2010: 19). Закон 1957 года применялся очень редко, что изменилось только после поправок 1986 года. С этого момента корейское законодательство было исправлено несколько раз, чтобы защитить интересы различных индустрий, создающих защищённые авторским правом работы, и привести корейское законодательство в соответствие с международными стандартами, такими как стандарты Всемирной организации интеллекту-

альной собственности. Число дел и решений, касавшихся авторских прав, значительно выросло с 1986 года.

Хотя корейское законодательство в сфере авторского права и имеет особые характеристики, оно создавалось под влиянием внешних примеров – в особенности законодательства США.

В случае сомнения автора

Ранее, корейские суды применяли принцип «сомнения, для автора». Этот принцип пришел из уголовно-правового принципа «в случае сомнения обвиняемого» (Repealing French Three Strikes Law, 2012: 11). То есть, когда договор об авторском праве остается неясным, оно должно быть истолковано как «лицензированное». Когда оно является неясным, была ли лицензия всеобъемлющей или ограниченной, это может быть интерпретировано как «узколицензированное».

Этот принцип был введен в 1984 году в споре между писателями телевизионной драмы и радиовещательной станцией, так как он функционирует в качестве руководства в толковании авторских контрактных споров (Supreme Court, 2012: 22). Этот случай включает в себя воспроизведение телевизионной драмы телевизионного вещателя в видеокассетах без разрешения авторов. Телекомпания отстаивала, чтобы все авторские права на сценарии были переданы вещателям, в то время как авторы утверждали, что они передали сценарии только для цели вещания. Сеулский Верховный Суд в деле писателей Драмы против радиовещательной станции Кореи заявил, что «если не существуют другие особые обстоятельства, авторы как оригинальные владельцы авторских прав по-прежнему имеют свои авторские права на сценарии. Это очевидно, что договор включает в себя согласие писателя, для того чтобы позволить KBS производить и транслировать телевизионные драмы. Там нет никаких доказательств, указывающих на то, что писатели позволили KBS сделать видеокассеты драмы без согласия авторов» (Seoul High Court Decided, 1984).

Внешние факторы, влияющие на авторское право в Корее

В то время как рост глобальной экономической активности и спрос на внутреннюю защиту промышленности создали благоприятные условия для защиты авторских прав в Корее, законодательство США и его исполнительные действия оказали существенное влияние на изменения в законах об авторском праве Кореи.

Раздел 301 Закона о торговле 1974 года, в частности предоставляет президенту «Дискреционные полномочия» налагать ответные действия против иностранных правительств, когда они находят, что их «акт, политика или практика» «несовместимы»… или иным образом отрицают выгоды неоправданно, необоснованно или дискриминационно, и обременяют или ограничивают торговлю Соединенных Штатов».

Раздел 301 необычен тем, что он не только предоставляет полномочия президенту для обеспечения сильных исполнительных действий, но также позволяет «заинтересованным лицам» ходатайствовать перед правительством об осуществлении исполнительных действий против иностранных правительств от их имени (U.S.C. 1982 &Supp. III, 1985: § 2412). В 1980-х годах США эффективно использовали Раздел 301 для оказания давления на развивающиеся страны, чтобы укрепить у них закон об интеллектуальной собственности.

В ноябре 1985 года США приступили к исследованию Раздела 301 о защите авторских прав со стороны правительства Южной Кореи [19]. Первоначально жалоба американских химических компаний, заинтересованных в защите патента, в Корее вызвала расследование. Однако впоследствии оно охватило и вопросы защиты авторских прав. Например, Торговый представитель Соединенных Штатов («USTR») отметил, что защиты правы на копирование в Корее «практически не существует». Хотя официальные лица США ожидали, что первоначальный проект Корейского закона об авторском праве 1986 года обеспечит эффективную профессиональную защиту, авторские права, особенно в отношении компьютерных программ, однако проект не соответствовал таким ожиданиям.

Владельцы интеллектуальной собственности США продолжали испытывать несанкционированное воспроизведение защищенных авторским правом материалов в Корее, а неспособность правительства Южной Кореи защитить интересы Америки побудила USTR оказать давление на правительство Южной Кореи и промышленность с угрозой возмездия.

Механизм раздела 301 активизировал широкие консультации с правительством Южной Кореи, и было достигнуто соглашение об урегулировании его в августе 1986 года (U.S.C. 1982 & Supp. III, 1985: § 2412). В результате Южная Корея согласилась представить закон об авторских правах к 1 июлю 1987 года, в котором объем защиты авторских прав будет соответствовать стандартам, перечисленным во Всемирной конвенции об авторском праве («UCC»), а также

закон о защите компьютерной программы, явно охватывающий компьютерное программное обеспечение. Кроме того, Корея согласилась присоединиться к UCC и Geneva Phono-граммов к октябрю 1987 года (Streng the ning World wide Protection of Intellectual Property Rights, 1987: 87-65). Соответственно, действие раздела 301 оказало непосредственное влияние на принятие Закона об авторском праве 1986 года.

Полученный результат проиллюстрирован в Законе, который предусматривает защиту авторских прав на весь срок службы плюс пятьдесят лет на произведения, созданные физическими лицами, и на срок в пятьдесят лет на произведения, созданные юридическими лицами (Wilson, 84, 428). Он также защищает звуковые записи, сделанные за пределами Южной Кореи, на срок двадцать лет и строгий контроль за существующей защитой звуковых записей от несанкционированного воспроизведения, ввоза и распространения (Wilson supra note, 37). Расширение защиты иностранных звуковых записей и принятие Закона о защите компьютерной программы заключались в том, чтобы препятствовать звукозаписывающему и программному пиратству корейскими производителями.

После двустороннего соглашения между США и Кореей 1986 года влияние США на Корейский закон об авторском праве посредством действий Раздела 301 привело к присоединению Кореи к многосторонним соглашениям об авторских правах и может также привести Корею к подписанию других аналогичных конвенций (Eva Galperin, 2008: 1-9). Присоединение Кореи к международным договорам имеет большое значение в том, что Корея стала признавать важность авторского права в соответствии с международной нормой.

Бернская конвенция

Бернская конвенция является самой старой международной конвенцией об авторском праве в мире и обеспечивает наивысший уровень многосторонней защиты авторских прав (the Universal Copyright Convention and the Paris Convention for the Protection of Industrial Property, 1952, 1883). Хотя Южная Корея не присоединилась к Бернской конвенции, она косвенно повлияла на Корейский закон об авторском праве 1986 года и его поправки 1997 года (John T Masterson, 1994: 333, 360).

Значимым между Южной Кореей и США в отношении Закона об авторском праве Кореи является ретроактивная защита авторских прав, основанная на статье 18 Бернской конвенции. В то время как США утверждают ретроактивную защиту, относящуюся к 1950 году, как теперь требуется в соответствии с Бернской конвенцией, корейское правительство настаивает на ретроактивной защите только в 1957 году для национальных и зарубежных работ. Некоторые утверждают, что «вступление Кореи в Бернскую Конвенцию стало неизбежным» (Korean Copyright Act and Berne Convention: 51–54).

Всемирная конвенция об авторском праве («UCC»)

В рамках двусторонних переговоров с США в 1987 году Южная Корея присоединилась к UCC (с 1 октября 1987 года) (Sun-Young Moon and Daeup Kim, 2011: 180) и Женевской конференции по фонограммам. Хотя UCC предоставляет достаточно четкие положения о защите авторских прав, как отметил один комментатор, существуют препятствия в присоединении Кореи к UCC и в будущем присоединении к Бернской конвенции:

Поскольку UCC не защищает работы, ранее существовавшие в день ее применения в конкретной юрисдикции, основной проблемой Кореи в присоединении к Бернской конвенции является толкование статьи 18, которая предписывает защиту произведений, существующих на момент вступления Бернской конвенции в силу. Решение о том, будет ли защита существующих работ ретроактивной или нет, сильно повлияет на защиту авторских прав произведений зарубежных авторов в Корее. Кроме того, права на аренду произведений, защищенных авторским правом, должны быть тщательно пересмотрены. Хотя права на аренду требуются в соответствии со статьей 11 ТРИПС, действующие законы не предоставляют права на аренду компьютерных программ и кинематографических работ (Alan S. Gutterman & Robert Brown, 1997: 337, 348–49).

Поэтому одним из центральных вопросов, вызывающих озабоченность в отношении USTR, является то, будет ли Южная Корея применять ретроактивное приложение Бернской конвенции к его Закону об авторском праве в случае, если Южная Корея станет подписчиком Бернской конвекции.

Интернет и права человека

Интернет является ключевым механизмом коммуникации и правил, позволяющих доступ веб-сайтам пользователей и как следствие, серьезное вмешательство в права на свободу выражения. Международное правозащитное сообщество все чаще признает, что доступ к Интернету следует рассматривать как право

человека. Четыре специальных международных мандата на свободу выражения мнений (специальные докладчики) с 1999 года ежегодно принимают Совместную декларацию о теме свободы слова (Sun-Young Moon and Daeup Kim, 2011: 180). В Совместной декларации 2011 года под названием «Свобода выражения мнений и Интернета» было указано следующее заявление:

Предоставление права на свободу выражения мнений налагает на государства обязательство содействовать всеобщему доступу к Интернету. По крайней мере, Интернет представляет собой жизненно важный механизм обеспечения прав человека. Любые правила, влияющие на Интернет, должны быть тщательно разработаны, чтобы сохранить его свободный и открытый характер. Знаменательное заявление о принципах, охватывающих эту идею, было сделано на Всемирном саммите информационного общества в Женеве 2003 года и подписано делегатами из Южной Кореи:

«Мы, представители народов мира, собрались в Женеве 10-12 декабря 2003 года для первого этапа Всемирной встречи на высшем уровне по вопросам информационного общества, заявляем о нашем общем стремлении и приверженности делу создания ориентированного информационного общества, где каждый может создавать, получать доступ, использовать и обмениваться информацией и знаниями, позволяя отдельным лицам, сообществам и народам полностью реализовать свой потенциал в деле содействия их устойчивому развитию и повышению качества жизни, основываясь на целях и принципах Устава Организации Объединенных Наций и в полной мере соблюдать и поддерживать Всеобщую декларацию прав человека (Declaration of Principles, 2003).

Эти принципы особенно уместны для страны, где Интернет занимает центральное место в современной жизни, как Южная Корея. Стандарты в области прав человека предусматривают, что Южная Корея тщательно рассматривает влияние любого законодательства, которое позволит приостановить действие веб-сайтов или доступ в Интернет.

Обзор системы

Соответствующие положения Корейского закона об авторском праве с внесенными в него поправками, а также его исполнительные правила, принятые в качестве президентского указа, нацелены на незаконное воспроизведение и «интерактивную передачу» защищенного авторским правом материала в Интернете (Enforcement Decree of the Copyright Act, Presidential Decree, 2010). Они уполномочивают различных участников – владельцев авторских прав, Министерства культуры, спорта и туризма (MCST) и Корейской комиссии по авторскому праву (KCC) – запрашивать, заказывать или рекомендовать, чтобы поставщики онлайн-услуг (ОСП) принимали различные меры – выдавали предупреждения, удаляли оскорбительные материалы, предотвращали передачу нарушительного материала – в свете нарушений авторских прав или их требований (Yong-Sik Song, 1989: 181-182).

В соответствии с Законом любой, кто считает, что его права нарушаются «из-за воспроизведения и интерактивной передачи работ», может потребовать от ОСП удалить нарушающее воспроизведение и / или прекратить передачу. Запрос должен быть написан в письменной форме и содержать доказательства права собственности на заявляемое авторское право.

Воспроизводство определяется как «фиксация или воспроизведение посредством печати, фотографирования, копирования звуковой или визуальной записи или других средств», в то время как интерактивная передача определяется как «создание работ и т. д.» для общественности таким образом, чтобы представители общественности могли обращаться к ним с места и в момент их выбора (Articles 2(22) and 2(10) of the Act).

Получив такой запрос, ОСП «немедленно приостанавливает» воспроизведение и / или передачу (прекращение), уведомляя пользователя и заявителя в течение трех дней с момента совершения этого действия (статья 103 (2) Закона и статья 41 Декрет). Также пользователь может протестовать против остановки путем доказательств, что он или она владеет авторским правом, или в случае, когда пользователя нет уже в живых. Затем ОСП должен в течение трех дней определить, является ли эта остановка законной, и, если нет, уведомить заявителя и запланировать время для восстановления услуг для пользователя, которое должно составлять от 7 до 14 дней после протеста (статья 103 (3)) Закона и статей 42 и 43 Декрета). Если ОСП принимает меры в соответствии с настоящей статьей для прекращения или возобновления службы, то она должна быть защищена от ответственности (статья 103 (5)).

Приостановка счетов

Наиболее серьезная критика Закона об авторском праве связана с полномочиями приостановления счетов. Прерывание доступа к Интер-

нету в Интернете или размещения их веб-сайтов является чрезвычайно серьезным ограничением, и как говорится в цитате из специальных международных мандатов, изложенных в Совместной декларации 2011 года, редко кто бывает оправдан в соответствии с международными стандартами в области прав человека.

Более того, конкретный способ, которым Закон об авторском праве реализует это ограничение, является особенно проблематичным. В законе не предусмотрены временные рамки и требования по нарушениям. Несмотря на то, что закон якобы нацелен на серьезных нарушителей, на практике он широко применяется и против довольно мелких правонарушителей. Местные группы утверждают, что почти третья часть из 408 человек, у которых были приостановлены их веб-сайты, были вовлечены в менее чем десять случаев нарушений и что среднее количество нарушений из 380 было менее тридцати (http://opennet.or.kr/copyright-reform).

Хотя обязательный приказ на приостановление MCST может быть дан только после трех предупреждений, такое ограничение не налагается на рекомендацию по приостановке KCC, которая может быть выдана при повторении нарушений (т.е. учетная запись может быть приостановлена без предупреждения, если было заявлено, что несколько нарушений имело место).

Также существуют серьезные проблемы с государственными органами, а именно с MCST и KCC, который назначается MCST – обладающим полномочиями для принятия этих мер. Поскольку специальные международные мандаты четко изложены в их совместной декларации 2011 года, приостановление доступа к Интернету может быть законным только в том случае, если оно будет сделано в соответствии с постановлением суда. Международное право дает понять, что органы, которые осуществляют регулирующие полномочия в отношении средств массовой информации, должны быть защищены от политического вмешательства. Такая же логика должна применяться к другим важным регулирующим полномочиям в отношении осуществления права на свободу выражения мнений, например, при приказе приостановить веб-сайт (http://opennet.or.kr/wp-content/uploads/2013/04/IFPI-South-Korean-Music-Market-Case-Study-March-2011.pdf).

Рекомендация: Положения, которые позволяют MCST приказывать и KCC рекомендовать приостановление учетных записей пользователей, должны быть отменены.

Ответственность OSP

Безопасность является одним из основных принципов, лежащих в основе Интернета. В широком смысле это означает, что OSP и веб-сайты не должны нести ответственности за действия своих пользователей, если они не вмешиваются или не поддерживают эти действия. Например, если пользователь отправляет клеветническое сообщение на веб-сайт социальной сети, например Facebook, ответственность за заявление должна лежать только на пользователе, а не на Facebook или на OSP, у которого пользователь покупает доступ к Интернету. Те же соображения, лежащие в основе этого принципа, также относятся к авторскому праву; ответственность за пиратство должна лежать только на пользователе, занимающимся этим. Учитывая децентрализованный характер Интернета и зависимость от контента, создаваемого пользователями, и других действий пользователя, безопасность важна для жизнеспособности интернет-компаний и жизнеспособности Интернета. Поскольку в Совместной декларации 2011 года, предусмотренной специальными международными мандатами в области свободы выражения, говорится:

Существуют проблемы с системой ответственности ОСП в соответствии с Законом об авторском праве. В соответствии со статьей 103 Закона, когда правообладатель подает иск, ОСП обязано («должен») предпринять немедленные действия (прекращение). Это называется типом предоставления уведомления и исключения.

Однако лучшая практика, отраженная в приведенной выше цитате из специальных мандатов, заключается в том, чтобы этот вопрос регался независимым лицом, принимающим решения или судом, но потенциально независимым административным органом, а не ОСП. Это связано с тем, что система стимулов в системах уведомлений и демонтажа предвзято относится к свободе выражения прав пользователя. OSP несут ответственность за нарушение авторских прав, если они не уничтожают потенциально нарушающие материалы, однако не несут ответственности, если они удаляют невинные материалы (при условии восстановления по просьбе пользователя).

Вместо того, чтобы определять ответственность за действия в таких случаях с ОСП, должна существовать система для рассмотрения жалоб, в которой участвует независимый и эксперт, принимающий решения (Sun-Young Moon& Daeup Kim, 2011: 180).

Статья 104 обязывает веб-сайты, связанные с совместным использованием файлов, принимать активные меры для предотвращения или ограничения деятельности, связанной с нарушением прав. Меры, упомянутые в Декрете, являются очень общими мерами, которые, вероятно, будут препятствовать не только нарушению материалов, но и законному содержанию. Среди прочего, эти меры, по-видимому, полностью неспособны отличить добросовестное использование произведений от использования авторских прав. Как и в случае с претензиями по статье 103, все стимулы выстраиваются в одном направлении, в том числе и в случае возникновения тяжелого штрафа. В результате, как только истец поднимает потенциальную проблему, независимо от ее истинных достоинств, ОСП очень склонны принимать меры. Хотя сайты обмена файлами – это локус пиратской деятельности, то непонятно, почему это особое позитивное обязательство для ОСП предпринимать действия против пользователей является необходимым или оправданным. В таких ситуациях в любом случае необходимо принять самостоятельный процесс принятия решений.

Понимание Интернета как прав человека придает большое значение роли ОСП в облегчении доступа. Угрожающие ОСП, ответственные за действия своих пользователей, особенно в свете слабой защиты, предусмотренной статьей 102, создают опасный прецедент в подрыве основополагающего принципа безопасной гавани.

Рекомендации:

1. Требования Статьи 103 должны инициировать рассмотрение независимым органом, а не немедленную ответственность за ОСП за осуществление остановок;

2. Статья 104 должна быть отменена.

3. Правом приказывать и даже рекомендовать действия OSP против пользователей, нарушающих авторские права, должны быть наделены независимые органы, а не MCST и KCC.

4. Пользователи должны иметь право заявлять о любом законном праве в ответ на требование Статьи 103.

5. Должны быть установлены адекватные гарантии надлежащей правовой процедуры для защиты пользователей, которым угрожают административные действия, с тем чтобы предотвратить потенциально ущемляющую деятельность, которая должна включать адекватную возможность представить случай, почему действие не должно приниматься.

Управление цифровыми правами является одной из самых противоречивых областей современного законодательства об авторском праве. Перед лицом резкого роста популярности файлового обмена производители контента прибегают к все более жестким технологическим средствам защиты своих продуктов от несанкционированного воспроизведения. Однако с распространением технологии опытный пользователь может взломать даже самые сложные цифровые замки.

В ответ на снижение эффективности цифровой защиты производители контента во многих штатах лоббировали в пользу законов, криминализирующих обход цифровых замков, или распространение программного обеспечения для облегчения этого обхода. В Законе об авторском праве статья 104-2 запрещает устройства, которые «рекламируются с целью нейтрализации технических защитных действий».

Настройка и модификация продуктов, а также производное использование контента являются жизненно важными аспектами творческого процесса. Хотя понятно, что производители контента должны стремиться защищать свои продукты, эти меры защиты должны обеспечивать законное их использование.

Рекомендация: Статья 104-2 должна быть отменена или изменена, чтобы предусмотреть исключение для ее обхода в целях справедливого использования.

Текущие проблемы защиты авторских прав в Корее

Корея предприняла скромные усилия по усилению защиты авторских прав путем принятия Закона об авторском праве и Закона о защите компьютерной программы («CPPA»), которые были разработаны для выполнения своих обязательств по Соглашению ВТО по ТРИПС (http://www.ustr.gov/reports/nte/1996/korea.html). Тем не менее, нарушения авторского права повторялись в Корее, и как следствие, Корея была помещена в список приоритетных наблюдателей на протяжении многих лет (Michael B.G., 2015: 35). Согласно Международному альянсу по интеллектуальной собственности («IIPA»), поправки Корейского закона об авторском праве не запрещали четкое и давнее несоответствие между корейским законодательством и требованиями Соглашения ТРИП (IIPA 2001 Report, supra note 102). Кроме того, в законодательстве также сохраняются опасения воспроизводства или копирования в библиотеках:

Статья 28 (1) позволяет библиотекам и аналогичным учреждениям без каких-либо разрешений копировать произведения или звукозаписи и давать копии меценатам, которые могут вынести их из помещения. Хуже того, статья 28 (2) позволяет библиотекам и аналогичным учреждениям передавать работы, которые они оцифровывают по сетям, не только в своих собственных помещениях, но также и по межбиблиотечным сетям. Кроме того, в проекте поправок 1999 года запрещается использование такой копии вне библиотеки (Eva Galperin, 2008: 150).

Наконец, как отмечалось выше, в ответ на быстрый рост компьютерного пиратства Корея приняла закон о защите компьютерной программы, чтобы расширить защиту авторских прав на компьютерное программное обеспечение в 1989 году. Тем не менее, Корея была подвергнута критике за ее недостаточное принуждение к борьбе с пиратством программного обеспечения конечного пользователя, например: несправедливое обращение с определенными типами программного обеспечения, в основном произведенными в США; отсутствие консультаций с компьютерной промышленностью относительно оптимальных целей для инспекций; и спорадическое применение ограниченной продолжительности

Вышеприведенные иллюстрации подтверждают, что, несмотря на свои усилия по укреплению защиты авторских прав, Корея попрежнему страдает от международной критики в связи с отсутствием приверженности глобальным стандартам авторского права и энергичным обеспечением защиты авторских прав. Однако, не определяя и не понимая основополагающий источник вышеупомянутых проблем, критика корейского законодательства об авторском праве и правоприменительной деятельности будет контрпродуктивной. Соответственно, в следующем разделе рассматриваются фундаментальные проблемы в области соблюдения законодательства об авторском праве в Корее и предлагаются возможные решения.

Ограниченные механизмы принудительного исполнения

Главная проблема защиты авторских прав в Корее – это ограниченные механизмы обеспечения соблюдения Закона. Эта проблема в основном связана с культурными и образовательными ограничениями в судебных органах и правительственных учреждениях, которые обеспечивают соблюдение Закона. Например, авторы или владельцы авторских прав должны были бы предпринять экстраординарные усилия для обеспечения своих прав в Корее, поскольку корейская правовая система требует прямых жалоб от правообладателей до того, как ответственные правительственные учреждения могут предпринять какие-либо действия против предполагаемого нарушителя.

Обеспечение эффективных гражданских средств правовой защиты – не единственная проблема законов интеллектуальной собственности. Требуется пересмотр судебной системы в Корее в целом, включая структуру суда, систему образования, процесс отбора судей и судейскую администрацию. Самым значительным воздействием Соглашения ТРИПС на Корею является то, что он настоятельно призывает к переоценке всей своей системы (Copyright Act of 2000, art. 99).

Вышеупомянутое предложение является амбициозным, учитывая тот факт, что корейское юридическое сообщество крайне неохотно реформируется в прошлом. Тем не менее, суды Кореи, судя по всему, перенимают подход англо-американской юриспруденции.

Социокультурное влияние: отсутствие авторского права как концепции «на основе прав»

Традиционное отношение к правам интеллектуальной собственности не сильно изменилось даже после принятия законов об интеллектуальной собственности после Второй мировой войны. Соответственно, принятие Закона об авторском праве является лишь первым шагом к признанию авторского права. Без широкого понимания концепции авторского права в обществе исполнение авторского права не может быть достигнуто только путем принятия Закона об авторском праве. Понимание того, что законы об интеллектуальной собственности были приняты для удовлетворения требований иностранцев, которые распространены среди рядовых корейцев, работает только против этого необходимого понимания авторского права. Даже правоохранительные учреждения, в том числе полицейские, прокуроры, а иногда и суды, не свободны от такого негативного отношения к защите авторских прав.

Заключение

Предлагаемые решения

Корейский Закон об авторском праве, возможно, был разработан в результате двух основных факторов, а именно: экономической необходимости Кореи для защиты своих прав на интеллектуальную собственность и внешнего

давления со стороны западных стран. Однако эти факторы не являются взаимоисключающими. Учитывая экономическое развитие Кореи и его статус второго по величине интернет-рынка во всей Азии, не удивительно, что развивающиеся страны могут в ближайшем будущем нарушить авторские права на Корею. Поэтому для корейского правительства неизбежно признать, что защита права на копирование служит долгосрочным интересам Кореи в экономике и торговле.

Несомненно, что Корея предприняла конкретные шаги по пересмотру своего основного закона об авторском праве. Однако в свете быстрого технологического развития, происходящего на беспрецедентных скоростях, Корее необходимо сделать больше для модернизации своей правовой базы и реформирования ее, чтобы реагировать на растущую проблему цифрового и интернет-пиратства. В частности, Корее необходимо обеспечить стимулы для поставщиков онлайн-услуг к сотрудничеству в борьбе с пиратством. Он также может уточнить права владельца авторских прав в этой области. Это может быть достигнуто за счет транспарентности принудительного исполнения против институциональных пиратов конечного пользователя, сотрудничества с частным сектором, устойчивого правительства и эффективного просвещения населения. Прежде всего, приуроченность должна основываться на восприятии, что пиратство в этой области будет самым большим препятствием для развития корейского программного обеспечения с целью стать всемирной силой программного обеспечения. Соответственно, окончательное решение проблемы авторского права в Корее должна основываться на позитивном восприятии защиты авторских прав и готовности со стороны корейского правительства и его людей поддержать его.

Тем не менее, поскольку вышеупомянутые ограничения по существу присущи самой собственной социально-культурной и правовой системе Кореи, усилия корейского правительства по осуществлению принудительного исполнения могут быть ограничены. Кроме того, социально-культурное нежелание признать правовую концепцию авторского права также может ограничивать роль американских и других западных правовых и политических сообществ. Международное сообщество может заполнить эти пробелы, предоставив образовательную поддержку различным корейским учреждениям.

Кратко говоря, корейскому обществу необходим процесс аккультурации, чтобы ознакомиться с ценностями авторского права и последствиями его нарушения. Например, международные промышленные и некоммерческие организации должны активизировать свою деятельность с корейскими коллегами в обучении корейской общественности различным вопросам авторского права. Кроме того, страны с передовыми системами обеспечения соблюдения авторских прав, такие как США, должны сотрудничать с корейским правительством в целях обеспечения обучения правоохранительных органов, адвокатов, прокуроров и членов судебных органов. Наконец, учитывая, что средства массовой информации играют значительную роль в повышении общественного сознания в отношении определенных социальных проблем, использование корейских СМИ должно быть основным средством обучения корейской общественности защите авторских прав и ее нарушению.

По сути, предлагаемый подход отражает профилактический и образовательный, а не реактивный подход. Как обсуждалось в этой статье, корень проблемы защиты авторских прав в Корее носит культурный и образовательный характер. Поэтому окончательное решение проблемы авторских прав в Корее заключается в просвещении корейской общественности и общества о важности защиты авторских прав.

Простое присоединение к многосторонним договорам недостаточно для удовлетворения глобальной тенденции признать важность защиты авторских прав. Авторское пиратство в книжных, видео, музыкальных и деловых программах не исчезнет на основе только внутренних критических замечаний. В то время как корейское правительство должно создать всеобъемлющую систему, которая будет эффективно обеспечивать соблюдение авторских прав и обучать корейскую общественность важности защиты авторских прав, международное сообщество должно продолжать сотрудничать с корейским правительством для достижения этих задач.

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ABOUT THE CONCEPT AND CONTENT OF LEGAL REGULATION OF PUBLIC PROCUREMENT

The article discloses the concept of public procurement, as well as the general characteristics of the fundamental international legal instruments in the field of regulation of public procurement. Legal regulation of public procurement is a complex and continuous process of acceptance, adjustment and using of state legal norms regulating public procurement through the establishment of common rules, rights and duties of its subjects. According to the authors, organization of procurement and its management are one of the main instruments of state influence on the economy of the country, which is aimed at obtaining the necessary quality and quantity of goods and services from a reliable supplier at a competitive price for the needs of the state. In this regard, the examples of legal regulation of public procurement in some foreign countries are given. However, the authors consider the relationship between the concepts of «public procurement» and «public order», regulation of public purchases within some international organizations and also by the legislation of the Republic of Kazakhstan. In conclusion, the authors note the significance of public procurement to ensure not only the implementation of target programs, but also the economic, legal, and social development of the state as a whole.

Key words: state procurement, public procurement, government procurement, WTO, UNCITRAL.

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Жария сатып алуларды құқықтық реттеудің түсінігі мен мазмұны жайлы

Мақалада жария сатып алулардың түсінігі, сондай-ақ жария сатып алуларды реттеу саласындағы негізгі халықаралық-құқықтық құжаттардың жалпы сипаттамасы берілген. Жария сатып алуларды құқықтық реттеу субъектілерінің құқықтары, міндеттері және біркелкі ережелерді анықтау жолымен жария сатып алулар саласын реттейтін мемлекетпен құқықтық нормаларды қабылдау, түзету және қолдану болып табылатын күрделі және үздіксіз үрдісті білдіреді. Авторлардың пікірінше, мемлекеттік сатып алуларды ұйымдастыру, сонымен қатар оларды басқару мемлекеттің қажеттілігі үшін сенімді жеткізуші мен ұтымды бағада тауарлар мен қызметтерді қажетті сапа мен мөлшерде алуға бағытталған елдің экономикасына мемлекеттің әсер етуінің басты құралдарының бірі болып табылады. Осыған байланысты кейбір шет мемлекеттерде мемлекеттік сатып алуларды құқықтық реттеудің мысалдары келтірілген. Осымен қатар авторлар «мемлекеттік сатып алу» және «мемлекеттік тапсырыс» түсініктерінің арақатынасын, жария сатып алулардың кейбір халықаралық ұйымдармен және Қазақстан Республикасының заңнамасымен реттелуін қарастырады. Қорытындылай келе, жалпы алғанда мемлекеттің экономикалық, құқықтық, әлеуметтік дамуын қамтамасыз ету ғана емес, сондай-ақ мақсатты бағдарламаларды іске асыру, мемлекеттік қажеттіліктерді қамтамасыз ету үшін жария сатып алулардың маңыздылығы аталып өткен.

Түйін сөздер: мемлекеттік сатып алулар, жария сатып алулар, үкіметтік сатып алулар, ДСҰ, ЮНСИТРАЛ.

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О понятии и содержании правового регулирования публичных закупок

В статье дается определение понятию публичных закупок, а также общая характеристика основных международно-правовых документов в области регулирования публичных закупок. Правовое регулирование публичных закупок представляет собой сложный и непрерывный процесс принятия, корректировки и применения государством правовых норм, регулирующих сферу публичных закупок путем установления единых правил, прав и обязанностей ее субъектов. По мнению авторов, организация государственных закупок, а также управление ими являются одним из главных инструментов влияния государства на экономику страны, которая направлена на получение необходимого по качеству и количеству товаров и услуг от надежного поставщика и по выгодной цене для нужд государства. В этой связи приводятся примеры правового регулирования государственных закупок в некоторых иностранных государствах. Вместе с тем, авторы рассматривают соотношение таких понятий, как «государственные закупки» и «государственный заказ», регулирование публичных закупок в рамках некоторых международных организаций, а также законодательством Республики Казахстан. В заключении отмечается значимость публичных закупок для обеспечения не только государственных нужд, реализации целевых программ, а также обеспечения экономического, правового, социального развития государства в целом.

Ключевые слова: государственные закупки, публичные закупки, правительственные закупки, ВТО, ЮНСИТРАЛ.

Introduction

One of the determining factors of development of market relations and creation of competitive economic capacities are to increase funding activities through the usage of opportunities for state support. The main objective of the national system of public procurement is to ensure the acquisition of goods, works and services for the state needs.

The state authority acting as the plenipotentiary representative of the state, disposing of the financial resources and therefore the spending of taxpayers ' money must be managed in such a way as to ensure the greatest implementation of public interests.

As world practice shows, the effective use of financial resources of the state for the implementation of its activities is carried out through public procurements.

Over the past half-century the functions of the state expanded substantially, particularly in industrialized countries. One of the main stages of state influence on the economy is the system of state orders, procurement of goods and services for different needs. Organization of state procurement and the procurement management are aimed at obtaining the necessary quality and quantity of raw materials or of goods and services from a reliable provider and at the best price. It has an impact on the price level, the income of private entrepreneurs, who become interested in increasing production volumes and the number of sales in general. Thus, it can be noted that through the implementation of public procurement for social and economic problems the state is involved in the sector of private enterprise.

Theoretical and methodological base of the research

For achievement of the goal of work methods of the analysis, systematization, generalization and comparison, modeling, analogy have been used.

The theoretical base of a research was made by scientific articles, dissertation researches, monographic editions of modern erudite lawyers, economists and other experts, including in the sphere of regulation of public purchases and also the works in the field of management of government procurement devoted to current problems of the sphere of the state order.

During the study of scientific literature in this field, you can see that the concepts of «state order» and «state procurement» are often identified.

State procurement is the totality of the various functions and actions that are focused on the increase of centralized controllability, reduction of state budget expenditures, control of material flows and ensuring the needs of state institutions (Michael Liners, 2007: 257).

Government procurement is the process that the government uses to enter into contracts with service

providers and vendors (Government Contracts & Procurement).

The over-riding procurement policy requirement is that all public procurement must be based on value for money, defined as «the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought». This should be achieved through competition, unless there are compelling reasons to the contrary.

Public sector procurement is subject to a legal framework which encourages free and open competition and value for money, in line with internationally and nationally agreed obligations and regulations. As part of its strategy, the government aligns procurement policies with this legal framework, as well as with its wider policy objectives (Public procurement policy).

Through the procurement exercise the state administers the placement of state order (Галанов, 2010: 133). Under the state order we can understand the totality of concluded state contracts for the supply of goods or provision of services by the state budget. For example, the construction and renovation of schools, purchase of medicines for pensioners and veterans, purchase of computers for officials, the creation and production of new samples of arms and military equipment for the army – all government orders (Michael Liners, 2007: 259). Also the state order can act as suggestions, which are given to the authorized government organization or other organization, the supplier for the state needs.

The state order provides the needs of the state, and government customers in the purchase of goods, works and services required to carry out the functions and powers of the state, government customers (including implementation of the state target programs), to fulfill international obligations, including the implementation of interstate target programs in which the state participates.

A set of clear rules on public procurement allows to make the spending of taxpayers ‘ money on the satisfaction of state needs transparent. State regulation allows, if not to avoid whatsoever, but at least to reduce the level of corruption and arbitrariness of the authorities. Persons who claim to conclude state or municipal contract are referred to as participants of placement of orders. They can be legal entity (of legal form and any form of ownership) and an individual (including individual entrepreneurs) (Кузнецов, 2005: 157).

An important function of the public and state authorities is the provision of socially important goods and services. When implementing this function, the government takes into account the interests of the whole population and uses the state budget. In most countries, one of the main ways of realization of functions of government power is the placement of state and municipal orders.

State procurement – goods and services produced in the country or abroad procured by the government and state bodies at the expense of the state budget (Райзберг, 2007: 56). Such purchases are made by the state for its own consumption (purchase of equipment, weapons) and to ensure that consumption and redundancy (e.g. public procurement of grain and food).

Internationally accepted principles of procurement and placing orders are formulated in the legislation of certain countries and recorded in a number of international instruments such as the UNCITRAL model law on public procurement, the WTO Agreement on government procurement, EU directives, documents of the organization of Asia-Pacific Economic Cooperation and others. The differences in the legislation of certain countries are conditioned by the priorities of economic policy of a state. It is significantly affected by the degree of centralization of the economy. At the level of national legislation is refinement, concretization of international regulations, taking into account features of economic policy. Normative acts are issued in a number of countries allowing, on the basis of General national legislation, to formulate specific provisions reflecting the specificity of the industry (Белова, 2008).

Competitive procedures are the most widely used. That allows to provide equal access to government orders, the openness and transparency of all procedures and selection criteria. The possibility of using other methods requires justification.

Most developed countries, despite a long tradition of a market economy have international requirements in their national legislation.

Under German law, the state, acting as a business entity must observe the same legal and economic principles as the private sector of the economy. As a buyer (consumer) it competes with private sector representatives, along with tracking changes on the market and in form the market about their needs, announcing the tenders for purchase of goods (services).

The modern UK legislation in the field of contests is based on the «guidelines for competitive procurement». In the Treasury of the United Kingdom, as a Central methodological and Supervisory authority, was created the «Central organization for the procurement.» There is also a division of strategic procurement in the government. Each Ministry has a Department on the contract works. The Treasury has

delegated the right of disposal of funds to sectoral ministries, the costs are agreed with the Treasury official in charge of the Ministry. The representative of the Treasury (finance inspector) ensures that the expenditure budget provisions, each contract must obtain approval (Белова, 2008).

The legislations of the Central and Eastern European countries have undergone significant changes. Their main goal is unification, i.e. the transfer of European community directives on the legal framework of particular countries. From the point of view of potential suppliers of products, services, this process needs to give them the opportunity to participate in tenders in different countries (regardless of nationality of supplier) on an equal footing (Белова, 2008).

Thus, it can be noted that most countries have used different ways to restrict access to their markets for foreign competitors. However, as an exception, we can cite Germany, where the law prohibits the preference for national stakeholders.

Australia and New Zealand do not have legislation governing public procurement specifically. However, these countries apply competitive methods of implementing state orders, which are regulated by the normative documents of the Executive and administrative authorities (primarily the Ministry of Finance and the Ministry of works at Federal level and at the state level). The States and territories enjoy considerable autonomy within the overall government procurement policy. Financial control over public expenditure is exercised through the Treasury (Ministry of Finance) on the basis of existing legislation (Белова, 2008).

In Australia Government Procurement is responsible for the procurement function at a whole of government level. It provides strategic procurement advice to the entire public sector (About Government Procurement).

The scheme of the organization of government procurement existing in France and Belgium provides control over the public expenditures at all stages (decision-making, calculation of the estimate of expenses, the analysis of compliance of the planned expenses with budget opportunities, vising of account documents, control of payment of contracts). Creation of the special commissions, which selectively check correctness of signing of the contracts, is characteristic of France. Each department and local authority form own its division on purchases, which is responsible for signing of the contracts and control of their execution (Белова, 2008).

Scales of government procurement in the modern countries of mixed economy are rather considerable. It is important to emphasize that usually overwhelming part of similar purchases is made at the non-state enterprises functioning as market subjects. Confidence in rather higher efficiency of the enterprises of the private sector concerning the enterprises of «the state submission» forms the basis for realization of this principle. The second principle which is put in a basis of implementation of similar purchases assumes widespread use of the special competitive procedures obligatory for government employees at placement of the state order. Features of these procedures are regulated in a standard and legislative order. So far the world practice has developed in general the settled forms of similar procedures – the regulations of such procedures put the firms participating in them in equal conditions before the state customers – organizers of competitions, in particular, proclaim the principles of openness (publicity), the general order of informing for all participants, identical conditions of participation for them, etc. This kind of the quasi-market within which applicants for the conclusion of government contracts compete among themselves is created as a result of offering to government institutions more favorable terms of transactions (Корытцев, 2006: 112-118).

Discussion

Theoretical issues of the public sector economy are most fully represented in the works of foreign authors. Among translated publications of particular interest is the problematic of the distribution of financial resources of society, presented in the work of E.B. Atkinson, J.E. Stiglits «Lectures on the economic theory of the public sector» (Atkinson, 1995). The most comprehensive and holistic view of the problems of the economy of the public sector is given in the work of L.I. Jakobson «Economy of the public sector», in which for the first time in the domestic economic science this methodological approach was realized (Jacobson, 1996). Of particular interest is the monograph of O.U. Mamedov «From the model of the classical market to the model of mixed economy», in which for the first time the modern economy is presented as dichotomy of the market and non-market, that is, the public sector of the economy, which interaction forms the integrity of the mixed model (Мамедов, 1996).

These works reflected trends in the formation and development of public sector in the practice of developed countries. Considerable attention is paid to factors that accelerate, retard and modify the formation of the public sector in the transition economy

to the market. The analysis of main theoretical positions of the above-mentioned works allows to crystallize research-related positions necessary for further analysis of the category «state orders market».

The public sector is a set of economic resources at the disposal of the state.

The resources that are administered by the state are not only organizations that are in its ownership, but also the revenues and expenditures of the budget. Accordingly, the public sector is not the same as the aggregate of state enterprises and institutions. It functions also in the forms of taxation and in public expenditure programs (Попова, 2005: 74).

Analyzing the processes of interaction between the state and the market, L.I. Jakobson notes that «the peculiarity of the economy of the public sector is that it views the state in a broad range of subjects of economic activity, reveals the logic of its economic behavior and focuses on those specific economic benefits that the public sector takes care of, and on the efficiency of production of these goods. The economy of the public sector is designed to explain how citizens' preferences are transformed into goals pursued by the state, as the state is seeking funds to achieve these goals, how it uses these means and through which its activities can become more rational» (Jacobson, 1996: 14).

The market system is built on the basis of voluntarily concluded deals. However, the state has the right to coerce within and on the basis of laws. This is manifestation of its power. No other participants of market exchange have such advantage.

The resources of the state with which the economy of the public sector deals, can be formed through the legal withdrawal of a part of the incomes of citizens and organizations, that is, through taxation. «The public sector of mixed economy, as O.U. Mamedov notes, exists at the expense of the market sector and can not exceed the size of its «consolidated surplus» (that is, the sum of «consumer surplus» and «producer surplus»). This is peculiar law of inter-sectoral equilibrium of mixed economy» (Мамедов, 1996: 10).

In many documents regulating government procurement what distinguishes government procurement from a private one is implementation of purchases using money of the taxpayer, but not private capital. At the expense of the taxpayer, goods and services for his advantage are supplied and used. At the same time, there are budgetary restrictions. The legislature approves the final budget on government procurement and all its further changes.

The essential value in relation to government procurement has the principle of effective use of budgetary funds. Importance of this principle in this case is predetermined not only by the high specific weight of purchases in costs breakdown of the budget, but also by the fact that the majority of offenses in the field of the budgetary purchases are connected with its violation. Some authors call it the principle of a regime of economy. However, Abdrakhimov D.A. emphasizes that «from the point of view of concepts of the system analysis economy cannot be considered as an independent strategic objective of the same level as efficiency since economy of resources is one of the main economic results compared with expenses within the concept «efficiency»» (Абдрахимов, 1996).

Particular importance to the principle of efficiency in relation to government procurement is attached by that circumstance that unlike many other kinds of the budgetary expenses directed to production of the public benefits which are not subject to purchase and sale (such, for example, as average life expectancy, state of environment, public safety), assessing efficiency of which causes serious difficulties (Якобсон, 2001: 16-24), efficiency of government procurement paves the way for accurate monetary value. Considering that the majority of goods, the works and services which are purchased for the state needs has the address in the market, the systematic effectiveness of government procurement can be estimated by comparison of the average price of government contracts with the market price of these or those goods taking into account costs of placement of the state order (Золотарева, 2004: 42-43).

Additionally, the principle of exercising control over the process of placing the state order is singled out. Control assumes responsibility of the customer (officials) for violations of the law, and the effectiveness of the procurement conducted.

The importance of the control function of finance for the effectiveness of public administration was disclosed in detail by O.N. Gorbunova. In her opinion, «through the financial system, a monitoring system is implemented-the tracking by the ruble of the successful (or less successful) development of the state and society as a whole, and, most importantly, the state influence and direct impact on their development» (Горбунова, 1996: 13). Moreover, this applies to such specialized element of the financial system as financial control.

One of significant international acts in the field of regulation of government procurement is the WTO Agreement on government purchases, that came into force on April 6, 2014 (Agreement on Government Procurement). The initial version of the agreement

has come into force in 1996. It is the multilateral (optional to acceptance) contract obliging its members to adhere to the certain measures of regulation promoting greater transparency and the competition in the sector of government purchases. As we know, within the WTO there are binding agreements for WTO participants, for example, the 2011 Agreement on the Free Trade Area. Among the Kazakhstani authors who considered the adoption of the 1994 Free Trade Area Agreement as the basis for the formation of the 2011 Agreement on the Free Trade Area, issues of dispute settlement in this segment, as well as the effectiveness of the assessment of existing mechanisms, can be called Aidarbayev S.Zh., Amandossuly B. (Amandossuly, 2015: 85-92) and other. The norm of agreement regulates purchases of goods, services and capital infrastructure by public authorities. A main goal of the State Parties is achievement of the greatest possible openness of the markets of government purchases as well as an elimination of corruption in this sphere.

The basic principle of the WTO Agreement on government purchases is non-discrimination. It is aimed at development of international trade, restriction of discrimination of foreign suppliers and ensuring transparency of the national legislation and the applied procedures of purchases. At the same time, legal documents of the WTO contain tough rules on applying of numerous measures of non-tariff regulation of foreign trade. All countries of the world actively apply them in the foreign trade practice (Макарова, 2007: 4).

Significant factor that can increase the importance of the Agreement on Government Procurement over time is deeper awareness – especially in modern thinking and research on economic development – the need for proper management mechanisms (those, applying required laws and institutional structures) as an integral part of the processes of opening and liberalizing markets. According to the former Director General of the World Trade Organization, Pascal Lami: «simple removal of obstacles in trade development in itself can not provide optimal performance indicators if there are no rules that ensure the objectivity of procedures, required transparency of markets, responsibility and environmental sustainability of actions performed in competitive environment . It is time to recognize that such rules are one of the most important components of the process of opening markets» (Paskal Lami, 2010).

It can be argued that the Agreement on Government Procurement is positive example of international regulatory regime for the purpose of improving quality of management of type that can help countries conduct and reinforce institutional reforms that empower citizens with certain rights. The easier it is to strive to open markets, it specifically recognizes the need for rules, procedures and institutional structures that provide positive indicators for the markets in this area. These rules and institutional structures are designed to ensure transparency, objectivity and non-discrimination in procurement, and thus can help in maximizing the impact of taxpayer spending in addition to greater freedom in trade.

The majority of laws on government procurement in Central and Eastern Europe and in the CIS countries are based on the Model law of the Commission of the UN on the international commercial law on public purchases.

In 1994 the UNCITRAL has issued the Model law on purchases of goods (UNCITRAL Model Law on Procurement of Goods, Construction and Services, 1994), works and services, in 2004. To the working group of UNCITRAL on purchases have charged to update this Model law with the purpose to reflect new practice of carrying out government procurement, in particular, electronic procurement, and the related aspects of electronic commerce and also to reflect the experience got in the course of use of the Model law on government procurement as bases for legal reform.

As a result, on July 1, 2011 the United Nations Commission on International Trade Law has adopted the Model law of UNCITRAL on public purchases (UNCITRAL Model Law on Public Procurement, 2011), which is a sample for the governments of the states which change or reform the legislation on government procurement for the national markets. Provisions of the Law describe all essential procedures and the principles of carrying out various types of purchasing processes in national system, it can be realized according to local conditions thanks to its flexibility, while keeping desirable results.

In the art. 1 of the UNCITRAL Model Law of 2011 indicates that the scope of the law applies to all public procurement (UNCITRAL Model Law on Public Procurement, 2011). Art. 1 of the 1994 Procurement of Goods (Works) and Services Model Law excluded procurement in the field of defense and allowed States to exempt from its application other sectors of the economy (UNCITRAL Model Law on Procurement of Goods, Construction and Services, 1994). Thus, the Model Law of 2011 represents significant achievement in terms of coverage.

The Model Law has six main objectives set out in its preamble:

1. Maximizing the economy and efficiency of procurement.

2. Facilitate and encourage participation in procurement procedures for suppliers and contractors, especially where appropriate, the participation of suppliers and contractors, regardless of nationality, thus contributing to the development of international trade.

3. Promotion of competition among suppliers and contractors in the field of supply of purchased goods, works or services.

4. Ensuring fair and impartial treatment to all suppliers and contractors.

5. Promote honesty, fairness and public trust in the procurement process.

6. Transparency in procurement procedures (UNCITRAL official site).

The basic idea of the whole text is the principle of developing competition. The application of the norms of UNCITRAL allows creating basis for its practical implementation in the national legislation. The principle of development of competition is reflected in all applied norms and can be traced, in particular, in very cautious attitude of the Model Law to the nomination by procuring entity of requests and offers by bidders for financial support. And also in preferred choice of standard goods, services and types of work, standard contractual requirements. Along with this, in establishing of the obligation of procuring entity in determining the qualification requirements for suppliers, immediately inform everyone who has not passed prequalification selection about the reasons of not passing (Волков, 2002: 2-3).

In addition, UNCITRAL does not welcome the adherence to rules that could reduce the number of potential bidders.

The legislation of the Republic of Kazakhstan on government procurement, based on the Constitution of the Republic of Kazakhstan, consists of standards of the Civil code of RK, the Law of the Republic of Kazakhstan on government procurement of December 4, 2015 434-V, Rules of implementation of the government procurement approved by the Order of the Minister of Finance of the Republic of Kazakhstan of December 11, 2015 № 648, and other regulations of the Republic of Kazakhstan.

The Law of the Republic of Kazakhstan «On Public Procurement» regulates relations arising in the process of implementation by state bodies, state institutions, state enterprises, as well as joint-stock companies, controlling interest of which belongs to the state and affiliated with them legal entities for the procurement of goods, works and services from suppliers in to effectively use the means at their disposal (About state procurement in Kazakhstan).

According to the Law «On Public Procurement», public procurement is carried out in one of the following ways:

– competition;
– request for quotations;
– from one source;
– auctions;
– commodity exchanges (Закон Республики Казахстан «О государственных закупках», 2015).

Conclusion

The system of public purchases is used by all countries of the world community. The international organizations of all levels try to develop the advanced norm promoting a corruption exception, allowing to observe fully the conventional principles and to achieve the generally established objectives in the sphere of government procurement.

The research of the mechanism of functioning of public purchases assumes abstraction from concrete forms of manifestation of public benefits, its divisions into the clean and mixed forms and allows to concentrate the main attention on the factors defining dynamics of supply and demand of public benefits, features of pricing.

Legal regulation of public purchases represents difficult and continuous process of acceptance, adjustment and application by the state of the precepts of law regulating the sphere of public purchases by establishment of uniform rules, the rights and duties of her subjects. Public purchases as subject to the international and national legal regulation are represented by difficult, continuous process of ensuring the state needs by involvement of external performers on a paid basis and consisting of set of the interconnected and consecutive stages: forecasting, planning, formation, placement, execution and control.

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2-бөлім

ХАЛЫҚАРАЛЫҚ ҚАТЫНАСТАРДЫҢ ҚАЗІРГІ МӘСЕЛЕЛЕРІ

Раздел 2

СОВРЕМЕННЫЕ ПРОБЛЕМЫ МЕЖДУНАРОДНЫХ ОТНОШЕНИЙ

Section 2

CONTEMPORARY PROBLEMS OF INTERNATIONAL RELATIONS

IRSTI 11.25.67

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TRANSPORT INTEGRATION AS THE DEVELOPMENT TREND'S OF THE EURASIAN ECONOMIC UNION

The article discusses the development of transport integration of the Eurasian Economic Union, shows the growing role of the EEU in the political, economic and military spheres, depending on the strengthening of transport corridors. The transport and logistics potential of the Eurasian Economic Union and its development opportunities go far beyond the integration group of states. The authors analyze the key factors, depending on which transport integration develops in the Eurasian space; attention is given to the priorities of the development of the Eurasian transport potential. One of the world's largest transportation systems is being created within the framework of the EEU. «Eurasian transcontinental corridor», the new high-speed transport of mixed transport should become a key element of the revived Silk Road. This project includes a new economic policy «Nurly Zhol» (Path to the Future), as announced by the President of Kazakhstan Nursultan Nazarbayev. In the future, a new regional integration bloc will be created, which will include other countries of the Eurasian continent, first of all, the partners of the EEC and China in the SCO. The creation of transcontinental logistics corridors is a strategic task for many centers of power in Eurasian. If by 2025 the process of formation of the Unified Transport Policy is completed, if all existing obstacles are removed for transportation by any means of transport, then the EEU transport systems will reach a new level of functioning, which in fact will indicate their integration. Within the framework of the EEU, efforts are being made to coordinate the transport development strategies of the participating states.

Key words: transport integration, transit, transport corridor, common transport space.

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Көлік интеграциясы Еуразиялық экономикалық одақтың даму тренді ретінде

Мақалада Еуразиялық экономикалық одақтың көлік интеграциясы және оның көлік дәліздерінің саяси, экономикалық және әскери құндылығын нығайтудағы рөлі қарастырылады, Еуразиялық экономикалық одақтың көліктік-логистикалық әлеуеті және оны дамыту мүмкіндігі, Еуразиялық кеңістіктегі көлік интеграциясына әсер ететін негізгі факторларды, еуразиялық көліктік әлеуетті дамытудың басымдықтарын сараптауға көп көңіл бөлінеді. Еуразиялық кеңістікте көлікті біріктіру үдерісін зерделеу барысында, Еуразиялық экономикалық одағының транзиттік және логистикалық әлеуетіне, еуразиялық көлік әлеуетін дамытудың мәселелері мен болашағы жеке қарастырылады. «Еуразия транскұрлықтық дәлізі», аралас көліктің жаңа жоғары жылдамдықты тасымалдауы «Жібек жолының» жаңарған бөлігінің басты элементі болуы керек. Бұл жоба Қазақстан Республикасының Президенті Н.Ә. Назарбаев жариялаған «Нұрлы жол» жаңа экономикалық саясатының аясында құрылады. Болашақта Еуразия құрлығында басқа елдерден,

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ең алдымен, Еуразиялық экономикалық одақтың және Қытайдың ШЫҰ-дағы әріптестері кіретін жаңа аймақтық интеграциялық блок құрылуы мүмкін. Егер 2025 жылға қарай Бірыңғай көліктік саясатты қалыптастыру үдерісі аяқталса, кез келген көлік түрлерімен тасымалдаудағы барлық кедергілер жойылса, онда Еуразиялық экономикалық одақтың көлік жүйесі жұмыс істеудің жаңа деңгейіне жетеді, бұл олардың интеграциясын көрсетеді.

Түйін сөздер: көлік интеграциясы, транзит, көлік дәлізі, бірыңғай көлік кеңістігі.

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Транспортная интеграция как тренд развития Евразийского Экономического Союза

В статье рассматривается вопрос о развитии транспортной интеграции Евразийского Экономического Союза, показана растущая роль ЕАЭС в политической, экономической и военной сфере в зависимости от укрепления транспортных коридоров. Транспортно-логистический потенциал Евразийского Экономического Союза и возможности его развития выходят далеко за рамки интеграционной группы государств. Авторы анализируют ключевые факторы, в зависимости от которых развивается транспортная интеграция на евразийском пространстве, уделяется внимание приоритетам развития евразийского транспортного потенциала. В рамках ЕАЭС создается одна из крупнейших в мире транспортных систем. «Евразийский трансконтинентальный коридор», новый скоростной транспорт смешанного транспорта должен стать ключевым элементом возрожденного Шелкового пути. Этот проект включает новую экономическую политику «Нурлы Жол» (Путь в будущее), о чем объявил Президент Казахстана Нурсултан Назарбаев. В перспективе будет создан новый региональный интеграционный блок, в который войдут и другие страны Евразийского континента, прежде всего, партнёры ЕЭС и Китая по ШОС. Создание трансконтинентальных логистических коридоров – стратегическая задача для многих центров силы Евразии. Если к 2025 г. завершится процесс формирования Единой Транспортной Политики, если будут сняты все существующие препятствия при перевозках любыми видами транспорта, то транспортные системы ЕЭС выйдут на качественно новый уровень функционирования, что фактически будет свидетельствовать об их интеграции. В рамках ЕАЭС прилагаются усилия по координации стратегий транспортного развития государств-участников.

Ключевые слова: транспортная интеграция, транзит, транспортный коридор, единое транспортное пространство.

Introduction

Transport is a system-forming infrastructure branch of the economy and provides basic conditions for the life of society, contributes to the socio-economic development of the state and the implementation of its strategic national priorities. The development of transport has largely determined the progress and prosperity of human civilization. Globalization and regionalization are two processes characterizing modern international relations. Under the impact of these two trends countries unite and protect their economic interests through regional organizations. The vivid example of such organizations is the Eurasian Economic Union, which has been a result of continuous process of the Eurasian integration.

The object of research includes transport integration of the Eurasian Economic Union and its growing role with strengthening of political, economic and military value of transport international corridors. The subject of research is transport and logistics potential of the Eurasian Economic Union and opportunities for its development.

The aim of research is to give complex analysis of the key factors affecting transport integration within the Eurasian space and identifying priorities for the Eurasian transportation potential development. According to the aim of research the following tasks have been set:

(1) to study the process of transport integration within the Eurasian space;

(2) to determine key issues affecting transit and logistics potential of the Eurasian Economic Union;

(3) to identify challenges and perspectives for the Eurasian transportation potential development.

The methodological base of research includes systems analysis, historical and comparative

methods of research, structural and functional approaches.

The Eurasian Economic Union» geographical position facilitates construction of transport and logistics routes of both regional and global significance. This is a key factor for mutual competitiveness and dynamic economic growth in a rapidly changing and complex world.

Actually transport infrastructure as a key instrument plays great role in the country's economy. On the one hand, it provides mobility of goods and resources. On the other hand, it facilitates accessibility of territories and gives opportunity for freedom of movement of freights and passengers. The unsatisfactory condition of transport infrastructure leads to essential restriction of social and economic development of the country. Moreover, control of the markets and routes of goods delivery determines the political weight of the state and its economic development.

The transport systems of the Eurasian Economic Union have all modes of transport and make a significant contribution to the achievement of the goals of sustainable social and economic development at the global and regional levels. Transport integration is one of the directions of the process of international economic integration, which, as a rule, is accompanied by the creation of separate structures with specific management systems, rules and mechanisms for decision-making. In modern conditions, many countries actively participate in the creation of regional economic associations in order to increase the competitiveness of their economies by eliminating tariff and non-tariff barriers and pooling resources.

In modern conditions, many countries actively participate in the creation of regional economic associations in order to increase the competitiveness of their economies by eliminating tariff and non-tariff barriers and pooling resources. The EEU was established in the format of an international organization comprising Belarus, Kazakhstan, Russia, Armenia and Kyrgyzstan, which, in accordance with the «Treaty on the Eurasian Economic Union,» united regional economies into a «single economic space» in order to improve the living standards of the population of the Union, million people.

In accordance with the Union Treaty (section XXI «Transport»), a coordinated (coordinated) transport policy aimed at ensuring economic integration, the consistent and step-by-step formation of the Common Transport Space on the principles of competition, openness, security, reliability, accessibility and ecological compatibility.

In 2016, the Supreme Eurasian Economic Council approved the main strategic document in the field of transport integration of the Unified Energy System - «Main directions and stages of coordinated transport policies of the Member States of the Eurasian Economic Union». It is expected that by 2025 the process of formation of the Common Transport Space should be completed by all existing obstacles will be removed in the course of transportation by any means of transport, the transport systems of the Eurasian transport Union achieved quality level of functioning, the fact of which will testify to the dynamics of Eurasian integration.

The fact that such world leaders as China, the USA and the EU direct much effort towards creating of the overland international transport corridors connecting Europe and Asia says about the growing political value of transport communications. China advances construction of international transport corridors within the «Silk Road Economic Belt» project. The European countries develop cooperation on international transport program TRACECA. The USA embodies the interests through implementation of the «New Silk Road» strategy across the territory of Afghanistan.

In light of current events the EEU is becoming a key element in the revitalization of the Great Silk Road – a new milestone in the development of the mutually reinforcing partnership between West and East. Therefore international transport corridors through the EEU are considered as a way of integration into world transport system and in world logistic space. Owing to availability of transport communications Member states will be able to provide transit of freights from the Asian-Pacific region to Europe. As a consequence, it will positively affect economic development of the Eurasian region.

The role of international transport corridors is studied in the political, economic and sociological aspects. Russian experts Babynina L.O. (2009: 123-144), Vinokurov E. (2009), Vinokurov E., Libman A. (2014:341-358), Yakunin V.I. (2006), Pak Y., Polyanova T. (2015: 199-209) and kazakh researcher's Gubaidullina M.S. (2014: 73-93; 2017: 227-242), Baymuhamedova G.C., Almagambetova Sh. (2014:8-11) devoted their scientific works to the problems of interrelation between development of transport corridors and integration processes within the Eurasian space. Eurasian transport issues are reflected in the researches of Goncharenko S.S. (2004), Rezer S.M. (2010) and Ryskulov D.M. (2012). They investigated problems with Eurasian transport corridors development, transport policy of

Kazakhstan and Russia and prospects of the Great Silk Way revitalization. The Center for Integration Studies of the Eurasian Development Bank under the leadership of Vinokurov published one of the first solid monographs «Eurasian Economic Union» (2017: 296 p.).

However, the rivalry between various projects of international transport corridors in Eurasia was not considered. Much attention to the importance of international transport corridors in world politics was paid in works of such foreign scientists as J. Hibbs (2003), Stevens H. (2004), H. Karrar (2012: 99-113), Humphreys M. (2011), Konopelko A. (2017: 1-17). Dozens of analytical reports and other materials are available on the EDB website (https://eabr.org/analytics/integration-research/cii-reports).

The process of transport integration within the Eurasian space

On May 29, 2014 the Heads of states of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation signed the Treaty on the Eurasian Economic Union. On October 10, 2014 Armenia acceded to the Treaty. On January 1, 2015 the Union of four Member States made its first steps. On May 8, 2015 the Kyrgyz Republic acceded to the Treaty on the EEU (Eurasian Economic Commission, 2015).

On the territory of the Eurasian Economic Union of more than 20 million km^2 with the population of over 182 million there are: 1.6 million km of roads; 108 thousand km of railways (46% electrified); 107.5 thousand km of inland waterways in use; 793.5 thousand km of air routes (Eurasian Economic Commission, 2015).

The establishment of the «Western Europe – Western China» international road corridor, alongside the launch of the United Transport and Logistics Company would create a land link connecting Europe and Asia and providing full range of competitive transport and logistics services.

The most important direction of the EEU further activities will be the implementation of objectives set by Heads of states concerning the joint partnership between the Eurasian Economic Union and the «Silk Road Economic Belt» project in the field of transport and infrastructure.

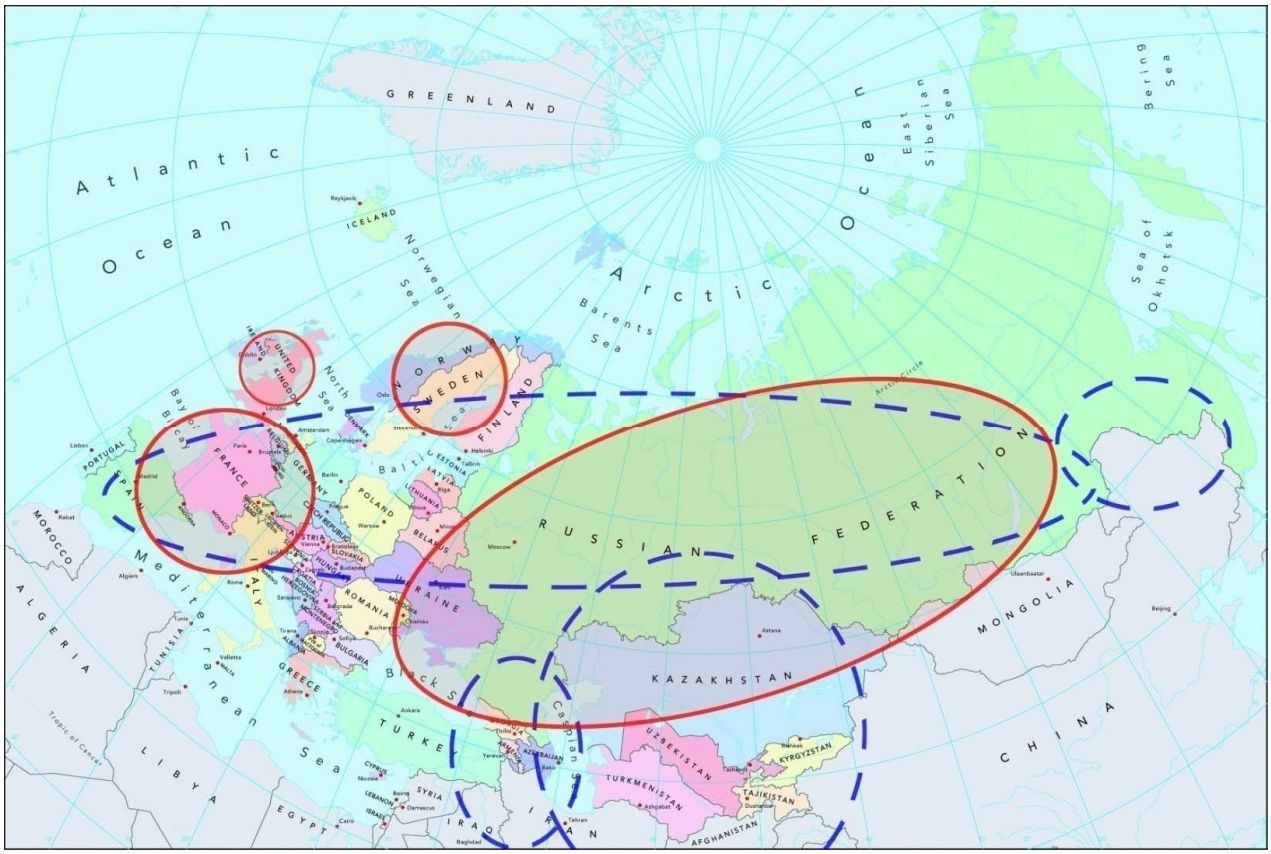
According to Vinokurov, transcontinental transport and logistics communication has objective constraints due to inadequate infrastructure (absolutely crucial for central regions of the continent): Transeurasian vision of transport corridors (rail and auto); Regional common electric power markets; Telecommunications. On the path of Eurasian integration are the so-called asymmetries on the vast Eurasian space (*see map*): Large number of states, with huge differencies of economies, politics, and societies, and cultures. The search of compromises is severely constrained; The problem of integration between democratic and authoritarian countries; Large-scale asymmetry of economic development and dependencies. Central Asia is 'a laboratory of Eurasian integration' (see map). Among the main ideas is «Eurasian integration could drive development by integrating energy trade, non-energy trade and transport, capital and labour flows, tourism, and fighting against drug trading and the spread of epidemics», and «Open regionalism in Eurasia is an economically optimal supplement to regional integration initiatives, in particular to post-Soviet integration» (21 b. Vinokurov, Libman, 2012: 9–16)

«Eurasian Transcontinental Corridor», a new high-speed multimodal transport route, is to become a key element of the revived Silk Road. This project is expected to be established in performance of the «Nurly Zhol» New Economic Policy which was declared by President of the Republic of Kazakhstan, Nursultan Nazarbayev. The fulfillment of the project would be based on the following principles: higher speed, better service, lower costs, safety and stability.

It is very significant to analyze the Treaty on the Eurasian Economic Union which establishes new long-term priorities of transport policy in the territory of the Eurasian Economic Union. One of the key elements of the Treaty on the Eurasian Economic Union is Section XXI «Transport». Transport is the driving force of our daily life; therefore its development, safety and security determine the level of country's economic development, living and social standards.

Section «Transport» includes articles 86 and 87 governing the following: principles, objectives and priorities of the Coordinated (Agreed) Transport Policy; objective and priorities of the Main Directions and Implementation Stages of the Coordinated (Agreed) Transport Policy of the Eurasian Economic Union; application of the provisions of the Treaty on the EEU regarding different transport modes; cooperation of the Member States in the field of transport (Eurasian Economic Commission, 2015).

According to the Treaty on the EEU, the Union will conduct coordinated (agreed) transport policy aimed at economic integration, consistent and gradual establishment of a Common Transport Area.



Figure

Common Transport Area means a range of transport systems of Member States providing for free movement of vehicles, passengers and cargo as well as vehicle compatibility based on the harmonized transport legislation of Member States.

There are six main principles of the coordinated (agreed) transport policy conducted by the EEU: competitiveness, transparency, security, reliability, accessibility, and green technology. Among the objectives of the coordinated (agreed) transport policy are the following: establishment of Common Market of Transportation Services; adoption of agreed measures ensuring mutually beneficial conditions and introduction of best practices in transport; integration of transport systems of Member States into the global transport system; efficient use of transit potential of Member States; transport safety; reduction of negative effects of transport on the environment and human health; attraction of foreign investments.

As for the priorities of the coordinated (agreed) transport policy of the EEU, they are:

– formation of a Common Transport Area;

– establishment and development of Eurasian Transport Corridors;

– fulfillment and development of the Union transit potential;

– coordination of transport infrastructure development;

– establishment of logistics centers and transport organizations ensuring optimization of carriage;

– attraction of the Member States workforce;

– science and innovation in transport.

Implementation of the coordinated (agreed) transport policy would ensure reduce of delivery time and transport costs, increase of mobility and transport accessibility, elimination of «bottlenecks», and facilitation of economic attractiveness of the Union for transit flows.

Specific attention to road transport of the EEU is caused by the role which it plays in a chain of cargo delivery. Actually economic relations between Member states are facilitated with all means of transport. However, road transport provides more than 80 percent of total amount of transportation of goods in Member states, serving almost all branches of economy. Advantages of road transport are high operational and commercial maneuverability, technological adaptability and possibility of door-

to-door service when compared to other means of transport.

Road transport is one of the key elements of business development, especially small and medium business, which is most interested in sending freights by small parties. In this regard, on May 8, 2015 the Heads of Member States of the Union approved the Program of Gradual Liberalization of Cargo Transportation Carried out by Carriers Registered on the Territory of one of the EEU Member States between Points Located on the Territory of Another EEU Member State for the Period from 2016 to 2025. The aim of the program is to facilitate the access for the EEU road freight transport to the Common Transport Market, regardless of nationality or the state of registration. The objective of the program is to establish a roadmap for the Member States to gradually remove restrictions in road freight cabotage Member States along with the Eurasian Economic Commission would annually assess the functioning of the Common Transport Market and consider the possibility of opening domestic transport markets, including road freight cabotage. In case of negative effects of road freight cabotage in the regions of operation the Commission and Member States would hold consultations on the adoption of protection measures.

Factors affecting transit and logistics potential of the Eurasian Economic Union

The key reason for the failure to attract transit business to overland Eurasian corridors is the undeniable commercial benefits of using sea freight from the eastern and southern provinces of China and other Southeast Asian countries. The main competitive advantages that sea transit routes have over overland routes are:

1) Cheaper tariffs:

2) Customer service and compliance with international quality standards: They use state-of-the-art technology, offer discounts to regular customers, etc.

Given geographic location and national economic interests, Russia, Kazakhstan and their neighbours have a direct interest in the Eurasian integration process extending beyond the boundaries of the post-Soviet space and involving the most important countries in the region. Projects being implemented in certain economic sectors provide solid foundations for regional economic integration, which begins in key sectors and eventually extends outwards to the institutional level. For this reason, the electricity and transport industries must be considered as economic priorities.

Increasing the volume of freight transit using Eurasian international transport corridors is made difficult in a number of ways. The main impediments to the full-scale integration of road and rail transport in the EEU member countries are either physical or non-physical, with the following identified as the most acute:

1) Non-physical barriers are those non-technical barriers to trade, which, to a large degree, are «manmade»; these are: protracted customs procedures at border crossing points, which significantly increase waiting times for vehicles and rolling stock; random inspections, often requiring sealed transit containers to be opened; non-harmonized transit tariffs across the CIS – despite the signing of international agreements, transit tariffs still vary from country to country; migration rules – the time drivers are allowed to stay in the EEU differs from country to country.

2) Physical barriers include: obsolescence and shortages of rail cars, containers and locomotives; non-compliance of existing infrastructure and technology with international quality standards (route handling capacities, etc.); inadequate processing capacity at border crossing points; poorly developed logistic and communications networks and motorway service facilities; insufficient capacity for cargo handling, consolidation and deconsolidation.

It is also important to highlight developments that have had a positive impact in creating a unified transport system and encouraging transit: the full-scale commercialization of the road transport sector, which is now dominated by private owners; equal access to domestic freight services markets for private and public carriers; unrestricted (or almost unrestricted) access to foreign cargo facilities (notably, however, each member country bans foreign operators from engaging in coastal freight transport); the freedom to select a carrier for the purposes of export and import contracts; the absence of legal restrictions on foreign ownership of road transport companies; the abolition of permits for return journeys between certain member countries.

In general, transport cooperation could become a catalyst for interconnecting various initiatives like the Eurasian Economic Union, the Silk Road Economic Belt and the New Silk Road Strategy. The implementation of these recently announced projects would greatly benefit the Eurasian region.

At present, the Chinese initiative of the Silk Road Economic Belt is the only international project aimed

at the development of the transit potential of Central Asia. It will play a key role in Kazakhstan, as the new routes will pass through its territory. It should also be emphasized that Kazakhstan, which has no sea outlet, is interested, in one way or another, in the implementation of transport corridors construction projects. In this case, Kazakhstan has the opportunity to become a hub of transit routes both in the «North-South» and «East-West» directions. In the future, the Silk Road project can make economic growth in Kazakhstan possible, if natural resources cease to be a source of funding. Most importantly, the extensive transport corridors system significantly reduces the level of geopolitical tensions in the region. The Eurasian economic development and the ongoing geopolitical challenges requires a balanced foreign economy policy and considering opportunities for new transport routes. Apart from the Silk Road Economic Belt project, the United States also has its vision for Central Asia's transport strategy. The project named «New Silk Road» seeks to link the region to global markets via North-South routes. It is assumed that developing a highway – and possibly creating a rail link between Central Asia and India through Afghanistan and Pakistan – will help stabilize the region and bring Central Asian products to the world market via the Indian Ocean coastline.

Challenges and opportunities for the Eurasian transportation potential improvement

The five Central Asian states, as well as two of the three post-soviet Caucasus Republics (Georgia being the exception) share a common geographic constrain: being landlocked. Their integration in the world market has been the most relevant issue for the governments in the 25 years after independence. Today, the booming Sino-European trade exchange, the Chinese economic growth and China's political-economic re-balancing act toward the «inner Asian frontier» seems to offer for the first time after centuries a concrete possibility for the central Asian countries to play the card of Transport and Trade Bridge between the two poles. In this process Kazakhstan has profiled itself as the most active and successful actor.

The Eurasian Union could become one valuable instrument toward creating an open common transport space and facilitator of transport and transit across Eurasia.

The pacifying effect of bilateral or multilateral trade is widely known in contemporary international relations. Besides, the projects on the development of transport infrastructure and mutual trade will also promote exchange of ideas and strengthening of contacts between people through borders. It is necessary to understand that although at first increase of transnational mobility can cause concern about safety in certain states, it will be useful for regional cooperation, prosperity and safety in the long term. Doubtless, realization of all above mentioned initiatives is important for the Eurasian people as great regional integration, cooperation and interdependence have to reduce negative potential of the global rivalry which threatens peace and safety within the Eurasian space.

As the world practice shows, the rapid technological progress during scientific and technical revolution of the 1960-1970s had the defining value for the transport complex development in the second half of the 20th century. It became widely known as «transport revolution». So far, this factor facilitates the development of all transport modes. It is supposed that in the nearest future in the field of interaction of different transport modes new means for delivery without overload on a formula «door-to-door» will be constantly created and improved. Furthermore, «transport revolution» will lead to the extension of container cargo transportation, joining of computer information systems of all types of transport services, and creation of the general systems of different transport modes, etc. Such innovations will allow to include transport in a network of the international commercial backgrounds.

Therefore, innovative development of transport complex is represented as vital condition for ensuring sustainable economic growth. Considering the importance of integration processes within the Eurasian space, creation of innovative transport system is the pressing problem in the Eurasian region in general. For Russia and other countries of the EEU its development is extremely important. In this regard one more factor plays significant role: the share of transport expenses in the internal regional product is rather high because of the big extent of the territory.

Conducting coordinated transport policy will be the key element of infrastructure development of the EEU, and creation of common market of transport services will be one of its main priorities.

In the long term the essential growth of transit appeal of the EEU countries will be promoted by creation of the United Transport and Logistics Company (UTLC) by the railroads of Belarus, Kazakhstan and Russia. According to the Concept and business plan of the UTLC creation, benefits from infrastructure improvement are: the income

will make 1.6 bln. dollars, and the cumulative contribution to GDP of the EEU countries will be of 11.1 bln. dollars by 2020. Moreover, more than 43 thousand new workplaces will be created, the goods turnover will exceed to 4 mln. containers (Luk'yanovich, 2014).

To solve problems, an Union of Transport Workers of Kazakhstan has been created «KAZLOGISTICS». It is a union of transport and logistics organizations and associations of Kazakhstan, which is the public coordinator of the development of transport logistics, the global transit potential of the Republic of Kazakhstan and the synergy of all modes of transport. To date, 550 companies are active members of the Union.

Indeed, while huge problems are still existing, transport and trade integration in Eurasia and specifically in the Central Eurasian «collapse zone», seems to be a «century project», the most daunting but crucial issue of 21st century for Eurasia.

Conclusion

The Eurasian Economic Union will take many advantages supporting construction of new international transport corridors through the territory of its Member states. Firstly, creating the necessary infrastructure for new railways and roads will spur economic development. Secondly, the countries of the region will be able to collect transit revenues. Thirdly, the creation of new land routes will help Central Asia overcome its continental isolation, making its products more competitive in global markets. Furthermore, transport connectivity in the region will increase the mobility of the population both inside countries and across borders. Finally, the major infrastructure products linking several countries are important for the global economy and can improve difficult political relations between states, as they become stakeholders.

There is a strong need to identify the most beneficial international transport corridors within the Eurasian space as construction and modernization of transport infrastructure are very capital-intensive. The criteria for identifying the priority transit routes in the EEU are the time factor and the positive cumulative integration effect.

Given these criteria, the best potential routes for the EEU are the Northern corridor of the Trans-Asian railway and the Western Europe – Western China motorway as they can be used for transit in two directions: «North-South» and «East-West». On the territory of Central Asia, there are land corridors connecting China with the Persian Gulf states, in particular, with Iran. For example, the construction of a railway along the route of the PRC - Kyrgyzstan - Tajikistan - Afghanistan - Iran. Participating in the development of transport corridors along the territory of Central Asia in the framework of the implementation of the concept of the economic belt of the Silk Road, China is solving several tasks. Priority is given to the development of the western regions of the country through the expansion of exports of their products to the states of Central Asia and the EEU. And by the way, additional international transport routes will be instrumental in realizing the region's transit potential and diversifying cargo flows. The EEU as an organization in the development of the international transport infrastructure is still not coordinating its efforts sufficiently.

The development of cooperation within the framework of the ITC is capable of ensuring the transfer of technologies to the markets of the EEU, as well as guaranteeing energy security and delivery of goods for the EU countries. Therefore, the Eurasian Economic Union can act as a key instrument toward creating an open common transport space and attracting transit from the sea to the overland routes. Today, work is being done to create new and develop existing international transport corridors (MTCs) in all regional integration associations, and in EEU.

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EDUCATIONAL MIGRATION IN EURASIA: NEW TRENDS

International educational migration is becoming more intense in the modern world. The article presents the analysis of educational migration in the Eurasian space, are defined new attraction centers of educational migration in the region. Systematization of theoretical approaches to the study of this process and research of trends in migration movements allowed the author to identify the features of educational migration in the region. Significant attention is paid to the factors influencing the migration plans of students, the consequences of educational migration. Based on the analysis, a conclusion is made about the opportunities and consequences of educational migration, the fact that today there is a intense competition between the world's educational centers for attracting and retaining educational migrants. The authors pay attention to the consideration of educational migration, both from the point of view of a positive phenomenon and from the point of view of the negative phenomenon. Based on the analysis, a conclusion was made about the possibilities and consequences of educational migration, the fact that today there is a sharp competition between the world's educational centers for attracting and retaining educational migrants. The authors have identified the contribution of the countries of the Eurasia region to the formation of migration flows, and new centers for the attraction of educational migrants have been identified.

Key words: educational migration, educational migrants, education market, Eurasia, Kazakhstan.

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халықаралық қатынастар мен әлемдік экономика кафедрасы,
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Еуразиядағы білім беру көші-қоны: жаңа трендтер

Қазіргі әлемде халықаралық білім беру көші-қоны қарқынды дамуда. Мақалада еуразиялық кеңістіктегі білім беру көші-қонына талдау жасалынып, аймақтағы білім саласындағы көші-қонының жаңа үрдістері анықталған, білім беру көші-қонындағы ағымдық өзгерістерге кешенді баға берілген. Осы үрдісті зерттеудегі теориялық көзқарастарды жүйелей отырып көші-қон үрдістерін зерттеу, авторларға аймақтағы білім беру көші-қонының ерекшеліктерін анықтауға мүмкіндік берді. Мақалада студенттердің көші-қон жоспарларына әсер ететін факторларға, білім беру көші-қонының салдарына үлкен көңіл бөлінеді. Студенттердің шетелдік оқу орындарына бейімделуінің негізгі мәселелері, сондай-ақ жоғары оқу орындарында шетел студенттерін оқытуға байланысты пайда болатын проблемалар мен тез арада шешімді қажет ететін мәселелер анықталды. Көші-қон жүріс-тұрысының ерекшеліктері мен болашағы, студенттердің көші-қон көзқарасы анықталды. Авторлар білім беру саласындағы көші-қон мәселесін жағымды құбылыс көзқарасынан да, жағымсыз тұрғысынан да қарастырған. Жүргізілген талдау негізінде білім беру көші-қонының мүмкіндіктері мен салдарына қорытынды жасалынып, бүгінгі күні білім беру мигранттарын тарту мен ұстап қалу үшін әлемдік білім беру орталықтарының арасында үлкен бәсекелестіктің орын алғандығы тұжырымдалған. Авторлар Еуразия аймағындағы елдердің

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көші-қон ағындарын қалыптастыруға қосқан үлесін анықтап, білім беру мигранттарын тартатын жаңа орталықтар анықталған.

Түйін сөздер: білім беру көші-қоны, білім мигранттары, білім беру нарығы, Еуразия, Қазақстан.

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Образовательная миграция в Евразии: новые тренды

Международная образовательная миграция становится все более интенсивной в современном мире. В статье представлен анализ учебной миграции на евразаийском пространстве, определены новые тренды учебной миграции в регионе, дается комплексная оценка сложившимся тенденциям учебной миграции. Систематизация теоретических подходов к изучению данного процесса и исследование тенденций миграционных перемещений позволили авторам выявить особенности образовательной миграции в регионе. Значительное внимание уделяется мотивам, факторам, влияющим на миграционные планы студентов, последствия образовательной миграции. Определяются ключевые проблемы адаптации студентов, а также проблемы вузов, которые возникают в связи с обучением иностранных студентов и требуют приоритетного решения. Выявляются особенности и перспективы миграционного поведения, миграционных установок студентов. Авторы уделяют внимание рассматрению образовательной миграции как с точки зрения положительного явления, так и с точки зрения отрицательного. На основе проведенного анализа сделан вывод о возможностях и последствиях образовательной миграцией, том, что сегодня разворачивается острая конкуренция между мировыми образовательными центрами по привлечению и удержанию образовательных мигрантов. Авторами выявлен вклад стран региона Евразии в формирование миграционных потоков и определены новые центры притяжения образовательных мигрантов.

Ключевые слова: образовательная миграция, учебные мигранты, образовательный рынок, Евразия, Казахстан.

Introduction

At the beginning of the XXI century, international migration of the population is one of the most important characteristics of the development of modern societies in the conditions of growing globalization. One of the features of the development of international migration processes in recent years has been a significant increase in the flow of educational migration. Many countries view international educational migration as part of their foreign policy aimed at strengthening of economic and political influence in the world. In addition, the provision of educational services, including language courses, secondary and higher education, additional vocational education, is becoming one of the important export industries for countries occupying a leading position in the international education market.

The struggle for highly qualified personnel and minds has become a priority of the migration policy of not only developed countries, but the fast-growing countries of Asia, Europe and Latin America.

A wide range of tools has been developed for both attracting and retaining of qualified personnel. Developed countries have a choice in attracting of qualified migrants, while migrants who do not have the possibility of employment and living in developed countries go to developing countries.

Educational migration is becoming an important factor in increasing of the competitiveness of countries and human capital.

In the world practice, migration policy is comprehensive and acts as part of a state's social and economic policy and is aimed:

– at solving the problems of demographic growth (aging of the population, a decrease in the proportion of the employable population).

– at stimulating economic growth (transfer of highly qualified specialists).

Since migration of the population is nowadays acquiring a global character and at the same time is a sign of globalization itself, then new research mechanisms are needed to analyze it, which allow to identify the structure of migration flows and its causes.

The consequences of migration are manifested in various spheres: political, social, economic, cultural, psychological, educational and others. They

can be both positive and negative for society and for the individual. All this determines the relevance of studying the problems of territorial migration of the population, including the regulation of migration in education sphere.

The concept of «population migration» originates from the Latin word «migration» and etymologically means resettlement, displacement. The definition of the concept of «population migration» does not yet have a single point of view. Russian and foreign official bodies define this term in different ways.

United Nations statistical services use short-range and long-distance travel as categories of migration. Migration to a close distance is understood as such a movement, in which there are no significant changes in the economic and social situation of migrants; while migration to a long distance, on the contrary, means a movement by which significant changes happen in the economic and social status of migrants. However, it should be noted that these are very vague definitions that do not reflect the essence of the phenomenon.

The International Organization for Migration determines the migration of the population as a part of the development process of states: those from which people leave and those they try to get into, as well as states that belong to both categories, regardless of the reasons for the move. In other words, this concept includes all forms of migration. A migrant, in accordance with the definition of IOM, is a person moving from one state to another and who is in need of international migration services that are provided by international organizations (Intergovernmental Committee for Migration, 1989: 12-14).

The National Institute of Economics and Demography of France (INED) gives this definition as: «Migration is the movement of people from a place of birth or place of permanent residence to another (place of permanent residence). There are two types of migration: internal migration (within the same country) and international migration (between countries)» (National Institute of Economics and Demography of France, 2018).

The National Institute for Statistics and Economic Research (INSEE) does not define the population migration, but equates migration with the migration balance (the difference between arrived and departed migrants). A definition is given: «a migrant is a person who has moved from a permanent place of residence to another place for a period of more than 1 year» (National Institute for Statistics and Economic Research of France, 2016).

The Statistical Office of the European Union (Eurostat) does not directly define the migration of the population, but gives the concept of it as «a migrant is a person moving to another country by changing his permanent place of stay for a period of at least 12 months» (Eurostat, 2018).

Thus, from all definitions given above, there appear three criteria of defining of the concept of «migration of population» that are the most important ones for it. The first criterion – territorial, the second – temporal, the third – the change of permanent residence. There could be given the definition of the concept of migration based on the three criteria for determining migration.

Population migration is the movement of the population through the administrative boundaries of settlements for a period of at least one year, changing one's permanent place of residence.

The ongoing migration processes are heterogeneous and have their own specifics, and they are variable in time. This predetermines the need to distinguish between different types of migration. In the framework of this study, educational migration is studied, since this very phenomenon is a new process.

The purpose of this article is to investigate educational migration in the Eurasian space, and to identify new centers of attraction of educational migration in the region. Further analysis is required in the study of the causes of educational migration and its consequences for the regions, connections between migration and social mobility of the population, the essential features, influence and clarification of the socio-psychological mechanisms of individual and group migration behavior. The relevance of the modern consideration of the educational migration problems could also be explained by the fact that social changes of the last twenty years have fundamentally changed the political and social situation in the Eurasian space, and the attitude and readiness for migration have changed. Acquiring a clearly expressed social, political pattern in recent years, educational migration makes adjustments to the life of local societies, affects the policies pursued by sovereign states, and most importantly – it changes the personal characteristics of those who are forced to move to other territories in search of a more peaceful life and a better future.

Literature review

The peculiarities of migration processes have a long history of studying, having got into the focus of attention of scientists already in the second half of the XIX century, when the «migration boom» began

in Europe generated by rapid industrialization. The fundamental foundations of the study of migration were laid in the works of E. Ravenstein, which formulated the basic laws of migration and the principles of its study (Ravenstein, 1885).

Theoretical foundations of the essence of migration processes are presented in the works of S. Stouffer (Stouffer, 1940), G. Zipf (Human Behavior and the Principle of Least Effort, 1949), E. Lee (Lee, 1966), who considered various factors impeding or, on the contrary, facilitating migration.

American scientist S.Sassen (Sassen, S., 1988) investigated the role of international organizations in the formation of migration flows. D. Massey (Massey, 2002) worked on the creation of an integral theory of migration, which is able to combine the works of all previous models of migration processes.

Most of the research is devoted to the analysis of the connection between migration and education, the issue of «brain drain». Among these works, one can single out the research of Fre'deric Docquier and Abdeslam Marfouk, which spells out the main findings of early research and tests new hypotheses about the consequences for the host and sending country. This article raises the question of the impact of the «brain drain» and the accumulation of human capital (Docquier, Marfouk, 2006).

Christian Dustmann and Albrecht Glitz conducted an analysis of the connection between education and skills that were received in the host countries. The economic success of the immigrant in the destination country is to a large extent determined by its educational background, how transferable these skills are to the host country labour market, and how much she invests into further skills after arrival. The desire to acquire skills in the host country that have a high return in the country of origin may also be an important reason for a migration (Dustmann, Glitz, 2011).

Issues of educational migration are studied with particular interest among researchers of the Eurasian space. Educational migration should be considered as a kind of intellectual migration, the research to which there were devoted works by Goryachev Yu.A., Zakharov V.F, Kurneshova L.E, Omelchenko E.A. (Горячев, Захаров, Курнешова, Омельченко, 2008), Klyucharev G.A, Mukomel V.I. (Ключарев, 2008).

Rakisheva B.I. and Poletayev D.V. draw conclusions and recommendations regarding the educational migration from Kazakhstan to Russia in their study (Ракишева, Полетаев, 2011). Considerable attention is paid to the factors influencing the migration plans of students, and the consequences of educational migration.

Research methodology

The use of quantitative and qualitative research methods in the article made it possible to obtain a detailed idea of the current state of educational migration in the Eurasian space. In the assessment the current and future migration situations, the theory of rational choice is considered as an important one, because it allows us to understand the significance of migration processes from the point of view of the benefiting of all actors in the surveyed system «migrant-receiving society-recipient-donor state».

To determine the causes and motivations of migration, we will consider the theory of attraction and ejection or the theory of pull / push factors (or the econometric model of migration).

The concept was formulated in the mid-1960s by E. Lee based on the ideas of the English geographer E. Ravenstein. E. Lee noted that two groups of factors are invariably associated with the place of arrival and departure, which affect the migrant. They are positive and negative factors. E. Lee also drew attention to the influence of «intervening obstacles» (Lee, 1966: 47-57) and all sorts of restrictions between the points of arrival and departure. The theory of attraction and ejection appeared on E. Lee's ideas, it describes various motives that encourage people to migrate. These motives are related to the economic, political, social, demographic context in both donor countries and host countries.

Pull factors are attracting factors in the recipient state that make migrants choose a new place of work / residence / study.

Push factors are repulsive factors in the donor state that make migrants choose a new place of work / residence / study.

The theory of pull / push factors helps to better understand the role of economic, social, political attracting factors that a migrant needs to take into account when forming one's migration strategy.

The study used materials of state and departmental statistics (the Committee on Statistics, the Ministry of Education and Science of the Republic of Kazakhstan, the Federal State Statistics Service and the Ministry of Education and Science of the Russian Federation, the International Organization for Migration and the UNESCO Statistical Yearbooks), statistical information from individual universities, including archival materials.

Current trends in educational migration in Eurasia

International population migration is one of the most important aspects of the deepening and development of Eurasian integration. The countries of the Eurasian space are linked by stable relations of migration dependence. Interaction in the migration sphere is one of the most important factors determining their sustainable economic and social development.

Migration processes play an important role in shaping the demographic potential of the Eurasian integration association. It is important to note that in 2016 the total population of the states of the Eurasian Economic Union has increased by almost 40% due to international migrants. In the Eurasian space, migration flows have a great impact on maintaining macroeconomic stability, the functioning of the general labor market and the employment of the population.

The priority of development of the Eurasian integration space is the formation of an innovative economy that requires skilled workers and highly qualified specialists. In this regard, it seems that it is important to create favorable conditions for stimulating the migration of highly qualified specialists. It is about creating a single labor market for highly qualified specialists through the mechanisms of innovation and educational infrastructure.

In the light of that circumstance, in the face of increasing migration flows, educational migrants can be considered as the most desirable categories, because, as a rule, it consists of young and initiative people who are open and willing to accept new knowledge and technologies, who receive a national education and qualifications, fit to the local labor market, adapted to the language and cultural environment.

Studies show that educational migrants are one of the most well-adapted groups of migrants. It is no accident that the migration policy of many countries of the world regards foreign students as one of the most desirable categories of immigrants.

Thus, educational migration should be understood as a set of movements of people with a view to obtaining an education of various levels and for varying durations. It covers both internal and external movements and is always aimed at obtaining new professional or scientific competences, regardless of the prospects for subsequent migration or return. The structure of international educational migration consists of several streams of displacements:

1) educational immigration, covering movements for the purpose of obtaining secondary, secondary special and first higher education, as well as various vacation programs;

2) immigration in order to obtain a second higher and subsequent levels of education, a scientific degree, a scientific internship;

3) immigration for the purpose of professional development (training on language courses, seminars, trainings, retraining or certification programs, obtaining business education and MBA, and training under the programs Work + and Au pair).

At present, the greatest interest of scientists and researchers is caused by the displacement of the first type of educational migration indicated above, since they constitute the main volume of the flow of movements caused by education abroad.

On the one hand, intellectual migration provides new socio-economic opportunities for migrants themselves, donor countries and recipient countries. However, on the other hand, it can lead to negative consequences for donor countries, which are threatened with loss of control over their intellectual resources.

It should be especially noted the rapid expansion of the scale of student migration; the transformation of the «brain drain» into the «brain gain» depends on the effectiveness of its management.

The prospect of intellectual migration is due to the fact that unlike usual labor migration, there take part people who are educated, highly skilled personnel who are able to qualify for a good job with high wages.

Participants in the process of intellectual migration acquire an entirely new set of knowledge, skills, attitudes and views on the world, which they bring back to their homeland upon return or are transferred from abroad to their relatives and compatriots through virtual communication. This allows us to speak about a higher qualitative level of migration, which assumes not only the provision of vital activity for individuals only, but also their significant contribution to the development of their country.

As a result of educational migration, an international «free-floating» fund of mobile, self-assured, highly qualified specialists with a high adaptive ability is formed, who know English and computer technologies, as well as professions that are in high demand on the world labor market (Mooney, Angell, 1993: 118).

At the same time, study abroad is largely elitist: it is available only to the most capable students with

a high level of knowledge and personal mobility. States sending their students to foreign universities can suffer serious damage if they do not return to their homeland (Ledeneva, Tyuryukanova, 2002: 7).

The total number of educational migrants in the world has increased exponentially over the past half-century: from 500,000 in the 1970s. to almost 1 million in 1980 and more than 1.5 million in the mid-1990s. Only for the period from 2000 to 2006 their number increased by 54.4%, reaching 2.9 million people in 2006 (World migration 2008).

UNESCO estimates that there were 2.8 million educational migrants in the world in 2007 (International migration report, 2002), and in 2011 their number exceeded 3.7 million people, or 1.7% of the world's migration.

In the context of the existing differences in the levels of economic, scientific, technological and institutional development, dynamic migration flows in the field of education within the Eurasian space are focused primarily on the Russian Federation. Due to migration there has been a steady redistribution of the population from the countries of the Eurasian Economic Union in favor of Russia. Russia is a center of attraction for more than 60% of foreign students from the Central Asian region. It is among the top ten host countries, leading in the number of foreign students, and at the same time significantly behind in this indicator from the leading recipient countries (3-4 times from France, Germany and the UK; 7 times-from the United States).

Moscow and St. Petersburg in the Soviet period (and, especially, in the period after World war II), were the centers of attraction for the youth of the Eurasian space. In those years, the opportunities for higher education in the most prestigious universities and institutes of the USSR took advantage of a large number of immigrants from Central Asian countries.

In the Soviet era, educational migration from distant foreign countries was concentrated (the largest center was Peoples' Friendship University) and pursued mainly geopolitical goals. On the scale of the USSR, educational migration had one big role – ethno-cultural processing, which made it possible to form people's view of an integral large country. After studying, the specialist returned to his country, carrying a state of the worldview, seeing in what a huge country he lives. The Soviet Union used educational and all in-country migration as a special «tool to grow a Soviet-type man».

After the collapse of the USSR, the situation changed radically, from Central Asian countries to Russian universities came mainly Russian – children from Russian-speaking families who for Russian education. Now the situation is changing, and entrants from the countries of Eurasia are choosing to study other countries, studying at universities of the United States, Britain, Germany or France is becoming more prestigious.

In the 2014/2015 academic year, the number of foreign students in Russia increased by 7.6% (15,700 people) to 221,400 people, according to Rosstat. Most (79%) of visitors, undergraduate, specialist and master programs in Russian educational institutions – from the CIS, Baltic States and Georgia. Their number increased by 12.3 % and reached 175,500 people.

In the conditions of fierce competition with promising universities in the US and Europe, network universities have been set up to raise the ratings of the universities of the Eurasian Economic Union. The main platforms for the implementation of intercultural dialogue in the countries of the Eurasian space were the CIS Networking University, the University of the Shanghai Cooperation Organization (SCO), the Eurasian Association of Universities, the International Forums «The Dialogue of Languages and Cultures of the CIS and the SCO in the 21st Century» etc.

In addition, the practice of simultaneously obtaining two diplomas of education – Russian and, for example, Kazakh, this practice is fully justified and effective. For citizens of the Eurasian space, Russia every year increases quotas on budget places.

The dynamics of the flow of educational migrants

An unconditional leader from the Eurasian space is Kazakhstan, which sends students to Russian universities. Currently, the Russian educational organizations of higher education are studying almost 67,000 citizens of Kazakhstan, of which 26.8 thousand are from the federal budget and a little over 40 thousand people on a paid basis.

Citizens of Kazakhstan, along with citizens of Belarus, Kyrgyzstan and Tajikistan, enter the Russian higher education institutions on equal terms, which gives them the opportunity to pass the exam at the exam points opened in these countries. The Ministry of education and science of Russia is taking the necessary measures to meet the needs of Kazakhstan in the training of highly qualified specialists in demand by the economy of the Republic

In accordance with the plan of admission of foreign citizens to study in Russian universities, the Republic of Kazakhstan provided 452 state scholarships.

Let's take the data of Russian experts: – at the beginning of the 2015/2016 academic year, 237,538 foreign students studied in Russia. 79.2% of these (or 188,130 students) were from the CIS countries. 36% of these students, are from Kazakhstan. This is 67,727 people (НИУ ВШЭ, 2016). That is, Kazakhstanis are every fourth foreign student in Russia.

At the same time, the number of Kazakhstani students in Russia is growing every year – in the 2010/2011 academic year there were 30,699 people or 16.4% of the total number of foreign students in Russia (Арефьев, 2012).

In General, the advantages of educational migration to Russia for the Republic of Kazakhstan, according to Kazakh experts, are the fact that the Republic both in Soviet times and after the collapse of the USSR received qualified personnel in its economy, well aware of the Russian specifics.

Speaking of strengthening the Kazakh Diaspora in Russia, educational migration and settling in Russia played a positive role in this regard, strengthening business ties between Russian and Kazakh entrepreneurs. The Kazakh Diaspora in Moscow and St. Petersburg was formed as a result of educational migration in the Soviet period (Ракишева, Полетаев, 2011).

The main reason of difficulties with educational migration both in Soviet and in now – undue centralization, excessive bureaucratization and administration. This also includes the lack of Autonomous rights of Russian universities, weak material and technical base, the lack of modern laboratories and campuses for a comfortable and safe living of Kazakh citizens.

Theseare the reasons why Russian education is gradually losing its image of elite even in relation to leading universities.

Of course, the quality of Russian education is not in doubt, and the advantage of Russian education for Kazakhstan is a higher quality and much lower price, as well as despite the Western sanctions, more employment opportunities. The development and expansion of educational migration from Kazakhstan to Russia contribute to the proximity of borders, common history and culture, the creation of the Eurasian Union.

When choosing Russia as a place of study, Kazakhstani applicants traditionally prefer to receive education in universities in Moscow and St. Petersburg. Among the other cities, the chances are greater for those close to the border of Kazakhstan (Novosibirsk, Omsk, Barnaul, Tomsk, Samara), as well as the university centers of the Volga region. Studies show that Kazakhs – ethnic Russians use training in the Russian Federation as an opportunity to leave the RK.

The choice of Russia by Kazakhstanis is connected not only with the desire to study in Russia, with the historically positive image of Russian universities, but also with the lack of a language barrier. The university's rating on the Internet also matters.

However, there are disadvantages of this process, the negative aspect of educational migration for Kazakhstan is that the Kazakh youth goes to Russia to study, and then remains there to work, changing citizenship. Then they often transport their parents. If we talk about migration flows between Russia and Kazakhstan, then the data of the Federal State Statistics Service of Russia and the Statistics Committee of the Ministry of National Economy of Kazakhstan differ both because of the difference in accounting methods, and because citizens, actually moving to another country, are legally native this is not notified, sometimes even after receiving a new passport (dual citizenship in Kazakhstan is prohibited). But approximately the picture on the migration balance for 1997-2015 is the same:

– according to Russian data, 1.4 million people came to Russia from Kazakhstan, 283 thousand people left Russia for Kazakhstan, the balance of migration of 1.1 million people;

– according to Kazakhstan data, 1.2 million people came to Russia from Kazakhstan, 276 thousand people left Russia for Kazakhstan, the balance of migration is 0.92 million people (Шибутов, 2017).

In this regard, there are certain consequences of this process for the Republic of Kazakhstan:

– if people leave, then there is a certain imbalance in the social, economic and political development between Russia and Kazakhstan, not in favor of Kazakhstan;

– Slavic population leaves mainly (70-75%), which changes the ethnic picture of Kazakhstan;

– mainly natives of the Northern and Eastern regions of Kazakhstan leave, which creates a imbalance between the overcrowded South and the increasingly deserted North;

– ethnic Kazakhs began to leave, which is also perceived negatively;

– slow population growth in comparison with other countries in the region: now the population of Kazakhstan is about 18 million people, whereas in 1991 there were 16.3 million. In Uzbekistan in 1991 the population was 19 million, and now – about 32-34 million people;

– reduction of the country's human resources capacity -mostly people with higher education leave, people with secondary education replace them.

Another «supplier» of students to Russia from this region is Kyrgyzstan: 16 thousand students from Kyrgyzstan study in Russian universities (16 thousand students from Kyrgyzstan study in Russian universities, 2017). The main countries of destination of educational migration of Kyrgyzstan are Russia, Turkey and China.

It should be noted that the trend is the settling of Kyrgyz citizens in the host states after graduation or completion of an internship abroad. Annually about 10% of the total number of students settle in the host countries.

In addition to Russia, Kazakhstan can act as another center for the attraction of educational migrants. The emergence of new centers of attraction of educational migrants in the Eurasian space (in particular, the Republic of Kazakhstan) indicates that in the near future the direction of migration flows in the Eurasian space can diversify.

Foreign students entering Kazakhstani higher education institutions, as a rule, do not pass the Unified National Testing or Comprehensive testing, and can be enrolled on the basis of university entrance requirements. Foreign students come mainly from the countries of Central Asia (Uzbekistan, Russian Federation, Turkmenistan, Kyrgyzstan, Tajikistan), and China (OECD, 2017).

One of the leading areas of educational migration is the activity of international cooperation of higher education institutions.

International cooperation is one of the most important components of the prestige and recognizability of a self-respecting higher education institution, this issue is given great attention by the universities of the country. The main objectives of the development of international cooperation at the university are to improve the quality of training specialists for the national economy by using the best world experience and integrating into the international educational and scientific space.

Partnership relations are established, active work with foreign universities in the development of academic mobility, joint research projects, educational programs is under way. According to the programs of academic mobility, well-known scientists from various foreign educational institutions and international organizations are involved in teaching activities.

University for lecturing on various subjects, for the conduct of events only invite foreign professors from the far and near abroad. In the educational organizations exchange student programs are realized.

Conclusion

Thus, educational migration promotes international integration and the development of inter-state relations. It has become such a global trend that no country can ignore it, so today there is an acute competition between the world's educational centers to attract and retain educational migrants.

The attractiveness of the University for foreign students not only becomes an important source of income for it (and the region), but also helps to expand its international relations, increases the credibility in the market of educational services and the image of the country as a source of affordable and quality education.

Joint training of students from different countries helps them to be more actively involved in intercultural relations, to improve the skills of interethnic communication, to form ethno-cultural tolerance, provided that the University has created a comfortable environment that helps to adapt foreign students in their new educational and living space. Subsequently, many of them, returning to their homeland, can become active conductors of the policy of the country in which they studied.

Education can be considered as an important and basic socio-economic tool for deepening integration in Eurasia. The common labor market requires common approaches to training, and at the moment there is no single educational system in the EAEU. The system of recognition of diplomas and qualifications (with the exception of medical, pedagogical and legal education) operates within the single labour market. The formation of a common economic policy in the EAEU necessitates the formation of a common educational space, given also that all EAEU member States are members of the Bologna process, with the exception of the Republic of Kyrgyzstan, which will make it possible to use the experience of the European Union in the formation of a common educational space.

Migration of highly qualified specialists is an important factor that will have a positive impact on the national labor markets of all EAEU States.

Graduates of Network universities can work in any country of the EAEU and compete with each other both on the national and on the common labor markets.

However, the processes of educational migration may have negative consequences for the country's

socio-economic development: it is about the non-return (or belated return) of the most capable and talented graduates of foreign universities to the motherland, the loss of intellectual potential in the event of non-return after graduation, resulting in national economies remain without their own highly qualified human resources. This problem seems to require particular attention and study.

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COOPERATION OF THE EU AND KAZAKHSTAN ON CIVIL SOCIETY DEVELOPMENT IN KAZAKHSTAN

Development of civil society is considered to be one of the crucial pillars of post-Communist democratization. The European Union (EU) devotes remarkable attention and effort to civil society development. This study aims to shed light on the cooperation of the EU and Kazakhstan on civil society development in Kazakhstan. To this end, first the methodology of the study is clarified. Second, the historical background of civil society development in Kazakhstan is addressed. Third, the phases of post-Soviet civil society development are explored. Fourth, EU's cooperation with the government and civil society actors is analyzed. As a conclusion, the study discusses that although the cooperation between Kazakhstan and the EU in the area of civil society development in Kazakhstan is marred with difficulties and failed to bring about significant advance so far, cooperation needs to be sustained. Kazakhstan is willing to willing to carry out reform within the contours of its national interest and stability. Astana prioritizes state building and stability over democratization. Kazakhstan is also careful about keeping delicate balances in its multi-vector foreign policy. The EU has acted in line with the preference s of Kazakhstan so far by implementing a developmental approach rather than a political one. The developmental approach of the EU is expected to deliver the desired results slowly. The post-Soviet generation of Kazakhstan is much more devoted to change compared to the generation in administration now. The change will gain momentum when the new generation fills important positions in the important positions in administration.

Key words: Kazakhstan, the European Union, Civil Society, Democratization, Stability.

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Қазақстандағы азаматтық қоғамды дамыту бағытындағы Еуропалық Одақ пен Қазақстан Республикасының ынтымақтастығы

Азаматтық қоғамды қалыптастыру және оны дамыту посткоммунистік демократизацияның негізгі көрсеткіші екендігі анық. Еуропалық Одақ азаматтық қоғам құру саласында көптеген қызметтер атқарып келеді. Бұл мақалада Қазақстан Республикасы мен Еуропалық Одақ арасындағы қарым-қатынастар Қазақстандағы азаматтық қоғам мәселесін зерттеуге бағытталған. Осы мақсатта алдымен зерттеудің әдістемелік негіздері анықталады. Екіншіден, Қазақстандағы азаматтық қоғамның қалыптасу тарихы қарастырылады. Үшіншіден, посткеңестік кезеңдегі азаматтық қоғамның дамуы сарапталса, төртіншіден, ЕО-ның азаматтық қоғам қалыптастыру барысындағы үкіметтік құрылымдар мен жекелеген қауымдастықтармен байланыстары сипатталады. Қорытынды бөлімде, Қазақстанда азаматтық қоғамның даму барысында қиындықтар мен кедергілердің бар екендігіне қарамастан, ЕО мен ҚР арасындағы осы салаға қатысты ынтымақтастықты ары қарай да белсенді түрде жалғастыру керектігі айтылады. Қазақстан Республикасы өзінің ұлттық мүдделері мен тұрақтылықты сақтау үшін азаматтық қоғамды дамытуда реформалар жасауға дайын екендігін көрсете білді. Сонымен қатар, Қазақстан өзінің көпвекторлы сыртқы саясатындағы тепе-теңдіктің сақталуына да аса қатты мән береді. ЕО Қазақстанның ұлттық мүдделерінің сақталуына мән бере отырып, Қазақстандағы

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азаматтық қоғамды дамытуға атсалысып келеді. Бірақ бұл даму бағытымен азаматтық қоғамның күтілетін нәтижесіне жетуге ұзақ уақыт керек етеді. Жаңа буын өкілдері Қазақстандағы маңызды мемлекеттік билікке қол жеткізгенде бұл мәселенің шешілуі қажетті қарқын алады.

Түйін сөздер: Қазақстан, Еуропалық Одақ, Азаматтық қоғам, Демократизация, Тұрақтылық.

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Сотрудничество ЕС и Казахстана в области развития гражданского общества в Казахстане

Развитие гражданского общества считается одним из важнейших показателей посткоммунистической демократизации. Европейский Союз уделяет большое внимание развитию гражданского общества. Это исследование направлено на сотрудничество ЕС и Казахстана в области развития гражданского общества в Казахстане. С этой целью сначала выясняется методология исследования, рассматривается история развития гражданского общества в Казахстане, исследуются этапы развития постсоветского гражданского общества, анализируется сотрудничество ЕС с правительством и субъектами гражданского общества. В заключение, в исследовании говорится, что, хотя сотрудничество Казахстана и ЕС в области развития гражданского общества в Казахстане омрачено трудностями и пока не достигло значительного прогресса, необходимо поддерживать сотрудничество. Казахстан готов к проведению реформы в рамках своих национальных интересов и стабильности. Астана уделяет приоритетное внимание государственному строительству и стабильности в области демократизации. Казахстан также бережно относится к сохранению тонких балансов в своей многовекторной внешней политике. ЕС действовал в соответствии с предпочтениями Казахстана, применяя дружественный подход к развитию, а не политический. Ожидается, что подход к развитию в ЕС будет давать желаемые результаты медленно.

Ключевые слова: Казахстан, Европейский Союз, гражданское общество, демократизация, стабильность.

Introduction

This study aims to shed light on the cooperation of the European Union and Kazakhstan on civil society development in Kazakhstan. Kazakhstan is chosen as the case to be focused on due to its importance. Kazakhstan has rich oil and natural gas resources, which carries it to the limelight in global politics. Given the importance of fossil fuels for world powers and the competition over the use and transfer of these resources, it is wise to focus on Kazakhstan in post-communist studies. Kazakhstan is also vying for regional and global influence. Since independence Astana proved to be effective in keeping the delicate international balances in its region, even in the world. Rather than opting for isolation and resistance to post-communist reform, Kazakhstan adopts a multi-vector foreign policy, seeks to improve in international settings including the platforms provided by international organizations and seems willing to carry out reform within the contours of its national interest and stability.

Civil society is widely regarded to be a key factor in the fall of the communist regimes in former the Soviet Union and Eastern and Central Europe. It is also considered to be one of the crucial pillars of post-communist democratization. The EU, whose role in the post-communist space has improved significantly beginning with 1990's, devotes remarkable attention and effort to the issue of civil society development in the region in a way different from other influential actors such Russia and China.

The EU's activities in this area necessitate the focus on three groups of questions. First, what kind of a methodological trajectory is required to examine and make sense of post-Soviet civil society development in Kazakhstan and EU's activities to this end? Second, what is the nature of EU's activities? What kinds of strategies were employed by various actors for ensuring the development of civil society institutions in post-communist space since the fall of communism in the region? Which group of strategy conforms to the strategies of the EU in the issue area? Has the civil society development policy of the EU evolved through time? Third, what kinds of results have been produced by the EU activity? Can EU be considered as successful in its effort to improve civil society in Kazakhstan in the post-Soviet setting? Has the EU taken the

peculiarities of Kazakhstani case while formulating policies towards this country?

All of these questions will be addressed in different sections of this study. The following section is devoted to discussing the methodology to be applied in this study together with the reasons behind choosing this methodology. Afterward, the discussion section applies the methodology to the issue of cooperation of the EU and Kazakhstan on civil society development in Kazakhstan. After the discussion, the results reached through the application of the methodology to the case will be brought under scrutiny. The conclusion will summarize the findings of the study and provide a general assessment besides offering guidelines for future research on the issue. After this brief introduction, the discussion now turns to the methodological issues.

Methodology

This study carries out a case study. The wider framework of the study comprises both post-Soviet political change and involvement of the EU in post-Soviet space beginning with the 1990's. In this broad context, the case to be focused on is cooperation of the EU and Kazakhstan on civil society development in Kazakhstan.

While carrying out the case study, the approach of an outstanding theorist of post-Soviet political change, Thomas Carothers, will be utilized. In his seminal article (quoted 3400 times so far), Carothers questioned what he called the 'Transition Paradigm'. This paradigm came to be embraced by the US democracy-promotion community starting with the 1980s. To some extent, the transition paradigm has been helpful in accounting for the changes took place some parts of the world at that period. But, as Carothers points out writing in 2002, it is obvious that reality in many places of the world does not correspond the model (Carothers, 2002:6). The post-Soviet space is a point in the case. The main problem with this paradigm was that it assumed that countries moving away from authoritarianism are destined to adopt democracy. However, many countries including the post-Soviet countries like Kazakhstan tended to move towards a different form of authoritarianism after independence. As another setback, this paradigm set a uniform pattern for countries experiencing change. However, in reality, the trajectory of political change in each country followed somewhat a unique path shaped by the history, political culture, ethnic composition, and international landscape of the country in question.

This study closely follows the guidelines provided by Carothers in its methodology. While focusing on the development of the civil society in Kazakhstan in the post-Soviet period, the study will employ an approach that recognizes the distinctiveness of Kazakh case. It will be emphasized that case of Kazakhstan is not only quite different from the Western democracies but also from other countries in post-Communist space. The discussion on Kazakh history and political culture at the beginning of the next section, however quite brief, arises from this understanding. In the remainder of the study, a special attention will be devoted to examining how Kazakh history and political culture have functioned to shape the distinct political trajectory that Kazakhstan has followed after independence.

As mentioned, there is also a second broad framework of this study: the involvement of the EU in the post-Soviet space beginning with the 1990's. To make sense of this framework, a brief discussion on the evolution of the EU's engagement in Central Asia will be provided. Then the study will move on to a narrower focus: how has the EU cooperated with Kazakhstan to ensure the development of civil society in the country so far? At this point, the principles that Carothers put forward in another study will be instrumental. As he writes, over the years, due to the diversity of characteristics of recipient countries of democratic assistance, the earlier one-size-fits-all approach has been given up. Instead of it, today democratic assistance is adjusted according to the needs and conditions of specific countries (Carothers 2009: 5). In the light of this guideline, the study will focus on how the EU forms the democratic assistance given to Kazakhstan on the basis of the specifics of this country.

The resources utilized in this study are mainly secondary resources: articles, books, reports, and news. As another resource, the writer's observations during her visit to Almaty in April 2018 are also used.

Discussion and Results

Before focusing on the role of EU in the development of civil society in Kazakhstan it is necessary to emphasize that emergence of civil society in Kazakhstan predates the involvement of the EU in the issue for sure. Moreover, development of civil society is highly conditioned by political culture prevailing in the country. Therefore, this section first provides an examination of the political culture in Kazakhstan and historical background of the development of civil society in the country.

A traditional understanding of state prevailed in pre-Soviet Kazakhstan. To put in other words, the political setting was shaped by customs and family and lineage-related networks. A complex set of traditional social norms regulated political conduct and communal relations. In this setting, there was no room for the emergence of civil society. Most members of the traditional society living on animal husbandry were so engaged in subsistence living that they tended to ignore politics (Kangas, 1995: 273). Moreover, nomadic culture and life-style have also deeply affected the customs and mind-set of the Kazakh society. The nomadic way of thinking is marked by religious tolerance, high level of collectivism, flexibility, esteem for elderly, and ability to adjust to a repeatedly changing nature (Nezhina and Ibrayeva, 2013: 338).

Tsarist Russia's first incursion into Central Asia was ended in defeat in Khiva in 1717 but its advance gained momentum 150 years later. Under the command of General Konstantin Kaufman Russia gained the control of Khiva in 1873 and established its long-lasting rule over Central Asia (Ruffin, 2011:6). Three tribal and nomadic hordes or juz- the Great, Middle and Little hordes with their regional bases- proved to be the most important division in the Kazakh society then (Giffen et. al., 2005: 56). Although Tsarist Russian rule was assumed to eliminate such divisions between 1822 and 1845 (Roy, 2000: 23), these are still alive in post-Soviet Kazakhstan. When the writer of this study asked the Kazakh people whom she met during an academic visit to Kazakhstan in April 2018 about their horde origins, all of them seem well informed about the horde they are descended from. As Oliver Roy points out that tribes and hordes function as forms of group solidarity among Kazakhs and tribal origin plays a significant role in the society and political life, at least in rural areas (2000: 23) Leaders linked with long-established clans structures have come to possess important positions political and business establishments in post-Soviet period (Dissenova et al. 2002: 16).

Soviet rule entrenched the horde divisions in the Kazakh society but it has a lot of other wide-ranging effects, too. Starting with Lenin, various policies, including eradication of Islamic schools, courts and mosques, the shift to the Cyrillic alphabet, were employed to deeply transform Central Asia. Industrialization and urbanization, the system of collective farms, mass compulsory education were other tools of the Soviet rule (Ruffin, 2011:7). For the nomadic population of Kazakhstan, the imposition of the Soviet rule also meant forced adoption of sedentary life.

The Soviet rule also introduced a plethora of public associations- The Pioneers' League (children and teenagers), Leninist Young Communist League (Komsomol), the Soviet Women's Committee, the Professional Associations, or Scientific and Technical Associations, to name a few- to Central Asia. These were quite different from the civil society organizations in the West as they were generally formed at the suggestion of the state or the Communist Party and financed by the state. A sort of compulsory volunteerism also marked the activities in Soviet public or collective life. Trade Unions were another type of public organizations under state control. By the beginning of 1940's relatively independent trade unions came under state control. Afterward, they were assigned roles in the implementation of decisions taken by the Communist Party. As a result, their initial mission of protecting workers rights vanished (Giffen et. al., 2005: 56).

Civil society organizations, which were independent of state control, were to emerge only with glasnost. In 1986, a new law on associations and interest-based clubs was enacted, bringing about the formation of discussion clubs and movements in line with glasnost and perestroika (Asian Development Bank, 2015: 2). Some of the civil society organizations still functioning today come out of dissident movements emerged thanks to glasnost (openness, liberalization) and perestroika (economic restructuring) policies introduced by Gorbachev period (Matveeva, 2008: 4).

Environmental movements proved to be the first independent organizations to appear across the Soviet Union as a result of the lessening of state control. They were also the strongest of the informal organizations emerging during this period. Their efforts brought about improvements in the environment as well as the emergence of real voluntary citizen activity. In Central Asian countries including Kazakhstan, environmental organizations provided the first democratic platforms to raise citizens' demands (Watters, 1999: 85). Seeing that environmental activities were considered as less problematic than obviously political matters by authorities, activists found the opportunity to intensify their activities as environmental problems resulting from Soviet policies became more publicized thanks to glasnost. While working on the environmental issues, activists came to appreciate the importance of fundamental human rights such as freedom of speech and the right to organize (Watters, 1999: 85). In this period, Kazakhstan also experienced the emergence of political groups

such as Adilet (Justice) and Azat (Independent), which challenged the totalitarianism and demanded democratization of the society (Knox & Yessimova, 2015:304).

In Kazakhstan, environmental activism focused on nuclear testing in Semipalatinsk former nuclear base in the country. After an accident in the base in February 1989, the Kazakh poet Olzhas Suleimenov formed and led Nevada- Semipalatinsk anti-nuclear movement in Kazakhstan. The members of the movement gathered thousands of signatures and organized protest marches in various cities demanding an end to nuclear testing (Luong, and Weinthal, 1999: 1268-1269). In fact, this was not the first time that Kazakhs organized demonstrations to protest against Soviet policies. In December 1986, Kazaks protested against Moscow's order to replace the first secretary of Kazakhstan's Communist Party, Kunayev, a native Kazakh, with Kolbin, an ethnic Russian. In the course of the events, which are called Almaty or Jeltoksan (December) Events, several people died and several hundreds were injured as they clashed with the security forces (Abazov, 1999: 70). Therefore, it is necessary to state that Kazakhstan was distinguished among the former Soviet republics of Central Asia by the virtue of its resolute and bold stance against Soviet policies regarded unfair. Such kind of protests against Soviet authorities was not observed in other Central Asian republics.

As discussed in the methodology section above, the studies on post-communist democratization process, in general, and civil society building, in particular, need to take the distinctiveness of countries under examination into account while carrying out research. They have to move away from using pure and poor Western conceptualizations. Otherwise, they risk missing a well-placed understanding of real dynamics of post-Communist change. Civil society development is a point in the case. If one applies Western definitions of civil society to Kazakhstan, he/she will arrive at the conclusion that civil society does not exist in the country (Dissenova et al. 2002: 21). There is a need for adopting a revised definition. At the center of this revised definition is the recognition that the conceptualization of post-Soviet civil society has to include an all-encompassing definition of civil society including the state-controlled sphere as well as the one independent of the state control. If an autonomous civil society exists in an authoritarian system at all, it exists in the mode of small factions of citizen activism or dissent. A larger part of the civil society encompasses a range of institutions and organizations under different degrees of state control. This larger part of the civil society forms the basis for the potential independent civil society to emerge in the future (Skovajsa, 2008: 48).

Whereas the first narrow conceptualization has been called as 'neo-liberal 'or 'mainstream' approach, the broader one has been referred as 'alternative' in the literature. The alternative approach adopts a broader definition of civil society that comprises traditional and communal civil society. It approaches civil society as a means to an end. In this understanding civil society lays the ground for future change through people's participation and empowerment (Giffen et.al., 2005:7).

It is worth noting that, as a post-communist county, Kazakhstan inherited an extensive and solidly structured associational sphere comprising professional associations and organizations representing a variety of groups and interests including young people, women, and ecologists (Ekiert & Kubik, 2014: 46). The historical background of this associational sphere has been discussed in the introduction. Employing the broader or alternative approach to the conceptualization of civil society, this study argues that post-Soviet civil society in Kazakhstan is built on this ground.

Today, Kazakhstan symbolizes a distinct Central Asian form of civil society, similar to Russia and Caucasus but quite different from that found in both Eastern and Western Europe. It is different in the sense that in Kazakhstan civil society is less willing to challenge the state, more supportive of the authoritarian system, and cautious about the danger of civic activism to degenerate into instability. The Kazakh state dominates civil society less deeply than the state does in Uzbekistan, Turkmenistan or Belarus. However, civil society in Kazakhstan is quite weaker than in the Baltic region or Ukraine (Ziegler, 2010: 795-796). Since independence, the state and civil society have cooperated mainly in three areas: the creation of a positive legal environment to encourage civil society development and growth; public participation; and financial support of civil society organizations' social activities by the state (Ovcharenko, 2004: 25-26).

The development of civil society in Kazakhstan can be examined in four phases (Bhuiyan & Amagoh, 2011: 32):

- first phase: late 1980's-1993,
- second phase:1994-1997,
- third phase:1998-2002,
- fourth phase: since 2003

Having already discussed the first phase, it is appropriate to start with the second phase. During

this phase, in 1996, the Law of the Republic of Kazakhstan «On Public Associations» was enacted and the number of independent NGO's increased significantly. International organizations, including USAID, UNDP, Soros Foundation, TACIS, Eurasia Foundation, INTRAC provided funding and training to NGO's. The most dynamic NGOs of this period were Kazakhstan International Bureau for Human Rights, Interlegal Foundation, Almaty Helsinki Committee, Feminist League, Green Salvation, EcoCenter, and Association of Young Leaders. In the third phase between 1998-2002, NGO's started to face difficulties due to the new restrictive registration requirements and budget cuts resulting from slowing economic growth and declining foreign grants. As a result, the number of NGO's shrunk. At this last phase, the cooperation between the state and civil society institutions increased. The adoption of the Conception of Government Support of NGOs in 2003 proved to be a key step for the development of cooperation between the government and NGOs. In 2006, the Concept of Civil Society Development in Kazakhstan for 2006-2011 was accepted. It aimed the improvement of the legislative, social, economic and organizational conditions to ensure civil society development (Bhuiyan & Amagoh, 2011: 32-34). As another important key step, the Ministry for Religious Affairs and Civil Society was established on September 13, 2016. This new ministry is responsible for coordinating the state's relations with religious and civil society organization besides youth policy (Kazinform, 2016)

A general examination of the civil society in Kazakhstan reveals its strengths as well as the weaknesses. As for the strengths, Kazakh civil society has a relatively well-developed legal framework (Asian Development Bank, 2015). Civil society organizations are by and large open to communication with each other, networking and exchanging information. Religious tolerance, tolerance in inter-ethnic relations, non-violence, and equal opportunities for men and women are assets to the development of civil society. Founding a civil society in the country is relatively easy and cheap. Coming to the weaknesses, in Kazakh society whereas political engagement is low, political apathy is high. In the political system, competitiveness is quite low. State authorities can interfere with civil society organizations and treat them unequally. Citizens do not trust civil society institutions and view them largely as sources of financial benefits. The government is not sensitive to the proposals and initiatives of civil society (Makhmutova & Akhmetova 2011:48-50).

While foreign experts view authoritarian system and the lack of initiative on the part of NGO leaders as the major hurdles for the development of civil society, the local experts emphasize that local culture, which has been shaped by the remote history of the nomadic life and more recent past of broad state control over proto civil society institutions act as a more important stumbling block. Kazakh society is deeply collectivist and heavily relies on tradition of mutual support provided by family and community members. In Kazakhstan, power distance is high meaning that power is centralized and citizens accept unequal distribution of power as they assume that they are dependent on their leaders. It is not easy to access to the government. Moreover, Kazakh society is collectivist rather than being individualist. People are incorporated into informal groups with their birth. These groups offer protection in turn of the loyalty of their members (Nezhina and Ibrayeva, 2013: 341). It has been argued that the dominance of cooperation rather than contestation in state-civil society relations can be only partially attributed to suppression and cooptation by the state. Kazakh political culture, which views contestation destabilizing, also accounts for this situation (Ziegler, 2010:796).

In the last two decades, two approaches have shaped democracy assistance including the development of civil society institutions in targeted countries: political approach and developmental approach. The political approach is built on a rigid understanding of democratization with its focus on elections and political freedoms. Democracy assistance centers on elections, political parties, and civil society groups and seeks to strengthen democrats at the expense of non-democratic forces in recipient authoritarian countries. The developmental method approaches democratization as a broader process entailing equality, justice and, socio-economic changes. In this approach, democratization is not only related to the free and fair elections but also to a broader societal transformation comprising state- and nation-building above all. Democracy assistance is taken as an incremental and continuous process. In this process, state building is given priority over any kind of reforms in countries' political system (Carothers 2009: 5).

Taken as a whole, the EU's democracy assistance for Central Asian countries including Kazakhstan has been conducted on the basis of a developmental approach (Norling & Cornell 2016:23). Some elements of political approach can also be found in the EU's democracy assistance for Central Asia but an examination of main features shows that developmental approach clearly dominates. The

EU focuses on enhancing the capacity of state institutions, strengthening the role of civil society in the field of local service delivery and development projects, and social and economic rights besides political and civil rights. Moreover, it tends to avoid being politically demanding. It emphasizes the importance of collaboration, even with authoritarian governments (Carothers, 2009: 16). This approach of the EU seems to be in conformity with what Kazakh President Nursultan Nazarbayev's attitude towards the issue. For Nazarbayev politics comes after the economy. He argues that it is not wise to be stuck in the transition to democracy. He emphasizes that, in a short span of time, Kazakhstan has managed to establish a modern capitalist state, which prepares the ground for civil society. (The Astana Times, 2013) Since independence, Nazarbayev confronts his critics by highlighting the successes of his young republic and the need for a strong leader to ensure stability and prevent fragmentation (Kubicek, 1998: 35).

Having faced with the reality of state control over civil society organizations in Kazakhstan as in other countries of Central Asia, the EU has adjusted its civil society assistance policy on the basis of the specifics of the country. It can be argued that this kind of a policy contradicts the EU's endeavor to enhance accountability by strengthening independent civil society institutions; however, the pragmatic policy of should not be easily discarded. It is not incorrect to support state-controlled societal groups or organizations as long as they represent the interest of the different segments of the society (Axyonova & Bossuyt, 2016: 215).

In 1990's, the EU opted for keeping a low profile in Central Asia. This distant and relatively stable region did not attract as much attention as the Western Commonwealth of Independent States did (Delcour, 2016: 92) Between the early 1990's and the early 2000s, the EU provided development assistance to Central Asian countries within the framework of its Technical Assistance to the Commonwealth of Independent States (TACIS) scheme and Institution Building and Partnership Program (IBPP). As illustrated by the modest budget (the average annual per capita support was approximately € 4) devoted to the region between 1995 and 2002, at that period EU's involvement in Central Asia was quite limited. A major shift came with the replacement of TACIS program with the Development and Cooperation Instrument (DCI), which allocated € 314 million to the region for the period 2007-2010 (Pierobon, 2016, 11).

Moreover, in order to bolster its position in Central Asia, the EU formulated the Partnership and Cooperation Agreements (PCAs) at the end of 1990's. These agreements have aimed at increasing the EU's visibility in Central Asia by offering regular annual forums for relations between the EU and the Central Asian states. Within the framework of these regular meetings, the EU differentiated between promising states (Kazakhstan and Kyrgyzstan) and the problematic ones (Uzbekistan, Tajikistan, and Turkmenistan). In spite of this, on the whole, the PCAs showed that the EU did not plan to play the same role in Central Asia as it did in other post-Communist countries located in Central and Eastern Europe or the Baltic region. This situation underlined the ambivalent role of the EU in Central Asia once more (Kavalski & Cho, 2018: 56).

However, as far as the field of civil society development is concerned, EU has embarked on a well targeted policy from 2007 onwards. The EU has directly supported civil society organizations in Kazakhstan through two assistance schemes: the European Instrument for Democracy and Human Rights (EIDHR) and the Non-State Actors and Local Authorities in Development (NSA/LA) program. While the EIDHR merely concentrates on civil society actors and the implementation of human rights–related projects, NSA/LA program dwells on fostering local participation in the development process. NSA/LA is also open to local authorities (Pierobon, 2016, 11).

It is necessary to explore the results of the EU's efforts to contribute to the development of civil society in Kazakhstan before the conclusion. As regards for civil society level, the organizations that were endowed with grants from the EU managed to forge sustainable relationships with other NGOs that were involved in the projects as partners to the degree that generally the cooperation was maintained even after the grant had ended. However, these funds also have had a negative impact on the relations among civil society institutions by increasing competition among them to be eligible for grants. The situation is more complicated at the governmental level At the governmental level, although a number of consultation mechanisms were formed, civil society actors still prefer to use informal networks and personal contacts to campaign for their causes (Pierobon, 2016, 11).

Conclusion

In Kazakhstan civil society is quite different from those in other parts of the world. The third sector in the Western and Eastern Europe are quite different from the one in Kazakhstan. Kazakh civil society tends to cooperate with the state rather than challenging it. Over

the years since independence, the cooperation between civil society and the state came to be regulated by laws, coordinated by state organs and financed by state funds. Kazakhstan's ruling elite does not favor a fast and ambitious democratization. Economic development and stability are clearly given priority over democratization.

Taken as a whole, the EU's democracy assistance for Central Asian countries including Kazakhstan has been conducted on the basis of a developmental approach. Although the EU's policies in this field are criticized as being too vague and too unpromising, one must not discard them easily. In its civil society policy development towards Kazakhstan, the EU opted for taking the sensitivities of Kazakh ruling elite into account. Rather than being too politically demanding and ambitious, the EU has so far emphasized small improvements. In Kazakhstan, as in the rest of Central Asia, the EU focuses on good governance and building the capacities of state institutions rather than urging democratization.

This is a wise policy and it is in the interest of Kazakhstan. Many people had feared that due to its large Russian population Kazakhstan would face instability after the collapse of the Union of Soviet Socialist Republics (USRR). However, due to his meticulous policies, Nazarbayev managed the keep the delicate balances both in his country and in relations with Russia so far. As the EU has also proved to be careful to not to push too far and disturb the balances, its cautious policies deserve respect.

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SOME THEORETICAL ASPECTS OF THE PUBLIC DIPLOMACY

The new geopolitical realities, information technologies' rapid development are changing the international relations structure, and complicating the tasks of diplomacy. Today, it is not enough for the world community to take into consideration only its political, economic or demographic characteristics to form a perception of the country. Image becomes one of the most important aspects of the overall assessment of the state. This fact explains the important role of public diplomacy in international relations. Public diplomacy has now become an effective instrument of foreign policy and is widespread in the world. In the contemporary international relations, public diplomacy serves as a diplomatic mechanism, and is recognized by all states. It is also an additional opportunity to implement foreign policy objectives in the context of the international relations new system formation. The authors analyze the main theories and conceptual approaches in the study of public diplomacy: the «soft power concept, constructivism and strategic communication. The authors also note that these theories and concepts focused on the both the state activity and non-state actors under the public diplomacy. The proposed article will be interesting for specialists in the field of international relations, dealing with theoretical issues of world politics and diplomacy.

Key words: public diplomacy, international relations, theory, concept, soft power, constructivism, strategic communications, branding.

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Қоғамдық дипломатияның кейбір теориялық аспектілері

Жаңа геосаяси жағдай, ақпараттық технологиялардың қарқынды дамуы дипломатияның міндеттерін күрделендіре отырып, халықаралық қатынастардың құрылымын өзгертуде. Бүгінгі таңда елдің әлемдік қауымдастықпен қабылдануын қалыптастыру үшін оның саяси, экономикалық немесе демографиялық сипаттамаларын есепке алу жеткіліксіз. Имидж мемлекетті жалпы бағалаудағы ең маңызды аспектілерінің біріне айналуда. Бұл факт халықаралық қатынастардағы қоғамдық дипломатияның өзекті рөлін түсіндіріп отыр. Қоғамдық дипломатия бүгін сыртқы саясаттың тиімді құралына айналды және әлемде кең таралған. Қазіргі халықаралық қатынастарда қоғамдық дипломатия дипломатиялық механизм және халықаралық қатынастардың жаңа жүйесінің қалыптасу жағдайында сыртқы саясат міндеттерін іске асыру үшін бүкіл мемлекеттермен танылатын қосымша мүмкіндік ретінде әрекет етеді. Мақала авторлары қоғамдық дипломатияны зерттеуде негізгі теориялар мен концептуалды тәсілдерді сараптайды: «жұмсақ күш» тұжырымдамасы, конструктивизм, стратегиялық коммуникация және брендинг. Сонымен қатар, мақала авторлары бұл теориялар мен тұжырымдамалардың қоғамдық дипломатия шеңберінде мемлекеттік және мемлекеттік емес акторлардың қызметіне назар

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аударатынын атап көрсетеді. Берілген мақала әлемдік саясат пен дипломатияның теориялық мәселелерімен айналысатын халықаралық қатынастар саласындағы мамандарға арналған.

Түйін сөздер: қоғамдық дипломатия, халықаралық қатынастар, теория, тұжырымдама, жұмсақ күш, конструктивизм, стратегиялық коммуникация, брендинг.

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Некоторые теоретические аспекты публичной дипломатии

Новые геополитические реалии, стремительное развитие информационных технологий меняют структуру международных отношений, усложняя задачи дипломатии. Сегодня для формирования восприятия страны мировым сообществом становится недостаточным учитывать лишь ее политические, экономические или демографические характеристики. Имидж становится одним из самых важных аспектов общей оценки государства. Этот факт объясняет важную роль публичной дипломатии в международных отношениях. Публичная дипломатия сегодня стала действенным инструментом внешней политики и получила широкое распространение в мире. В современных международных отношениях публичная дипломатия выступает в качестве дипломатического механизма, и признаваемой всеми государствами, дополнительной возможностью для реализации задач внешней политики в условиях формирования новой системы международных отношений. Авторы статьи анализируют основные теории и концептуальные подходы в изучении публичной дипломатии: концепцию «мягкой силы», конструктивизм, стратегическую коммуникацию и брендинг. Авторы статьи также отмечают, что эти теории и концепции сфокусированы на деятельности государственных и негосударственных акторов в рамках публичной дипломатии. Предлагаемая статья ориентирована на специалистов в области международных отношений, занимающихся теоретическими вопросами мировой политики и дипломатии.

Ключевые слова: публичная дипломатия, международные отношения, теория, концепция, мягкая сила, конструктивизм, стратегическая коммуникация, брендинг.

Introduction

The new geopolitical realities, information technologies' rapid development are changing the international relations structure, and complicating the tasks of diplomacy. Today, it is not enough for the world community to take into consideration only its political, economic or demographic characteristics to form a perception of the country. Image becomes one of the most important aspects of the overall assessment of the state. This fact explains the important role of public diplomacy in international relations.

There are various channels for influencing to the foreign public opinion through public diplomacy. The impact can be implemented through diplomatic channels, as well as through statements by officials in the media, with public lectures, in social networks, etc. through unofficial channels: through NGOs, funds, educational programs, women's and youth organizations, universities, etc. As the fact that the channels of public diplomacy are a reflection of the development of international and interstate relations, the concept itself and its components are changing along with changes in world politics.

The term «public diplomacy» has different interpretations, but they tend to two main ones: diplomacy realized both by state and non-state actors of international relations, and diplomacy, whose object of influence is primarily the public opinion of other countries. Thus, public diplomacy acts as a diplomatic mechanism, and is recognized by all states, as an additional opportunity to realize the tasks of the foreign policy in the conditions of the international relations' new system formation.

The purpose of the article is to analyze theoretical discussions, schools and scientific directions about public diplomacy in contemporary international relations.

Historically, public diplomacy had the form of communication between the government of one state and the people of another state. Using different channels to influence to foreign civil societies (cultural, folk, media, digital, etc. types of diplomacy), this or that state seeks to manage the international environment.

The new realities of the contemporary world require a deep analysis of the trends in the development of modern public diplomacy. First of all, one should proceed from the fact that the problem of public diplomacy has the interdisciplinary nature, which explains the interest not only of diplomats, but also of historians, anthropologists, culturologists and international experts. In order to understand the role of public diplomacy in the new conditions of the world development. It is necessary to use approaches, both from the standpoint of historical experience, and the desire to equate public diplomacy with propaganda.

It is obvious that in the last 25 years public diplomacy comes out the periphery of the foreign policy of the most developed countries. The US experience acts as an example of the public diplomacy realisation. Domestic and foreign public support of the American policy allows receiving assistance for the economic or military programs realization and to provide states' healthy economy and security. In spite of the fact that the USA is the leading country in studying of public diplomacy and practical use of its mechanisms, scientists and experts from the other countries more and more successfully develop their own national experience in this direction. In other words, it is as about continuous expansion of borders of a profile discourse, and about enrichment of its contents.

The general definition of the public diplomacy allows to indicate its main subjects which include the governments, public authorities, private groups of interests, media, journalists and participants of cross-cultural communications (the organizations, certain citizens) (Лукин 2013: 1).

The complex and comprehensive analysis of the public diplomacy role demands to address not only the superpowers' experience, but also the middle and small countries not always possessing characteristics of the democratic state.

Methods and theoretical approaches to the public diplomacy

The «public diplomacy» concept was used in the diplomacy of the modern period of International relations, but it had a bit different value. For example, in article of the British newspaper «London Times» in 1856 it was used as designation of «respectable diplomacy», and several years later in the American edition «The New York Times» meant «open, not secret diplomacy». (Cull 2006: 2).

In general, it should be noted that public diplomacy instruments in various forms were used in the international relations throughout many centuries, but only in the middle of the 20th century E. Gallion gave the conceptual explanation to it. These years was the period of the public diplomacy blossoming when the US and the USSR, using various methods of its realization in the foreign policy, fought for global leadership has also had.

Initially public diplomacy and propoganda have been closely connected and served as the similar purposes. The public diplomacy was used as a synonym to the word «propoganda». However if in English the term «propaganda» has a negative connotation, then, having introduced the concept public diplomacy into circulation, the American scientist has given him neutral coloring. At the official level this term has been for the first time used at a meeting of the U. S. Congress in 1977 in the report of the Commission of Murphy on the organization of the foreign policy device (Цатурян, 2010: 3).

In the conditions of Cold War public diplomacy has been directed to creation of positive image of the USA abroad. During Cold War the experts who were traditionally mediating information streams in the field of interstate communications were engaged in the public diplomacy generally: actually diplomats and profile journalists. Public diplomacy was considered as an exclusive state foreign policy prerogative that was explained by the «Iron Curtain» dividing the East and the West. Then, in the conditions of low permeability of borders, «the only actor capable it is systematically qualitative to carry out the international communication, there was a state» (Nye, 2009: 4).

Theoretical judgement of public diplomacy has begun approximately at the end of 1950 – x – the beginning of the 1960th when a certain empirical material about the U.S. Government actions in this sphere has been collected. Then the discourse about foreign cultural policy or about cultural diplomacy dominated among scientists – historians. Since the end of the 1950th the historical science investigates historical prerequisites, the foreign policy purposes and the strategy of the public diplomacy. Researchers, as a rule, use such concepts as «foreign cultural policy», «cultural diplomacy», «national diplomacy» for the analysis of projects of the US in the field of culture, education, information, sport, etc. According to a number of domestic and foreign scientists, the foreign cultural policy – it the actions realized by the government, but they aren't connected with political tasks and propaganda. (Боголюбова, 2012: 5). This definition is considered as classical one, close to the modern value, but not the only one and generally accepted.

In the mid-sixties. Edmund Gallayon, the Dean of Fletcher's Diplomacy Law School has entered «public diplomacy» as the scientific term to describe process for actors of the international relations to achieve the objectives of foreign policy, influencing the foreign public (Merrou: 6). This definition is considered classical, close to modern value, but not only and conventional.American researcher J. Fisher, trying to explain the public diplomacy constitutes wrote in 1976: «It is not enough to be sure that your foreign diplomatic colleagues understand the policy of your state. It should be understood by the mass audience, which influences the policy of its Foreign Ministry. (Fisher, 1972: 7).

In the 1960-1980-s. experts in the field of cultural studies and anthropology joined the to study American cultural diplomacy. Scientists are focusing on the issue of the public diplomacy programs final results. Program «recipients», i.e. foreign states and societies, are the main object of research. Supporters of this approach use in their studies such concepts as «cultural imperialism», «Americanization» and «mutual cultural exchange».

Supporters of the concept of cultural imperialism argue that the US information, culture and education penetrate into foreign society and exert significant influence on it, transforming the political, economic and social system of the state (Carnoy, 1974: 8).

Critics of this concept argue that the US public diplomacy can be viewed from the perception of cultural imperialism, but the resistance of local communities and traditional cultures (for example, in the countries of the Middle East) negates the US efforts to spread its values (Tsvetkova, 2013: 9). Instead of the cultural imperialism ideas, researchers propose to use the response theory and shift the topic of cultural expansion of the United States towards studying the methods of the local communities «resistance», the fate of peripheral cultures and indigenous populations affected by the United States (Tibi, 1995: 10). After the attacks of September 11, 2001 it was the revival of public diplomacy. The process was held in parallel with the fight against international terrorism. The US authorities sought to understand why this tragedy occurred in their country, while simultaneously trying to improve the international image and justify their invasion of Afghanistan and Iraq. Richard Holbrook, a former US Assistant Secretary of State, said in an interview with the Washington Post: «Call it public diplomacy, public relations, psychological struggle, or – if you want to speak directly – propaganda. Whatever you call it, the most important is the explanation of the war's goals for a billion Muslims in the world.» (Долинский, 2011: 11).

So the desire to win in the «battle for the minds and hearts of people» has again become a topical issue not only for the United States (Blinken, 2002: 12). This fact served as an impetus for the activation of public diplomacy in other countries. At the present time, one can observe a sharp growth of scientific and practical interest in this sphere. (Зонова, 2003: 13).

Public diplomacy as a theory and practical activity appeared in the United States. American public diplomacy tasks included the representation of a positive image of the state outside.

The accumulation of knowledge and skills in the field of public diplomacy in the US ultimately required the systematization and scientific and theoretical comprehension of this phenomenon, which was dynamically filled with new features, scientific and institutional component. This required a revision or supplement to the classical definition of public diplomacy, which was put forward by E. Gallion. For example, the American diplomat Hans Thach defines public diplomacy as «the process of communication of the government with a foreign audience whose goal is to understand the ideas and ideals of the nation, understand the institutions and culture of the country, as well as about national goals and modern politics». (Hans 1990: 14). Philip Taylor, the British professor of the Lida University, considers public diplomacy as «actions that are aimed at maintaining long-term relations, protecting the goals of the country's foreign policy and a better understanding of the values and institutions of its own state abroad» (Snow 2009: 15).

Hans Tuch defined public diplomacy as «the process of communication between the government and foreign public organizations in order to attract attention and achieve an understanding of the ideas and ideals of their country, its cultural institutions, as well as its national goals and policies» (Hans, 1990: 14).

Public diplomacy today can be called as one of the international relations dimensions going beyond traditional diplomacy and it is the means by which governments and private groups influence the opinions and attitudes of other governments and peoples with a view to influencing their foreign policy decisions.

Today in the expert community actively discuss the definition «The new public diplomacy». This term reflects attention to the following key shifts in the public diplomacy practice: plurality of the international participants including both

government, and not government actors; the new mechanisms using global technologies (especially the Internet); progressive forms of interaction of civil societies (marketing, branding, etc.)

Discussion in the context of studying the Public diplomacy issues

There are various approaches to study the phenomenon of public diplomacy within the framework of political science. As the result, history, international relations, political communication, culturology, anthropology and other sciences offer us a certain number of concepts that can be applied to the study of public diplomacy.

Scholars critically examine the attempts to develop the theory and methodology of the public diplomacy. This field is probably one of the most multidisciplinary areas of modern science.

After the end of the Cold War, public diplomacy is mainly seen in connection with the neoliberal concept of «soft power». Joseph Nye, an American political scientist, a professor at Harvard University is the author of this concept. He developed a whole concept, singling out «hard power», «soft power» and «smart power» of the state. «The hard power is based on military and economic power. The essence of «soft power» is the ability to achieve other desired results on a voluntary basis – without coercion and threats. «Smart power is the most winning strategy, and includes a balanced combination of» hard «and» soft «strength. (Nye, 2005: 16).

But systematic research of the important topic firstly requires valid and generally accepted definition. During the evolution scientists and practitioners have used many different definitions of public diplomacy. In the XXI century. The experts started to use the term «new public diplomacy» (NPD). Their efforts were reduced to adapting public diplomacy to the conditions of the information age. Vickers (Vickers, 2004: 17) proposed to characterize the NPD as a set of measures that combine cultural diplomacy, marketing and information influence.

Melissen gives more informative definition of the public diplomacy. He notes that public diplomacy is characterized by an increasing role of the non-state actors (Melissen, 2005: 18). Gilboa suggested that public diplomacy should be viewed as an interactive relationship between states and non-state actors; use of «soft power», bilateral communication, strategic public diplomacy, media education, information management, PR, national branding, self-presentation (Gilboa, 1998: 19).

Thus, despite the growing importance of public diplomacy in contemporary international relations, it is difficult to talk about systematic theoretical research in this field. They developed various theories and concepts of public diplomacy.

1 The «soft power» concept

After the end of the Cold War, public diplomacy is mainly seen in connection with the neoliberal concept of «soft power». Joseph Nye, an American political scientist, a professor at Harvard University is the author of this concept. He developed a whole concept, singling out «hard power», «soft power» and «smart power» of the state. «The hard power is based on military and economic power. The essence of «soft power» is the ability to achieve other desired results on a voluntary basis – without coercion and threats. «Smart power is the most winning strategy, and includes a balanced combination of» hard «and» soft «strength (Nye 2005: 16). In addition, J. Nye expressed the opinion that one of the main ways to develop the «soft power» potential is to implement public diplomacy. He proposed to consider three dimensions of public diplomacy. The first is daily coverage of domestic and foreign policies and an explanation of the audience of government decisions. The second dimension is «strategic communication,» which is a deliberate discussion of the most important political issues for the state. The third is the development of direct contacts with foreign public through exchange programs, scholarships, scientific conferences that allow foreign citizens to get acquainted with the culture and way of life of the country (Nye, 2008: 20). He considers the public diplomacy as a communication mechanism, a tool for increasing the attractiveness and strengthening of authority (Nye, 2008: 20).

«Soft power» as the ability of the state to form preferences of other countries rests on three major components: the culture of the state, the political values of the state and foreign policy. Public diplomacy is designed to convey (broadcast or sell) these three components to other countries. Thus, a state that does not have attractive values can not influence foreign society through public diplomacy (Gilboa, 2008: 21).

2. Constructivism

The representatives of the other theoretical areas also suggest the interesting approaches for studying public diplomacy phenomena. Constructivism represents one of the scientific school. The constructivism theory has brought the new ideas to the understanding the US public diplomacy. The public diplomacy is considered by constructivists as a means of understanding «different» culture,

traditions of «others», which leads to the formation of more humane relations between people and states. The J. Nay' neoliberal concept about «soft power» argues that the transfer of social behavior, norms of international law from state to state can harmonize international relations or make them more predictable. Proponents of constructivism point out that each state has its own perception of the world, different from other cultures and values, and this diversity is the basis for the creation of stable peace and relations. The main condition is the desire to understand the «other» without denying their right to their own identity. And understanding is achieved through public diplomacy programs [Van Ham 2008: 22)

Public diplomacy, like constructivism, casts doubt on the exceptional importance of material factors in achieving ultimate goals. For it is important intersubjective measurement (Byrne, 2012:23).

Based on its activity on the account of the identity factors, culture and the value of another state, it builds bridges between societies / states. This understanding of public diplomacy makes it a mechanism for the operationalization of constructivist ideas (Cull: 2). Public diplomacy is viewed by constructivists as a means of understanding the «different» culture and traditions of «others.» Given the diversity of states on a wide range of non-material criteria (perception of the world, culture, values, etc.), one must strive to understand such diversity. The basis for creating stable relations lies in understanding.

It is known that «public policy» is a new genre of exercising power in the period of global informatization.

Public diplomacy, closely connected with this policy, represents a whole «cosmos» where politicians, cultural workers, scientists and educators, media, NGOs, users of social networks operate. And what is especially important is that now publicity is an inalienable feature and professional diplomacy. Theorists believe that public diplomacy of professionals is called upon to become a catalyst for the activities carried out by non-governmental actors. And this synergy is very important.

3 Strategic communications

The new conceptual paradigm «strategic communication» («dialogue promotion/ propoganda») which assumes to use the new Internet technologies for raising the state' image enters the diplomatic practice. Social media play the role of transformers of the ideas on a global scale and exert impact and on the interstate relations. These technologies in diplomatic practice has received the name «digital diplomacy». Today programs of digital diplomacy are developed by the majority of the world countries. Social networks represent the tools which possess a number of functions in political communication on a global scale. They allow: to gain an impression about the world events, to form the relation to this or that event, to distribute information, including culture, values, religion and so forth.

Thus, digital diplomacy is one of the directions of the public diplomacy focused on involvement in diplomatic practice of a general population, but not on interaction with political and diplomatic elite of the foreign states. The United States government defines digital diplomacy as application of social networks in diplomatic practice of the U.S. Government for ensuring interaction of the American diplomats with foreign Internet users (24).

For a example, during 2013-2015 the new concept of dialogue promotion has been officially designated by Washington as strategic communication. It began to dominate in the US foreign policy discourse. Practical application of the new concept was expressed in new reform of the public diplomacy directed on development of the propaganda programs (Цветкова 2011: 25).

The dialogue between the US and representatives of foreign society through information portals, social networks (digital diplomacy) creates the conditions for the formation of so-called strategic communication. (Цветкова, 2011: 26).

Today this concept supplants the soft power concept of J. Nye not only in scientific publications, but in the practice the United States public diplomacy. Supporters of this concept argue that Nye's ideas of attracting foreign countries to US values are not in demand in a world where tension is growing and direct political propaganda is needed. At the present stage, public diplomacy is studied by specialists not only in the field of diplomacy and international relations, but also journalism, marketing workers and other research areas.

In the XXI century the possibility of the public diplomacy, its image questions and brand are actively studied in and a framework of such areas of scientific knowledge as marketing and political communication. Representatives of these areas began to study the principles of public diplomacy, image and a brand. Experts in the field of marketing believe that the concept of «the national brand» explains the nature of modern public diplomacy. They explain the nature of modern public diplomacy with the concept of a national brand. According to them, combination of the public diplomacy principles and marketing laws help in the image

promotion of the country and its policy as a product which needs to be sold to foreign audience. This process is called «a national brand», and «soft power» is its key designing force. Public diplomacy gets the status of the channel of advance of such brand (Anholt, 2006: 27).

Thus, these and other theories and concepts about a role of public diplomacy in the international relations include the neoliberalism (soft power), constructivism, strategic communication and branding. It is also necessary to note that these theories and concepts are focused on activity of the state and non-state actors within public diplomacy.

4. Components of public diplomacy:

National diplomacy represents informal activity of natural and legal entities, NGO, various institutes and movements which directly don't depend on the government, but nevertheless can promote improvement of the interstate relations and establishing cooperation between the people. Public diplomacy includes more wide range of activity. Therefore, the concept public diplomacy is only one of the directions of public diplomacy, but not a synonym in any way.

Cultural diplomacy is the system of government and non-governmental actors measures who seek to reach certain foreign policy tasks, using cultural mechanisms in the activity. It is implemented in practice by the organization of conferences, exhibitions, festivals, the thematic weeks devoted to national culture, literature, cinema, etc. By means of distribution and promoting of culture, science, education, literature, language abroad it is possible to achieve far bigger result, than through threats, intimidations and briberies.

Digital diplomacy. Digital diplomacy can be treated as application of social networks and opportunities of the Internet in the diplomatic practice. It assists the government and public authorities to connect with foreign policy including mechanisms of influence on foreign audience. (Сурма, 2015: 28). Posting online telecasts, extending a certain literature and official documents, the government is capable to influence the foreign public. Besides, a concept «tviplomas» recently is very relevant one. It has appeared quite recently when Foreign Ministries, government institutions and also Presidents, Ministers, diplomats began to use social networks and Twitter (Зонова, 2003:29).

Through the Internet accounts they have had an opportunity to publish different information which is in open access and is capable to influence foreign audience definitely.

The Panda diplomacy is applied by China to civil society of foreign countries. Her essence consists that the People's Republic of China presents as a gift to the foreign state a big panda, a national symbol of the country, thereby expressing the gratitude and respect. It should be noted that this step promotes strengthening of the bilateral relations and establishing dialogue.

Conclusion

The theoretical evolution of public diplomacy took about fifty years and continues to evolve in the face of changing geo-economics and geopolitics, and the development of the new technologies. In the Post-bipolar period, public diplomacy was seen as a formal replacement of the foreign policy propaganda for new forms of interstate communication. At the same time, it seems that the most significant moments that led to the New Public Diplomacy are related to the following aspects. An essential distinction of the New Public Diplomacy from the practice of the Cold War period is its orientation towards the concept of «soft power», so its arsenal lacks tools related to the use of lies, blackmail, pressure and the like.

Today, this phenomenon includes various actors that differ in the degree of involvement and mechanisms for implementing public diplomacy. During this period, in the framework of public diplomacy, several more terms have spread: soft power, popular diplomacy, branding, etc. Public diplomacy should be considered as an independent direction of the foreign policy of the state, which is responsible for influencing the population of a foreign state with the aim of forming a positive image of the state

The separate analysis deserves the theory and the concept which historians, culturologists or anthropologists for a research to use reaction of programs recipients of public diplomacy of the state in foreign countries.

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CONTEMPORARY REFUGEE AND FORCED MIGRANTS ISSUES: AN ANALYSIS IN THE CONTEXT OF LEGAL FRAMEWORK

Global mobility has become one of the important and revealing trends in the current international relations and law. Forced migrants' and refugees' issues come from the past, but their solution is urgently needed now. This issue acquires particular significance and multidimensionality in the modern context of globalization and the intensification of conflicts in all regions of the world. Other factors, such as natural disasters and economic crises, are also sources of forced mobility. The volumes of forced migration and the flow of refugees have acquired immense proportions and consequences in the current context. The main contribution to the solution of the problem was made by the United Nations Organization and UNHCR, its specialized agency. Key documents were also developed and adopted within and with the support of this structure. Presently there is a robust set of legal instruments for the coordination and advocacy of migration processes, but new approaches are urgently in need because of changing patterns in migrant movements. Moreover, the insufficiency in the definition of persecution, which excludes many categories of contemporary migrants, has only increased the need for the adoption of new Global Compacts within the framework of the UN. Hence, this paper looks into the urgent need for rethinking on theoretical approaches, including conceptual apparatus, legal aspects and some practical approaches to the participation of the entire international community.

Key words: Migration Issues and International Law, Refugees, Forced Migration, UNHCR.

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Қазіргі босқындар мен мәжбүрлі мигранттардың мәселесі: құқықтық шеңбер контексіндегі талдау

Жаһандық көші-қон халықаралық қатынастар мен халықаралық құқықтың басты және анықтаушы тенденциясына айналды. Мәжбүрлі мигранттар мен босқындардың мәселесі ерте замандардан бастау алса да, оны шешу қазіргі кезеңде маңызды болып табылады. Жаһанданудың заманауи контексінде, қақтығыстардың жиіленуі мен әлемнің бүкіл аймақтарындағы өзге де күрделі процестердің негізінде бұл мәселе ерекше маңыздылық пен өлшемділікке ие болады. Табиғи апаттар мен экономикалық дағдарыстар тәрізді өзге да факторлар мүжбүрлі көші-қонның қайнар көздері болып табылады. Қазіргі контекстіде мәжбүрлі миграция мен босқындар ағынының көлемі зор және ауқымды зардаптарға ие. Мәселенің шешілуіне Біріккен Ұлттар Ұйымы (БҰҰ) мен оның арнайы мекемесі, БҰҰ Босқындар істері жөніндегі Жоғарғы Комиссары Басқармасы үлкен үлесін қосады. Басты құжаттар осы құрылымның аясында және соның қолдауымен дайындалып қабылданған. Қазіргі кезде көші-қон процестерін координациялау мен қорғау үшін

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бірқатар сенімді құқықтық құралдар бар, алайда мигранттардың көшіп қонуының модельдері мен қабылдауының өзгергендігінен жаңа тәсілдер қажет. Одан басқа, заманауи мигранттардың көптеген санаттарын жоятын «құдалау» анықтамасындағы ақаулар БҰҰ шеңберінде жаңа жаһандық келісімдердің қабылдау қажеттілігін күшейтті. Осылайша, бұл зерттеуде мәселенің қазіргі жағдайы мен теориялық тәсілдерді қайта қараудың маңыздылығы, соның ішінде, концептуалды аппараты, құқықтық аспектілері мен бүкіл халықаралық қауымдастықтың қатысуының кейбір практикалық тәсілдері қарастырылады.

Түйін сөздер: көші-қон мәселелері және халықаралық құқық, босқындар, мәжбүрлі көші-қон, БҰҰ БЖКБ.

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Современные проблемы беженцев и вынужденных мигрантов: анализ в контексте правовых рамок

Глобальная мобильность стала одной из важных и определяющих тенденций в современных международных отношениях и в международном праве. Проблемы вынужденных мигрантов и беженцев происходят из прошлого, но их решение становится неотложным именно на современном этапе. Этот вопрос приобретает особую значимость и многомерность в современном контексте глобализации и интенсификации конфликтов и других сложных процессов во всех регионах мира. Другие факторы, такие как стихийные бедствия и экономические кризисы, также являются источниками вынужденной мобильности. Объемы вынужденной миграции и поток беженцев приобрели огромные масштабы и последствия в нынешнем контексте. Основной вклад в решение проблемы вносят Организация Объединенных Наций (ООН) и Управление Верховного Комиссара ООН по делам Беженцев (УВКБ ООН), ее специализированное учреждение. Ключевые документы были также разработаны и приняты в рамках этой структуры и при ее поддержке. В настоящее время уже существует надежный набор правовых инструментов для координации и обеспечения безопасности миграционных процессов, но необходимы новые подходы из-за изменения моделей и восприятия перемещения мигрантов. Более того, недостатки в определении «преследования», которые исключают многие категории современных мигрантов, лишь усилили необходимость принятия новых глобальных соглашений в рамках ООН. Таким образом, в настоящем исследовании рассматривается текущее состояние проблемы и необходимость переосмысления теоретических подходов, в том числе концептуального аппарата, правовых аспектов и некоторых практических подходов к участию всего международного сообщества.

Ключевые слова: проблемы миграции и международное право, беженцы, вынужденная миграция, УВКБ ООН.

Introduction

Modern International Relations face various severe influence from the current migration processes. Global mobility of the population has become an essential part of the processes taking place in modern international relations and is no longer regarded only as a consequence of various events, conflicts and natural phenomena. Migration processes have become a trend, often defining certain serious political and economic decisions at the regional level and having projections at the global level.

Forced migration and displacement continue affecting people, reaching 65.6 million individuals by the end of the 2016 (UNHCR, 2017). According to the recent data, global displacement is still at a record high, with the number of internally displaced at over 40 million and the number of refugees more than 22 million (IOM, 2017). Key trends of the global mobility including globalization and urbanization of migration, feminization, the growth of illegal migration, increase in the volume and value of labour migration, forced migration and refugees (UN, Population facts, 2015) became closely connected and are mutually perceptible.

At the beginning of the 21-century globalisation and its various effects opened the borders, labour markets and intensified global mobility. Thereafter the emergence of new centres of instability

worldwide and actualization of the frozen conflicts became the factor of serious changes. This, in turn, pushed the forced migration and created substantial refugee flow all over the world. Nowadays, the issue of refugees combines various trends covering social, economic, cultural and political aspects worldwide. It makes significant impacts in the countries of origin and host countries. However, the most critical issue on both sides is the status and the fate of these migrants and displaced persons themselves. The migration crisis erupted in Europe since 2015 once again very clearly demonstrated the complexity of global mobility phenomenon and the importance of the development of stronger international law by involving the entire world community. The scale of the crisis and an understanding of its effects was one of the reasons for the inclusion of key aspects of migration in the «Agenda 2030». The historical agenda includes 17 sustainable development goals that cover 169 tasks. The Agenda was approved by heads of states and governments at the UN Summit on Sustainable Development at the 70th jubilee session of the United Nations General Assembly in New York on September 25, 2015 (UN, 2015). Various aspects of mobility are traced in all 17 (Sustainable development goals, UN, 2015). More than 40 targets have been identified across 15 of the 17 SDGs – including SDG 11 – with direct implications regarding migrants, refugees, and situations compelling migration (UNESCO, 2016).

This, in turn, calls for increased cooperation at the national, regional and global levels. It shows that the most critical point remains the effective legal norms relating to forced migrants including refugees and international cooperation. The current international situations point out refugees' studies as one of the vital issues and require new and effective approaches to advocacy and global coordination.

Literature review

Global mobility and refugees' issues are subjected to studies in several disciplines covering different regions. However, within this study, we have to note just some of them try to focus on the documents providing the legal basis of forced migration regulation. Some critical issues of global and regional mobility including theoretical aspects are assigned by American and European researchers who have developed fundamental approaches to migration issues in the context of globalization. Thus, it is necessary to acknowledge the works of S. Castles (Castles, 2000), S. Castles, J.M. Miller (Castles, Miller, 2009), E. Meyers (Meyers, 2000), D. Massey (Massey, 1998) and Sh. Glick (Glick, 2000). Very important law aspects on refugees are covered by Guy S. Goodwin Gill, some of his works should be specially mentioned (Guy S. Goodwin Gill, 2015), (Guy S. Goodwin Gill, 2014 (a)), (Guy S. Goodwin Gill, 2014 (b)). Some of the recent studies devoted to the role and place of refugees in the International Relations should be also mentioned (Haddad, 2008), (Betts, 2011). Modern comprehensive studies covering refugee norms under international law and other fields are also presented by Sanoj Rajan (Rajan, 2018).

Russian studies also reflect current trends in forced migration and here some scholars' works should be noted like V. Malakhov (Malakhov, 2016), P. Kokoshin (Kokoshin, 2016), L. Kapitza (Kapitza, 2015), S. Ryazantzev (Ryazantzev, 2013).

In Kazakhstan law aspect represented by the work of M. Sarsembayev (Sarsembayev, 2002) which covers key aspects refugee law of Kazakhstan. Some other aspects of the problem are developing and becoming increasingly important. In this context, we can mention G. Movkebaeva (Movkebaeva, Malanchenko, 2016), L. Delovarova (Delovarova, Starkova, 2016) Zh. Sairambaeva (Sairambaeva, 2017).

Methodology

Forced migration including displaced and refugees as a part of global mobility is a very complex phenomenon. The authors will apply to the analysis of the existing international law documents as a system and «pull-push» factors theory offered by E. Lee (Lee, 1966). These two approaches will allow analyzing the problem of recent forced migration as on the comprehensive and multipronged process.

It is essential to point out that the vital understanding and vision to solve the issues should be based on the Human Rights' approach which leads to a study covering international cooperation. Moreover, analysis of some current dynamics of discussion and building mechanism in the framework of UN will enrich the vision of the problem and seek new remedies.

Results

Referring definitions

It is a widely accepted fact that the present refugee crisis is global in its nature and has multilateral dimensions. Accordingly, approaches to its analysis and prescription of the solution should also take into account of the diverse reasons

for such mass exodus in order to address multiple situations. These include preventive measures such as providing emergency assistance and sufficient means to facilitate repatriation and integration of refugees.

Considering the gravity of the problems faced by of refugees in the context of contemporary migration situation, it is necessary to mention that the conflicts are not the only reason why thousands of people are leaving their countries. Natural causes like extreme weather, earthquakes, diseases, and many other similar disasters also displace people in vast numbers. The increasing contribution of human activities, in particular, urbanisation, rapid economic growth and population increase contribute vehemently towards the significant movement of people.

Determination of definitions is essential for proper understanding of the situation and selection of a right approach to solve the problem. The reality is that the present migration crisis in Europe goes far beyond the region and requires joint efforts of the entire international community to mitigate it. Most important is the precise definition and differentiation of the concepts of «migrant» and «refugee». We have already raised the problem of definitions in one of the previous studies (Delovarova, Starkova, 2016: 56) but we have to refer to the generally accepted notions once again as it is important in terms of legal approaches and legal aspects of implementation.

International Organisation for Migration (IOM) defines 'a migrant' as 'any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person's legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is. IOM concerns itself with migrants and migration□related issues and, in agreement with relevant States, with migrants who are in need of international migration services' (IOM, Key migration terms, 2016).

The 1951 Convention defines 'a refugee' as 'a person who is outside his or her country of nationality or habitual residence; has a well-founded fear of being persecuted because of his or her race, religion, nationality, membership of a particular social group or political opinion; and is unable or unwilling to avail him – or herself of the protection of that country, or to return there, for fear of persecution' (*see Article 1A(2)*) (The refugee convention, 1951 and its Protocol relating to the Status of Refugees, 1967).

It is necessary to mention one more definition to correlate both concepts and understand it better. Refugees and asylum seekers are forced migrants who flee their homes to escape persecution or conflicts, rather than voluntary migrants who move for economic or other benefits. Popular usage tends to refer to all kinds of forced migrants flee for all reasons to be recognised as 'refugee' as defined under international refugee law. However, they often remain outside of their country of origin (Castles S., Miller J., 2009: 188). These terms have distinct and different meanings, and sometimes create confusion thereby leading to issues for both categories. At the same time, it is challenging to differentiate these terms completely. A more profound analysis can help to shed light on this vital aspect. The UNHCR is also working on this issue to make the concepts more clear and provide more protection for each category (UNHCR viewpoint, 2016). According to UNHCR, the refugees are persons fleeing persecution. Their situation is often so perilous and intolerable that they cross international borders to seek safety in nearby countries, and thus become internationally recognised as 'refugees' with access to assistance from States, UNHCR, and other relief organisations. They are so recognised because it is too dangerous for them to return home, and they need sanctuary elsewhere. For these people, denial of asylum can have fatal consequences.

The problem of refugees' protection is multidimensional. These include safety from being returned to the dangers they have fled (the principle *of non-refoulment)*; access to asylum procedures that are fair and efficient; and measures to ensure that their fundamental human rights are respected to allow them to live in dignity and safety while helping them to find a longer-term solution. States bear the primary responsibility for this protection. UNHCR, therefore, works closely with governments, advising and supporting them as needed to implement their obligations.

Misinterpretation of refugees and migrants' definitions can have severe consequences for the lives and safety of refugees. Blurring the two terms takes attention away from the specific legal protections each group requires. **Migrants** choose to move not because of a direct threat of persecution or death, but mainly to improve their lives by finding work, or in some cases for education, family reunion, or other similar socio-economic reasons. Unlike refugees who cannot safely return home, migrants face no such impediment to return. If they choose to return home, they will continue to receive the protection of their government. Usually, countries deal with migrants under their immigration laws and but the refugees are dealt with norms of refugee protection

that are defined in both national legislation and international law (UNHCR viewpoint, 2016).

The explanations aforementioned clearly differentiate both concepts and clarify that the refugees, unlike other migrants, are forced to migrate and seek refuge because of fear of persecution, and for the most part, they are not protected until they obtain their status as refugees. Further, it is still challenging to define and limit all of the distinctiveness of the massive flows of people in the definition of refugees for various reasons. Moreover, the mixed and transitional character of the movement adds more complexity and uncertainty to the process, and thus requires new and more effective available approaches.

Legal framework addressing refugee issues

The present-day international law framework provides refugee protection under two systems: international refugee law and international human rights law. The main international legal instruments, securing refugee protection standards, procedures and criteria for determining refugee status are the Convention relating to the Status of Refugees, 1951 and its Protocol relating to the Status of Refugees, 1967. There are also other universal and regional human rights documents adopted in connection with the need to give legal refugee status determination which are discussed in brief detail below[1].

I. The principle of non-refoulement

The refugee protection under both the systems is framed around an international customary law principle known as *non-refoulement*. *Non-refoulement* refers to the norm that states cannot return non-nationals to territories where they might be subjected to torture, inhumane or degrading treatment, or where their lives and freedoms might be at risk (Chan, 2006). The link of *non-refoulement* with the customary international law makes refugee protection a global obligation to some extent, especially when there are still some fifty States that are not parties to the 1951 Convention and the 1967 Protocol (UNHCR Report, 2018). Such a universal commitment emanating from the principle of *non-refoulement* amounting to a rule of *jus cogens* was suggested as early as 1982 by the Executive Committee of UNHCR (Executive Committee of UNHCR, 1982, 1996). Regional initiatives like the Cartagena Declaration of 1984 (UNHCR, 2013) and the views of some countries like the Swiss Government support the view (FFE/BBI, 1994:1486-7). It is accepted here that still debates are going on globally whether treaties and treaty practices can be a source of customary international law*,* as the primary source of *non-refoulement* as customary international law principle is derived from treaties and treaty practices (Jurisdiction and Admissibility, Judgment, ICJ Reports, 1984: 392), (Merits, Judgment, ICJ Reports 1986: 14), North Sea Continental Shelf, Judgment, ICJ Reports 1969: 3). In these decisions, it was accepted that the prohibition on the threat or use of force in Article 2(4) of the UN Charter also applied as a principle of customary international law and that identical rules of customary law and treaty law on the delimitation of the continental shelf could exist side-by-side respectively. However, examples from the International Court of Justice's decisions in *Nicaragua* and the *North Sea Continental Shelf* support the *non-refoulement* claim as customary international law principle. It's inclusion in some of the most important international treaties and documents like the Convention relating to the Status of Refugees of 1951 and its Protocol of 1967, the Convention against the Torture, the International Covenant on Civil and Political Rights etc., and the regional conventions like European Convention on Human Rights, the OAU Refugee Convention, the American Convention on Human Rights, and the African Charter on Human and Peoples' Rights strengthen its near-universal acceptance.

II. International treaty obligations

Though quite a few international treaties do mention the principle of *non-refoulment* and refugee rights, the foundation for refugee protection may be found in the UN Convention on Refugees 1951 (UN Convention Relating to the Status of Refugees, 1951: 137) and the Optional Protocol of 1967 (Protocol Relating to the Status of Refugees, 1967: 267). While the scope of the 1951 Convention is limited solely to those Europeans who became significant refugees as a result of events occurring before January 1951, the 1967 Protocol required signatories to apply the substantive provisions of the 1951 Convention to all refugees falling under the definition of the latter but without any limitation of date, making the 1951 Refugee Convention applicable globally (Rubio-Marín, 2014). The three key elements set out by these documents are: First the definition of who a refugee is, secondly, it makes the signatories respect the principle of *non-refoulment,* and thirdly it lays down the standards of refugee treatment by the states parties. Thus, the provisions in the Refugee Conventions make it mandatory for the state parties not to return a refugee to the borders of a country

[1] This part of the article is adopted from the book, Sanoj Rajan, (ed.), *Global Refugee Crisis: A Contemporary Reflection* (Thomson Reuters, 2018)

where he or she fears persecution, even if they want to expel them, the state party must consider and assess an application for refugee status and protection and finally to treat the refugees with minimum standards set out in the Refugee Conventions during their stay. Further, the Refugee Conventions also provide for the exclusion when a refugee concerned has committed serious crimes like crime against peace, war crime, or crime against humanity, or has committed serious non-political crime outside the country of refuge or is guilty of acts contrary to the principles of United Nations Convention Relating to the Status of Refugees, 1951:(n 12) Article 2 (F)). Another significant contribution of the Refugee Conventions is the establishment of the United Nations High Commissioner for Refugees (the UNHCR), whose primary responsibility is to protect refugees by assisting the governments. The state parties are under obligation to cooperate with the UNHCR under Article 35 of the Refugee Convention and Article II of the 1967 Protocol in the exercise of its functions and, in particular, to help UNHCR supervise the implementation of the provisions found in these treaties. Even the Refugee Conventions provide with a supranational dispute resolution mechanism prescribed under Article 38, which unfortunately has never been used. Thus the refugee conventions provide a universal framework and standard for refugee protection, acknowledged and accepted by 140 signatories.

Other than refugee conventions, there are few other international human rights conventions which provide for the rights of refugee populations in need. The prominent among them is the Universal Declaration of Human Rights which under Article 14(1) provides that '[e]veryone has the right to seek and to enjoy in other countries asylum from persecution' (Universal Declaration of Human Rights, 1948). This gives all people fearful of persecution in one country the right to asylum in another. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Torture Convention) through Article 3 prohibits the expulsion, return or extradition of a person to another State where there exist substantial grounds for believing that he would be in danger of being subject to torture (Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984: 85). The Article 3 thus re-emphasise the principle of *non-refoulment*, which is the basic pillar of refugees protection. Article 13 of the International Covenant on Civil and Political Rights (ICCPR) states that anyone who is lawfully within the territory of a state shall not be expelled from that state without due process (International Covenant on Civil and Political Rights, 1966: 171). Further, the Human Rights Committee, the treaty body responsible for the supervision of ICCPR, has interpreted Article 7 of ICCPR as a prohibition on sending anyone to a country where there is a substantial risk that he or she would be subjected to torture or cruel, inhuman or degrading treatment or punishment (Meron, 1995).

Other international sources for the refugee framework include the UN General Assembly Declaration on Territorial Asylum 1967 (Declaration on Territorial Asylum, 1967) and UNHCR's Executive Committee conclusions. Though soft laws, these documents have great influence in framing the refugee policies globally. The 1967 Declaration reiterates that granting asylum is a peaceful and humanitarian act that cannot be regarded as unfriendly by any other State, and notes that it is the responsibility of the country of asylum to evaluate a person's claim for asylum. The annual Conclusions adopted by Executive Committee of UNHCR at the instance of more than 50 countries that have great interest and experience in refugee protection also form part of the framework of the international refugee protection regime.

Protection of refugees during armed conflict situations are covered explicitly under International Humanitarian Law (IHL) through the Fourth Geneva Convention Relating to the Protection of Civilian Persons in Time of War of 1949 (Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949) and the first Additional Protocol of 1977 (Protocol Additional to the Geneva Conventions, 1949; Protection of Victims of International Armed Conflicts (Protocol I), 1977). IHL provides general protection to refugees as civilian victims of armed conflict and specific protection as refugees and displaced persons. The protection of refugees and displaced persons under IHL is specifically dealt with in Article 44 of the Fourth Geneva Convention. The Additional Protocol I further provides that refugees and stateless persons are to be protected under the provisions of Parts I and III of the Fourth Geneva Convention. Nevertheless, it is to be noted that the refugee protection under IHL is available only during an armed conflict and if the refugee flees armed conflict, and finds asylum in a country that is not involved in armed conflict, the protection under IHL ceases to apply.

Another emerging refugee issue is climate migrants or climate refugees. The term climate refugees, unfortunately, does not fit within the Refugee Convention definition of the refugee. This

category of refugees falls into two categories: First, people fleeing because of the slow onset of climate effects like drought and secondly, unforeseen immediate disasters like flood and earthquakes. The only available international document in this category is the UN Framework Convention on Climate Change of 1992 (UNFCCC) (United Nations Framework Convention on Climate Change: resolution, 1994). The framework categorises climate changes on the basis which the migration happens, and parties to the UNFCCC acknowledge the need for action on such asylum seekers (UNHCR Engagement in the United Nations Framework Convention on Climate Change, 2017).

III. Regional refugee protection framework

Due to the need for the region-specific amelioration of refugee problems and also because of the lacunas in the international refugee law framework, there has been a proliferation of regional human rights instruments which include provisions of international refugee protection. Article 12 (3) of the African Charter of human and People's Rights 1981 provides that every individual shall have the right, when persecuted, to seek and obtain asylum in other countries (African Charter on Human and Peoples' Rights, 1981). The African Union (formerly the Organisation of African Unity) Convention Governing the Specific Aspects of Refugee Problems in Africa 1969 strives to solve the problem of refugees in Africa («OAU Convention», 1969). The Article 2 (3) of the Convention requires that no person shall be rejected by a Member State at the frontier, return or expulsion which would compel him to return to or to remain in a territory where his life, physical integrity or liberty would be threatened. African Commission on Human and People's Rights and the African Court on Human and Peoples' Rights provide remedies for violations and reinforces these rights.

Article 22(8) of the American Convention on Human Rights 1969 (*American Convention on Human Rights, «Pact of San Jose»,* 1969) provides that in no case may an alien be deported or returned to a country, regardless of whether or not it is his country of origin, if in that country his right to life or personal freedom is in danger of being violated because of his race, nationality, religion, social status, or political opinions. The Inter-American Commission on Human Rights receives petitions regarding violations and interprets the Convention.

The European Convention on Human Rights 1950 (ECHR, 1950) and the EU Charter of Fundamental Rights (Charter of Fundamental Rights of the European Union, 2012) take note of the refugee rights in the European front. Article 3 ECHR prohibits torture, inhuman or degrading treatment or punishment and includes the concept of *non-refoulement (*Mole, Meredith, 2010*)*. An article 4, 18 and 19 of the EU Charter of Fundamental Rights prohibit ill-treatment, provides right to asylum and contains a prohibition on return to a country where there is a substantial risk of the death penalty, torture, inhuman or degrading treatment or punishment respectively. The Court of Justice of the European Union bears the responsibility to ensure the correct interpretation and application of the EU Charter.

Unfortunately, the Asian regional arrangements for refugee protection are comparatively weaker, probably because a large number of Asian countries are not parties to the Refugee Conventions. Nevertheless, The ASEAN Human Rights Declaration (ASEAN Human Rights Declaration, 2012), through its principles 14 and 16 prohibit torture and provide the right to seek and receive asylum in accordance with national law and international agreements. The ASEAN Intergovernmental Commission on Human Rights is vested with the implementation of ASEAN instruments related to human rights including the right to receive asylum. Also, there are examples of refugee protection through national law in the region (Abrar, Malik, 2003).

Global prospects of international legal framework development

One of the main obstacles to reach the consensus in unified refugee protection regime is due to different national approaches and their contradictions with each other. At the same time, the inclusion of migration issues into the UN «Agenda of 2030» in 2015 is a significant advancement towards a unified global solution. It means that migration is included in the global development system, recognizing the integral role of managed migration in all regions and the immense contribution of migrants to sustainable development.

In September 2016, the UN General Assembly held a summit at the level of heads of state and government for large movements of refugees and migrants (UN, Refugees and Migrants, 2016). This can be counted as significant progress towards the enlarging dialogue on migration problems including refugees and asylum seekers. The goal of the summit was to develop a plan to overcome challenges and strengthen international cooperation in the field of migration and mobility.

Potentially, it is a unique opportunity to create a more responsible and predictable response system for large movements of refugees and migrants. One of the outcomes of this summit was the decision

to strengthen the global management of migration by including the International Organization for Migration in the United Nations system. The main result of this historic event was the adoption of the New York Declaration (UNHCR, The New York Declaration for Refugees and Migrants, 2016). Despite the fact that Declaration is a recommendatory one, it is the first global level document that contains a concrete and substantive list of the necessary conditions and activities to improve the situation of migrants and refugees. It is also aimed at protecting their rights and freedoms, strengthening the positive attitude and effect of migration and integration of refugees in host countries. The Declaration specifically refers to the role of migrant children, including unaccompanied ones, about gender and sexual non-violence, condemning xenophobia against refugees and migrants, and strengthening the positive contribution of migrants to the economic and social development of host countries (UNHCR, The New York Declaration for Refugees and Migrants, 2016). The UN member states aligned to protect the rights of all refugees and migrants, regardless of their status. It should be noted that it concerns the improvement of the conditions in the countries of origin of refugees, in which the main causes are conflicts, unfavourable environmental factors and the economic situation. The Declaration is also aimed at reviewing the migration policies of host states mentioning the compulsory integration into the local community, access to necessary social services and education. In general, the implementation of the provisions of the Declaration will allow setting a comprehensive approach to the problems of global and regional displacements. The Declaration is an excellent basis for two Global Compacts scheduled for 2018: the Global Refugee Compact and a Global Compact for safe, orderly and regular Migration. The adoption of the Compacts will mean that migration, like other areas of international relations, will be regulated on the basis of a number of universal principles and approaches.

The Global Compacts will be an unprecedented stage in the solution and development of migration issues, first agreements reached as a result of intergovernmental negotiations and concluded under the auspices of the UN in this field. The adoption of these documents will provide a unique opportunity to improve the management of migration processes, respond to the challenges of modern global and regional mobility and to strengthen the contribution of migrants and refugees to sustainable development in the host countries and communities.

This optimistic approach is facing serious challenges coming from the current situation in all regions. The European Union is one of the obvious examples of it. Migration issues and continuing refugees' flows are becoming the subject of political speculations and split among the member states. The mechanisms of Dublin Convention (Dublin Convention, 1990) is not working properly in this regard. Along with this, it should be stated that ongoing dialogue and understanding of the migration component importance should lead to the search for the new legal mechanisms at the regional level within the EU and support the UN global initiative.

Conclusion

Global mobility became an independent phenomenon in the current international relations requiring comprehensive and multidisciplinary approach.

Since the second half of the last century, the problem of refugees and forcibly displaced persons remain on the agenda constantly. However, the migration crisis that erupted in Europe 2015 clearly demonstrated the need to review the existing legal framework both at the regional and global levels.

At the end of the second decade of the 21st century, the international community already has a particular legal basis for coordinating the global mobility of the population, but its unprecedented scale requires some new legal mechanisms and norms at the regional level and support to the UN initiative on two Global Compacts on Migration and Refugees.

The accumulated legal framework covers different experiences and already allows us to make new and more effective approaches. At the same time, the difference in national approaches to legislation, conflicts and collisions of international law and political will remain the main obstacles to the solution. Continuous international dialogue and cooperation at all levels, including governmental, non-governmental and experts will allow to carry out new human rights' based approach allowing to take advantages for all sides – migrants, refugees, displaced and host countries and communities.

All this will become possible with the full consensus of governments that have already realized the importance and magnitude of the problem, but numerous obstacles are yet to be overcome. The lion's share of the work is to be done by the expert community, including international lawyers, political scientists and even economists as the problem is multi-dimensional and global in scope.

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KAZAKHSTAN-CHINESE RELATIONS WITHIN THE FRAMEWORK OF THE SCO

The relevance of the study is conditioned by the role of relations between Kazakhstan and China within the framework of the SCO. To a large extent, the SCO contributed to the development of relations between China and Central Asia. Currently, China enjoys good relations with the countries of Central Asia, often cooperates in various fields, and also often exchanges top-level leaders and promotes each other's development. Gradually formed a new concept of security, based on a common win-win cooperation and win-win results and contributed to the achievement of common interests. Understanding the international strategic status of Central Asia and the relations between China and Central Asia will help us understand the current strategic intentions of the Central Asian countries and adjust the strategic relations between China and Central Asia. Kazakhstan as an important country in Central Asia and as a regional power, plays an important role in the political and economic structure of Central Asia and even in the international arena. Therefore, China is actively developing close relations and cooperation with Kazakhstan.

Key words: Kazakhstan-Chinese relations, Shanghai Cooperation Organization, Central Asia, cooperation.

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ШЫҰ шеңберіндегі қазақстандық-қытайлық қатынастар

Зерттеудің өзектілігі Шанхай ынтымақтастық ұйымы шеңберіндегі Қазақстан мен Қытай арасындағы қатынастардың рөлімен айқындалады. Қытай мен Орталық Азия арасындағы қарым-қатынастардың дамуына ШЫҰ елеулі деңгейде ықпал етуде. Қазіргі кезеңде Қытай Орталық Азия елдерімен жақсы қарым-қатынастарға ие, әртүрлі салаларда жиі ынтымақтасуда, сонымен бірге аса жоғары деңгейде ел басшыларының жиі араласуы, бір-бірінің дамуына қолғабыс жасауда. Бірте-бірте жалпы ұтылыссыз ынтымақтастық пен ұтылыссыз нәтижелерге негізделінген қауіпсіздіктің жаңа тұжырымдамасы қалыптасып, ортақ мүдделерге қол жеткізуге жағдай туғызылды. Орталық Азияның халықаралық стратегиялық мәртебесін және Қытай мен Орталық Азия арасындағы қарым-қатынастарды ұғыну, бізге Орталық Азия елдерінің қазіргі таңдағы стратегиялық ниеттерін түсінуге және Қытай мен Орталық Азия арасындағы стратегиялық арақатынастарды үйлестіруге көмектесері анық. Қазақстан Орталық Азиядағы маңызды ел және аймақтық мемлекет ретінде, Орталық Азияның саяси және экономикалық құрылымында, тіпті

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халықаралық алаңда маңызды рөл ойнауда. Сондықтан да Қытай Қазақстанмен тығыз қарым-қатынастар мен ынтымақтастықты белсенді түрде дамытуда.

Түйін сөздер: Қазақстан-Қытай қарым-қатынастары, Шанхай ынтымақтастық ұйымы, Орталық Азия, ынтымақтастық.

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Казахстанско-китайские отношения в рамках ШОС

Актуальность исследования обусловлена ролью отношений между Казахстаном и Китаем в рамках ШОС. В значительной степени ШОС способствовала развитию отношений между Китаем и Центральной Азией. В настоящее время Китай имеет хорошие отношения со странами Центральной Азии, часто сотрудничает в различных областях, а также часто обменивается лидерами высшего уровня и способствует развитию друг друга. Постепенно сформировалась новая концепция безопасности, основанная на общем беспроигрышном сотрудничестве и беспроигрышных результатах и способствовала достижению общих интересов. Понимание международного стратегического статуса Центральной Азии и отношений между Китаем и Центральной Азией поможет нам понять текущие стратегические намерения стран Центральной Азии и скорректировать стратегические отношения между Китаем и Центральной Азией. Казахстан как важная страна в Центральной Азии и как региональная держава играет важную роль в политической и экономической структуре Центральной Азии и даже на международной арене. Поэтому Китай активно развивает тесные отношения и сотрудничество с Казахстаном.

Ключевые слова: казахстанско-китайские отношения, Шанхайская Организация Сотрудничества, Центральная Азия, сотрудничество.

Introduction

After the dissolution of the Soviet Union in 1992, China established diplomatic relations with the countries of Central Asia, Kazakhstan, Turkmenistan, Uzbekistan, Kyrgyzstan and Tajikistan. One of peculiar features of regional policy of China – assessment of Central Asia as «strategic back of the People's Republic of China» and lining with the states of the region of the relations of strategic partnership taking into account the specific part assigned to each of them in implementation of a policy of support of conditions for implementation of national interests of China. For each of the states of the region special strategy is developed, and the relationship of strategic partnership is built up on the basis of specific spheres of cooperation. For Kazakhstan – it is preferentially oil and gas sector and implementation of transport and logistic projects (Syroyezhkin, 2014:72).

Establishment of the relations of strategic partnership with Kazakhstan was caused by several aspects. First, China has in Kazakhstan significant and polygonal interests, especially in questions of energy resources and fight against Movement «East Turkestan». Secondly, in respect of safety in Asia China has the closest contacts with Kazakhstan (the biggest neighboring state in Asia, the most extensive boundary). Thirdly, Kazakhstan makes defining impact on perspective of the Russian-Chinese relations in Central Asia. Fourthly, 1,3 million Kazakhs live in SUAR People's Republic of China. Fifthly, Kazakhstan is the largest trade partner of China in Central Asia. At last, the energetic interests of China in Central Asia mainly concentrate on Kazakhstan (Zhao Huasheng, 2008).

At present, China and Kazakhstan, as strategic partners, are in the best historical period in political relations. Since the 1990s, bilateral trade between China and Kazakhstan has been developing rapidly. In 2010, China was the largest export partner of Kazakhstan (The declaration of the tenth meeting – Council of heads of member states of the Shanghai Cooperation Organization, 2010). However, the current level of development of bilateral trade is disproportionately incommensurate to the level of economic development between the two countries (Li Ning, 2009). The significant potential for cooperation has not yet been fully utilized. It is necessary that both sides make joint efforts. Therefore, on the background of the deepening of the geopolitical economy and regional economic

cooperation, a deeper analysis of the comparative advantages of trade between China and Kazakhstan, intra-industry trade and trade characteristics is of great importance for the economic and political development of China and Kazakhstan, and also creation of the free trade zone has extremely important theoretical and practical value.

Within the Shanghai Cooperation Organization framework, China and Kazakhstan actively pursue a variety of cooperation and constantly strengthen friendly relations between the two sides. There is no doubt that China and Kazakhstan have many common goals and interests. For example, China and Kazakhstan are actively pursuing a policy of peaceful development and share common goals for ensuring regional peace and combating terrorism. Inevitably, Kazakhstan's mineral resources are needed for China's economic development. China's agricultural development resources are also relatively profitable, so China and Kazakhstan are very resource intensive (Li Qi, 1995).

The SCO does indeed play a very important role in the international community, and its growth is not only favorable for the stability of the region, but also for the interests of the international community, so it is a very promising regional and international organization. While effective cooperation between the Member States may continue, people have reason to hope for their bright future.

Methods

In the process of research, comparative and systemic methods were used. The use of SWOT analysis has made it possible to compare the strengths and weaknesses of China and Kazakhstan in their cooperation, analyze possible crises and make some suggestions on this issue. This method was used to understand the relationship between China and Kazakhstan better and to predict the future trend of bilateral relations within the framework of the Shanghai Cooperation Organization. Event analysis helped to analyze facts about China and Kazakhstan cooperation. The statement and charter of the Shanghai Cooperation Organization, the agreement between China and Kazakhstan, as well as some news reports and interviews, in order to gain a deeper understanding of the relationship between China and Kazakhstan were analyzed.

Results and discussion

After the establishment of diplomatic relations between China and Kazakhstan in January 1992, China and Kazakhstan established friendly relations of mutual trust, mutual benefit, and an win-win relationship.

By estimates of leaders of two countries, almost complete mutual understanding is reached in questions of support of regional security. Through structures of the Shanghai Cooperation Organization (SCO) China plays one of the leading roles in the solution of these questions. Between Kazakhstan and China the Cooperation agreement in fight against terrorism, separatism and extremism signed on December 23, 2002 in Beijing works (Agreement between the Republic of Kazakhstan and People's Republic of China about cooperation in fight against terrorism, separatism and extremism, 2004). Actively law enforcement agencies and intelligence agencies contact. The Kazakhstan-Chinese Subcommittee on cooperation in safety is created. Joint anti-terrorist exercises of member countries of SCO are staged. Within this combining the Regional anti-terrorist structure in Tashkent is created (Djumanbekov, 2011).

At last, it is necessary to mark also that circumstance that on May 14, 2002 in Beijing the Protocol on a demarcation of the line of the Kazakhstan-Chinese frontier putting an end in long-term process of settlement of a boundary question was signed (Kazakhstan truth, 2002), and on December 23, 2002 between the Republic of Kazakhstan and People's Republic of China the Contract on neighborliness, friendship and cooperation was signed (Contract on neighborliness, friendship and cooperation between the Republic of Kazakhstan and People's Republic of China, 2002).

Cooperation in various fields between the two countries once again continued. In recent years, especially within the framework of the Shanghai Cooperation Organization, bilateral trade between China and Kazakhstan has achieved significant success. The development of friendly relations between China and Kazakhstan is of great importance for the economy of the two countries (Joint declaration of People's Republic of China and Republic of Kazakhstan on a further dimple of the all-round relations of strategic partnership, 2013). The active development of friendly relations between the two countries contributes to the improving competitiveness of the two countries in the world and protecting the interests of the security of both countries.

In fact, the goals and principles of the SCO have determined the main direction of political and military cooperation within the SCO framework. Judging by the structure, form and content of

the SCO's political and military cooperation, the structure of international political and military cooperation is gradually forming and playing an increasingly important role in participating in the international fight against terrorism and the security of the country (Sun Zhuang, 2001). The concept of development of the Shanghai Cooperation Organization has been constantly improved and improved in the successful practice of the mechanism of the «Shanghai Five» meeting. And the Central Asian strategy of Beijing is directed to that, leaning on SCO, actively to participate in the solution of problems of the region, to develop the relations with its countries, to promote their stability and prosperity and also to realize the strategic interests which are concentrated first of all in the sphere of mastering of resources of Central Asia. Therefore the People's Republic of China should build the Central Asian strategy around SCO, it is necessary to strengthen the position and to enhance the mechanism of its actions, to eradicate the functional shortcomings of this of the organizations that it could play the leading role in the solution of problems of the region (Lifan, 2004).

The «Chinese threat» exists more or less in five countries of Central Asia, and Kazakhstan is no exception. China's common national forces are much stronger than in Kazakhstan, which, naturally, will cause Kazakhstan's concern with regard to its own security (Kaukenov, 2009). The greatest danger of Kazakhstan's «threat theory of China» is that it has turned China into a negative image, a victim of Kazakhstan's national interests and a country threatening Kazakhstan. This logic politicizes and complicates some normal problems of frictions and contradictions in bilateral relations between China and Kazakhstan.

The cross-border ethnic problem between China and Kazakhstan is due to historical and geographical factors. Statistics from 2012 show that about 1.3 million Kazakhs live in the Xinjiang Autonomous Region of China (Syroyezhkin, 2014:74). Proper handling of cross-border ethnic problems will contribute to the development of China-Kazakhstan relations, while incorrect treatment will undermine China-Kazakhstan relations and will affect the normal development of China-Kazakhstan relations.

It is necessary to mark that the main part of trade of Kazakhstan is the share of SUAR. The statistics shows that the volume of border trade of Xinjiang with Kazakhstan exceeds 6 years in a row a half of total amount of foreign trade of the independent region. Kazakhstan already became the largest and most stable trade partner of Xinjiang (Sabirov, 2006).

As the main plan for the «new Silk Road», China is considers its advancement and expansion of its relations with the countries of Central Asia as its long-term goal (Rayev, 2014). In 2013 the relations with the countries of Central Asia continued to improve China actively. For Kazakhstan, the development of relations with China is one of the important directions of its external strategy. Kazakhstan is a country based on energy, with a low degree of industrialization. As the world economic power, of China play an important role in the global economic situation (Muqametkhanuly, 2010). China are the largest country for Kazakhstan for attracting of foreign investment (Hunpin, 2008). At present, a large number of joint ventures are registered in China, but there are only a few influential large enterprises. The mutually beneficial and mutually complementary nature of trade and economic cooperation between Kazakhstan and China has not yet been fully utilized, which will inevitably affect the enthusiasm of future cooperation between the two countries and the depth of cooperation (Huasheng, 2007). On the contrary, with the gradual deepening of the influence of China in Central Asia, there will also be a significant increase in economic investments in the region by the United States and Western countries, which will further affect the economic basis of cooperation between China and Kazakhstan (Centralnaya Asiya segodnya: vyzovy i ugrozy, 2011).

The friendly relations between China and Kazakhstan are developing steadily, but they will also face some problems. After facing these problems, China and Kazakhstan should strengthen mutual trust, deepen cooperation and actively promote the development of China-Kazakhstan relations.

First, China and Kazakhstan should strengthen mutual political trust and maintain friendly relations between the two countries. Actively consolidate the existing advantages in the economy and trade between China and Kazakhstan and constantly deepen cooperation. Actively implement cooperation in a larger volume, increase the scale of investments and actively participate in the construction of infrastructure in Kazakhstan.

Secondly, on the basis of SCO, both sides should cooperate fully with the five countries of Central Asia in order to strengthen the advantages and influence of the SCO in Central Asia.

Today China is in great need as in new sources of raw materials and especially energy resources, and sales markets for the production. And in this sense Central Asia and in particular Kazakhstan – quite attractive region. And therefore what is

watched in cooperation with the People's Republic of China in an oil and gas sector of the states of the region and in trade and economic relations – the normal process which is quite inscribed in a universal tendency of economic globalization (Syroyezhkin, 2014:12).

In general, the active cooperation of Kazakhstan with China including an involvement of the Kazakhstan companies in development of violently growing Chinese economy and the markets of other countries of Southeast Asia is an important factor economic development ours the countries. As China is one of the principal actors in the world market today and it defines the main tendencies of global economic development now.

Conclusion

In Central Asia, there are many regional cooperation organizations. Their purpose and role do not match. The SCO is the largest, most potential and important intergovernmental organization for multinational cooperation in the region. The SCO pursued a policy of non-alignment and openness and never considered Central Asia its exclusive «territory».

Closed history in Central Asia is over, and Central Asia is open to the world. Central Asia should become a great platform for mutual benefit, win-win cooperation and equality, and not the angle of vicious competition. To a large extent, the SCO contributed to the development of relations between China and Central Asia. At present, China is in relations with the countries of Central Asia, often cooperates in various fields, has close contacts with top leaders and promotes each other's development. Gradually, based on a common win-win cooperation and win-win results a new concept of security formed, and contributed to the achievement of common interests.

China was one of the first countries to recognize the independence of the five Central Asian countries and establish diplomatic relations with them. After many years of unremitting efforts by both sides, political mutual trust between China and the countries of Central Asia has been steadily increasing. Both sides support each other on issues related to their main interests, carefully resolve the border issue and constantly expand and deepen their cooperation in the fields of economy, security and the humanities, treat each other as close friends and partners.

Kazakhstan has the largest territory and economic power in Central Asia. In recent years, both sides expressed satisfaction with the overall and in-depth development of cooperation in the field of resources and non-market resources, especially within the SCO. Kazakhstan has always been China's largest trading partner in Central Asia. In comparison with other countries of Central Asia, China and Kazakhstan are also the most closely connected in the humanities.

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3-бөлім

ЖАҢА ЖІБЕК ЖОЛЫН ЗЕРТТЕУ МӘСЕЛЕЛЕРІ

Раздел 3

ВОПРОСЫ ИЗУЧЕНИЯ НОВОГО ШЕЛКОВОГО ПУТИ

Section 3

ISSUES OF NEW SILK ROAD STUDY

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THE PROBLEM OF ENERGY SECURITY IN THE PRC FOREIGN POLICY

The article is devoted to the actual problem of ensuring the energy security of the PRC. In particular, China's energy policy is being explored in the context of a significant increase in the role of energy resources in the world. The issue of implementing the energy policy in the light of national interest remains relevant for many countries in the world. For the People's Republic of China, the energy factor becomes an important part of the state's economic security, as the country imports more than 40% of the necessary energy resources. China's energy strategy consists of the following tasks: maintaining low prices for oil and gas raw materials, ensuring stable oil supplies to China from abroad, developing domestic oil production and scientific knowledge of energy resources. In general, two components of China's energy policy can be identified: the internal aspect is the containment of demand for energy resources within the country in order to reduce dependence on exporting countries; external aspect – strengthening of relations with the countries-suppliers of hydro carbonic raw materials. China, as one of the largest energy consumers, is currently heavily intertwined with the outside world. This situation of the country can not but have an impact on the development of the world economy. Therefore, due to its growing position, despite the slowdown in the growth of the economy, the Chinese leadership is trying to implement the country's energy policy as efficiently as possible, taking into account national interests.

The article also discusses the topic of China's multilateral relations with energy supplying countries in the conditions of the current global conjuncture.

Key words: energy resources, energy strategy, economy, importing country, exporting country, national interest, energy security.

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ҚХР сыртқы саясатындағы энергетикалық қауіпсіздік мәселелері

Мақала қазіргі уақытта аса өзектілік тудырып отырған ҚХР энергетикалық қауіпсіздікті қамтамасыз ету саясатына арналып отыр. Жекелей алғанда, Қытайдың энергетикалық саясаты әлемдегі энергетикалық шикізаттың рөлінің артуы ауқымында зерттеледі. Ұлттық мүдделер есебінен энергетикалық саясатты қалыптастыру әлем елдерінің көбінде аса ашық тақырып болып саналады. Қытай Халық Республикасы үшін де энергетикалық фактор елдің керекті энергетикалық шикізаттың 40 % импорттауы жағдайында мемлекеттің маңызды экономикалық қауіпсіздігі санатында. Қытайдың энергетикалық стратегиясы келесідей міндеттерден тұрады: мұнайгаз шикізатына төмен бағаны сақтау, шетелдерден ҚХР мұнай тасымалының тұрақтылығын қамтамасыз ету, энергетикалық ресурстар жөніндегі ғылыми білім және елдегі жеке мұнай түсімін

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дамыту. Былайғыда, Қытай энергетикалық саясатының екі негізгі аспектісін бағамдауға болады – экспорттаушы-елдерге деген тәуелділікті төмендету мақсатында елдің ішінде энергетикалық шикізат сұранысын тұрақтандыру; сыртқы аспект – көмірсутегі шикізатын тасымалдаушы-елдер тарапынан қатынасты нығайту. Қытай ірі энерготұтынушы елдердің көш басында тұрғандықтан, қазіргі уақытта сыртқы әлемге аса тәуелді. Елдің осындай ақуалы әлемдік экономиканың да дамуына әсер етпей қоймауы мүмкін емес. Сондықтан да, салмақты жағдайына сай, экономиканың өсуінің баяулауына қарамастан, Қытай билігі ұлттық мүдделерінің есебіне негізделген елдің энергетикалық саясатын тиімді жүзеге асыруға күш салуда.

Сондай-ақ мақалада әлемдік күрделі конъюнктура ережелеріне қарамастан энергетикалық шикізат тасымалдаушы-елдермен Қытайдың көп жақты байланысы да қарастырылады.

Түйін сөздер: энергетикалық шикізат, энергетикалық стратегия, экономика, импорттаушы-елдер, экспорттаушы-елдер, ұлттық мүдде, энергетикалық қауіпсіздік.

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Проблема энергетической безопасности во внешней политике КНР

Статья посвящена актуальной на сегодняшний день проблеме обеспечения энергетической безопасности КНР. В частности, исследуется энергетическая политика Китая в контексте существенного возрастания роли энергоресурсов в мире. Вопрос о реализации энергетической политики с учетом национального интереса остается актуальным для многих стран мира. Для Китайской Народной Республики энергетический фактор становится важнейшей частью экономической безопасности государства, поскольку страна импортирует более 40 % необходимых энергетических ресурсов. Энергетическая стратегия Китая состоит из следующих задач: сохранение низких цен на нефтегазовое сырье, обеспечение стабильных поставок нефти в КНР из-за рубежа, развитие добычи собственной нефти в стране и научных знаний об энергетических ресурсах. В целом можно обозначить два составляющих аспекта энергетической политики Китая: внутренний аспект – сдерживание спроса на энергоресурсы внутри страны с целью снизить зависимость от стран-экспортеров; внешний аспект – укрепление связей со странами-поставщиками углеводородного сырья. Китай как один из крупных энергопотребителей в нынешнее время сильно переплетен с внешним миром. Такое положение страны не может не иметь влияния на развитие мировой экономики. Поэтому, в силу своей усиливающейся позиции, несмотря на замедление роста экономики, китайское руководство как можно эффективнее пытается реализовать энергетическую политику страны с учетом национальных интересов.

Так же в статье рассматривается тема о многосторонних отношениях Китая со странами-поставщиками энергоресурсов в условиях сложившейся мировой конъюнктуры.

Ключевые слова: энергоресурсы, энергетическая стратегия, экономика, страна-импортер, страна-экспортер, национальный интерес, энергетическая безопасность.

Introduction

Chinese President Xi Jinping called for the use of new models of cooperation in the Eurasian area, the joint efforts to form the «Economic belt of the Silk Road» (EBSR) and proposed five necessary measures: political coordination, infrastructure interconnection, trade liberalization, free movement of capital and the strengthening of mutual understanding between peoples . Another part of the EBSR initiative is Chinese investment projects in Kazakhstan. Over the past years, China remains the largest foreign trade partner of Kazakhstan. Using the most advanced economic opportunities in the world to solve today's financial and economic crisis, China buys and controls its shares in a number of well-known oil and gas companies in Kazakhstan. In the mid-1990s, the share of Western companies in Kazakhstan was also high, and now the People's Republic of China is one of the key players. One of the main measures of the Kazakh oil and gas market is the Kazakh-Chinese oil pipeline (from Atyrau to Xinjiang).

This country has already become one of the determinants of global economic development, has become an influential regional force in East and Central Asia. China seeks to reach the level of a global political force capable of influencing the creation of

a new world order. At the heart of the changed international positioning of the PRC is the growth of its economy as a result of market reforms and integration into the world economy. The continuous growth of China's energy needs is one of the key factors that have had a growing impact on international relations since the 1990s. During the first decade of the new millennium, energy consumption in China doubled (People's Daily, 2011). In 2010, it surpassed the US in this indicator and became the largest consumer in the world, which had a significant impact on world markets and international relations. The active search for sources of supply contributed to the expansion of the PRC's presence in all regions of the world, including Africa, Latin America and Antarctica. Beijing, since the late 70s of the twentieth century, pursued a policy of low activity outside its borders, has entered a broad international arena.

At the same time, China's energy strategy has also been continuously changing. It has never been formalized as a single program document and represents a complex of projects, plans and directives. China once provided energy resources not only for itself, but also for its neighbors in the region – South Korea and Japan. A peculiar frontier in the country's energy policy is 1993, when China became a net importer of oil. This played a big role for the government's awareness of the growing problem of energy shortages and fueled fears of energy hunger. As a result, the Chinese government abandoned the policy of self-reliance and reliance on domestic resources and began to increase the import of energy resources. By 2003, the PRC ranked second in the world after the US oil imports. As a result, energy diplomacy has become an important and integral part of foreign policy. The number of long-term contracts for the supply of raw materials has increased, the construction of cross-border pipelines has intensified, and then a large-scale purchase of oil and other assets by Chinese corporations abroad began. Steps of Beijing in the international arena will increasingly be due to the search for profitable sources of supply. Consumption of energy resources in China will grow, including as GDP per capita grows, people's well-being increases, which is already manifested in the active use of household appliances (especially air conditioners), car purchases, etc. At the same time in search of new sources of energy resources, Beijing increasingly has to compete with other importers. The main rivals here will be the United States, the European Union, deprived of its own resources, Japan and second only to China in terms of population India. The interests of the United States and the PRC are also faced with the question of how to allocate resources. If it is more profitable for Americans to trade in open markets, then Beijing prefers to operate through its state corporations by concluding long-term intergovernmental contracts.

Chinese state-owned companies are becoming increasingly influential actors in the field of international energy, having a significant impact on Beijing's foreign policy (Jacobson, 2010: 12-13).

The provision of energy resources determines the opportunities for the development of the economy and society. The state of the country's energy complex is increasingly becoming one of the components of national security. Recently, it has been more difficult for China to cope with rapid economic growth, which has a direct impact on energy supply. The actions of the PRC to meet the needs of the economy have an increasing impact on the state of world markets and the prices of resources, international cooperation and the policies of other countries. A side effect of these processes is the increased attention of the world community to environmental problems in the PRC.

Theoretical and methodological basis

The conceptual apparatus of the most influential schools of political research is used: liberal, realistic and constructivist. Security problems are traditionally considered using the approaches of the school of realism. However, its methodological apparatus is based on the fact that the main actors of international relations are the states. This creates limitations for the analysis of non-traditional threats, which also include threats to energy security and the environment. In modern theory, the notions of «security» and «threats» are getting more and more widely interpreted, more and more attention is paid to economic threats, as well as to non-traditional threats to security. An analysis of China's current policy and its impact on international relations also analyzes the argument of the neo-realists about China's gradual transition to the category of hegemonic countries and the possibility of a conflict with the United States. Analysis of energy security is possible only through an interdisciplinary approach that involves the use of historical, political, philosophical principles, as well as general scientific methods such as analysis and synthesis, induction and deduction, generalization and analogy, classification.

Results and discussion

The concept of «energy security» is treated in the literature very widely. It began to be developed

and became part of official documents on economic policy of the United States, European countries, Japan and other countries under the influence of «energy shocks» of 1973 and 1978. Initially, energy security implied oil security and included measures by consumer countries to prevent disruptions in oil supplies and price spikes in world markets. Subsequently, the concept also began to include a stable supply of gas. In the most general sense, energy security was understood as the effective use of internal resources developed in the most optimal way while preserving the strategic reserve, and availability of accessible and stable external sources of supply (Issova, 2015: 35).

The main measures to ensure the energy security of importing countries include: 1) the development of domestic traditional energy sources (oil, coal, gas); 2) reduction of specific energy consumption due to increasing its efficiency, development of energy-saving technologies; 3) use of alternative energy sources; 4) ensuring a stable development of the energy industry with a reasonable combination of market relations with government regulation; 5) creation of strategic reserves of energy resources.

High economic growth rates over the past 25 years have forced the leadership of the PRC to abandon the self-sufficiency strategy and move to a combination of mobilizing its own resources with reliance on external sources of supply. The search for energy resources has gradually become one of the defining features of the international activity of the country. The PRC more and more penetrated the world markets and expanded its sphere of interest at the expense of such regions as the Middle East, Africa and Latin America.

The analysis of priorities of the energy policy of the Chinese leadership is followed by the enumeration of the main measures to ensure energy security:

1) achievement of import volumes reflecting real energy needs;

2) diversification of energy sources (reduction in the share of coal through increased use of gas, nuclear energy, and alternative sources);

3) formation of a system of diversification of supplies and transportation;

4) development of energy-saving technologies;

5) international cooperation and participation in international mechanisms for ensuring energy security;

6) the creation of strategic oil reserves, as well as liquefied natural gas (LNG) and coal.

Among the Chinese documents, special attention is paid to the energy industry development strategy, published in June 2004 – «The main provisions of the medium-term and long-term energy development program of China for 2004-2020» (Medium and long-term, 2004), and « medium-term plan for the development of China's energy industry (2030, 2050) «(Law on Renewable Sources, 2005). Also this group of sources includes legislative acts, program reports and speeches of the leaders of the PRC (Notice to the State Committee, 2012), (State Committee of China, 2007).

Among the works of Chinese scientists, special attention was paid to the work of the staff of the Center for Energy Policy Research of the Chinese Academy of Sciences (Zhongguo Nenyuan, 2006: 134), the institutions of the Chinese Academy of Social Sciences (Wu Lei, 2003), Qinhua University (Guan Qinyu, 2010: 132) State Committee for Control over the Electricity Industry and Regional Research Centers (Beijing, Shanghai, Tianjin, Yunnan, etc.) (Zhongguo Nengyuan, 2008: 86). Also published are speeches and interviews of Chinese leaders and directors of major state corporations (Zhunggo, 2012. 124-231).

The problems of Chinese energy and energy security were analyzed in the works of F. Andrews-Speed (2011), E. Streker Downs (Downs, 2012), R. Ebel (Ebel, 2005: 104), K. Alden (Alden , 2008: 22-25). The interrelations of energy and the economic model of China's development are examined in the monograph of the famous American economist of Chinese origin Huang Yasheng (Huang, 2008: 45-50).

Recently, a number of studies of the impact of the rapid development of energy on the environment and sustainable development of China (Day, 2005), A. Goldstein (Goldstein, 2005: 142), B.Sovakul (Brown, 2011).

The energy strategy primarily reflects the perception of the international system by China and its role in it. China's economic development and market reforms launched in 1978 have had a key impact on energy security in both the Asia-Pacific region and the world. Providing not only its own country, but also a number of neighboring countries with energy resources, the Chinese leadership did not pay enough attention to energy efficiency problems, which explains the current gap in energy consumption per capita between the PRC and Western countries. The energy needs of the economy were largely met through the extensive development of the energy sector. This self-sufficiency strategy (ie, meeting energy needs only at the expense of domestic resources of the country) proved ineffective, and as the GDP grew, Beijing had to increase its import more and more. In 1993, for the first time, imports

of crude oil exceeded its exports. However, at that time, the threat of a shortage of energy resources did not cause particular political concern. As a serious threat to national security, it began to be perceived only at the turn of the new millennium, when the volume of imported oil was a quarter of its total consumption in China (Zha Daojing, 2010).

China has traditionally been a coal-mining country. After the founding of the PRC in 1949, energy needs were mostly met by coal, with a small amount of oil imports from the USSR. Thanks to the discovery of the largest Datsinsky oil field in 1963, Beijing was able to abandon oil imports and move to a policy of full self-sufficiency in the field of energy resources. This was a forced measure caused by the external isolation of China and the deterioration of relations with the USSR. At that stage, China continuously increased domestic production and exported oil and coal to Japan and other countries of the region, which became the main source of new technologies and foreign exchange. As domestic production declined and oil demand grew, Beijing began purchasing it from Oman in 1983 as a temporary measure. Subsequently, the volume of exports began to grow year by year. As a result, in 1993, Beijing became a net importer of oil (Zha Daojing, 2010). The rate of consumption of the main types of energy resources in the PRC is continuously growing. Despite a significant increase in domestic production, imports from abroad, increased investment in generation, construction of pipelines and the transfer of electricity within the country, there is a regular shortage of energy resources and power outages occur.

The main factors for increasing energy consumption in China in the first half of the XXI century. there will continue to be an increase in population and income and, as a consequence, urbanization, industrialization and motorization. One of the main factors in the growth of energy consumption in China, as in many other developing countries, is industry, in contrast to developed countries, where this indicator is minimized. If industrial demand is mainly met by coal, then consumption in the transport sector is due to oil. According to forecasts, by 2020 the number of cars in the country will increase to 120 million, and the import of oil, at least, will reach 60% of demand.

Many experts are inclined to believe that ensuring China's energy security creates a threat to the energy security of other countries and regions, and reduces its level, primarily due to rising prices on world energy markets.

China has taken a strong position as a participant in the global energy market and has had a significant impact on its development, supply routes, pricing, etc.

The increasing role of China in the global energy sector is indicated by:

– the growing presence of Chinese energy companies in Central Asia, the ASEAN countries, the Middle East and Africa;

– rivalry with other importing countries, primarily the United States, Japan, as well as India, for access to energy resources;

– a rise in prices in world markets caused by an increase in oil exports to China.

China begins to play an active economic role in the regions from which it imports energy. At the same time, the Chinese leadership, banks and state-owned companies are taking significant political risks to gain access to sources of raw materials. To meet the needs of economic growth, they conclude contracts with unstable regimes, provide large loans, and further develop infrastructure. China's external supplies are extremely vulnerable, both because of the unstable situation in the regions (Middle East, Africa), so the monotony of transportation routes (the Straits of Malacca). In the search for energy suppliers, China is increasingly drawn into a covert confrontation with the United States (in the Middle East, Latin America, Canada, Central Asia, Africa), Japan (in Africa, Russia, Asia-Pacific) and India (in Central and South-East Asia) and other countries. However, theories about the growing «energy threat» from China and its transformation into a «hegemon» are greatly exaggerated.

Conclusion

Ensuring national energy security has become one of the main tasks of China's foreign and domestic policy. At present, energy diplomacy is a key component of China's foreign policy strategy and its interaction with other states. The increased demand for energy resources increases the influence of the PRC on world energy markets and stimulates the expansion of its presence in other regions. The active exit of Chinese companies into the world energy markets is caused by such serious internal problems as low energy efficiency, deterioration of the ecological situation, underestimation of domestic prices for energy resources, insufficient infrastructure development, etc. At present, China's energy security strategy is not framed as a single document or published complex measures. The emphasis is on short-term measures combined with ambitious plans. In fact, in parallel, there are several strategies that are

not consistent among themselves. The contradictory nature of the energy policy of the Chinese leadership can be explained by the struggle of two tendencies: the intention to gain an independent position through the development of domestic resources (the desire to return to the situation when China provided its own needs) and an approach focused on meeting the energy needs through external supplies. Supporters of the first approach lobby for the development of their own industries and the introduction of high-performance technologies, using data on significant undiscovered reserves and calling for a transition to alternative energy sources. The second approach is based on the recognition of the inevitability of growth in imports as the economy develops further. This leads to the conclusion that China needs to protect itself by providing reliable supplies at affordable prices. This strategy focuses on large state-owned companies that spread their presence around the world. The main component of China's energy security strategy is the diversification of sources of supply, both domestic, through more active exploration and development of deposits inside the country, and external, through investments in extraction and processing abroad, development of foreign technologies, conclusion of long-term contracts, and construction of cross-border pipelines and power networks.

China can not cope with the problems facing it independently. The most effective way to improve its energy security could be to create larger interregional projects by combining pipelines into a regional system and creating a single energy space. Such projects can be implemented both in the sphere of primary energy (oil, gas) supplies and in the field of electricity supply. Promoting the collective approach will contribute to ensuring energy security and the entire international system. At the moment, there is no comprehensive mechanism for regional security in Asia. The SCO Energy Club and the creation of an energy block within the framework of cooperation between the states of Northeast Asia can play a more active role in its future. However, at the moment, China, like other states in the region, resolves its energy problems unilaterally. Insufficient level of interaction and coherence between energy development strategies reduces the level of energy security of the states of the region.

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CHINESE DREAM IN XXI CENTURY

Today, we often hear the idea that the 21st century is the age of China, and humanity is beginning to get used to this information. The path of development of the People's Republic of China, initiated by Mao Zedong, retaining the continuity of generations, continuing today Xi Jingping enters a special period. Headed by Xi Qinping, strengthening their place in the world arena, representatives of the «fifth generation» often talk about the «Great Chinese Dream». To implement this goal, concrete programs and plans have been adopted at the state level, and their phased implementation is expected. Moreover, a specific chronological framework for achieving the result has been approved. If by 2021, to the 100th anniversary of the Chinese Communist Party, it is planned to become a state with an average profit, then by the year 2049, to the 100th anniversary of the formation of the People's Republic of China, it is planned to become a global superpower and fully realize the Chinese dream. Of course, it is important for each nation to have their own dream and better that they will come true. But, how will the «Chinese dream» affect the world? Can the realization of the dream of one nation harm the wishes of another nation!?

Key words: Chinese dream, People's Republic of China, Xi Jinping, China's foreign policy, Clash of civilizations.

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XXI ғасырдағы Қытай арманы

XXI ғасыр – Қытай ғасыры деген ойлар жиі айтыла бастады және бұл ақпаратқа жалпы адамзат күннен-күнге үйреніп келеді. Қытай Халық Республикасының Мао Цзедуннан бастау алып, буындар сабақтастығын сақтай отырып, бүгінгі күні Си Цзиньпинның қолына жеткен даму жолы ерекше бір кезеңге аяқ басып отыр. Халықаралық сахнадағы орнын күннен-күнге нығайтып келе жатқан Қытай Халық Республикасынның Си Цзиньпин бастаған «бесінші буын» өкілдері «Ұлы Қытай арманы» туралы жиі айта бастады. Бұл мақсатты орындау бағытындағы нақты бағдарламалар мен жоспарлар мемлекеттік деңгейде бекітіліп, кезең-кезеңімен орындау көзделіп отыр. Сонымен қатар, нәтижеге жетудің нақты хронологиялық мерзімі де бекітілген. 2021 жылы Қытай коммунистік партиясының құрылуының жүз жылдық мерзімінде, орта табысты мемлекет құру жоспарланса, 2049 жылы Қытай Халық Республикасының құрылғанына жүз жыл толған мерзімде, әлемдік алпауытқа айналып, қытай арманын толықтай орындау көзделген. Әлбетте, әр халықтың өз арманы болғаны және сол армандардың орындалғаны жақсы. Дегенмен, «қытай арманы» әлемге қалай ықпал етеді, бір халықтың арманының орындалу барысында екінші бір халықтың армандарына зиян келуі мүмкін бе?!

Түйін сөздер: Қытай арманы, Қытай Халық Республикасы, Си Цзиньпин, Қытайдың сыртқы саясаты, Өркениеттер қақтығысы.

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Китайская мечта в XXI веке

Сегодня мы часто слышим идею о том, что XXI век – век Китая, и человечество начинает привыкать к этой информации. Путь развития Китайской Народной Республики, начатый Мао Цзедуном, сохранивший преемственность поколениями, продолжающийся сегодня Си Цзинпинем, вступает в особенный период. Возглавляемые Си Циньпинем, укрепляющие свое место на мировой арене, представители «пятого поколения» часто говорят о «Великой Китайской мечте». Для осуществления этой цели на государственном уровне приняты конкретные программы и планы, ожидается поэтапное их выполнение. А также утверждены конкретные хронологические рамки достижения результата. Если к 2021 году, к 100-летию коммунистической партии Китая, запланировано стать государством со средней прибылью, то к 2049 году, к 100-летию образования Китайской Народной Республики, планируется стать мировым гигантом и полностью реализовать китайскую мечту. Конечно, важно каждому народу иметь свою мечту и лучше, чтоб они сбывались. Но, как повлияет «китайская мечта» на мир, может ли осуществление мечты одного народа принести вред желаниям другого народа!?

Ключевые слова: китайская мечта, Китайская Народная Республика, Си Цзиньпин, внешняя политика Китая, столкновение цивилизаций.

Introduction

The success or failure of the leading economies of the world ultimately depends on the existence of a long-term development strategy, its adequacy to specific conditions and the effectiveness of the ruling elite in the implementation of the target. Only countries with a clear perspective will be able to remain subjects of a constantly changing world order, and not become an object of influence of competitors. Among the world's leading world powers, so far only China has been able to formulate a long-term development strategy. It is called the «Chinese Dream»; it includes several independent strategic concepts, has two control periods, and should be completed by 2049 (Jinping, 2014).

Long-term planning began in China only in 2012 and is connected with the name of the new leader of the country, Xi Jinping, whose arrival to the supreme party and state power marked the beginning of a qualitatively new stage in the development of the country. Its key characteristic was the transition from medium-term planning (five-year plan) to long-term strategic planning for whole decades (Jinping, 2017).

Speaking just two weeks after the end of the XVIII Congress of the CPC at the end of 2012, Xi Jinping said: «The endless struggle that has been going on since the» opium wars «for 170 years has opened up brilliant prospects for the great revival of the Chinese nation. Now, like at any historical period, we have been close to the realization of our goal, the great revival of the Chinese nation, and as never before we are confident of our ability to achieve this goal. «Xi Jinping immediately identified the boundaries of achieving the goal: «I firmly believe that the 100th anniversary of the founding of the Communist Party of China (2021) will inevitably be the task of creating a society of medium prosperity. By the time of the 100th anniversary of the founding of the PRC (2049), undoubtedly, the task will be fulfilled to create a rich and powerful, democratic and civilized, harmonious and modern socialist state. The dream of a great revival of the Chinese nation will certainly come true» (Jinping, 2014)

Thus, already in the first public speech before the whole world, as a new leader, Xi Jinping put forward a long-term strategic task to the Chinese nation for almost four decades – for 37 years. Any Chinese ruler did not do this before.

Relevance

First of all to understand the meaning of the Chinese dream and foreign policy can helps us the main speeches, conversations, official announces of the Chinese leader. The book «The Government of China» (Jinping, 2014, 2017) that contain two volumes has given us main information that related with our subject. The first volume of Xi Jinping: The Governance of China collects 81 of Xi's speeches, conversations, instructions and letters. Also first

volume has had a special part about the Chinese dream and rejuvenation of the great China. The second volume of Xi Jinping: The Governance of China collects 99 of Xi's speeches, conversations, instructions and letters, as well as 29 photos of the Chinese leader, between August 18, 2014 and September 29, 2017. The articles are divided into 17 topics and the book adds some necessary annotations to improve readers' understanding, according to the statement. Over the three years since the publishing of the first volume in September, 2014, Xi, also General Secretary of the Communist Party of China (CPC) Central Committee, has continued to put forward a series of new concepts, thoughts and strategies, enriching the CPC's theories. The second volume depicts the practices of the CPC Central Committee, with Xi at the core, in uniting and leading Chinese people to uphold and develop socialism with Chinese characteristics in a new era. It reflects the development and main contents of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era. The newly published volume is also expected to help the international community had better understand the path, concept and model of China's development, it added.

Secondly, today we can see huge number of Chinese diplomats, scholars and independent experts from China who actively writing, investigating, and popularizing the idea of «Chinese dream». For instance, Fudan journal (China, Fudan University) has published the article «Interpreting and understanding «The Chinese dream» written by Professor Xing Li (Li, 2015). In addition, The Chinese Journal of International Politics, Journal of Chinese Political Science and China Daily published lot of articles about the «Chinese dream» and rejuvenation of China. We just collected some of them below: «Socialisation as a two-way process: Emerging powers and the diffusion of international norms» written by Xiaoyu Pu (Pu, 2012), «Continuity through change: Background knowledge and China's international strategy» written by Yaqing Qin (Qin, 2014), «Behind the «Chinese Dream» project is the rising confidence about China's current position and China's future» written by Shiping Zheng (Zheng, 2014) and etc.

However, how do those outside China view Xi's Chinese Dream? The Chinese Dream discourse has been a subject of much speculation in the West. It is commonly viewed as a nationalist doctrine that is likely to hold perilous implications for international security in the future. Western nations are apprehensive about the more assertive and expansionist foreign policy approach seemingly implied by the Chinese Dream, particularly as it relates to China's increasing military assertiveness in the South and East China Seas. Here we can refer the articles: «The Chinese Dream: Concept and Context» (Wang, 2014), «What Does General Secretary Xi Jinping Dream About?» (Saich, 2017), *US-China 21.* «The Future of U.S.-China Relations under Xi Jinping. Toward a New Framework of Constructive Realism for a Common Purpose» (Rudd, 2015) etc.

Critics also suggest that it will be difficult, if not impossible, to realise the Chinese Dream. This is both due to China's economic slowdown and, more importantly, the reality that it is unlikely that 'each Chinese person' will dream the same dream and that dream will be consistent with that of the Chinese Communist Party.

Finally, we can underline interesting overviews from these following publications: «ASEAN still critical catalyst for China's future» (Mahbubani, 2016), «Yes, China is investing globally–but not so much in its belt and road initiative» (Dollar, 2017), «Can China rise peacefully?» (Mearsheimer, 2014), «The contest of the century: The new era of competition with China–and How America can win» (Dyer, 2014).

Theoretical-methodological bases

The ides of «Chinese dream» is not abruptly appeared today. Roods of this idea come from ancient Chinese traditions. Today's Chinese leader have just rejuvenated it. If we really want to understand the meaning of this idea, we have to use a theory of civilization. In this case, we can point out the idea of Samuel Huntington «the Clash of civilizations» (Huntington, 1996). Nevertheless, some scholars have deemed «The clash of civilizations» theory is absolutely and completely dead. We want to meditate from other view like a «The clash of civilization» without collapse and the victory of the East.

Also, it's time to think about the balance of power theory. Since the 16th century, balance of power politics have profoundly influenced international relations. Nevertheless, in recent years, with the disappearance of the Soviet Union, growing power of the United States, and increasing prominence of international institutions – many scholars have argued that balance of power theory is losing its relevance. However, today, with this Chinese global project OBOR nobody can say that balance of power is losing its relevance. On the contrary, it is time to point out about new balance of power that in one side China has unhesitatingly appeared.

Hi Jinping in one of his speech underlined that If Chinese dream will achieved it will be great not for only Chinese, also it will be fruitful for all nation of the world. It really seems like a theory of «soft power» written by Joseph Nye (Nye, 2005). Xi Jinping said: «We should increase China's soft power, give a good Chinese narrative, and better communicate China's messages to the world» (Jinping, 2014).

Discussion

«The clash of civilization» without collapse and the victory of the East

Every time when people has said about «The clash of civilization», everyone immediately thinks about Samuel Huntington. He has generally mentioned clash of civilization between West and East, but pointed on Muslim's and Cristian's. Perhaps it was. However, today we want to say the clash of civilization between West (USA and West Europe) and China and possible leadership of the East in the person of China.

The undoubted success of China's five-year movement towards the realization of the «Chinese Dream» plan opened up new horizons for China. The state, which provided 16.5% of global GDP and about 40% of world growth in 2016, becomes closely integrated into the existing system of global financial, economic and political governance. Proceeding from the achieved successes and adhering to the long-term «Chinese Dream» plan, Chairman Xi Jinping informed the world about his country's intention to play a new, key role in global governance. This happened in September 2016 in Hangzhou during the next G20 summit. Xi Jinping talked about the urgent changes in world governance and China's readiness to play a worthy role in creating a «global community of common destiny» at the World Economic Forum in Davos in January 2017 (Jinping, 2017).

This is unusual for Chinese leaders. Deng Xiaoping had always said do not be a leader in international arena and do not take a responsibility to solve global problems. From the point of view of Deng Xiaoping, China will not be ready to take responsibilities all over the world until the 2049. Nevertheless, Xi Jinping did it and has started to say about the «Wind from East» that can give a new impulse of development of the humanity.

Since 2013, the Chairman of the People's Republic of China is Xi Jinping, who, back in 2012 after his election to the post of General Secretary of the CPC Central Committee, brought the «Chinese dream» to a new level. Xi Jinping said that at the end of November 2012, while visiting the exhibition «Path to Revival» in the State Museum of the People's Republic of China, dedicated to the history of China since the end of the Opium Wars, he noted that the dream is not only for each individual, but also for the nation as a whole. «I think that the great revival of the Chinese nation is the greatest Chinese dream in a new era. Because this dream bears in itself the long-cherished wish of the most diverse generations of our people. It reflects the fundamental interests of the Chinese people and the general expectation of the Chinese nation. History reminds us that the personal future and destiny of each person are closely connected with the future of the whole country. People can live well, only when our country and nation develop safely. This great dream requires the untiring efforts of the next generations of the Chinese people «(Rosen., Snyder, 2017).

Xi Jinping immediately determined the steps to achieve the goal: «I firmly believe that the hundredth anniversary of the founding of the Chinese Communist Party (2021) will inevitably lead to the creation of a» xiaokang, «a society of medium prosperity. By the time the centenary of the creation of the PRC (2049) will undoubtedly be accomplished the task of creating a rich and powerful, democratic and civilized, harmonious and modern socialist state»(Jinping, 2014). In this first public speech to his people and the world as a new leader, Xi Jinping demonstrated the strategic depth of his vision of the history of the Celestial Empire – 170 years ago, from the beginning of the first Opium War (1840), and 37 years ahead, to the centenary of the founding of the PRC (2049). Total – more than two centuries. His ten-year reign – twice five years in accordance with the order of rotation of the highest leader established by Deng Xiaoping – he began with setting up a long-term strategic task for the Chinese nation for almost four decades. Any Chinese ruler before Xi Jinping did not do this.

Is it beginning of the victory of the East or is it usual «Wind from East» that cannot influence for global world?

From Mao Zedong to Xi Jinping

In the speech of October 29, 1955, Mao Zedong said: «Our goal is for our country to be highly developed, that it is much stronger than now, so that the Chinese people become a rich people. Year after year, we will approach this goal; year after year, we will become richer and stronger. Universal prosperity will not come today, but I know that it will come tomorrow «(Zedong, 1969).

These words contain a triple meaning: First, China must change the status of a weak nation to become a truly powerful country in the world; second, the Chinese people must make the path from poverty to prosperity; Thirdly, China must adhere to the socialist path in order to guarantee the attainment of universal prosperity. In addition, Mao Zedong stressed that China with a population of 600 million people should catch up with the US with a population of 100 million people. It will take decades to see the results of the efforts of the Chinese people for at least 50 years, maybe 75 years. According to Mao Zedong, the main factors that will make it possible to achieve the goal and catch up with the level of development of the United States are a large territory of the country, its thousand-year history, natural resources and a large population. An important idea of Mao Zedong was the idea that all sectors of the country, including business circles and democratic parties, should strive to create a prosperous and powerful country from China. In 1956, in the article «In Memory of Sun Yat-sen,» Mao Zedong stressed that achieving a future superiority over the United States is not only possible, but absolutely necessary (Zedong, 1969).

Deng Xiaoping did not mention the goal of catching up with the US in public speeches or in written works, devoting almost all the attention to the «xiaokang» concept. It is believed that for the first time about «xiaokang» Deng Xiaoping mentioned in 1979 in a conversation with Japanese Prime Minister Masayoshi, calling «xiaokang» the dream of educated Chinese for more than one thousand years. Subsequently, Deng Xiaoping clarified the content of the «xiaokang» concept: the Chinese people will radically change the backwardness of their country and make it the advanced state in the world. With the peoples of other countries, the Chinese people will work to jointly promote the just cause of human progress.

In April 1987, Deng Xiaoping presented the steps he had developed to achieve this strategic goal. The first step is to double GNP from 250 to 500 dollars. The second step included doubling the GDP to $ 1,000. Deng Xiaoping noted that the essence of socialism lies in the general prosperity. «If we reach four thousand US dollars per capita gross national product (GDP), and overall prosperity, then this will best show that the socialist system has an advantage over the capitalist system» (Vogel, 2013).

«Xiaokang» continued to be a central element of the Chinese dream during the presidency of Jiang Zemin, who promised to build a «xiaokang» in 20 years. Jiang Zemin's report at the 16th CPC Congress (2002) stated that «xiaokang» has so far been built only on a very limited area of free economic zones, major cities and coastal provinces, in the next twenty years the main task of the Chinese people will be the assertion of «xiaokang» on the entire territory of China (Zemin, 2009).

However, the Chinese dream in its current form was formed by Hu Jintao and absorbed all the achievements of all previous leaders of the CCP. Hu Jintao stressed that the Chinese dream is a desire to go one way with the peoples of other countries, to jointly create an even better tomorrow for humanity. «The dream of the Chinese people – said Hu Jintao, – the strengthening of the modernization of the state, the great prosperity of the Chinese nation, along with the peoples of other countries, the desire for peace and progress, peaceful coexistence and harmonious development» (Jintao, 2012).

As we noticed, Hu Jintao was very careful to announce, «Chinese dream» and its ambition. If Joseph j. Nye had mentioned about the «soft power», Hu tried to mention «Harmonized world» along with the peoples of other countries. But obviously «Chinese dream» is not a «Human dream».

Xi Jinping is a new leader of the new generation with great ambition who will not conceal their intention.

Xi Jinping's plan was laid out after the congress of the ruling party was over. However, it was quickly discussed and approved at all levels of party organizations, became a party document. At the shortly held sessions of the Chinese Parliament (NPC) and the Consultative Meeting (VC NCCP), not only the General Secretary of the CPC Central Committee was confirmed as President of the PRC (President of China), but also the approval of the «Chinese Dream» plan. Thanking the people's representatives for their trust, Xi Jinping began to develop the concept of the «Chinese dream», calling the three main conditions for its implementation.

1. Be sure to follow the Chinese way, that is, along the road of socialism with Chinese characteristics. The Chinese nation is a nation of extraordinary creativity. Since we managed to create a great Chinese civilization, we will even more be able to continue and expand the path of development that corresponds to Chinese realities.

2. It is necessary to uplift the Chinese spirit, whose core is patriotism, as well as the spirit of the era, the core of which is reform and innovation.

3. It is necessary to unite the forces of the nation, which are born of the great cohesion of 56 nationalities and a population of more than 1.3 billion people. The Chinese dream is the dream of

the whole nation and every Chinese individually (Jinping, 2017).

Conclusion

The Chinese Dream, according to President Xi, refers to the collective aspiration of «the great rejuvenation of the Chinese nation» as well as the personal dreams of the individual citizens of China to attain productive, healthy and happy lives. Xi has emphasized that the «China Dream» is a dream of the Chinese people that can only be attained through 'socialism with Chinese characteristics'.

Internationally, the Chinese Dream can be viewed as a continuation of the country's peaceful development strategy. It is a key component of China's soft power campaign, which seeks to counter the theory that China is a threat to regional peace and security and promote instead a benign and positive image of the country. To quote President Xi: 'We Chinese love peace. No matter how much stronger it may become, China will never seek hegemony or expansion. It will never inflict its past suffering on any other nation.' Over the years, China has moved away from Deng Xiaoping's strategy of 'lie low, bide your time' and has adopted an assertive foreign policy approach. The Chinese Dream discourse has been designed to institute a robust foundation for the development of a new overarching diplomatic strategy. The goal is to not only promote a renewal of the nation, but also enhance China's international appeal to the rest of the world and, in turn, its stature in world politics.

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HOW DO 'PEOPLE TO PEOPLE' RELATIONS CONTRIBUTE TO THE IMPLEMENTATION OF OBOR IN CENTRAL ASIA?

In 2013, Chinese leader Xi Jinping, during his official visit to Kazakhstan announced, a new concept that is the One Belt One Road initiative (OBOR). While the OBOR covers five objectives, in this article, the aim is to use the ideas of the fifth pillar 'people to people' relations to argue that understanding between people is an important element of strategy, but it is essential to recognize how it contributes to the implementation of the OBOR in the Central Asian region. It is considered that the New Silk Road concept aims to consolidate peripheral diplomacy and create various multilateral relations by pursuing a win-win strategy along the OBOR. In this context, by recognising the significance of soft power, China strives to expand its influence across the Central Asian region to foster people to people connections. Therefore, it will be analysed specifically how China pursues cultural, educational exchange, science, technology and human development in Central Asia. By arguing all the connections and contradictions of China's domestic and foreign affairs, the aim is to demonstrate that 'people to people relations' is crucial dimension in giving an impulse to the OBOR in Central Asia.

Key words: One Belt One Road (OBOR), people to people relations, peripheral diplomacy, multilateral relations, soft power.

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Халықтар арасындағы байланыстар бағыты «Бір белдеу, бір жол» жобасының Орталық Азия аймағында жүзеге асырылуына қалай ықпал етеді?

2013 жылы Қытай Халық Республикасының төрағасы Ши Жинпиң Қазақстанға ресми іс сапары барысында «Бір белдеу, бір жол» жобасын жариялады. Қытайдың «Бір белдеу, бір жол» бағдарламасы бес түрлі бағытты қамтиды, дегенмен мақаланың басты мақсаты бесінші бағыт, яғни халықтар арасындағы байланыстарды одан әрі күшейту жайында болады. Осы бесінші бағыттың идеяларын талдау арқылы, стратегияның маңызды бір элементі ретінде ашып көрсету өте маңызды. Сонымен қатар, халықтар арасындағы байланыстарды одан әрі күшейту бағытының «Бір белдеу, бір жол» жобасының Орталық Азия аймағында жүзеге асырылуына қалай ықпал ететінін айқындау қажет. Ұлы Жібек жолы концепциясы өзара тиімді стратегия аясында «Бір белдеу, бір жол» жобасын перифириялық дипломатияны күшейтуге және түрлі көпжақты қатынастарды іске асыруға бағытталған. Осыған орай жұмсақ күштің маңыздылығын айқындай отырып, Қытай Халық Республикасы халықтар арасындағы байланыстарды күшейту арқылы Орталық Азияға өзінің ықпалын арттыруға тырысады. Сондықтан, мақалада Қытайдың Орталық Азиядағы мәдениет, білім және ғылым алмасу үрдістері, технология және адам ресурстары секілді салаларын қай бағытта іске асырып жатқаны нақты талқыланады.

Түйін сөздер: «Бір белдеу, бір жол», халықтар арасындағы байланыстар, перифириялық дипломатия, көпжақты қатынастар, жұмсақ күш.

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Каким образом усиление народных связей и углубление сотрудничества в гуманитарной сфере может повлиять на реализацию проекта «Один пояс – один путь» в среднеазиатском регионе?

В 2013 году китайский лидер Си Цзиньпин во время своего официального визита в Казахстан выдвинул новый проект «Один пояс – один путь». Китайская инициатива «Один пояс – один путь» выделяет пять основных направлений. Основная цель этой статьи – анализ идеи пятой задачи, то есть усиление народных связей и углубление сотрудничества в гуманитарной сфере, которая является неотъемлемой частью стратегии. Очень важно раскрыть, каким образом усиление народных связей и углубление сотрудничества в гуманитарной сфере может повлиять на реализацию и осуществление проекта «Один пояс – один путь» в среднеазиатском регионе. Концепция Новый Шелковый Путь на основе взаимогодной стратегии в рамках инициативы «Один пояс – один путь» нацелена усилить перифирийную дипломатию и создать различные многосторонние отношения. В этом контексте, распознавая значение мягкой силы, Китай старается расширить свое влияние через всю Среднюю Азию для усиления народных связей. В связи с этим, в статье тщательно анализируется, каким образом Китай стремится усилить и укрепить развитие в культурной, образовательной, научно-технологической сферах, а также человеческого потенциала.

Ключевые слова: «Один пояс – один путь», усиление народных связей углубление, сотрудничества в гуманитарной сфере, периферийная дипломатия, многосторонние отношения, мягкая сила.

Introduction

China's new foreign policy comprises innovative ideas about how the People's Republic of China could establish itself as a preeminent power in the Asian region for the long term (Callahan, 2016).

In September 2013, President Xi Jinping officially proclaimed China's 'One Belt One Road' project (OBOR) that caused many discussions among international relations scholars. Major General Ji Mingkui (professor at China's National Defense University) emphasized the role of the OBOR against terrorism problems and for further development of the Shanghai Cooperation Organization (SCO) in the context of security. Consequently, in 2014 the SCO decided to create the Silk Road Economic Belt security building (Fallon, 2015). Overall, the main objectives of this initiative are aimed at reinforcing policy communication, trade, monetary collaboration, people to people relations (Wang, 2016). Callahan (2016, p.226) states that in theoretical terms, the new initiative is not simply about connectivity in terms of the «hardware» issue of physical infrastructure, but is an issue of «software» which concerns the connectivity of ideas, cultural and educational institutions, human resources, heritage politics, migration and diplomacy itself.

In this article, the focus is on the fifth point of the Belt Road Initiative: strengthening 'the people to people' concept (Szczudlic-tatar, 2013:3) that focuses on cultural, educational relations, social stability and heritage diplomacy covering tourism, student exchange and academic expertise, technological investment, and science and human resources capacity. As a new, extensive project, this initiative provides grounds for research. Winter's (2016b, 2016a) papers argue that people-to-people relations has not received much attention from scholars and experts. Similarly, Brzezinski and Mearsheimer (2005 cited in, Gill and Huang 2006) argue that all the analysis and debates relating to the rise of China have been dedicated to the military and economic sphere of its growing power. Winter (2016a) thinks that international experts discussing the OBOR's infrastructure part, omit the analytical part of the initiative such as culture, history and ideas. This is a considerable oversight, and by analyzing the importance of the 'people to people relations' within the framework of OBOR policy in Central Asia, this gap in the literature will be filled.

Methodology and theoretical approach

Methodology throughout this article will introduce the fifth pillar of the OBOR initiative 'people-to-people relations', and will fit its areas into a theoretical framework. The OBOR and its main objectives will be situated in the framework of

the national security and geopolitical strategy. Then, the role of people-to-people initiatives within this article will be identified. The theoretical approach employs concepts such as peripheral diplomacy and multilateralism within the OBOR initiative. The research will be based on official and unofficial materials which will identify connections between ideas, institutions and behaviour in Chinese foreign affairs.

In order to explain these concepts in a more detailed way, materials will be used from Callahan (2016), Kaszmarski (2015), Hoo (2017), Swaine (2016) and Niquet (2006). It is often argued that the Chinese government is combining new methods and ideas referred to as the «Chinese Dream» (Jonhnson, 2016, p.14). New policies such as comprehensive diplomacy and security, the new institution of the Asian Infrastructure Investment Bank (AIIB) and, most importantly, the OBOR, aim to construct a «community of shared destiny» (Callahan, 2016:226). It will be argued that cross-border interactions could produce political uncertainty regarding corruption and infrastructure obstacles, especially in developing countries. Although financial aid will be supplemented through the AIIB, capital cannot ultimately guarantee social stability and security in the region.

In addition, other mechanisms cannot control public opinion. Moreover, developing countries such as Central Asia are politically and economically vulnerable countries. In this instance, it will be argued that countries along the OBOR have to work very thoroughly and consciously to overcome such risks and create well-managed mechanisms of trust. Furthermore, it will be argued that China, apart from the security problem in Xinjiang, aims to create economic prosperity through the OBOR and reduce ethnic tension in the region. While the OBOR is an international project, China's key interest is in the western frontier that also will be discussed within the framework of SCO. Taken together, peaceful periphery nations would signify prosperity for China. Therefore, PRC has to cooperate with its peripheral nations and deepen people to people interactions to implement its goals.

Furthermore, the examples of people-to-people exchanges focusing on culture, education, science, technology and human resources will be contextualized. As a theoretical model the Nye's (1990) concept of 'soft power' will be used to discuss these aspects of initiative as a part of Chinese attempts to reinforce its foreign policy among Central Asian countries within the OBOR strategy. It is important to estimate the success of the OBOR through soft power diplomacy.

Currently academic research on cultural relations along the New Silk Road countries is not numerous. However, Weiqing Song's «China's approach to Central Asia» (2016) will be used that illustrates China's role in cultural and educational cooperation in Central Asian region. Then, newspaper magazines and official websites in the English, Russian and Kazakh languages will be used («The Diplomat», Ministry Foreign Affairs, BBC and CGTN).

This study used the qualitative data approach in its discursive analysis, as well as the epistemological approach. The documents referred to will not be limited to ones written in the English language; official documents written in the Kazakh and Russian languages were also be taken into account.

Discussion

In terms of the geopolitical perspective, almost all non-authoritative Chinese sources (Li and Yanzhuo) agree that the OBOR Initiative is a new strategy that aims to uphold the global effort made by Xi Jinping to reinforce and strengthen the peripheral diplomacy of Beijing and build a new type of multilateral relations based on win-win cooperation in international politics (Swaine, 2016). Furthermore, Xi Jinping needed and wanted to have a policy initiative to engage with Central Asian countries. In practical terms, Central Asian countries are aware that China is seeking to establish a commercial as well as a political relationship within this collaboration. Additionally, Johnson (2016, p.17) suggests that the government's «going out strategy» goes beyond its political objective, to encourage the Chinese to collaborate and find new investment opportunities in Central Asia. Thus, China will provide the requisite financial support to implement initiative.

However, Kaczmarski, (2015) claims that critics suggest that the Silk Road is more about politics than efficiency because the concept of the OBOR is established as an important tool with geostrategic ramifications in the foreign policy of China. In that context, Callahan (2016) argues that the New Silk Road aims to leverage the PRC's economic power to decide political, security, and economic problems in domestic and foreign affairs. From China's view the OBOR helped the 13th Five Year Plan of the PRC to enhance economic development in the region (Xi, 2013 cited in Callahan, 2016). It is also help to eradicate security problems in Xinjiang, and simultaneously seek to harness

economic collaboration to eliminate political, as well as economic tensions with Central Asian neighbour countries. According to Callahan (2016), the aim of the PRC's aim is to pull its neighbouring countries in a Sinocentric direction which covers economic, political, cultural and security relations. The grand strategy of China is to redirect the new world order and combine it with new governance ideas, norms and rules (ibid, 2016). Similarly, Zhou, Hallding and Han (2015) argue that China intends to institutionalize the *yuan*, create an alternative choice in the international financial system, and change its regional security and regional political setting. By pursuing these aims, OBOR could very significantly increase China's geopolitical clout, as well as regional influence.

Fallon's (2015) and Zimmerman's (2015) papers considers that SREB represents domestic purposes. Therefore, Chinese policymakers see it as an advantage to develop the less progressed western and central parts of the PRC. Swaine (2016) further argues economic development in western and central frontier will help to eradicate Islamic extremism and stimulate security both within China and in Central Asia. Hoo (2017) considers that instability in Xinjiang and Central Asia will be an obstacle for the OBOR's success. For further deep analysis the papers of Gill and Huang (2006) and Finaley and Zang, 2015) will be used to explain how the OBOR will promote economic and security relations between western frontiers and Central Asian neighbor countries. As well as the role of SCO within the framework of the OBOR will be emphasized.

By indicating above activities it is considered that security in the region is one of the primary objectives of peripheral diplomacy along the New Silk Road. However, Beijing believes that one of the most important components of people to people relations is that cultural and educational exchange is essential supplement to security and economic partnership, thereby essential supplement of multilateral relations between Central Asian countries. In this context, the Chinese government is facilitating youth educational and cultural exchanges under the Shanghai Cooperation Organization (SCO) framework that will ensure that more than 30,000 government scholarships will be made available to youths in SCO member states over ten years (Xi Jinping, 2013). Furthermore, China will invite 10,000 teachers and students from Confucius Institutes in the SCO member states to come to China for educational and scientific purposes (ibid, 2013). According to Winter (2016a) China has invested about $40 billion in the Silk Road Project. How much of this sum will be allocated to culture and people is still not clear.

Sadovskaya's (2007) paper goes into one of the main issues of concern of the 'Belt Road Initiative' – the lack of specialists in the region. This is one of the reasons why educational exchanges need to be set up between China and Central Asian countries to implement the concept of the OBOR. As a primary step, at the ninth International Education Exhibition in Shanghai, the «Center for International Programs» of Kazakhstan introduced a new development project of the International Presidential Scholarship «Bolashak». As the organisers declared, in the sphere of education, this exhibition was one of the most important and largest events in China. This event brought together 90 best universities and educational institutions from 28 countries to demonstrate their achievements and introduce and discuss new directions in international educational cooperation (inform.kz, 2013).

OBOR and the New Silk Road

As part of its global attempt to reinforce societal development and wield soft power, China has been encouraging and promoting cultural, educational and heritage programs with Central Asian countries (Zhiqun, 2013). Therefore, China's policies are now evolving beyond trade, industry and economic components because the humanitarian sphere, education, science, and culture all need to be encouraged.

Szczudlik-tatar (2013) and Niquet (2006) claim that the New Silk Road is not a new idea, but rather has been evolving since the 1990s. It has always been related to issues concerning the extension and control of the country's territory, as well as territorial security. However, Hu's visit to Central Asian countries in 2005 is important in this context because it promoted cooperation in the spheres of culture, disaster relief, education, journalism, heritage diplomacy, tourism, and building human resource capacities (Sun, 2007).

On September 7, 2013 Xi Jinping declared the New Silk Road concept in Astana, the capital city of Kazakhstan (Fallon, 2015). The definition of the New Silk Road stresses the «historic and cultural heritage shared by all countries around the world… Jointly building the Belt and Road is in the interests of the world community. Reflecting the common ideals and pursuit of human societies, it is positive endeavour to seek new models of international cooperation and global governance, and will inject new positive energy into world peace and development» (Visions and Actions on Jointly Building the Silk Road

Economic Belt and 21st- century Maritime Silk Road, 2015 cited in Fallon, 2015, p.141). The idea behind creating the New Silk Road project has gained enormous attention across the media and expert fields, and can be coined as a slogan: «One Belt and One Road» (OBOR) (Kaczmarski, 2015, p.1) According to the Ministry of Foreign Affairs of the Republic of China, Xi Jinping (2013) announced five important pillars: policy communication, road and transport connectivity, unimpeded trade, monetary circulation, and understanding between people. China's grand strategy of mutual economic development involves more than 60 countries, and the New Silk Road Concept has become the key tool in Chinese foreign affairs. In October of 2013, President Xi Jinping announced another significant project aimed for the 21st century of the Maritime Silk Road to develop maritime partnership and trade. While OBOR includes many more countries than Central Asia, the Silk Road Economic Belt (SREB) reflects the desire of Xi Jinping to construct and expand the Chinese approach within the Central Asian region: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan (Hoo, 2017). Before establishing the initiative, the Chinese political elite discussed the significance of Eurasia, and historical recognition has been implemented. «China Dream» was discussed in 2012 before Xi Jinping made his official speech (Anonymous, 2014 cited in Callahan, 2016). In that context, the Premier of CCP, Wen Jiabao, pronounced that Central Asia is now one of the most important areas for investment and consumption. Consequently, he stressed the need to deepen and consolidate the culture and people-to-people interconnections (Jiabao, 2012 cited in Hoo, 2017). A highly influential Chinese scholar, Wang Jisi (Dean of the School of International Studies at Peking University), put forward the idea of the resurgence of the Silk Road, especially through the Central Asian countries, which was followed by tour by the Chinese leader, Xi Jinping (China analysis Belt Road, 2016 cited in Hoo, 2017). In terms of space, president Xi (2013) has said that his hometown, Shaanxi province, should be the starting point of the New Silk Road, which therefore has broad capital coverage.

People to people interrelation

By highlighting cultural awareness among the people, Xi Jinping (2013) has declared that one of the most important factors in implementing the OBOR is «to increase understanding between our people. Amity between the people holds the key to good relations between states. To have productive cooperation in the above-mentioned areas, we need the support of our people. We should encourage more friendly exchanges between our people to enhance mutual understanding and traditional friendship and build strong public support and a solid social foundation for regional cooperation».

Niquet (2006, p.3) suggests that this strategy is based on a new concept of security which focuses on promotion of «trust, equality, mutual benefits and co-ordination». Similarly, Callahan (2016) explains that Chinese leaders and academics consider the problem to lie in regional security architecture. The security architecture in Asia was constructed through bilateral security negotiations between the United States and its allied countries. In 2014, China in CICA Xi Jinping (2014a cited in Callahan, 2016, p.232) criticized such kind an alliance system by suggesting a 'New Asian Security Concept'. Similarly, Kaczmarski (2015) argues that a special Xinhua news agency has created a website, and the Chinese government promotes the slogan such as Marshall Plan in a Chinese way. «The concept is kind of 'packaging' for China's economic expansion, lending it an attractive form» (Kaczmarski, 2015, p.3). Introducing this expansion as a tool of multilateral partnership is important and beneficial for China and its contributors. This kind of partnership will reduce concerns in countries which could be the object of Chinese soft power. For all countries along the route, it is important they support comprehensive, collaborative, sustainable and common security that was constructed on win-win strategy to all (Callahan, 2016 and Kaczmarski, 2015). In this case, the New Silk Road concept should negate the negative perception which has been noticed because of Chinese assertiveness with respect to territorial disputes in South China Sea.

According to Song (2016) multilateral diplomacy has become the new focus of Chinese foreign policy. Beijing is more used to bilateral diplomacy, and tends to be suspicious of multilateral organizations, which were perceived as a Western control over other countries. Through cooperation with outside, China has gradually come to consider that its national interests are interlaced with other countries in an interdependent manner. First, the PRC understands that a stable and manageable environment is important for its national development. Second, China realizes that to protect overseas interests, external collaboration is needed. Multilateralism is beneficial for countries responding to a common challenge and requirements. Chinese strategy towards multilateralism is demonstrated by its involvement with the World Trade Organization in 2001, which is crucial for economic development. In

addition, the Chinese Communist Party's 18th Plenary Committee reported that multilateral relations such as the United Nations, the Group of Twenty (G20) and the SCO are priorities for government to make the world amenable and just. In terms of SCO this is self-apparent; it is Chinese experience in a leadership position within multilateral diplomacy. China has never used its leading role in multilateral organization. In this context, the Central Asian region enables China to practice with the role of multilateral leadership.

From the geopolitical perspective, China has interests towards Central Asia for various reasons. First, China's motivation to expand its impact in Central Asia is one of protecting its own borders. A strong collaboration with Central Asia will provide counter balance regarding external power, and avoid encirclement. China is rich in natural reserves, export of goods and serves the role of a transit route in the region (Song, 2016). In this context, the PRC relies on maritime routes, but some of these are out of China's control or unstable. Central Asia is an alternative for China. Moreover, geographic proximity plays an important role, especially in the western province Xinjiang. Finally, the most important of China's desires is to enhance its cultural, educational, and heritage politics in the region, including other types of soft power (ibid. 2016).

Chinese analyst Wang Jisi (2012 cited in Song, 2016, p.3) launched a strategy «Go West, that promotes Chinese assertive approach towards western frontier.» He argues that, today, China has to change its direction to the northwest because of constrains in the southeast and opportunities in Central Asian region. In that context, stability in Xinjiang is one of the concerns surrounding the security of the PRC, and it constitutes one of the primary factors determining China's policy towards Central Asia (Niquet, 2006). The problems of economic development and political control still exist. In addition, Niquet (2006) declared that Xinjiang has significantly difference to the Han Chinese origin, and indigenous people are close to the population in Central Asia, both culturally and ethnically. This could be explained because of government policies that enable Han Chinese to migrate to minority areas. According to Zhongguo Minzu Tongji Nianjian, (2000 cited in Clothey, 2005, p.406) in 1953, Xinjiang had only 7% of the Han Chinese population, with 93% of the ethnic minorities. However, in 2002, the Han Chinese increased to 40%, whilst the remaining 60% was other different ethnic minorities (Zhongguo Minzu Tongji Nianjian, 2003 cited in Clothey, 2005, p.406). As a result, it causes ethnic consciousness among Uighurs as a threat to their identity (Finley and Zang, 2015). Beijing realizes that control of Xinjiang entails control of the periphery and of cross-border contacts. Thus, the central authority of China insisted on good relations with the new Central Asian republics to prevent any ethnic conflicts on its western frontier (Kellner, 2004 cited in Niquet, 2006).

The Chinese government believes that during the cooperation, people will gradually come to understand the difference between China's opening up policy and so-called neo-colonialism. Li Peilin (Closer to China: 'One Belt One Road' II, 2015) alleges that China does not seek a way to impose its values and culture on anyone else. Furthermore, the PRC does not pretend that its values are universal, and does not consider that its values are necessarily suitable for other countries in the world (ibid, 2015).

Cultural exchanges

The Belt and Road Initiative covers a wide range of fields, including culture, education, science, technology and human resources which are some of the main aspects of OBOR's international politics. In Chinese, they are called *Renwen*, which means humanities collaboration (Song, 2016). Song (2016) claims that education, culture, science, technology and human resources are a natural consequence of the cooperation. Xiong Chengyu (Dean, Communication Studies, Tsinghua University) declared that the OBOR, on the whole, is not only an economic act, but also a cultural act (Closer to China: 'One Belt One Road' II, 2017). When president Xi Jinping stated the New Silk Road Initiative, he mentioned five areas of connectivity in particular. Developing the understanding between people is one of them; however, the most crucial is cultural connectivity. The New Silk Road aimed to link China with Central Asia, and go even further to Europe. In that context, cultural connection is important because of the different understandings of culture amongst the different people. In that case, China is motivated to increase its soft power through proposing cultural and educational spheres.

The term 'soft power' presented by Nye (1990) received considerable attention from scholars and the general public. According to Nye (1990, p.167) soft power, or what could be called co-optive power, is as crucial as a hard power in some aspects:

If a state can make its power seem legitimate in the eyes of others, it will encounter less resistance to its wishes. If its culture and ideology are attractive, others will more willingly follow. If it can establish

international norms consistent with its society, it is less likely to have to change.

Power symbolically was determined as a result of practicing one's influence through enforcement. In other words, power is perceived as having a materialistic definition. The concept of soft power changed this traditional thinking of power. Hard power, which is based on tangible areas such as economy and military, is well presented in international relations. However, it is also important if soft power influences the public, and creates behavioural outcomes. In this context, many states have to win people's «hearts and minds» (Nye, 2004, cited in Lee, 2015, p.355).

Some scholars call into doubt the term 'soft power', whereas others establish it as an analytical framework. Nevertheless, McClory (2013, cited in Song, 2016) suggested five indices to demonstrate the influence of soft power on states: government, diplomacy, culture, education and innovation. This ranking derived was from three aspects given by Nye (2008) high and popular cultural connection, political influence, and ideology, and legitimate foreign policy. In 2007, Hu Jintao, at the 17th National congress of the Chinese Communist Party (CCP) declared that the government must «enhance culture as part of soft power of our country to better guarantee the people's basic cultural rights and interests» (Rosecrance and Guoliang, 2009, p.20).

According to Song (2016), in 2009, China declared that it was planning to distribute about 7 billion annually for Chinese media activities to enhance the image of the country at the global level.

Educational exchange, science, technology and human resources

Above, Nye (2008) mentioned three aspects of soft power, namely culture, political influence and foreign policy. Culture itself is a comprehensive set of practices that produce important meanings for people, and it has different manifestations. Nye differentiated culture into two forms: high culture (education, literature) and popular culture (mass entertainment) (ibid.). Lee (2015) sees higher education as a manifestation of culture and political influences that has immense potential to produce soft power for a country. However, interaction between education and international relations has lacked in attention. Therefore, for China, educational exchange is an important aspect of enhancing mutual understanding between peoples of different states as it will reinforce person-to-person exchange. In the contemporary world, soft power in education is apparent through the impact of the Chinese Confucius Institutes (CI) (Lee, 2015). In this context, Chinese CIs represent the practice of the internationalization of education, particularly cross-border studies.

Song (2016) explains that the Chinese education system is significantly different from that in Central Asia. Central Asian countries follow the Russian educational system, as a legacy of the Soviet model. For example, Long (2017a) argues that the Chinese language is still not a priority for Tajik students. Although the influence of the Russian language has decreased considerably since Tajikistan became an independent country, students still are likely to choose to learn English and Russian languages as their first choices (ibid.). Moreover, he emphasized that the influence of Western countries is apparent in the region. Particularly, Zhang (2009 cited in Song, 2016) points out Western values, such as human rights and democracy, have affected young people of the region significantly. In other words, the success of the China's cultural and educational expansion depends on its efficiency in cooperation with rival countries in the region (Song, 2016). In this context, the role of Confucius Institutes plays major role in China's attempts to enhance its soft power diplomacy.

According to Maitra (2016), Tashkent, the capital city of Uzbekistan, has been the centre of Chinese studies in Central Asia since 1957, especially for learning Mandarin. The Confucius Institute is not only the first in Tashkent and Samarkand, but also in the whole of Central Asia. The Chinese government supports the Confucius Institute in its efforts to encourage cultural and educational interconnections (Wong, 2017). The interesting fact here is that there is some considerable interest in teaching the Uzbek language in China. Minzu University of China, and the Beijing Foreign Studies University provide the teaching of Uzbek. The Chinese language is also very popular in Uzbekistan (Uzbekistan-China: new stage of cooperation – comprehensive strategic partnership, 2016).

According to Vaswani (2017), despite the controversial perception of the people in Kazakhstan, China makes an important impact in the region. She visited a Chinese language school in Almaty where many Kazakh people with different background and ages are learning the language. Nurzhan Baitemirov (chief executive of the east west Education group) has his own language school. He started with just one school in Almaty, and today runs about 17 across the country (ibid, 2017). According to his opinion, many people know English and Russian, but not Chinese. If a person knows Chinese it is easier for them to get a job, because Chinese is considered

(and is) as global language. It is apparent to the Kazakh people that the relationship between China and Kazakhstan is unlikely to change, therefore the influence of Chinese language expected to progress there (ibid, 2017). Some Kazakh people think that Chinese culture and language will help Kazakhstan develop into a more sophisticated and stronger economy.

According to the Centre of International Program Bolashak (CIP), the Chinese government offered about 55 scholarships to Kazakh citizens in 2017 (CIP, 2017). In 2016, about 14,000 Kazakh students were studying in China. Moreover, Xi Jinping stated that five CIs established, and four Kazakh research centres were opened in Chinese universities (Altyn-orda.kz., 2017).

In September 2014, Peter Nolan, as a director of Development Studies at the University of Cambridge, delivered a speech in the capital city Beijing (Zhendong, 2014). Zhendong (2014) said that the economist believes that technology infrastructure and exchange of specialists are very important to countries in the Central Asia region, therefore it is believed that OBOR will expand and develop an international political economy and articulate people-to-people interactions.

It is worth mentioning the role of the textile industry in Sino-Turkmen relations. This cooperation raises concerns in specific fields such as sericulture, which is silk farming. Both countries assure that they have their own thousand-year history of silk production through Silk Road history. Besides, Ashkhabad argues that Beijing's position is to act as a main supplier of technological and mechanical devices for the implementation and modernization of the textile industry in Turkmenistan. Beijing, for its part, continues importing silk cocoons, raw cotton and the production of cotton. Despite these controversies, China supplies silk production factories of Ashkhabad with new facilities. Further, this has included the contract to establish a new plant for the production of velvet and silk thread (Netral'nyi Turkmenistan, 2005 cited in Sir and Horak, 2008). While China and Turkmenistan have been contributing in specific fields, some unreliable Turkmen statistics declared that China depends on its relationship with Turkmenistan in terms of its silk industry. However, China receives huge support from the Chinese political leadership, which is considered a considerable advantage in building cooperation with Central Asian countries.

In October 2016, China's Huawei Seeds for the Future program was established in Tajikistan (Huawei, 2017). About 10 students from Tajikistan were sent to China for more than two-weeks' training. Students recognized Chinese culture, but simultaneously visited the laboratory of Huawei HQ company to learn more about ICT technology. The program Seeds for the Future encourages young students to learn more about ICT technology at an advanced level, and to develop and be involved in the enterprise culture of the Chinese company Huawei. In this case, the government of Tajikistan intends to continue to cooperate with Huawei Company, and additionally with the Ministry of Education of China, China's Ministry of Science and Technology, will establish other programs for future generations and common prosperity (Sir and Horak, 2008). Compared to Tajikistan, the realization of modern technology in Turkmenistan is problematic. However, Turkmenistan concluded a contract with Huawei's technologies of China to develop a national telecommunication networks in 2005 (Netral'nyi Turkmenistan, 2005 cited in Sir and Horak, 2008).

Chinese companies such as Tebian Electric Apparatus StockCo., Ltd., for its part, are planning to construct a number of projects such as Saikhun first contemporary city and «China Town» in Tajikistan (Azernews and Khovar Information Agency (n.d.) cited in Colarizi, 2015). This project will help to decrease the number of Tajikistan migrants working abroad and the national dependence on remittances. However, human resources studies revealed that Chinese projects see very little technical assistance. Companies usually supplement the workforce with their own specialists and workers, while workers from Tajikistan and Kyrgyzstan are migrating to other countries.

According to Sadovskaya (2007), the huge emigration in 1990 caused a negative demographic influence on labour market of Kazakhstan. Over 3 million people, 45% of them of working age, had university degrees and certificate. As a result of this emigration or brain drain policy, the country has suffered from a lack of human resources in spheres such as education, culture, healthcare and industry (Sadovskaya, 2005 cited in Sadovskaya 2007). Between 2000-2006, the number of qualified and highly experienced professionals has increased. If the economic situation continues to improve in Kazakhstan and other Central Asian countries, a larger workforce will be needed. However, Chinese migration and unregistered businesses in Kazakhstan have increased concern amongst Kazakh people about Sinocization. Nevertheless, Chinese migration means not only Han Chinese, but also Uighur and ethnic Kazakh. So far Chinese migration can be

considered as temporary settlement, rather than anything permanent. Some experts have pointed out that it is easier for Chinese people to start up their business and return home to expand it, or move to Europe, Canada or US because Chinese businesses prefer to employ Han Chinese.

Conclusion

Analysis of the above cooperation indicates that China differs in its investment and has strong incentive to implement cultural, and educational relations in cooperation with Central Asia. China believes that people-to-people relations in education, culture, science and technology prevent the entry of Western values and ideologies into region. However, this process is impeded first of all by a lack of Chinese openness, migration problems, a lack of specialists in particular spheres, and inadequate cooperation between these fields. Therefore, some form of breakthrough thinking is demanded of scholars to understand the changes of Chinese politics from isolation to openness. The success of Beijing’s effort in OBOR depends on soft power resources, which could be achieved through effective mutual cooperation.

Central Asia is strategically important for the initiative for following reasons. First, the PRC and Central Asia share borders and have common political, cultural and economic connections. Particularly, significant parts of the Uyghur Autonomous Region Xinjiang culturally and religiously is closer to the Central Asian countries. Furthermore, Central Asian resources are important for China, and the third one is geographic proximity of the region through, which China is willing to enhance cross cultural relations. However, political instability of Central Asia restricts to some extent its ability to enhance cooperation with China. In this case, recent decades demonstrate efforts of China and Central Asia to improve their relationship, and work against potential threats within the framework of the SCO. Within this multilateral institution, China strives to wipe out the terrorism and eradicate ethnic consciousness in the western frontier.

Then, it was considered how PRC uses multilateral diplomacy to alleviate the concerns of Central Asian countries about China’s rise to consolidate their cooperation and promote a win-win strategy. Although the OBOR focuses on economic cooperation over security issues, to gain economic prosperity, a mutual understanding between people is needed. Investment and infrastructure cannot provide stability in the region and promote national unity as people-to-people relations do. Moreover, the OBOR could accomplish more activities than just propel the development in the western frontier. Overall, it is observed that the natural process of this strategy means that China, by promoting both geostrategic collaboration and own economic prosperity project, will eventually move from just economic relations to create a cultural as well as security cooperation.

It is worth mentioning that areas of the people-to-people interactions such as, cultural and educational exchange, science, technology and the human resources are relatively new and need to be further developed. It was argued that China’s efforts to establish cultural relations, educational collaboration, and the promotion of science and technology is related to the soft power diplomacy of the state. Cultural, educational cooperation and other soft sources are important tools for encouraging mutual understanding between peoples of different countries and contribute to the strengthen of person to person interaction.

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4-бөлім

ӘЛЕМДІК ЭКОНОМИКА МӘСЕЛЕЛЕРІ

Раздел 4

ВОПРОСЫ МИРОВОЙ ЭКОНОМИКИ

Section 4

ISSUES OF THE WORLD ECONOMY

IRSTI 06.71.11

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GLOBAL TRENDS AND PROSPECTS IN DIGITAL ECONOMY

The article examines how the topic of digitalization is covered by foreign authors, what our partner competitors in foreign companies and countries are doing in this direction. The next step was the analysis of publications of various analytical centers demonstrating trends in the development of digital technologies in the world and in Kazakhstan. The available foreign experience connected with the use of information technologies was analyzed. The article presents an overview of the digital segment of the economy that has become relevant due to the qualitative changes that have taken place in the economy and society, new technologies and platforms that allow management of enterprises and individuals to reduce the transaction costs of interaction on an increasing scale and to make closer contact with economic entities and state structures. The results of the analysis make it possible to believe that with a high degree of probability already in the near future the level of digitalization will determine the competitiveness of not only business but also entire countries. At the same time, only those countries and companies that will be able to adapt quickly and maximize the benefits of the changes that have taken place have achieved a sustainable competitive advantage.

Key words: Digital economy, global trends, digitalization, digital transformation, big data, industry 4.0.

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Цифрлық экономиканың жаһандық үрдістері мен перспективалары

Мақалада шетелдік авторлардың цифрландыру тақырыбын қаншалықты қозғайтындығы, бұл бағытта біздің бәсекелес-әріптестеріміз шетелдік компаниялар мен елдерде қандай әрекеттер жасап жатқандығы туралы қарастырылады. Келесі қадамдағы талдаудың пәні ретінде әлемдегі және Қазақстандағы сандық технологияларды дамытудағы үрдістерді көрсететін түрлі талдау орталықтарының жарияланымдары танылды. Ақпараттық технологияларды қолданумен байланысты қолжетімді шетелдік тәжірибе талданған болатын. Мақалада экономикадағы және қоғамдағы орын алған сапалы өзгерістер күшінде өзекті боп танылған экономиканың сандық сегментінің көрінісі, кәсіпорындардың менеджментіне және физикалық тұлғаларға өте үлкен мөлшерде трансакциондық шығыстарды қысқартуға және шаруашылық объектілермен, мемлекеттік құрылымдармен тығыз қарым-қатынас орнатуға мүмкіндік беретін жаңа технологиялар мен алаңдар ұсынылған. Жүргізілген талдаудың қорытындылары жақын арада цифрландыру деңгейі тек бизнес емес, сонымен қатар тұтас елдердің бәсекегеқабілеттілігін анықтай алады деп үлкен сеніммен айта аламыз. Осымен бірге тұрақты бәсекелік артықшылыққа орын алып жатқан өзгерістерге тез бейімделе алатын және оның артықшылықтарын максималды түрде қолдана білетін елдер мен компаниялар ғана ие бола алады.

Түйін сөздер: цифрлық экономика, жаһандық үрдістер, цифрлау, цифрлық трансформация, үлкен деректер, индустрия 4.0.

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Глобальные тренды и перспективы в цифровой экономике

В статье рассматривается, как тема цифровизации освещается зарубежными авторами, что делают в этом направлении наши партнеры-конкуренты в зарубежных компаниях и странах. Предметом анализа стали публикации различных аналитических центров, демонстрирующих тенденции в развитии цифровых технологий в мире и в Казахстане. Был проанализирован доступный зарубежный опыт, связанный с применением информационных технологий. В статье представлен обзор цифрового сегмента экономики, ставшей актуальной в силу произошедших качественных изменений в экономике и обществе, новые технологии и платформы, позволяющие менеджменту предприятий и физическим лицам сокращать трансакционные издержки взаимодействия во все больших масштабах и осуществлять более тесный контакт с хозяйствующими объектами и государственными структурами. Итоги проведенного анализа позволяют полагать, что с большой долей вероятности уже в ближайшем будущем уровень цифровизации будет определять конкурентоспособность не только бизнеса, но и целых стран. При этом устойчивого конкурентного преимущества достигнут только те страны и компании, которые смогут наиболее быстро адаптироваться и максимально использовать преимущества происходящих изменений.

Ключевые слова: цифровая экономика, глобальные тенденции, цифровизация, цифровое преобразование, big data, индустрия 4.0.

Introduction

Over the past decades, the world is rapidly moving towards a new type of economy, where digital technologies are becoming the main tool for its formation. In modern conditions, information technologies and digital transformation are the main factor of technological change and the condition for ensuring competitiveness both at the level of individual enterprises and at the level of countries and supranational associations, leading to a reorganization of all economic and production processes, a radical increase in productivity, improved quality and lower costs goods and services.

The digitalization of the world economy has entered a dynamic stage. The ideas of the «Third Industrial Revolution», «Industry 4.0» and different advancements both at the state and corporate level rapidly started to be joined into government projects and business systems (Rifkin, 2013).

The gap between theoretical developments and their practical embodiment is rapidly decreasing.

It is equally important to study the experience of reaction to the current revolutionary situation of more technologically developed countries – the errors of their experts, the programs and initiatives related to digitization launched by them. This will help to avoid the same mistakes in the preparation of your program and save resources.

Finally, it is necessary to analyze our own institutional field, on which the digitization of our economy and state administration will unfold. Obviously, fast enough and, at the same time, accurate changes in the regulatory framework will be necessary, and now it is important to understand that it does not correspond well to the digital call, and what is simply missing.

In the broadest sense, the process of «digitalization» usually refers to the socio-economic transformation initiated by the massive introduction and assimilation of digital technologies, i.e. technologies of creation, processing, exchange, and transfer of information

In addition, these interpretations are further aggravated by a rather wide interpretation by experts and analysts at what stage of technological and economic development humanity is at present, and what technologies (or technology groups) in the near future will have a decisive impact on economic growth. So, the universal term «Third Industrial Revolution» (TIR) became very popular the main ideologists of which are American researchers Jeremy Rifkin and Raymond Kurzweil. Supporters of the concept of TIR, in particular, believe that the First Industrial Revolution was based on the use of coal, the second – hydrocarbon resources, and only the unfolding Third implies the gradual introduction of a whole range of new technological solutions (including renewable / clean energy sources, composite and nanomaterials, biomedical innovations, 3D printing technologies, mass electrification of transport, etc.), which in turn rely

heavily on the use and further improvement digital / information technology. (Kurzweil, 2005) The topic of the digital segment of the economy has become relevant due to the qualitative changes that have taken place in the economy and society. New technologies and platforms allow the management of enterprises and individuals to reduce the transaction costs of interaction on an increasing scale and to make closer contact with economic entities and state structures. As a result, an economy is being formed based on network services, that is, digital, or electronic. The very concept of «digitalization» testifies to a new stage in improving the management of the production of goods and services and production itself on the basis of «end-to-end» application of modern IT, starting from the Internet of things and ending with e-government technologies.

The main reason for the expansion of the digital segment of the economy is the growth of the transaction sector, which in developed countries is more than 70% of the national GDP. This sector includes: public administration, consulting and information services, finance, wholesale and retail trade, as well as the provision of various public, personal and social services. (Arthur, 2011)

Although the role of the influence of digital technologies on the transformation of socio-economic systems is fairly obvious, many issues remain poorly understood. Not enough attention is paid to the development of digital potential in order to achieve innovative growth of individual firms and industries, without due attention the institutional aspects of the digital economy remain, the problems and prospects of business development in the conditions of the digital economy are poorly covered, the place of the digital economy in the overall system of modern economic relations. Therefore, the aim of the study is to examine the main aspects of the development of the digital economy and develop judgments about its role in the overall system of economic relations.

Methods

In general terms, we can distinguish four criteria for analyzing the digital economy, to varying degrees examined by different researchers: the criterion associated with the sphere of employment; spatial criterion; technological; and, in fact, economic. In this case, complementary criteria are possible, although often researchers bring to the fore a certain definition, corresponding to their own ideas. However, the basis of most definitions is the belief that quantitative changes in the sphere of data processing have led to the emergence of qualitatively new socio-economic relations. In the article were used mainly methods of empirical research, system and comparative analysis, statistical grouping and expert evaluation.

Result

Technologically, the digital economy is defined by four trends: mobile technologies, business intelligence, cloud computing and social media; in the global plan – social networks such as Facebook, YouTube, Twitter, LinkedIn, Instagram, etc. This means that when forming a national segment, it is important to use their capabilities.

Technologically, the digital economy is an environment in which legal entities and individuals can contact each other about joint activities. Thanks to modern IT production, high speeds and a variety of services and products are becoming more common. The latter are characterized by the rapid development and appearance of new products and an ever shorter period of their life (Cole, 2013).

In the last decade, the leading industrial countries of the world are also making certain efforts to develop «unified digital agendas», i.e. search for joint effective solutions and mechanisms for regulating digitalization processes at the interstate level. At the same time, the obvious leader in this direction is the European Union, whose leaders defined the formation of the single digital market as a general long-term goal. For the first time, the need to develop such a common strategy was officially announced by the President of the European Commission Jean-Claude Juncker in October 2015.

In 2010, within the framework of the implementation of the more general strategy «Europe 2020», the EU countries launched a special initiative «Digital Europe», the main focus of which was to stimulate the growth of the pan-European Internet economy. In the same year 2010 was published «Digital Agenda for Europe», which provided for the development of common approaches and priorities of the EU member states in relation to the further development of the digital sectors of the European economy and measures to stimulate digital innovation. In April 2016, the European Commission announced a new comprehensive initiative under the interim title «Digital single market – digitizing European industry», which formulated a wide range of new tools and mechanisms to support the further digitization of European industry and services. The Organization for Economic Cooperation and Development (OECD) adopted a Strategy for the

development of the common digital market. Within the framework of the Trans-Pacific Partnership (TTP), special interstate agreements have been developed in the field of telecommunications and e-commerce development. ASEAN countries in 2015 agreed on a common Master Plan for the development of ICT (OECD, 2016).

Similar work is being done in the post-Soviet space. By the decision of the Council of Heads of Government of the Commonwealth of Independent States of October 28, 2016, the Strategy of Cooperation of the CIS Member States in Building and Developing the Information Society for the Period Until 2025 and the Action Plan for its Implementation were approved. This is the second strategic document of the CIS in this area, the first one was adopted in 2012. Finally, in December 2016 in St. Petersburg, the heads of the EEA states adopted the Statement on the Digital Agenda of the Eurasian Economic Union, where they expressed their desire to provide the necessary conditions for the formation of the «digital agenda of the EEU.»

Discussion

The problems of new types of economies, including the digital economy, are actively discussed in foreign scientific literature, in particular in the works: «Business models, business strategy and innovation». (Teece, D. 2010), «When Did Britain Industrialise? The Sectoral Distribution of the Labour Force and Labour Productivity in Britain (Broadberry, S. 2013), The Second Machine Age: Work, Progress, and Prosperity in a Time of Brilliant Technologies. (Brynjolfsson, E. & McAfee, A. 2014), «Why Do Management Practices Differ Across Firms and Countries?» (Bloom, N. & J. van Reenen. 2010)

According to Microsoft analysts, a key role in the further development of the global IT industry should be played by the massive introduction of the so-called. «Technological platforms» – sets of compatible technologies, products, and channels for their distribution, as well as ecosystems for their distribution and use. The main elements of these new technology platforms are currently considered: cloud computing, mobility, the Internet of things, large data technologies, business intelligence and machine learning. Thanks to the cumulative impact of these advanced platform technologies, a gradual «transformation of products into services» and the expansion of value chains, the supply of goods and services, and the «lengthening of human capital supply chains» are taking place.

In 2015, the World Economic Forum (WEF), which is one of the epicenters of global business activity, announced the launch of a special long-term program Digital Transformation Initiative (DTI). This program, according to the idea of its creators, should become a focal point to identify new opportunities and directions for further digitalization of business and society. «At the same time, DTI is initially positioned as an important part of the broader» theme of the Fourth Industrial Revolution. « The last report of the WEF experts (January 2017) quite confidently states that «The Fourth Industrial Revolution (already) is in full swing» (literally «is underway»), although the head of this non-governmental organization, Klaus Schwab, about its «offensive» only a little over a year ago (Schwab, 2017).

Illustrative assessments of the possible positive impact/effect of digitalization on individual industries and groups of sectors of the world economy are contained in the updated report of the WEF Digital Transformation Initiative. In total, WEF researchers in collaboration with Accenture experts have analyzed over 10 such industries/ sectors to date. For ten of them, the authors presented forecasts of large-scale changes. The most significant effects of digitalization, according to the authors of the report, are expected by the oil and gas sector.

In addition to the intra-industry assessments, WEF analysts in the January 2017 report also attempted to forecast the cross-industry positive effect from the upcoming digital transformation. They separately examined five key cross-themes – the IT sphere (regardless of the effects for doing business within the IT industry proper), HR (Human Resource Management), finance and accounting, Supply Chain Management / Supply Chain Management (Supply) chain management/ procurement), as well as R & D (research and development)

In the IT sector, the main positive effect is expected from the introduction of cloud computing, AI technologies, as well as new technologies for working with large data (BigData) and business intelligence. Thanks to cloud computing alone, the average business costs for IT services will drop from 25 to 50%. In the longer term, great hopes are placed on quantum computing.

In the direction of HR, WEF experts estimated that as a result of the active implementation of such forms of DH as virtual collaborations, peer-to-peer reputation assessment systems, digital (remote) interviewing and new web portals for finding and hiring staff, the

average costs in this area may be reduced by about 7% over the next decade. (WEF, 2017)

In the field of corporate finance and accounting, it is predicted that new digital technologies (and, above all, cloud accounting systems and the use of various AI technologies) will, on average, reduce average costs by 40%.

In the field of supply chain management/ logistics systems material and technical supply (MTS), the main «digital drivers» are called unmanned/automated vehicles and drones, various sensors and sensors that perform on-line monitoring of the movement of goods and services, as well as 3D printing. According to WEF analysts, the average share of MTS costs for companies using digital technologies to the maximum extent will be 0.22% of their net revenue, while their less advanced competitors in the application of digital technologies – about 0.5%.

In the sphere of R & D, the three main directions of digital technologies implementation are crowdsourcing (mobilization of human resources with the help of information technologies for the joint solution of various tasks), robotics and artificial intelligence technologies.

State programs and strategies for the development and promotion of digital technologies and digitalization of national economies and industrial sectors have now been developed and implemented in dozens of different countries of the world, as well as at the interstate level. So, only in the EU countries, according to official data of the European Commission for March 2017, there are more than 30 national and regional initiatives on digitizing industry.

At the national level, according to information Coordination of European, national & regional initiatives (Figure 1)

Figure 1 –List of National Initiatives active in June 2017 (https://ec.europa.eu/digital-single-market/en/cordination-european-national-regional-initiatives, the following programs, and initiatives are being implemented)

- Austria: Industrie 4.0 Oesterreich
- Belgium: Made different – Factories of the future
- CzechRepublic: Průmysl 4.0
- Germany: Industrie 4.0
- Denmark: Manufacturing Academy of Denmark (MADE)
- Spain: IndustriaConectada 4.0
- France: Alliance pour l'Industrie du Futur
- Hungary: IPAR4.0 NationalTechnologyInitiative
- Italy: Industria 4.0
- Lithuania: Pramonė 4.0
- Luxembourg: DigitalForIndustryLuxembourg
- Netherlands: SmartIndustry
- Poland: Initiative and Platform Industry 4.0
- Portugal: Indústria 4.0
- Sweden: SmartIndustry

One of the pioneers of digitalization and the main ideologue of the «Industry 4.0» concept in Germany, which in 2011 officially introduced the state strategy under the same name (Industrie 4.0). In addition to the general concept of Industrie 4.0 in Germany at the state level, several other strategies and initiatives of a similar profile and orientation have also been developed and are being implemented. Smart Networking Strategy, on the basis of which, in turn, the Digital Agenda program was presented.

In France, in July 2015, the Alliance for the Future was created, which brings together various organizations from the private business, the academic environment and a number of state institutions and institutions.

In the UK, the new digital strategy was officially published recently, on March 1, 2017. (UK Digital Strategy 2017)

The ambitious Smart Industry program is accepted by the Government of the Netherlands.

In Japan, the main government document that defines the long-term goals and objectives of the country in the development of DH is Smart Japan ICT Strategy, officially published in June 2014.

In China, in March 2015, the national concept / strategy «Internet +» was presented. This integrated strategy identifies several key areas for further development of DH in conjunction with other industries, agriculture, the financial sector and public institutions

The main current state document in the field of scientific and technological policy of Korea is the Third Basic Plan for the Development of Science and Technology, implemented from 2013 to 2017. In it the strategy of the accelerated development of the so-called. «13 future growth engines», and almost all of these new industries and sectors are among the «subversive DH» (smart cars, 5G networks, smart robotics, smart handheld devices, etc.). At the same time, a special Manufacturing Innovation 3.0 Strategy is implemented, the focus is on the Internet of things, 3D printing technologies and Big Data. (J. Kallio, 2016)

In the United States, there is no single state development program for DH, but in different years, in cooperation with private business and the scientific community, special technological initiatives were launched. Examples include the federal initiative for cloud computing (in 2009), or President Barack Obama's initiative to create a new network of institutes / centers for advanced manufacturing (AMP – Advanced Manufacturing Partnership, in 2011) with participation of key federal ministries and major US technology companies. In addition, a special Industrial Internet Consortium (IIC) was created in March 2014, initiated by a number of leading representatives of American private business (primarily GE, AT & T, IBM, Intel and Cisco). As its main mission stated «acceleration of development, industrial introduction and wide dissemination of machines, devices connected together, and intellectual analytics. (Bloom, N., & J. van Reenen, 2012)

Kazakhstan also seeks to keep pace with its competitors.According to the results of a study by the Boston Consulting Group company, reflected in the article «Kazakhstan on the road to digital economy» , Kazakhstan occupies the 50th line of the rating of 85 countries in terms of the digitization level of the economy and is in the group with the emerging digital economy (BCG, 2015). The digital divide between the leading states and the backward countries is increasing year by year. The key to preserving the competitiveness of our economy is the development of the digital component by joint efforts of the state and business, including in the following priority areas: agriculture, mining and manufacturing, transport and logistics infrastructure, trade, and health, education and information and communication technologies.

This is an important complex task. « It should be noted that the first step towards creating conditions for the transition to an information society was the State Program «Information Kazakhstan 2020», approved in 2013. As the basis for the digital transformation of the country's economy, this program contributed to the development of the following factors: the transition to an information society, the improvement of public administration, the creation of «open and mobile government» institutions, and the growth of accessibility of information infrastructure not only for corporate structures but for citizens of the country. Based on the results of the three years of the implementation of the State Program «Information Kazakhstan 2020», implementation has already been achieved by 70% and target indicators have been exceeded by 40%.In today's world, digital technology plays an increasingly important role in the development of countries economy. Even today, more than 40% of the world population has access to the Internet, and almost every 7 out of 10 households have a mobile phone. Digital technologies have a number of advantages – simplification of the public and business access to public services, the acceleration of the information exchange, the emergence of new business opportunities, the creation of new digital products, etc. The main goal of the government

program «Digital Kazakhstan» is the improvement of the competitiveness of Kazakhstan's economy and quality of life through the progressive development of the digital ecosystem. The implementation of the State Program «Digital Kazakhstan» will be held in four key areas: Creating a «Digital Silk Road». This is the development of the reliable, affordable, high-speed, secure digital infrastructure. Creating a «creative society». This is the development of competencies and skills for the digital economy, the upgrading of digital literacy, training of ICT specialists for industries. Digital transformation in the economy branches. It is the widespread introduction of digital technology to enhance the competitiveness of various branches of the economy. Formation of «Proactive digital government». This is the improvement of electronic and mobile-government systems, optimization of the public services supply sphere (Zerde, 2017)

Conclusion

Digital technologies are rapidly changing the usual forms and methods of conducting economic life around the world. The business of not only individual companies is changing – industries, regions and entire states are changing. Digitalization begins to go far beyond changes in technology proper and even in business – they become a macroeconomic and political factor. Not only engineers, scientists, and entrepreneurs are trying to understand the changes, but also politicians, philosophers, and public figures. Some see it as a tool for fundamental changes in public life, while others, on the contrary, hope that digitalization will become an alternative to painful reforms.

During the current techno-economic wave, of which the digitization process is a part, Kazakhstan is in the echelon of the persecuting countries. If there is a plus in this position, then it is that you can take into account the experience of competitors in the forefront. In this sense, the analysis of foreign experience presented in this study provides food for thought, first of all, about what the macroeconomic effect can be expressed from the massive use of digital technologies. It turns out that this effect is expressed not so much in the quantitative increase in labor productivity, as in qualitative changes in business models, the nature of doing business, its manageability and flexibility. In addition, leading foreign analysts expect that as the scope of the digital presence in various segments of the economy expands, there will be an abrupt transition of economic efficiency indicators of their application to a new, higher level. And right now the world is on the verge of such a leap.

The technologies that can have the greatest impact on the economy are artificial intelligence technologies, «big data» analytics, cloud computing, the Internet of things, robotics, autonomous vehicles, production of customized products and 3D printing, social networks and other types of digital Internet platforms. It is important to emphasize that leading foreign analysts argue that digital technologies will not only replace existing types of economic activity but rather «unlock» their hidden economic potential. The monetary equivalent of such an unblocking is estimated at tens of trillions of dollars.

One of the key trends occurring in the global economy over the past decades is its rapid digitization. Digital transformations change the image and structure of the economy, breaking common business models, leading to the expansion of markets and opportunities, becoming the most important engine of world economic growth.

The results of this analysis suggest that with a high degree of probability in the near future, the level of digitalization will determine the competitiveness of not only business but also entire countries. At the same time, only those countries and companies that will be able to adapt quickly and maximize the benefits of the changes that have taken place have achieved a sustainable competitive advantage.

Training and retraining of personnel should become one of the key elements of the state policy. In this context, it will be necessary to adapt the educational system and infrastructure to the new requirements of the digital age. In particular, first of all, it is necessary to introduce fundamentally new approaches to teaching and ensure a high level of basic digital literacy of the population.

Thus, the digital economy is a powerful catalyst for innovation, growth and social well-being and its development in Kazakhstan is a requirement of the modern era. Deepening and expanding digitalization will increase the competitiveness of the domestic economy in the world arena, provide conditions for a phased transition to the level of the innovation economy and knowledge economy, and improve the quality and standard of living of the population.

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ЦИФРОВИЗАЦИЯ КАЗАХСТАНА КАК КЛЮЧЕВОЙ ФАКТОР ЭКОНОМИЧЕСКОГО РАЗВИТИЯ В УСЛОВИЯХ МОДЕРНИЗАЦИИ

В данной статье рассмотрена цифровизация Казахстана как ключевой фактор экономического развития в условиях модернизации. Проанализированы характерные особенности толкования, использование в процессе такого толкования понятия «цифровой экономики». Выявлена и обоснована необходимость цифровизации экономики Казахстана как ключевого фактора роста для многих отраслей. На основе проведенного исследования зарубежного опыта в сфере создания современной цифровой экономики автор отмечает, что он может оказаться весьма полезным для Казахстана, который лишь вступает на эту стезю. Автор резюмирует, что Казахстану важно не только извлечь полезные уроки из опыта других стран, но и избежать повторения их ошибок и просчетов. Как известно, продукция цифровой экономики имеет ряд преимуществ: так как товары виртуальные, можно сократить расходы на транспортировку, Интернет обеспечивает почти мгновенные доставки по всему миру. Также, благодаря мировой информационной сети, значительно увеличилась скорость денежных транзакций. Исходя из этого, можно сказать, что цифровые технологии, услуги и системы являются чрезвычайно важными для социального развития. Они могут обеспечить рост и создание новых рабочих мест во всех отраслях экономики, начиная с самых традиционных предприятий и заканчивая новейшими высокотехнологичными производствами, появляющимися сегодня. Например, внедрение цифровых технологий в промышленности и то, каким образом они меняют стиль нашей жизни; то, как мы работаем и ведем бизнес.

Ключевые слова: цифровизация, экономическое развитие, значение, условия модернизации.

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Digitalization of Kazakhstan as a key factor of economic development in the conditions of modernization

The article considers the digitalization of Kazakhstan as a key factor of economic development in the conditions of modernization. The characteristic features of interpretation, the use of the concept of «digital economy» in the process of such interpretation are analyzed. The necessity of digitalization of Kazakhstan's economy as a key factor of growth for many industries is revealed and substantiated. Based on the study of foreign experience in the field of modern digital economy, the author notes that it can be very useful for Kazakhstan, which only enters this path. The author summarizes that Kazakhstan is important not only to learn useful lessons from the experience of other countries, but also to avoid repeating their mistakes and miscalculations. The value of the research is known to be the products of the digital economy has a number of advantages: since the goods are virtual, it is possible to reduce the cost of transportation, the Internet provides almost instant delivery around the world. Also, thanks to the world information network, the speed of monetary transactions has significantly increased. On this basis, we can say that digital technologies, services and systems are extremely important for social development. They can provide growth and create new jobs in all sectors of the economy, starting with the most

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traditional firms to the latest high-tech productions that appear today. For example, the introduction of digital technologies in industry, and how they change the way we live; how we work and do business.
Key words: digitization, economic growth, value, terms upgrade.

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Қазақстанды цифрлау – бұл жаңғырту жағдайларында экономикалық дамудың кілтті факторы ретінде

Берілген мақалада Қазақстанды цифрлау – бұл жаңғырту жағдайларында экономикалық дамудың кілтті факторы ретінде қарастырылған. Түсіндірменің сипаттамалық ерекшеліктері талданған, «цифрлық экономика» түсінігін түсіндіру процесінде қолдану. Көптеген салалар өсімінің негізгі факторы ретінде Қазақстан экономикасын цифрландыру қажеттілігі анықталды және ақталған. Автор заманауи цифрлық экономиканы құру шеңберінде шетелдік тәжірибе туралы жүргізілген зерттеу негізінде, бұл енді сапарға жол ашқан Қазақстан үшін өте пайдалы болуы мүмкін екенін ескертеді. Автор Қазақстан үшін басқа елдердің тәжірибесінен пайдалы сабақтарды үйреніп қана қоймай, сонымен қатар олардың қателіктерін және есептегі жаңылыстарын қайталамау үшін маңызды екенін қорытындылайды. Әркім білетіндей, сандық экономиканың өнімдері бірқатар артықшылықтарға ие: тауарлар виртуалды болғандықтан, көлік шығындарын қысқартуға болады, ғаламтор бүкіл әлем бойынша дереу жеткізілімді қамтамасыз етеді. Сондай-ақ, әлемдік ақпараттық желі арқасында ақша транзакцияларының жылдамдығы айтарлықтай өсті. Осы негізде, цифрлық технологиялар, қызметтер мен жүйелер әлеуметтік даму үшін өте маңызды деп айтуға болады. Олар экономиканың барлық салаларында, ең дәстүрлі кәсіпорындардан бастап, бүгінгі күні пайда болған жаңа жоғары технологиялық өндірістермен аяқталатын жаңа жұмыс орындарын құруды және өсіруді қамтамасыз ете алады. Мысалы, өнеркәсіп саласына цифрлық технологияны енгізу; олар біздің өміріміздің стилін қалай өзгерткені; бизнесте қалай жұмыс істейтініміз және оны қалай жүргізетініміз де бар.
Түйін сөздер: цифрлау, экономикалық даму, маңыздылық, жаңғырту шарттары.

Введение

За последние десятилетия мир стремительно движется к экономике нового типа, где основным инструментом ее формирования становятся цифровые технологии. В современных условиях информационные технологии и цифровая трансформация являются основным фактором технологических перемен и условием обеспечения конкурентоспособности как на уровне отдельных предприятий, так и на уровне стран и наднациональных объединений, приводя к перестройке всех экономических и производственных процессов, радикальному повышению производительности, повышению качества и снижению себестоимости товаров и услуг.

Целью статьи является рассмотрение цифровизации Казахстана как ключевого фактора экономического развития в условиях модернизации.

Материалы и методы

Для решения поставленной цели применялись такие методы исследования, как анализ литературных источников и документов с целью изучения проблемы и определения теоретико-методологических основ исследования; конкретизация, индукция и дедукция теоретического знания; абстрагирование, классификация и систематизация теоретических и экспериментальных данных по проблеме исследования.

Развитие общественных отношений зависит в большой степени от экономического положения в общественной среде как отдельно взятой страны, группы стран (например, ЕС) или мирового сообщества. Однако, классическая экономическая наука указывает на некоторые закономерности, которым экономика подчинена. Одной из таких закономерностей является циклическое развитие экономики, а это означает, что благодаря изучению таких циклов мы можем предсказать некоторые закономерности развития на перспективу. Благодаря теории «длинных циклов» Кондратьева, ученые знают, на каком этапе развития 50-60-летнего цикла мы находимся и, используя новейшие экономичные технологии, возможно использовать их особенности и предотвратить стандартные ошибки, что были в предыдущих циклах.

Результаты

Расширение роли информационных технологий в работе частного и государственного секторов является основой для перехода к цифровому государству. По прогнозам ведущих мировых экспертов, к 2020 году 25% мировой экономики будет цифровой, и внедрение технологий цифровизации экономики, позволяющих государству, бизнесу и обществу эффективно взаимодействовать, становится все более масштабным и динамичным процессом (Государственная программа «Цифровой Казахстан» на 2017-2020 года, 2017). По результатам исследования компании «Бостонская консалтинговая группа» (BCG), отраженным в статье «Казахстан на пути к цифровой экономике», по уровню цифровизации экономики Казахстан занимает 50-ю строчку рейтинга из 85 государств и находится в группе с зарождающейся цифровой экономикой (Boston Consulting Group:2015). Цифровой разрыв между государствами-лидерами и отстающими странами увеличивается год от года. Ключом к сохранению конкурентоспособности нашей экономики является развитие цифровой составляющей совместными усилиями государства и бизнеса, в том числе в следующих отраслях: индустриальной, транспортно-логистической инфраструктуре, сельском хозяйстве, недропользовании, энергетике, образовании и здравоохранении. Современные цифровые технологии настолько быстро шагнули вперед, что ранее были всего лишь устройством для передачи звука на расстояние, на сегодняшний день, помимо средства связи, используется как кошелек, ключ, журнал, фотоаппарат, видеоплееры т.д. (Бизнес & информационные технологии, 2017).

Благодаря стремительному прогрессу появилась возможность печатать не просто листы документов на принтерах, а создавать сложные трехмерные проекционные модели с помощью 3D принтеров, которые используются в различных сферах – от пищевой и медицинской до строительства зданий.

Идеей цифровой трансформации охвачен весь мир. В нашей повседневной жизни уже можно найти немало ее примет. Наконец, и правительство РК решило создать и применять трансформацию в виде «Цифровой экономики» (Рост экономики Казахстана невозможен без цифровизации ключевых отраслей, 2017).

У цифровой экономики много преимуществ. Она снижает стоимость платежей и открывает новые источники дохода. В онлайн стоимость услуг ниже, чем в традиционной экономике (прежде всего за счет снижения затрат на продвижение), а сами услуги, как государственные, так и коммерческие – доступнее. Кроме того, товары и услуги в цифровом мире могут быстро выйти на глобальный рынок, стать доступными людям в любой точке мира. Предлагаемый продукт может быть практически мгновенно доработан под новые ожидания или потребности потребителя (Алексеев, 2016: 42-45).

Цифровая экономика предоставляет гораздо более разнообразный информационный, образовательный, научный, развлекательный контент – быстрее, качественнее и удобнее.

Основная компетенция, которую необходимо развивать, – это способность к постоянному обучению, готовность постоянно осваивать новые знания по новым появляющимся технологиям. Это ключевой фактор для успешного профессионального роста в современном цифровом мире.

Цифровая экономика – это глобальная сеть экономических и социальных мероприятий, реализуемых через такие платформы, как интернет, а также мобильные и сенсорные сети. По сути, это модель экономики, основанной на возможностях, которые предоставляет доступ в Интернет. А это возможности повысить производительность труда, конкурентоспособность компаний, снизить издержки производства. В эпоху цифровой экономики потребности человека могут удовлетворяться гораздо лучше. Для успешного функционирования цифровой экономики необходимы три элемента – инфраструктура (доступ в Интернет, ПО, телекоммуникации), электронный бизнес (ведение хозяйственной деятельности через компьютерные сети), электронная коммерция (дистрибуция товаров через интернет) (Кешелава, 2017: 28).

Прежде всего, цифровая экономика более эффективна, чем традиционная, с точки зрения производительности труда и возможных издержек на единицу производства. Так, если упростить, то можно вспомнить первый конвейер, который заменил сразу несколько специалистов, задействованных в цепочке производства, при этом скорость производства возросла, а себестоимость снизилась. Сегодня эффективность конвейера ни у кого не вызывает вопросов, точно также в ближайшие годы всё больше процессов перейдет в интернет и в облака, и целые отрасли будут функционировать в цифровом формате.

Мировой опыт цифровой экономики внушает позитивные ожидания, например, можно

обратиться к опыту Великобритании, которая стремится стать мировым лидером в области цифровой экономики. В 2010 году там был принят Закон «О цифровой экономике». Позднее была разработана и принята «Стратегия цифровой экономики», направленная на помощь государству и бизнесу в проведении цифровой трансформации. На уровне государства строится цифровая инфраструктура мирового класса, а также создаются условия для развития цифрового бизнеса. Кроме финансовой поддержки, оказываются консультационные услуги, которые помогают компаниям внедрять инновации и вести бизнес новым способом – с помощью цифровых технологий (Скаковский, 2016: http://isca.kz/ru/].

Стратегия подразумевает создание пяти международных технологических центров на развивающихся рынках, чтобы поддерживать британские компании по всему миру. По данным консалтинговой компании Accenture, развитие цифровой экономики принесет британской экономике дополнительные 654 миллиарда фунтов стерлингов к 2035 году.

Термин «цифровая экономика» появился в 1995 году и был связан, прежде всего, с интенсивным развитием информационно-коммуникационных технологий (Россия и Казахстан: с программой развития экономики – в будущее, 2017).

В 1995-ом году американский информатик Николас Негропонте (Массачусетский университет) ввел в употребление термин «цифровая экономика». Сейчас этим термином пользуются во всем мире, он вошел в обиход политиков, предпринимателей, журналистов (Tapscott, Donald, 1996:56)

На сегодняшний день экономика Казахстана в целом переживает относительно стабильный период, но дальнейший рост невозможен без ускорения темпов цифровизации ключевых отраслей, например таких, как промышленное производство, розничная торговля, сельское хозяйство и транспорт. Такие выводы содержатся в совместном исследовании «Макроэкономические перспективы Казахстана и новые инвестиционные горизонты в цифровизации», проведенном Фондом национального благосостояния «Самрук-Казына» и международной компанией The Boston Consulting Group.

Цифровизация быстро проникает в повседневную жизнь людей по всему миру, предоставляя новые возможности для компаний в области разработки новых продуктов и услуг и модернизации методов работы, меняя производственные процессы, каналы дистрибуции и способы взаимодействия с поставщиками и клиентами.

Цифровизация экономики Казахстана – ключевой фактор роста для многих отраслей. Сегодня Казахстан в тренде, его цифровая экономика растет схожими темпами с сопоставимыми странами, такими как страны БРИКС, но этого недостаточно. Необходим рывок, который даст весомые преимущества экономике.

Экономика Казахстана сильно зависит от природных ресурсов и добывающих отраслей, и постоянные изменения в глобальной экономической и отраслевой динамике усложнили задачу сохранения конкурентоспособности. Пришло время изучить новые направления роста в рамках диверсификации экономики, а также ускорить создание более высокой стоимости в отдельных секторах, тем самым способствуя дальнейшему росту ВВП. Цифровизация обладает потенциалом для создания дополнительной стоимости в основном виде хозяйственной деятельности для Казахстана – сырьевом секторе, но при этом она способствует диверсификации и реализации потенциала в других секторах, стимулирует предпринимательскую деятельность (Meta-Digital Accounting in the Context of Cloud Computing, 2015).

По уровню вовлеченности в цифровую экономику Казахстан находится в целом на равных позициях с Россией, ОАЭ, Аргентиной и Чили, с индексом 0,72 (данные ООН и BCG за 2016 г.), превышающим среднемировой (0,49). Также, согласно данным рейтинга BCGe-intensity, показатель проникновения широкополосного Интернет-доступа среди казахстанских компаний составляет 45%, что сопоставимо с ОАЭ (53%) и Малайзией (38%)

Напомним, что «Цифровыми» странами-лидерами на сегодняшний день являются Норвегия, Швеция и Швейцария. В топ-10 входят США, Великобритания, Дания, Финляндия, Сингапур, Южная Корея и Гонконг (Алексеев, 2016 : 43).

Казахстан ставит перед собой задачу достичь доли сектора ИКТ в ВВП страны до 5%, дополнительных рабочих мест в IT-секторе – 150 тыс., роста производительности труда в IT-секторе – до 37%, повысить цифровую грамотность населения до 85%.

Цифровая экономика транснациональна по своей сути, потому крайне актуальным является предложение Н. Назарбаева создать в рамках ЕАЭС общий рынок труда и единую интегрированную евразийскую электронную биржу труда.

Безусловно, цифровая экономика – это лишь автоматизированное управление экономикой реальной, потому огромное внимание на форуме межрегионального сотрудничества было уделено образованию, развитию туризма и промышленной кооперации, здравоохранению и повышению престижа рабочих профессий, строительству «умных» городов и железнодорожных магистралей в рамках Шелкового пути, что должно дать синергетический эффект в развитии Евразийского Союза.

Дискуссия

Цифровая экономика – одна из технологий, которую используют многие страны мира для повышения эффективности национальных экономик и использования современных информационных технологий для повышения доходности.

Проблемы новых видов экономик, среди которых и цифровая экономика, активно дискутируются в отечественной и зарубежной научной литературе. В частности, в трудах Д. Белла, Дж. Гэлбрейта и Д. Тапскотта впервые рассмотрены вопросы функционирования информационного типа экономики. Роль интернета в экономике рассмотрена в трудах Н. Негропонте. Среди исследователей роли научных знаний и информации в экономическом развитии можно назвать Ф. Махлупа, М. Пората, Т. Месенбурга. В трудах А. Шемета, И. Малика, А. Петрова предложены различные подходы к определению понятия «цифровая экономика», а также способы ее внедрения в экономическую среду.

Современные социально-экономические преобразования в жизни общества не могут возникать сами собой, они являются следствием тех изменений, что происходят в обществе, экономике, политике и тому подобное в течение многих десятилетий, а значит, определив периодичность таких изменений, можно определить перспективу развития как общества в целом, так и экономического развития в частности. Знания, что нам дает классическая экономическая теория, позволяют понять некоторые сегодняшние события и предсказать дальнейшее развитие общественно-экономических отношений на перспективу.

Согласно теории «длинных волн» Н.Д. Кондратьева, современный мир находится в пятом технологическом укладе (1980-2040 гг.), ядром технического прогресса которого являются электронная промышленность, вычислительная, оптико-волоконная техника, программное обеспечение, роботостроение и информационные услуги. Исходя из расчетов некоторых ученых (А. Айвазова, А. Кобякова), периодичность циклов, начиная с той точки, на которой остановился Н.Д. Кондратьев, можно определить, где находится мир сегодня. Это период понижательной волны (с 2000-2007 гг. к 2015-2025 гг.) и повышательной (с 2015-2025 гг. до 2035-2045 гг. (прогноз)). Итак, по самым оптимальным прогнозам, сегодняшний этап – переходный от понижательного до повышающего периода волны.

В свое время М. Д. Кондратьев отмечал, что на стадии подъема волны характеризуют нестабильность в обществе, а именно: политические проблемы, революции, социальные возмущения и тому подобное, что также подтверждает, что мы живем именно в этот период волн. Исходя из этого, при построении механизма и системы регулирования экономики необходимо принимать во внимание и учитывать временной фактор, наблюдать за развитием кризисных явлений, поскольку такие меры дадут возможность сократить затраты на восстановление равновесия и заменить одну парадигму на другую – более эффективную, что будет способствовать преодолению кризиса (Agrawal, 2017: 44).

Понятно, что основой изучения этих закономерностей, процессов и явлений является классическая экономика, которая меняется в своем развитии в точном соответствии с этапами и «волнами», что происходят в мире согласно технологическим укладам. Если же более детально обозначить сегодняшнее экономическое направление, то это неоэкономика, что зарождается по определению, трактуется как постиндустриальная стадия развития экономической системы, фундаментальными теоретическими конструкциями которой являются информационная, инновационная, цифровая, сетевая экономика. Разграничение этих концепций основывается на выделении ключевых сфер и ресурсов экономического развития (Autor, 2017:58).

1. Одним из первых терминов, которым описывали трансформационные сдвиги в мировой экономике, был термин «электронная экономика» (в 1995 г. его употребил Николас Негропонте), что впоследствии получил название «цифровая экономика». В процессе детализации и изменения некоторых экономических процессов по состоянию на сегодняшний день категория «электронная экономика» имеет две составляющие: Интернет экономика (среда для ведения электронного бизнеса) и «цифровая экономика»

– где происходит производство, обмен, распределение и потребление «электронного товара», а расчеты проводятся с помощью электронных денег (Davis, 2014).

Цифровая экономика (англ. Digitaleconomy) – экономика, которая базируется на цифровых компьютерных технологиях. Цифровую экономику также иногда называют интернет-экономикой, новой экономикой, или веб-экономикой. Все чаще «цифровая экономика» переплетается с традиционной экономикой, делая четкое разграничение сложнее. Под цифровой экономикой понимают производство, продажи и поставки продуктов через компьютерные сети.

В конце 20-го века в мире стало понятно, что старая экономическая модель со всеми своими недостатками уступает место более совершенной цифровой экономике. Термин «цифровая экономика» появился в 1995 году, благодаря Дону (Дональду) Тапскотту (одним из главных мировых авторитетов в области бизнес-стратегии), он определил ее следующим образом: цифровая экономика – экономика, основанная на доминирующем применении цифровых технологий; а американский программист Николас Негропонте (основатель медиа-лаборатории Массачусетского технологического института) сформулировал ее концепцию, в сжатом виде она звучит как «переход от обработки атомов до обработки битов». В экономически развитых странах принято не изменять классическое определение, которое дают ученые (Derviş, 2016; Crafts, 2014).

Поэтому ученые всего мира используют именно определение Тапскота при изучении этих категорий. Со временем (в 2001 г.) Томас Месенбург выделил три основные составляющие этой концепции, в частности: поддерживающая инфраструктура (что включает в себя аппаратное и программное обеспечение, телекоммуникации, сети т. д); электронный бизнес (как ведется бизнес, любые процессы, которые организация проводит через компьютерные сети); электронная коммерция (Frey, 2017: 260).

По общепринятому определению, цифровая экономика – это экономика, базирующаяся на производстве электронных товаров и сервисов высокотехнологичными бизнес-структурами и дистрибуции этой продукции посредством электронной коммерции.

За годы, что прошли с момента появления понятия «цифровой экономики», много ученых и практиков вносят свои коррективы в определение этой категории.

Многие исследователи в мире выделяют различные названия новых видов понятий экономик: «информационное общество», «экономика знаний», «сетевая экономика», называя их синонимами, или такими, что один может быть частью другого и тому подобное. Исходя из приведенной информации, можно отметить, что в научной литературе термин «цифровая экономика» не является доминирующим, но он значительно чаще встречается в правительственных дефинициях многих стран. Например, во Франции есть Министерство цифровой экономики (Fung, 2016:22).

Как известно, продукция цифровой экономики имеет ряд преимуществ: так как товары виртуальные, можно сократить расходы на транспортировку, Интернет обеспечивает почти мгновенные доставки по всему миру. Также, благодаря мировой информационной сети, значительно увеличилась скорость денежных транзакций. Таким образом, Интернет стал ведущей, ключевой технологией современного экономического взаимодействия. С ростом населения и потребления ресурсов в современном мире, цифровая экономика не ограничивает свое влияние только сферой бизнеса и торговли. Она также имеет не меньшее влияние на отрасль образования и банковскую сферу. Понятно, что это имеет отношение только к высокоразвитым странам «золотого миллиарда», однако сейчас все больше затрагивает страны «второго» и «третьего» мира.

Исходя из этого, можно сказать, что цифровые технологии, услуги и системы являются чрезвычайно важными для социального развития. Они могут обеспечить рост и создание новых рабочих мест во всех отраслях экономики, начиная с самых традиционных предприятий и заканчивая новейшими высокотехнологичными производствами, что появляются сегодня. Например, внедрение цифровых технологий в промышленности и то, каким образом они меняют стиль нашей жизни; то, как мы работаем и ведем бизнес.

Заключение

Очевидно, что цифровизация экономики – это объективный процесс, обусловленный всем ходом глобализации и развития цифровых технологий. Страны, которые запаздывают с созданием цифровых технологий, рискуют остаться на обочине мировой цивилизации.

Зарубежный опыт в сфере создания современной цифровой экономики может оказать-

ся весьма полезным для Казахстана, который лишь вступает на эту стезю. Нам важно не только извлечь полезные уроки из опыта других стран, но и избежать повторения их ошибок и просчетов.

В целом, главный урок для Казахстана заключается в том, что успешная цифровизация экономики невозможна без всесторонней политической, законодательной, организационной и финансовой поддержки со стороны государства.

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АВИАЦИОННАЯ ОТРАСЛЬ В СИСТЕМЕ НАЦИОНАЛЬНОЙ ЭКОНОМИКИ РЕСПУБЛИКИ КАЗАХСТАН

В данной статье рассмотрена Авиационная отрасль в системе национальной экономики Республики Казахстан. Проанализированы характерные особенности авиационной отрасли Республики Казахстан. За годы независимости в Казахстане было решено множество задач в области гражданской авиации, достигнуты значительные успехи. Развитие отрасли не стоит на месте, неизменной остается главная цель, на реализацию которой направлены мероприятия государственных программ и усилия работников системы авиации – это удовлетворение потребностей экономики и населения в воздушных перевозках, обеспечение их безопасности и соответствия мировым стандартам.

Исходя из этого, можно сказать, что основными принципами совершенствования рынка авиаперевозок при проведении исследования были избраны: удовлетворение потребностей населения и бизнес-сообществ Казахстана и других государств в авиаперевозках; развитие рынка грузовых и пассажирских перевозок внутри республики и за рубежом; повышение конкурентоспособности казахстанских авиаперевозчиков и аэропортов на региональных и мировом рынках.

Ключевые слова: авиационная отрасль, система национальной экономики, значение, Республика Казахстан.

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Aviation industry in the system of national economy of the Republic of Kazakhstan

In this article the Aviation branch in the system of national economy of the Republic of Kazakhstan is considered. Characteristic features of aviation branch of the Republic of Kazakhstan are analyzed. Over the years of independence, Kazakhstan has solved many problems in the field of civil aviation, significant progress has been made. The development of the industry does not stand still, the main goal remains unchanged, the implementation of which is focused on the activities of state programs and the efforts of aviation system employees-is to meet the needs of the economy and the population in air transportation, ensuring their safety and compliance with international standards

Based on this, we can say that the main principles for improving the air transportation market during the study were chosen: meeting the needs of the population and business communities of Kazakhstan and other States in air transportation; development of the market of cargo and passenger transportation within the country and abroad; improving the competitiveness of Kazakh air carriers and airports in the regional and global markets.

Key words: aviation industry, system of national economy, significance, Republic of Kazakhstan.

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Қазақстан Республикасының ұлттық экономика жүйесіндегі әуе тасымалдау саласы

Бұл мақалада Қазақстан Республикасының ұлттық экономика жүйесіндегі әуе тасымалдау саласы қарастырылды. Қазақстан Республикасының әуе саласының сипатты белгілеріне талдау жасалынды. Қазақстан тәуелсіздік алғаннан кейін азаматтық әуе саласы бойынша көптеген жетістіктерге жетті. Әуе саласы бір орында тұрмайды, ал басты мақсат өзгеріссіз қалуда және оны жүзеге асыру үшін мемлекеттік бағдарламалар іске асырылуда – бұл экономика мен халықтың әуе тасымалы саласындағы қажеттіліктерін қанағаттандыру, олардың қауіпсіздігін қамтамасыз ету және де әлемдік стандартқа сәйкестендіру. Осыған сүйене отырып, зерттеу жүргізу барысындағы әуе тасымалдары нарығын дамытудың негізгі қағидалары ретінде келесілер таңдалынып алынды: халықтың, Қазақстанның іскерлік қауымдастықтарының және әуе тасымалы нарығындағы басқа да мемлекеттердің қажеттілігін қанағаттандыру; республика ішіндегі және шетелдегі жүк және жолаушы тасымалы нарықтарын дамыту; қазақстандық әуе тасымалдаушылар мен әуежайлардың аймақтық және әлемдік нарықтардағы бәсекеге қабілеттілігін жоғарылату.

Түйін сөздер: әуе саласы, ұлттық экономика жүйесі, мәні, Қазақстан Республикасы.

Введение

В современном мире повышается значение транспортной отрасли в экономике каждого государства, так как уровень развития транспорта непосредственно влияет на конкурентоспособность экономики и безопасность страны. Транспорт является важнейшим сектором внутренней экономики Казахстана, занимающим весомую долю в структуре ВВП. Значительная территория республики и низкая плотность населения, высокий темп экономического развития Казахстана, достигнутый в последние годы, формируют нарастающие потребности в перевозках. Соответственно, передвижение населения и грузопотоков в рамках межхозяйственных связей, экономического развития и взаимодействия регионов Казахстана с каждым годом становится все более востребованной услугой. Помимо экономической функции, транспорт осуществляет социальную функцию, обеспечивает контакты населения в рамках родственного, дружеского общения, участвует в организации отдыха, образования, культурного развития, а также в решении различных социальных проблем.

Транспорт в Казахстане имеет важнейшее значение. Огромные территории страны, низкая плотность населения, разобщённость центров промышленности и сельского хозяйства, а также удалённость от мировых рынков делают обладание развитой транспортной системой жизненно необходимым для Казахстана.

Целью статьи является рассмотрение авиационной отрасли в системе национальной экономики Республики Казахстан.

Материалы и методы

Для решения поставленной цели применялись такие методы исследования, как анализ литературных источников и документов с целью изучения проблемы и определения теоретико-методологических основ исследования; конкретизация, индукция и дедукция теоретического знания; абстрагирование, классификация и систематизация теоретических и экспериментальных данных по проблеме исследования.

Результаты

Присоединившись к Чикагской конвенции о международной гражданской авиации в 1992 г., Республика Казахстан взяла на себя обязательство по принятию конструктивных мер для обеспечения контроля и надзора за деятельностью гражданской авиации внутри страны и соответствию стандартам и рекомендуемой практике Международной организации гражданской авиации (ИКАО) (Можарова, 2011: 104).

На основании результатов аудита ИКАО в 2009 г. уровень эффективного внедрения стандартов и рекомендуемой практики в Казахстане составил 47% (на уровне таких стран, как Бенин – 52%, Конго – 44%, Индонезия – 45%, Непал – 55%). Было выявлено 82 замечания, из них 2 – существенных.

Для приведения отрасли в соответствие с международными стандартами были приняты

меры, в том числе совершенствование законодательной базы, изменение организационной структуры Комитета гражданской авиации, привлечение к работе в Комитете квалифицированных специалистов отрасли, повышение уровня заработной платы до конкурентоспособного отраслевого уровня, обучение государственных авиационных инспекторов в области проведения сертификации и надзора и др. (Гражданская авиация в РК: острые вопросы и сложные ответы, 2016).

По данным Комитета гражданской авиации Казахстана, общий объем авиаперевозок в республике вырос в 2016 году всего на 1% – до 12,2 млн. человек. В 2017 году, по прогнозам авиационных властей страны, рост пассажирских перевозок составит менее 2% – до 12,4 млн. человек.

Из 12,2 млн. пассажиров, обслуженных в аэропортах Казахстана в 2016 году, 7,8 млн. человек – пассажиры внутренних рейсов и 4,4 млн. человек – пассажиры международных рейсов. Так как каждый внутренний пассажир насчитан в два раза в этих данных, рынок в целом составили 3,9 млн. отечественных и 4,4 млн международных пассажиров.

Из 4,4 млн. международных пассажиров 2,1 млн. человек были перевезены казахстанскими авиакомпаниями и 2,3 млн. – иностранными авиакомпаниями.

В Казахстане на рынке с 2009 по 2015 год наблюдался шестилетний стремительный рост. Темпы ежегодного роста в период с 2010 по 2015 годы были стабильно высокими, а в отдельные годы измерялись даже двузначными цифрами. Общий объем перевозок в аэропортах в Казахстане вырос на 10% в 2015 году и на 7% в 2014 году (Стратегический план развития Республики Казахстан до 2020 года, 2010 г.).

Значительное замедление экономического роста (экономика Казахстана сильно зависит от нефтегазового сектора) и девальвация национальной валюты повлияли на спрос и на авиаперевозки за последние пару лет. В то время как транзитные перевозки и число посетителей выросло, с низкой базы, в целом рынок практически перестал расти.

Авиация Республики Казахстан подразделяется на экспериментальную, государственную и гражданскую. Международные аэропорты расположены в Астане и Алматы. Внутренние авиаперевозки осуществляют более десятка компаний, крупнейшие из которых AirKazakhstan и AirAstana. При этом в последнее время основным (а на многих направлениях монопольным) перевозчиком становится AirAstana (Ғылым және білім, 2014: 164).

Третья по значимости авиакомпания Казахстана – SCAT – постепенно сдает свои позиции, уступая AirAstana. Данный перевозчик отличают более старые самолеты, оставшиеся в наследие со времен СССР, более частые задержки, отмены рейсов и невозможность покупки билетов он-лайн.

Регулярные рейсы осуществляются аэропортами городов: Алматы, Астана, Актау, Петропавловск, Кустанай, Джезказган, Семипалатинск, Тараз (Джамбул), Чимкент, Павлодар, Кокчетав и рядом других.

На сегодняшний день по результатам валидационной миссии 2016 г. устранено второе существенное замечание по летной эксплуатации, и уровень эффективного внедрения достиг 74%, что соответствует уровню таких европейских стран, как Словакия – 75%, Португалия – 71%, Люксембург – 70%, Литва – 70%, Молдова – 72%. Текущий среднемировой уровень составляет 63%, а среднеевропейский – 76% (Можарова, 2011: 112).

Ведется работа по выводу казахстанских авиакомпаний из Списка безопасности Европейского Союза. Как известно, данные авиакомпании, кроме «Эйр Астана», находятся в списке, на который распространяется запрет на осуществление полетов в страны ЕС. 19-23 сентября 2016 г. Европейская Комиссия провела техническую оценку обеспечения безопасности полетов Комитета гражданской авиации.

Ушедший год по многим показателям стал рекордным для Казахстана. В том числе для авиации – было перевезено самое большое количество пассажиров за годы независимости (рисунок 1).

Темпы роста пассажиропотока за прошлый год в авиационной отрасли составили 23%, что действительно является лучшим показателем за последние 25 лет. Безусловно, это стало возможным благодаря успешному проведению Международной выставки «ЭКСПО-2017». Ранее отрасль росла ежегодно на 10%, а в кризис рост снижался до 6–7%, 23% на фоне этих цифр – существенный шаг вперед.

Также у нас достаточно серьезные показатели по транзиту. Рост транзитных пассажиров составил 30%. За последние 7 лет, если смотреть в динамике, объем перевезенных транзитных пассажиров вырос почти в 20 раз. По итогам 2017 года этот показатель превысил отметку в 620 тысяч человек. 5–6 лет назад речь шла всего о 20 тысячах транзитников.

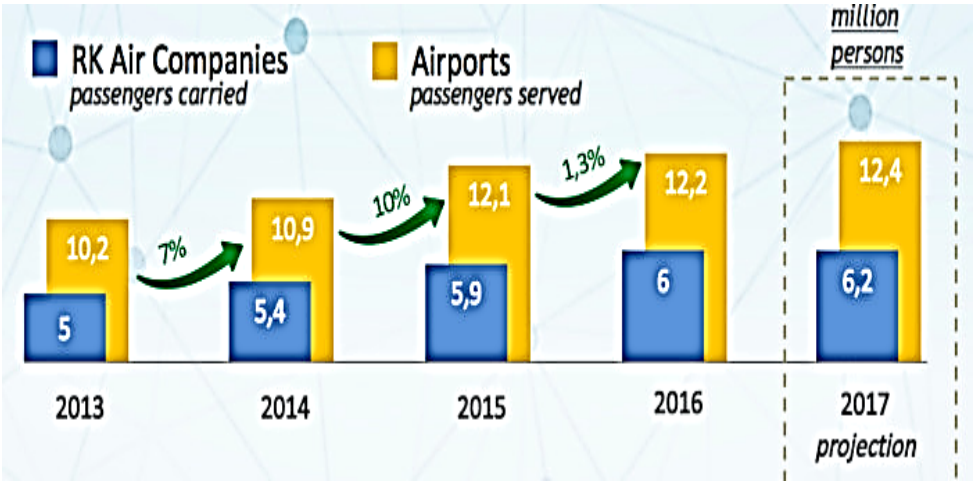

Рисунок 1 – Годовой пассажиропоток аэропортов и местных авиалиний Казахстана: с 2013 по 2017 год

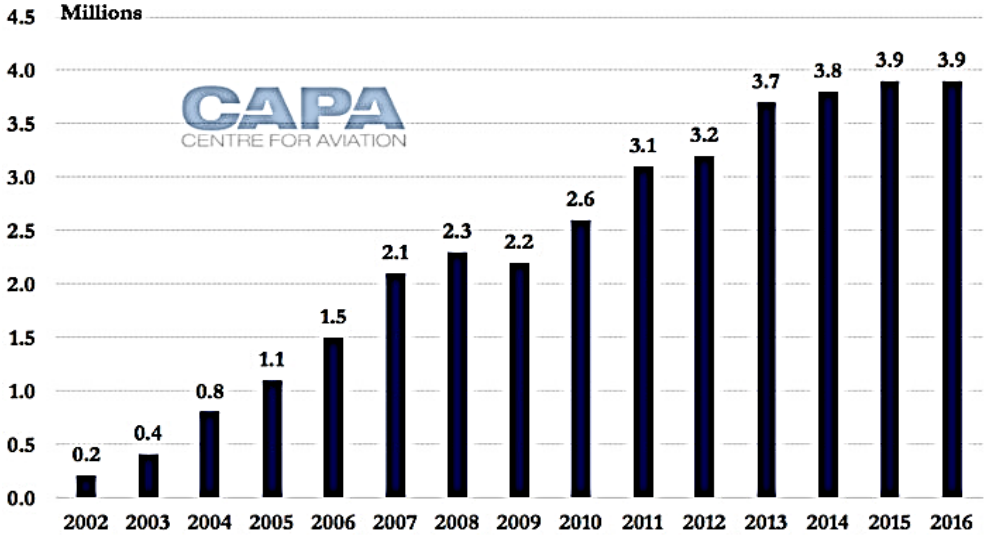

Рисунок 2 – Ежегодный пассажиропоток AirAstana: 2012-2016 г.г.

Согласно поручению Президента, перед отраслью стоит задача по увеличению количества транзитных авиапассажиров к 2020 году до 1,6 миллиона человек. Ключевые пассажиропотоки транзитом через Казахстан наблюдаются по направлениям: из Китая в Европу, Турцию, Россию и Украину, между Европой и Южной Кореей, из Украины в Узбекистан и Индию, между Кыргызстаном и Индией, между Турцией и Узбекистаном (Стратегический план развития Республики Казахстан до 2020 года, 2010 г.).

В 2018 году ожидается 900 тысяч транзитных пассажиров. Следует отметить, что развитие транзитного потенциала Казахстана способствует развитию туризма, который является на сегодня одной из приоритетных отраслей национальной экономики.

И одной из мер стала реализация пилотного проекта введения 72-часового безвизового режима для туристов КНР, следующих транзитом через аэропорты Астаны и Алматы в период проведения ЭКСПО, который недавно был продлен до конца 2018 года. Прорабатывается вопрос аналогичного режима для транзитных граждан Индии и Ирана (Апгрейд транспортной системы Казахстана, 2018; В РК не хватает высококвалифицированных пилотов и бортинженеров, 2016).

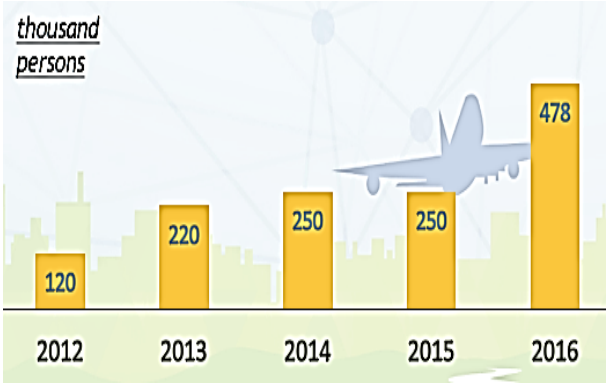

Рисунок 3 – Ежегодный пассажиропоток в Казахстане с 2012 по 2016 годы (Казахстан создаёт свою авиационную промышленность, 2016)

На сегодня в Казахстане выполняются международные полеты по 96 маршрутам. К примеру, в 2016 году открыто 15 новых: из Алматы в Сиань, Санью, Шарм-Эль-Шейх, Тегеран и Самару, из Астаны в Амстердам, Санью, из Актау в Батуми и Сочи, из Шымкента в Стамбул и Худжанд, из Караганды в Стамбул, из Тараза в Нижневартовск, Сургут и Худжанд (Ермаков, 2007: 45).

Для обеспечения прямого воздушного сообщения между казахстанской столицей и ведущими финансовыми центрами мира проводится поэтапная либерализация рынка авиаперевозок республики. Открылись рейсы в Астану из Варшавы авиакомпании LOT, Будапешта – авиакомпании Wizzair, Хельсинки – авиакомпании Finnair, в Батуми – грузинской авиакомпании GeorgianAirways. Также казахстанскими авиаперевозчиками открыты рейсы по направлениям в Киев, Минводы, Ереван, Дели (Громов, Панченко, Чудновский, 1998: 120).

На казахстанский рынок впервые вошли low-cost авиакомпании, такие как Wizzair, LOT и российская «Победа», которые присоединились к оперирующим лоукостерам AirArabia и FlyDubai (Транспорт и связь Республики Казахстан 2010-2015, 2015).

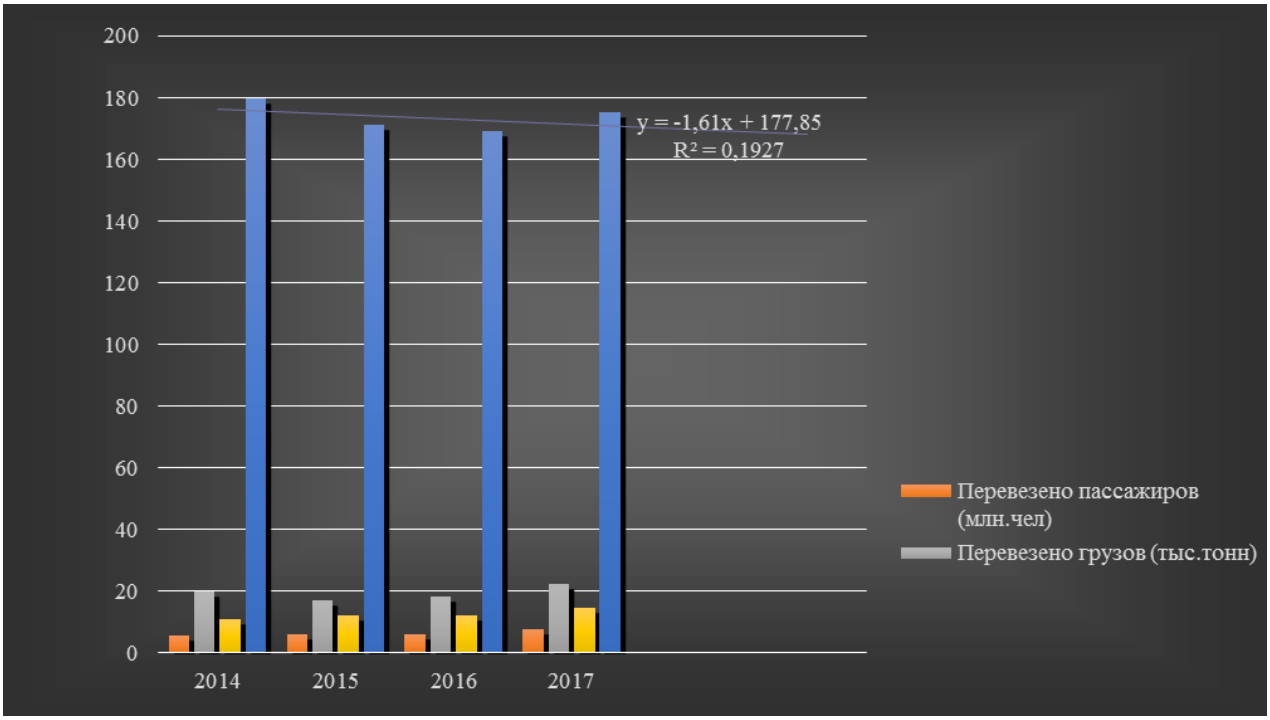

Рисунок 4 – Основные показатели по отрасли гражданской авиации в Казахстане

В 2018 году казахстанскими авиакомпаниями планируется открыть регулярные рейсы из Астаны в Тюмень, Краснодар, Вильнюс, Томск, Челябинск, Сочи, Батуми, Душанбе. Иностранные компании (AirBaltic, Emirates, FlyDubai, «Ангара», «Аэрофлот») начнут осуществлять регулярные рейсы по направлениям Рига – Алматы, Дубаи – Алматы, Дубаи – Актау, Крас-

ноярск – Алматы, Москва – Кызылорда. В 2020 году планируется открытие рейсов в Сингапур, Токио и Шанхай (Национальная транспортная система Республики Казахстан, 2016).

Режим «открытого неба» над Астаной предоставляет иностранным авиакомпаниям право на выполнение ежедневных рейсов в Астану с третьей и четвертой степенью свободы воздуха. Это означает, что в случае заинтересованности любая иностранная авиакомпания (за исключением субсидируемых государством) имеет право на выполнение полетов в казахстанскую столицу до семи рейсов в неделю, что соответствует концепции открытости воздушного пространства.

Таблица 1 – Казахстан: внутренние авиалинии, место по внутренним перевозкам и размера флота

Kazakhstan domestic airlines ranked by domestic traffic and fleet size

Rank	Airline	2016 domestic traffic (thousands of passengers)	Fleet size (as of Apr-2017)
1.	Air Astana	2,087	31
2.	SCAT	898	17
3.	Bek Air	733	8
4.	Qazaq Air	163	3
5.	Yuzhnoye	14	3
6.	Zhetisu Avia	13	3
7.	Zhezkazgan Air	5	3

Source: Kazakhstan Civil Aviation Committee.

За последние пять лет наблюдается положительная динамика и по количеству пассажиров, обслуженных аэропортами Казахстана. Рост данного показателя ежегодно составляет в среднем 9%.

Согласно заключению международной организации гражданской авиации, количество инспекторов авиационной администрации должно быть в два раза выше, чем в настоящее время. Чтобы изменить ситуацию, МИР РК ведет подготовительные работы.

Уже подписан меморандум о взаимопонимании с Британским агентством гражданской авиации, состоялись неоднократные визиты британских специалистов в Казахстан, отработаны проекты технического сотрудничества и получены соответствующие рекомендации и наработки.

Британская модель регулирования гражданской авиации – это государственная корпорация, обеспечивающая контроль и надзор в области полетов. Она подотчетна Департаменту транспорта Великобритании. Показатель эффективности такой структуры – высокий уровень соответствия Великобритании стандартам ИКАО по безопасности полетов – свыше 93 % (для сравнения, среднемировой уровень – 63 %, среднеевропейский – 76 %, Казахстан – 74 %).

Совместно с британцами выработаны подходы по внедрению данной модели, которые предполагают внесение изменений в действующее законодательство в части передачи контрольно-надзорных функций в области безопасности полетов в новую структуру в форме национальной компании. Часть инспекторов перейдут в нацкомпанию, которая будет подотчетна министерству.

За министерством же сохранятся функции по формированию государственной политики и международные отношения.

Сегодня при проверке качества подготовки пилотов и исправности самолетов у нас возникают определенные сложности. В Комитет гражданской авиации очень сложно пригласить

соответствующих специалистов, потому что они в авиакомпаниях получают заработную плату выше в 4–5 раз. То есть мы должны создать соответствующие условия, чтобы привлечь их. А это возможно только в форме нацкомпании или АО, которой требуется передать часть госфункций.

Переход на британскую модель и сотрудничество с UKCAA были одними из основных аргументов в пользу принятия Европейской комиссией решения о снятии ограничений с казахстанских авиакомпаний на выполнение полетов в страны Евросоюза.

На основе совместной работы были предложены изменения в действующее законодательство в части передачи контрольно-надзорных функций в области безопасности полетов в новую структуру в форме национальной компании по надзору и контролю в области гражданской авиации, которая будет подотчетна министерству.

Финансирование новой структуры предполагается за счет самоокупаемости с использованием части аэронавигационных сборов за пролет в воздушном пространстве РК (пример авиационных властей Франции и Германии) и оказанием услуг субъектам отрасли гражданской авиации (пример Британского агентства гражданской авиации).

Также эти меры должны исключить нагрузку на государственный бюджет.

Продолжается работа по повышению уровня развития инфраструктуры воздушного транспорта, решению проблем технического оснащения и износа наземной инфраструктуры аэропортов. Сейчас в стране действует 18 аэропортов республиканского и областного значения, из них 17 аэропортов допущены к обслуживанию международных рейсов, 13 – категорированы по стандартам ИКАО. В настоящее время в 14 аэропортах проведена реконструкция взлетно-посадочных полос, в 10 аэропортах – реконструкция терминалов.

Реализация инфраструктурных проектов в области гражданской авиации позволит привести все аэропорты страны в соответствии с международными стандартами ИКАО, повысить безопасность полетов и качество обслуживания. Это даст возможность принимать современные типы воздушных судов, расширит географию полетов путем ввода дополнительных местных и международных авиалиний, а также увеличит пассажирооборот и транзитные авиаперевозки (Смаилов, 2015: 24).

За годы независимости в Казахстане было решено множество задач в области гражданской авиации, достигнуты значительные успехи. Но развитие отрасли не стоит на месте, неизменной остается главная цель, на реализацию которой направлены мероприятия государственных программ и усилия работников системы авиации – это удовлетворение потребностей экономики и населения в воздушных перевозках, обеспечение их безопасности и соответствия мировым стандартам.

На 2018 год из средств республиканского бюджета выделено 1 477 миллионов тенге на субсидирование 12 маршрутов. Исключены из списка субсидированных такие маршруты, как Кокшетау – Актау, Кокшетау – Шымкент и Астана – Балхаш.

При уточнении бюджета на 2018 год предусматривается возобновление исключенных и увеличение количества субсидируемых авиамаршрутов, чтобы услуги авиатранспорта по социально значимым рейсам стали доступнее для среднестатистических потребителей, и с целью развития туристической деятельности регионов, таких как Щучинско-Боровская курортная зона, озера Алаколь и Балхаш. Вместе с тем для увеличения пассажиропотока рассматривается вопрос снижения стоимости авиабилетов на маршруты, загрузка которых составляет менее 30% (Астана – Балхаш, Астана – Петропавловск и Алматы – Балхаш).

По итогам открытого конкурса право выполнения воздушных перевозок по субсидируемым маршрутам получили авиакомпании SCAT, «Жетысу» и «Южное небо (Транспорт Казахстана, 2018)

Сейчас авиационная отрасль Казахстана стоит на пороге больших позитивных перемен. Крупнейшие отечественные авиакомпании – «Эйр Астана», SKAT – проводят работу по обновлению воздушного парка.

В конце прошлого года Комиссией ИКАО был проведен аудит авиационной безопасности, который представляет собой комплексную проверку системы безопасности аэропортов. По предварительным оценкам, экспертами ИКАО отмечается значительный прогресс Казахстана и ожидается, что мы серьезно улучшим показатели в международном рейтинге.

На сегодня с казахстанских авиакомпаний «Эйр Астана», SKAT, «Комлюкс», «КазЭйр-Джет» и «ПраймАвиэйшн» сняты все ограничения на полеты в страны Евросоюза.

Также министерство намерено интенсивно развивать региональное авиасообщение. Предусматриваются строительство и реконструкция 5

аэродромов с твердым покрытием и 11 – с грунтовым. Для восстановления полетов на местных воздушных линиях требуется большее количество самолетов регионального класса. По предварительному анализу, в ближайшие 3 года есть потребность в 20 таких воздушных судах.

В настоящее время определен оператор – авиакомпания «Жетысу», ведутся переговоры по приобретению новых судов, имеющих оптимальные характеристики, вместимостью до 20 кресел и возможностью быстрой реконфигурации в санитарно-пассажирскую и транспортную версии.

Заключение

Казахстан, имея внутриконтинентальное расположение, нуждается в активном развитии авиатранспорта. В республике ежегодно расширяется сеть маршрутов воздушного сообщения, в первую очередь уделяется внимание развитию аэропортов-хабов в направлении «Европа-Казахстан-Азия». Рынок авиаперевозок, являясь частью общего рынка транспортных услуг Казахстана, перенес сложную трансформацию в связи с освоением в Казахстане методов рыночной экономики и испытывает последствия финансового кризиса.

Основными принципами совершенствования рынка авиаперевозок при проведении исследования были избраны:

– удовлетворение потребностей населения и бизнес-сообществ Казахстана и других государств в авиаперевозках;

– развитие рынка грузовых и пассажирских перевозок внутри республики и за рубежом;

– повышение конкурентоспособности казахстанских авиаперевозчиков и аэропортов на региональных и мировом рынках.

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THE CURRENT STATE OF THE WORLD OIL MARKET

The main issue of the world economy today is the global rise in oil prices. Oil remains the most important primary energy source in the world for the next 30-40 years. According to experts, by 2030 this figure will reach 116 million barrels per day. However, the share of OPEC countries in the world's proven oil reserves is 83%. The world is facing the threat of a prolonged oil crisis and should be prepared for the fact that oil prices will be high for a long period.

OPEC expects an increase in demand for gasoline and distillates in 2018 by almost 1 million barrels per day. The optimism of the cartel is based on the growing demand for petroleum products in the US and the increase in global car sales. The healthy growth of the world economy, good sales figures for cars in recent months and increased consumption in the US will lead to an increase in demand for gasoline and distillates in the world by 0.993 million barrels per day. This will have a positive impact on oil and oil products stocks, which OPEC and non-OPEC countries seek to reduce by limiting production. The main driver of the reduction in petroleum products OPEC sees consumption in the US. For the first time in past 25 years, the demand for diesel fuel and gasoline in the US increased by 846 thousand barrels per day. The reserves of gasoline and distillates in the US declined over in 2017 and fell below the average for five years. Oil reserves also fell below this indicator.

Nowadays, OPEC continues to play a huge role in the functioning of the world economy, but it is clear that its role in the international arena is getting lower and lower every year. This is due to many indicators. Here are the main ones. First, due to the fact that already today OPEC is not able to cope with the fall in oil prices, it has to seek support from other oil-exporting countries, that is, its dependence on other countries increases. Secondly, the recent rationalization of the use of natural resources and the shift to the use of alternative energy sources, leads to a reduction in demand for oil. In these conditions, OPEC pursues a policy of reducing the production of oil. But, with the reduction in oil production in the OPEC countries, the states that are not included in it, on the contrary, are trying to increase production of «black gold», gradually reducing the role of OPEC in the functioning of the world economy.

The dynamics of energy demand is affected by many factors, including weather, the price of petroleum products, the growth rate of the economy, etc. The proposal is also difficult to calculate. Despite the very specific goals of the OPEC + countries and other exporters, there are periodic accidents, spills, man-made and natural disasters that can dramatically change the market situation. Many risks have to be neglected. IEA, OPEC and the US Ministry of Energy regularly publish their estimates of the future oil market and are the most authoritative organizations in this regard.

This article considers the dynamic of changes in the world market of «black gold», also many factors due to the influence of various geopolitical processes on extraction and export of oil.

Key words: oil, price, OPEC, petroleum, barrel.

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Әлемдік мұнай нарығының қазіргі жағдайы

Әлемдік экономиканың басты мәселесі мұнай бағасының әлемдік артуы. Мұнай алдағы 30-40 жылда әлемдегі ең маңызды энергия көзі болып қала береді. Сарапшылардың бағалауынша, 2025 жылға қарай бұл көрсеткіш тәулігіне 116 миллион баррельге жетеді. Дегенмен, әлемдегі мұнайдың дәлелденген қорларындағы ОПЕК елдерінің үлесі 83% құрайды. Әлем мұнай дағдарысының ұзаққа созылу қаупімен бетпе-бет келіп, мұнай бағасының ұзақ уақыт бойы жоғары болуына дайын болуы керек.

ОПЕК 2018 жылы бензин мен дистилляттарға деген сұраныстың күніне шамамен 1 миллион баррельге артуын күтеді. Картельдің оптимизмі АҚШ-тағы мұнай өнімдеріне сұраныстың артуына және әлемдік автомобиль сатылымының өсуіне негізделген. Әлемдік экономиканың өсуі, соңғы айларда автомобильдер үшін оң сату көрсеткіштері және АҚШ тұтынуының артуы әлемде бензин мен дистилляттарға тәулігіне 0,993 миллион баррельге сұраныстың артуына әкеледі. Бұл ОПЕК пен ОПЕК-ке кірмейтін елдердің өндірісті шектеу арқылы қысқартуға тырысатын мұнай мен мұнай өнімдеріне оң әсерін тигізеді. ОПЕК-тің мұнай өнімдерінің қысқаруының басты драйвері АҚШ-та тұтынуды қарастырады. Соңғы 25 жылда тұңғыш рет АҚШ-та дизель отыны мен бензинге сұраныс күніне 846 мың баррельге ұлғайды. АҚШ-та бензин мен дистилляттардың резервтері 2017 жылы төмендеп, орташа есеппен 5 жылға төмендеді. Мұнай қорлары да осы көрсеткіштен төмен болды.

Қазіргі таңда ОПЕК әлемдік экономиканың жұмысында үлкен рөл атқарады, бірақ оның халықаралық аренадағы рөлі жыл сайын төмендеп, төмендейтіні анық. Бұл көптеген факторларға байланысты. Міне, бастысы. Біріншіден, ОПЕК қазіргі уақытта мұнай бағасының төмендеуімен күресуге қабілетсіз болғандықтан, басқа елдерге мұнай экспорттаушы елдерден қолдау табу керек, яғни басқа елдерге тәуелділігі артады. Екіншіден, соңғы уақытта табиғи ресурстарды және альтернативті энергия көздерін ұтымды пайдаланудың ұлғаю салдарынан мұнайға деген сұраныстың төмендеуіне әкеледі. Мұндай жағдайда ОПЕК «қара алтынның» өндірісін қысқарту саясатын жүргізеді. Алайда, ОПЕК елдерінде мұнай өндіруді қысқарту арқылы, оған кірмейтін мемлекеттер, керісінше, ОПЕК-ті біртіндеп әлемдік мұнай нарығынан ауыстыруға бағытталған өндірісті ұлғайтуға тырысуда.

Энергия тасымалдаушыларына деген сұраныстың динамикасы көптеген факторларға әсер етеді, оның ішінде ауа райы, мұнай өнімдерінің бағасы, экономиканың өсу қарқыны және көптеген факторлары. Бұл ұсыныс деңгейін есептеу, сондай-ақ, қиын. ОПЕК+ және басқа да экспорттаушылардың ерекше мақсаттарына қарамастан, нарық конъюнктурасының күрт өзгеруіне алып келетін жазатайым оқиғалар, төгілулер, техногендік және табиғи апаттар орын алады. Көптеген тәуекелдер назардан тыс қалуға мәжбүр. ХЭА, ОПЕК және АҚШ Энергетика министрлігі тұрақты түрде мұнай нарығының болашақ бағалауын жариялайды және осы орайда ең беделді ұйымдар қатарына кіреді.

Бұл мақалада әлемдік мұнай нарығындағы «қара алтынның» бағасының өзгерістері және мұнай өндіруіне, экспортына түрлі геосаяси процестердің әсер етуі есебінен көптеген факторлар қарастырылады.

Түйін сөздер: мұнай, баға, ОПЕК, бензин, баррель.

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Современное состояние мирового рынка нефти

Повышение цен на нефть на сегодняшний день является самым основным вопросом в мировой экономике. В перспективе на ближайшие 30 – 40 лет нефть будет самым важным и основным энергоносителем в мировой экономике. Эксперты прогнозируют, что к 2030 году использование нефти будет составлять 116 млн баррелей в сутки. Тем не менее, доля стран, входящих в ОПЕК, по запасам доказанной нефти в мире составляет 83%. Ожидается возможность долгого нефтяного

кризиса в мировой экономике, вследствие чего страны должны быть готовы к продолжительной повышенной отметке цен на нефть.

Страны ОПЕК прогнозируют повышение спроса на дистилляты и бензин в текущем году около 1 млн баррелей в сутки. Их прогноз основывается на наблюдениях за ростом спроса на автомобили и повышением использования нефтепродуктов в США. Стабильный рост продаж автомобилей, продолжительное повышение основных показателей в мировой экономике, а также растущий спрос на нефтепродукты в США ведут к повышению спроса на дистилляты и бензин на 0,993 млн баррелей в сутки. Это положительно отразится на запасах нефти и нефтепродуктов в мировой экономике. Страны ОПЕК считают, что повышенное потребление нефтепродуктов в США является основным фактором снижения их запасов. В первый раз в США наблюдается спрос на дизельное топливо и бензин до 846 тыс. баррелей в сутки за последние 25 лет. Наблюдалось снижение запасов бензина и дизельного топлива среднего показателя за последние 5 лет в течение 2017 года в США. Также и запасы нефти опустились ниже этого показателя.

Уже несколько лет как ОПЕК лидирует по добыче и экспорту нефти в мировой экономике, но в последнее время ее роль в функционировании мирового хозяйства начала снижаться. Объяснением этому служат следующие индикаторы: 1) так как в настоящее время ОПЕК не может повлиять на падение цен на нефть, следствие чего, опираясь на поддержку других стран, она становится зависимой от этих стран; 2) снижение спроса на основной энергоноситель обуславливается также переходом к использованию альтернативных источников энергии и наиболее рациональным использованием природных ресурсов в мировой экономике. В следствие этих факторов ОПЕК стремится к сокращению добычи нефти. Но, несмотря на такую проводимую ОПЕК политику, страны, не входящие в ОПЕК, наоборот, увеличили добычу «черного золота», тем самым снижая роль ОПЕК в функционировании мирового хозяйства.

Спрос на нефть, бензин и дистилляторы меняется в зависимости от многих факторов, таких как погодные условия, цены на энергоносители, макроэкономические показатели экономики и другие. Динамику предложения также нелегко определить. Хотя страны ОПЕК+ и другие страны-экспортеры нефти преследуют вполне определенные цели, все же происходят техногенные и природные катаклизмы, аварии, разливы нефти при добыче и транспортировке, в следствие чего резко меняются цены на мировом рынке. Но рисковать все же приходится. В настоящее время самыми авторитетными организациями на мировом рынке нефти являются МЭА, ОПЕК и Минэнерго США, поэтому их регулярные публикации о состоянии мирового рынка нефти и прогнозы являются значимыми.

В данной статье рассматривается динамика изменения цен на «черное золото» на мировом рынке, а также многочисленные факторы, влияющие на добычу и экспорт нефти вследствие влияния различных геополитических процессов.

Ключевые слова: нефть, цена, ОПЕК, бензин, баррель.

Introduction

In 2017, the implementation of the OPEC agreement and a number of countries on reducing oil production led to a significant increase in world oil prices. In January-November 2017, the price of oil in the world market averaged $ 52 per barrel, or increased by $ 10 per barrel in comparison with the previous year. In late November, it was decided to extend the agreement until the end of 2018. This allows us to forecast a higher level of oil prices in 2018 compared with the average level of the current year. The steady rise in the world supply of oil over demand in recent years has led to a significant decline in oil prices. The main factor in the growth of supply was a rapid increase in the production of shale oil in the US, which occurred due to the use of new technologies. OPEC under these conditions did not go on reducing production and actually moved to a policy of preserving its share in the world oil market.

Literature review

The content analysis of oil production in the world showed that the main issue of the world economy today is the global rise in oil prices. Oil remains the most important primary energy source in the world for the next 20-30 years. According to experts, by 2025 this figure will reach 114-115 million barrels per day. Various aspects are considered in the studies of scholars and researchers of the CIS countries as an Anton Mesnyanko, (Mesnyanko: 2015, 638). Mesnyanko does an excellent job of focusing on how higher energy prices could impact the economy and on the investment implications. Igolkin analyzes the corruption among the elite and governments, mismanagement and the squandering

of the petroleum wealth are endemic (Igolkin: 2017, 236). Far abroad scientist Daniel Yergin, Daniel Yergin showed the history of the global petroleum industry from the 1850 s through 1990. Also, problems, ways to improve and prospects for oil production were considered by such Kazakh researcher as Shokan Medetov (Medetov: 2014, 379). In this popular text that has trained thousands in the petroleum industry for years, Dr. Medetov takes readers through upstream operations--from how oil and gas are formed; how to find commercial quantities; how to drill, evaluate, and complete a well-all the way through production and improved oil recovery. Although, studies of economists in the context of theoretical and methodological aspects of studying problems of improving the regulation of oil production is poorly explored and creates opportunities for further research. In this regard, the purpose of this study is to research the current state of the world oil market.

Materials and methods

In conditions of low prices in 2015-2016 the production was curtailed at high-cost deposits, primarily shale oil in the United States. But such a reduction in production was in fact neutralized by an increase in production in the OPEC countries, which sought at least partially to compensate for the reduction in revenues (Kiyotaki: 2016, 63-77).

However, a significant drop in oil prices in 2016 prompted the oil-producing countries to move to sufficiently decisive actions to limit the extraction volumes and. At the end of 2016, OPEC countries and a number of other oil-producing countries reached an agreement to cut production by six months, starting January 1, 2017. Under this agreement, OPEC countries pledged to cut their production by 1.2 million barrels per day, and participating in the agreement of 11 countries that are not part of OPEC – by 558 thousand barrels per day. (Table 1)

Table 1 – Oil production in the US and OPEC countries in 2015-2017, million barrels. per day

	2015	2016	2016 IV qu.	2017 I qu.	2017 II qu.	2017 III qu.	2017 IV qu.rating
USA	9,42	8,86	8,81	8,99	9,10	9,29	9,57
OPEC countries	31,75	32,68	33,25	32,08	32,32	32,89	32,53
Saudi Arabia	10,01	10,42	10,55	9,98	10,09	10,18	
Iraq	4,03	4,43	4,61	4,46	4,44	4,50	
Iran	2,80	3,57	3,73	3,80	3,81	3,83	
Source: Thompson Reuters Eikon, U.S. EIA							

In order to further reduce the excess supply, OPEC countries and other parties to the agreement at the end of May 2017 decided to extend the agreement for the next nine months, i.e. from July 2017 to March 2018.

The implementation of this agreement led to a reduction in the excess supply and a marked increase in world prices. So, the price of Brent oil rose from 44 dollars per barrel in 2016 to 53.5 dollars per barrel on average in January-November 2017.

Redundant commercial oil reserves (oil reserves in storage facilities) have significantly decreased, which indicates a gradual rebalancing of the market. According to the International Energy Agency (IEA), if in January 2017, commercial oil reserves in the OECD countries of the average five-year level exceeded 302 million barrels, in October 2017 – 111 million barrels. There was a decrease of more than 60%.

A positive impact on market balancing and oil prices has also had a noticeable increase in demand. According to the IEA, in 2017 global demand for oil increased by 1.5 million barrels per day (or 1.6% over the previous year) (Lotz: 2018, 563-588).

At the same time, the effect of the agreement under consideration was reduced by restoring the growth of shale oil production in the US, as well as an increase in production in some other countries that are not part of OPEC. Improving technology and lowering costs allowed the US oil industry to adapt to relatively low oil prices. As a result, in the current year in the United States there was an

increase in the number of operating drilling rigs and oil production (Figures 1, 2). According to the US Energy Information Administration, in 2017, US oil production amounted to 9.24 million barrels per day, which is 0.38 million barrels per day (4.3%) higher than the level of the previous year.

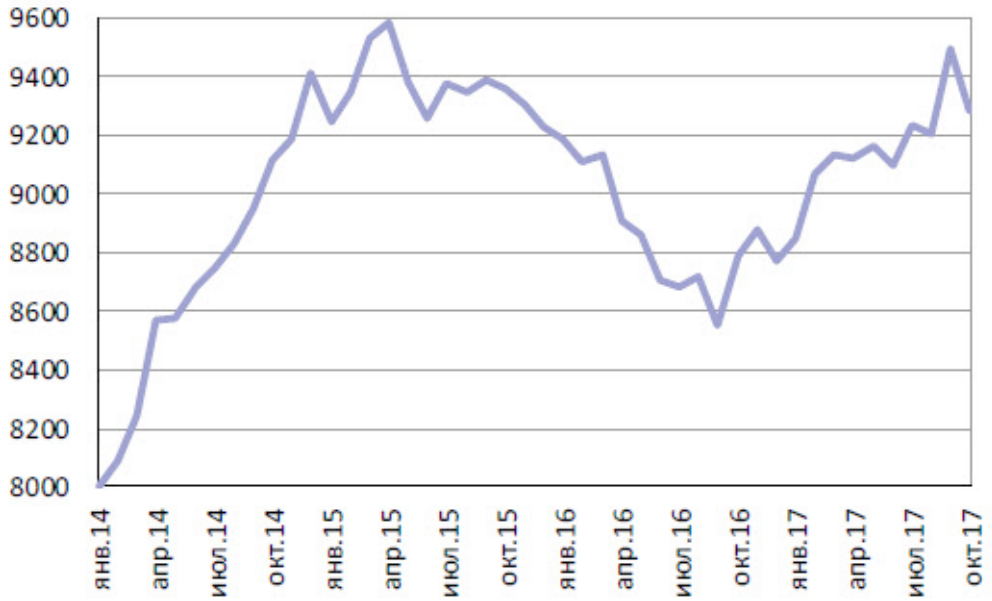

Figure 1 – Oil production in the USA in 2014-2017, thousand barrels. per day
Source: Thompson Reuters Eikon, U.S. EIA

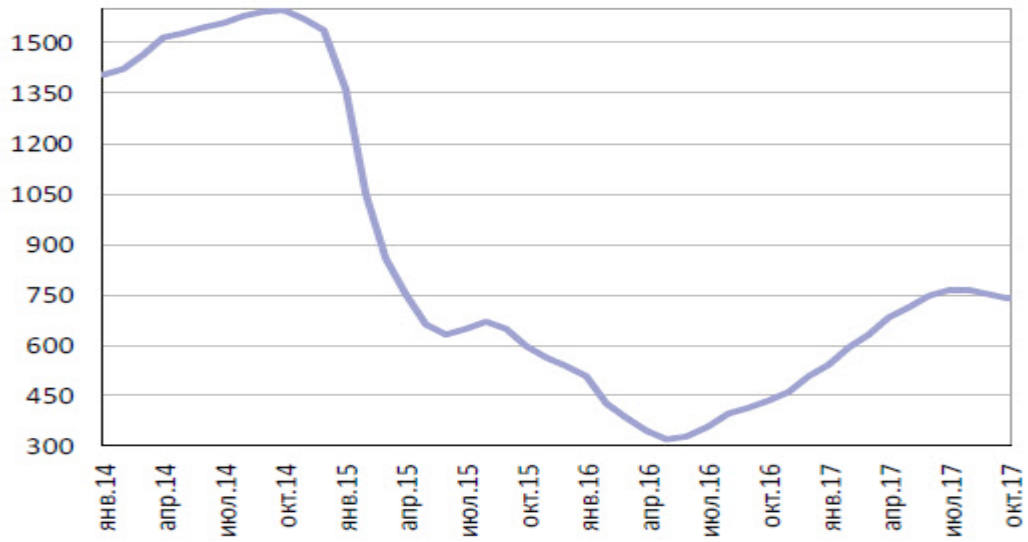

Figure 2 – The number of operating oil drilling rigs in the US in 2014-2017
Source: Thompson Reuters Eikon, U.S. EIA

According to the latest forecasts, in 2018, against the backdrop of further market balancing, a higher level of world oil prices is expected compared to the average level of the current year. According to the forecast of the US Energy Information Administration, the world price of Brent in 2018 will be 57.26 dollars per barrel, according to the forecast of the World Bank – 56.0 dollars per barrel (the average price of varieties Brent, Dubai and WTI). Forecasts of leading foreign banks (Goldman Sachs Group, UBS, Credit Suisse, JPMorgan, Citigroup, Barclays) at the Brent price in 2018 are in the range of 54-62 dollars per barrel (Koch: 2017, 6).

The most significant risks to positive price dynamics can be identified: first, the growth in oil production in the US, as well as in some other countries, which can largely neutralize the effect of the agreement on limiting production; secondly, the resumption of production growth in OPEC countries and other participating countries in 2018, i.e. before the expiration of the agreed term of the agreement.

The forecast for the oil market from the International Energy Agency for the most part relates to estimating the level of demand / consumption and supply / production, i.e. world balance. Recently, the problem of raw material stocks has become very important. The group of OPEC + countries, which have concluded a pact to limit production, sets the goal of its deal to reduce the level of oil reserves in the main countries of consumers to the level of an average five-year value (Kiyotaki: 2017, 927-954).

The forecasted demand dynamics according to the IEA version is presented in the figure below. It is expected that in 2018 it will grow by 1.3 million barrels per day (b / s) to 98.9 million b / s, or by 1.3%. (including condensate and biofuel) (Figure 3).

Global Oil Demand (2016-2018)

(million barrels per day)*

	2016	1Q17	2Q17	3Q17	4Q17	2017	1Q18	2Q18	3Q18	4Q18	2018
Africa	4.1	4.3	4.2	4.1	4.3	4.2	4.5	4.3	4.2	4.4	4.3
Americas	31.3	30.9	31.5	31.6	31.6	31.4	31.2	31.6	32.0	31.8	31.7
Asia/Pacific	32.9	34.2	33.9	33.2	34.2	33.9	35.0	34.4	33.8	35.1	34.6
Europe	14.8	14.6	15.0	15.4	14.9	15.0	14.5	15.0	15.4	15.0	15.0
FSU	4.8	4.6	4.7	5.0	4.9	4.8	4.7	4.8	5.1	5.0	4.9
Middle East	8.3	7.9	8.5	8.7	8.2	8.3	8.1	8.6	8.9	8.3	8.5
World	**96.1**	**96.6**	**97.8**	**98.0**	**98.2**	**97.7**	**97.9**	**98.7**	**99.4**	**99.7**	**98.9**
Annual Chg (%)	1.4	1.2	2.3	1.4	1.5	1.6	1.4	0.9	1.4	1.5	1.3
Annual Chg (mb/d)	1.3	1.2	2.2	1.3	1.4	1.5	1.3	0.9	1.4	1.5	1.3
Changes from last OMR (mb/d)	0.0	-0.1	0.0	0.2	-0.3	-0.1	0.0	-0.4	-0.1	-0.2	-0.2

* Including biofuels

Figure 3 – Global oil demand (2016-2018)
Source: Thompson Reuters Eikon, U.S. EIA

In November 2017, the OPEC + group decided to extend the production reduction agreement by 1.8 million b / s by the end of 2018. Thus, it can be assumed that the average output of the cartel will remain approximately at the level of October, or 32-32.5 million b / s. The plan to reduce production within the OPEC + deal is almost 100% complete.

In turn, the agency forecasts an increase in production in non-OPEC countries by about 1.6 million b / s following 2018. Approximately half of the growth in production, of course, will be in the United States. (Figure 4)

Thus, according to IEA estimates, the growth in oil production by countries outside the cartel and the OPEC + agreement will be offset by an increase in demand in 2018.

It should be noted that in November the estimate of growth in demand was reduced by 200 thousand b / s. Experts expect a warm winter and a slowdown in demand due to rising commodity prices. At the same time, the latest trend in the rate of production in the US shale deposits suggests that the overall growth in the supply may well be higher than the growth in oil demand by about 300 thousand b / s. (Wolswijk: 2018)

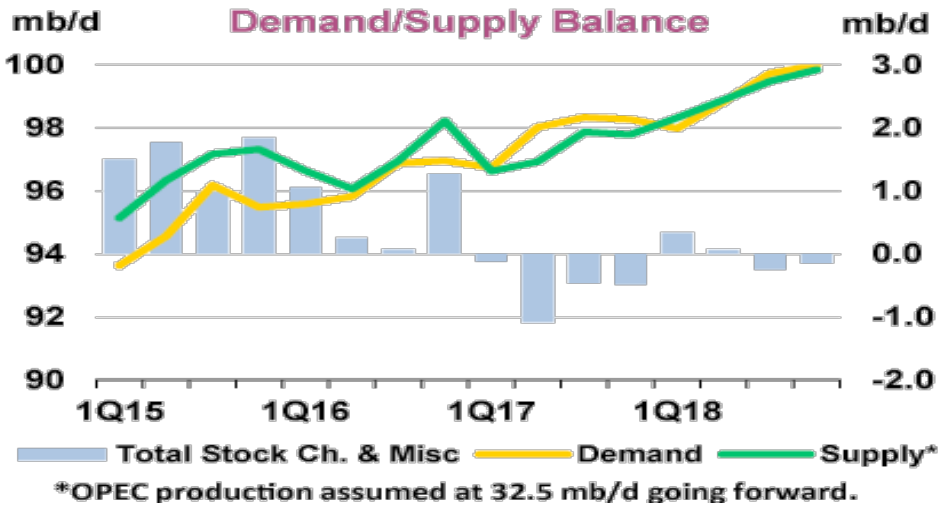

Figure 4 – Demand/Supply Balance
Source: Thompson Reuters Eikon, U.S. EIA

Добыча нефти вне ОПЕК 2018 **Oil production outside OPEC 2018**

	2017	1Q18	2Q18	3Q18	4Q18	2018	Change 2018/17 Growth	%
Americas	21.30	22.07	22.29	22.40	22.67	22.36	1.06	4.96
of which US	*14.24*	*15.00*	*15.24*	*15.37*	*15.54*	*15.29*	*1.05*	*7.37*
Europe	3.84	3.93	3.81	3.75	3.96	3.86	0.02	0.64
Asia Pacific	0.40	0.40	0.43	0.44	0.45	0.43	0.03	7.23
Total OECD	**25.54**	**26.40**	**26.54**	**26.59**	**27.08**	**26.65**	**1.11**	**4.35**
Other Asia	3.63	3.60	3.59	3.58	3.55	3.58	-0.04	-1.20
Latin America	5.23	5.31	5.29	5.43	5.34	5.34	0.11	2.17
Middle East	1.24	1.24	1.24	1.24	1.24	1.24	0.00	-0.03
Africa	1.85	1.90	1.90	1.91	1.91	1.91	0.06	3.04
Total DCs	**11.94**	**12.05**	**12.03**	**12.15**	**12.05**	**12.07**	**0.13**	**1.05**
FSU	14.03	13.97	13.94	13.81	13.94	13.91	-0.11	-0.81
of which Russia	*11.13*	*10.98*	*10.98*	*10.98*	*10.98*	*10.98*	*-0.15*	*-1.36*
Other Europe	0.13	0.13	0.13	0.13	0.12	0.13	0.00	-0.63
China	3.98	3.89	3.80	3.79	3.79	3.82	-0.16	-4.12
Total "Other regions"	**18.14**	**17.99**	**17.87**	**17.73**	**17.85**	**17.86**	**-0.28**	**-1.53**
Total non-OPEC production	**55.62**	**56.43**	**56.44**	**56.47**	**56.97**	**56.58**	**0.96**	**1.72**
Processing gains	2.21	2.23	2.23	2.23	2.23	2.23	0.03	1.32
Total non-OPEC supply	**57.82**	**58.67**	**58.67**	**58.70**	**59.21**	**58.81**	**0.99**	**1.71**
Previous estimate	57.67	58.42	58.38	58.37	59.00	58.54	0.87	1.51
Revision	0.15	0.25	0.29	0.34	0.20	0.27	0.12	0.20

Figure 5 – Oil production outside OPEC
Source: Thompson Reuters Eikon, U.S. EIA

OPEC in November raised the forecast of growth in oil demand in 2018 to 1.51 million b / s. On average, the demand in 2018 should reach 98.45 million b / s. Demand for oil cartel countries was reduced by 0.2 million b / s to 33.2 million. This is higher by 0.3 million b / s than in 2017. In the second half of the year, demand should reach 34 million b / d, which is 1.4 million b / d higher

than the level of production by the cartel in October 2017 (Rogoff : 2018).

Thus, when the production is frozen, the cartel clearly loses market share. The supply shortage should be compensated by the decrease in the volume of stocks. At the same time, the share of suppliers not included in the OPEC + group will grow. The recent increase in the forecast of global demand growth in OPEC is explained by the greater than expected demand for oil in China.

In December, OPEC raised production growth forecasts in countries outside the cartel by 0.12 million b / s in 2018, to nearly 1 million b / s. Moreover, in the US, production will grow by 1.05 million b / s. Of these, shale deposits, according to OPEC, production will be increased by 0.82 million b / s. (Figure 5)

World oil demand and supply balance, mb/d

	2016	1Q17	2Q17	3Q17	4Q17	2017	1Q18	2Q18	3Q18	4Q18	2018
World demand											
OECD	46.9	47.1	46.9	47.7	47.7	47.3	47.3	47.2	48.0	48.0	47.6
Americas	24.7	24.6	25.0	25.3	25.0	25.0	24.8	25.2	25.5	25.3	25.2
Europe	14.0	13.8	14.2	14.5	14.3	14.2	14.0	14.2	14.6	14.3	14.3
Asia Pacific	8.1	8.6	7.7	7.9	8.4	8.2	8.6	7.7	7.9	8.4	8.2
DCs	31.4	31.5	31.9	32.3	32.0	31.9	32.2	32.6	32.9	32.7	32.6
FSU	4.6	4.5	4.4	4.8	5.1	4.7	4.6	4.5	4.9	5.2	4.8
Other Europe	0.7	0.7	0.7	0.7	0.8	0.7	0.7	0.7	0.7	0.8	0.7
China	11.8	11.9	12.4	12.3	12.5	12.3	12.3	12.8	12.7	12.9	12.7
(a) Total world demand	95.4	95.7	96.3	97.7	98.1	96.9	97.2	97.8	99.2	99.6	98.5
Non-OPEC supply											
OECD	24.8	25.4	25.1	25.4	26.2	25.5	26.4	26.5	26.6	27.1	26.7
Americas	20.6	21.1	20.9	21.4	21.9	21.3	22.1	22.3	22.4	22.7	22.4
Europe	3.8	3.9	3.8	3.7	3.9	3.8	3.9	3.8	3.8	4.0	3.9
Asia Pacific	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.5	0.4
DCs	11.9	11.9	11.9	11.9	12.1	11.9	12.0	12.0	12.2	12.0	12.1
FSU	13.9	14.1	14.1	13.9	13.9	14.0	14.0	13.9	13.8	13.9	13.9
Other Europe	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
China	4.1	4.0	4.0	3.9	3.9	4.0	3.9	3.8	3.8	3.8	3.8
Processing gains	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
Total non-OPEC supply	57.0	57.8	57.5	57.5	58.5	57.8	58.7	58.7	58.7	59.2	58.8
OPEC NGLs + non-conventional oils	6.1	6.2	6.3	6.3	6.4	6.3	6.4	6.5	6.5	6.5	6.5
(b) Total non-OPEC supply and OPEC NGLs	63.2	64.0	63.7	63.9	64.9	64.1	65.1	65.1	65.2	65.7	65.3
OPEC crude oil production (secondary sources)	32.6	32.1	32.3	32.7							
Total supply	95.8	96.1	96.0	96.6							
Balance (stock change and miscellaneous)	0.4	0.4	-0.3	-1.1							

Figure 6 – World oil demand and supply balance
Source: Thompson Reuters Eikon, U.S. EIA

Based on the table below, the difference between the demand for OPEC oil and the frozen supply of 32.5 million b / s in 2018 will be an average of 0.7 million b / s. This means that hypothetically about 250 million barrels of reserves can leave the market in a year (Figure 6).

It also means that, other things being equal in the I quarter. In 2018 there will be overproduction. Already in the II quarter. the market will be balanced.

Below in the diagram of the balance of oil production and consumption, the redline indicates the expected level of freezing of oil production by the cartel (32.5 million b / s) (Figure 7).

In this case, oil and oil products in OECD countries in the III quarter. 2017 fell below 3 billion barrels (2.985 billion), which is still 154 million more than the average for the past five years. It is this volume that can be a guide for the appearance of talk about the exit from the deal on freezing production.

The Energy Information Agency of the US Energy Ministry (EIA) forecasts not only the levels of supply and demand for raw materials, but also the average price for the year. So in 2018 it is expected that the price of Brent will be about $ 57 per barrel. WTI will be cheaper by $ 4.

As for the level of consumption, according to the version of the Ministry of Energy, it will grow by 1.6%, to 99.96 million b / s. Consumption is projected to be above 100 million b / s starting from III quarter. Meanwhile, production will grow to 100 million b / s already in the II quarter (Les Echos: 2018).

Deficiency in the global oil market, according to analysts of the Ministry of Energy of the United States, will be observed only in the III quarter. due to a sharp increase in demand. At the same time, the agency predicts an increase in oil production in the US in 2018 to 10 million b / s, against an average of 9.2 million b / s in 2017. This is the same order of figures with the forecast value of the IEA. But in OPEC, such data is considered an obvious underestimation of American slates (Figure 8).

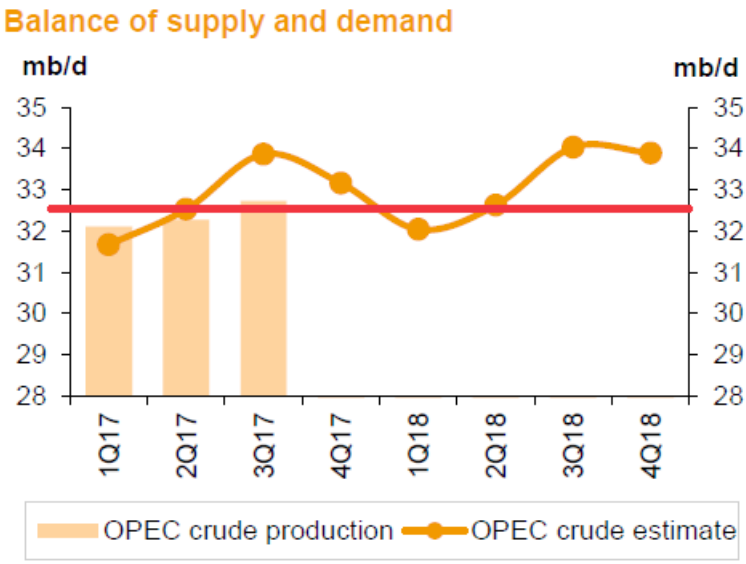

Figure 7 – Balance of supply and demand
Source: Thompson Reuters Eikon, U.S. EIA

OPEC and the countries entering into the agreement on freezing of extraction are guided by the reduction of world reserves to the average five-year values. It's about commercial reserves. In its analytical reviews, OPEC considers reserves in various countries, including stocks in tankers. But for simplicity, you can focus on their level in the OECD countries. (Baele: 2017, 270-276)

So, during this year commercial inventories in developed countries declined. In October 2017, their level was 107 million barrels lower than the corresponding month of 2016, but still 137 million barrels higher than the average for 2012-2016 (about 2,800 million barrels). (Figure 9)

In North America, reserves are shrinking more energetically than in Europe or Asia.

If to speak in terms of ensuring uninterrupted global demand, then in October stocks fell to 62.1 days. This is 2.2 days lower than in the same period in 2016, but 1.8 days higher than the average five-year period.

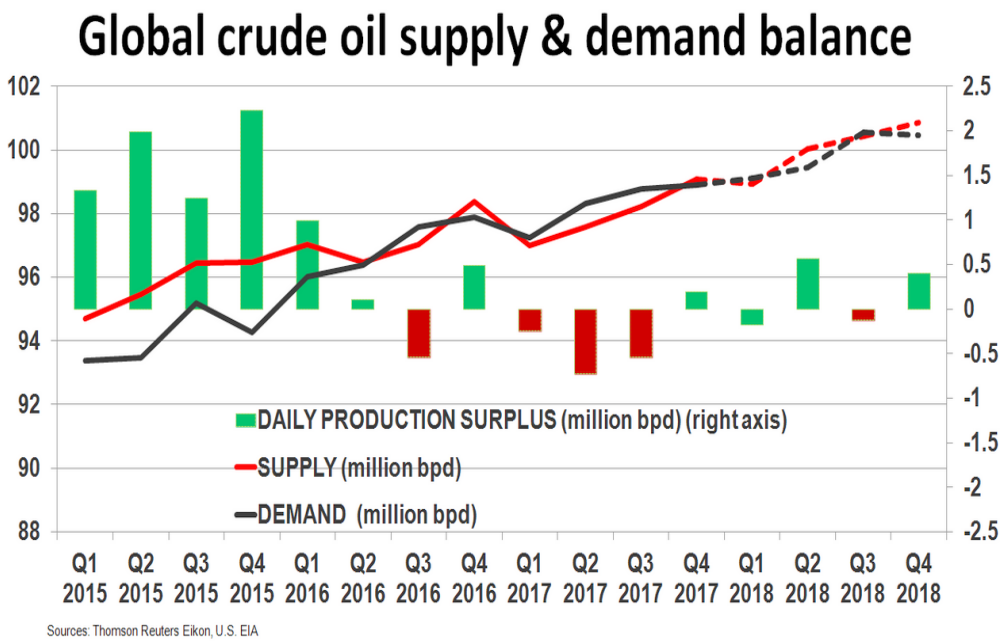

Figure 8 – Global crude oil supply and demand balance
Source: Thompson Reuters Eikon, U.S. EIA

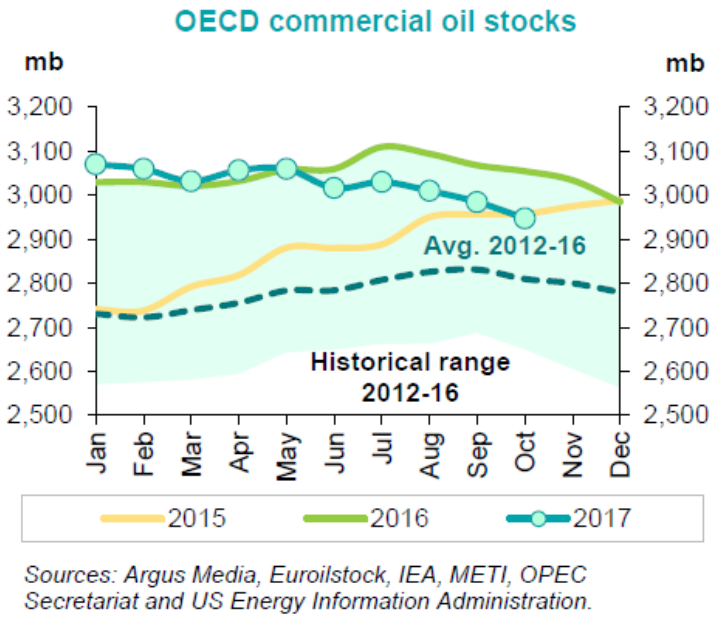

Figure 9 – OECD commercial oil stocks
Sources: Argus Media, Euroilstock, IEA, METI, OPEC Secretariat and US Energy Information Administration

Thus, we can clearly understand the intentions of the OPEC + group in terms of maintaining a deal to limit production as the data on reserves are received. For simplicity and efficiency, you can rely on statistics from the EIA. Decrease in inventories is an indicator of the approach of conversations about changing the terms of the OPEC + deal. (Genre: 2017, 232)

To estimate the approximate oil dynamics in the future, forecasts of oil consumption and production in different parts of the world are required. It so happened that after the notorious

slate revolution, despite the significant decline in commodity quotations, the main driver of production is the American slate producers. Looking ahead, it should be noted that one of the most important negative risks for oil dynamics in 2018 is the level of raw materials extraction in the United States.

The following chart shows a graph of Brent oil prices and production dynamics, expressed as a percentage of November 2014 (Figure 10).

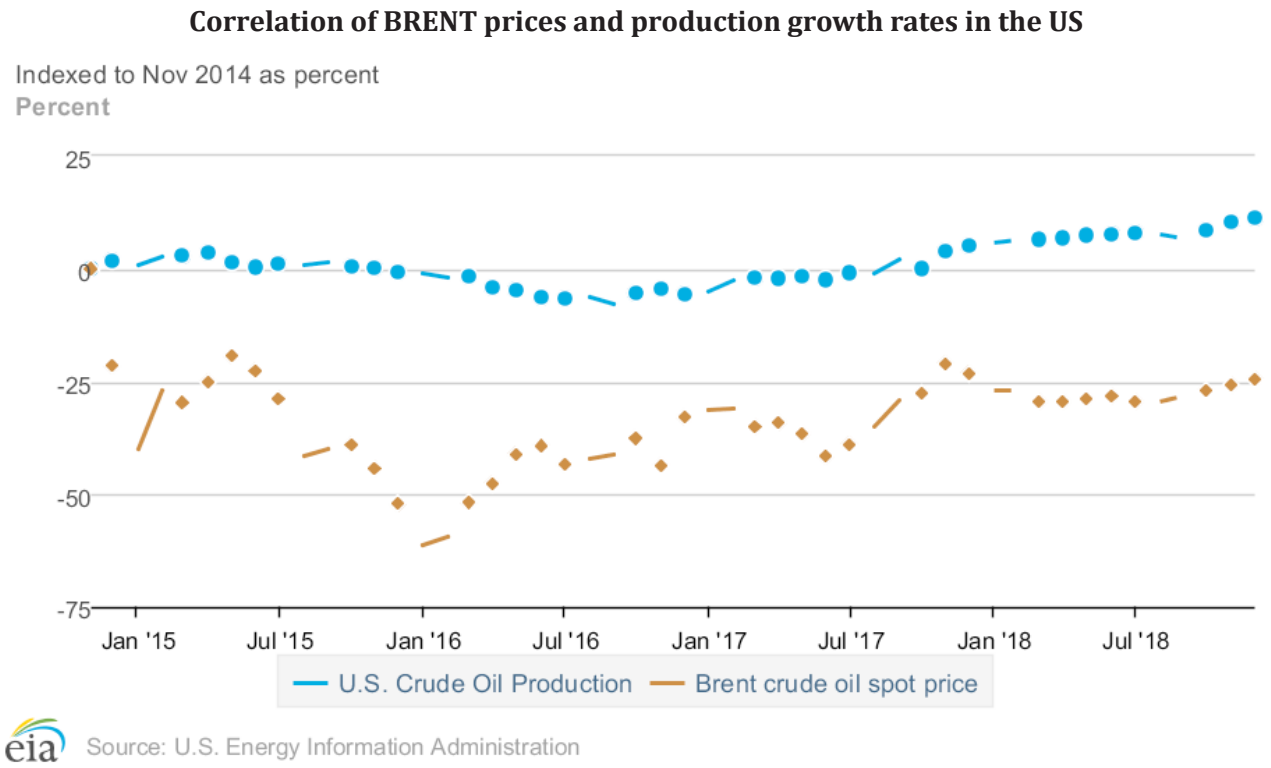

Figure 10 – Correlation of BRENT prices and production growth rates in USA
Sources: US Energy Information Administration

According to this illustration, it is obvious that production follows the price of oil. However, this happens with a certain lag and without sharp failures due to the peculiarities of production processes. After the fall of oil to $ 27 per barrel of Brent in early 2016, production in the US continued to decline for another 6 months. But at the moment, American manufacturers have completely restored the level of production (Winkler: 2018, 636-705).

According to the forecast of the Ministry of Energy of the United States, production in 2018 will exceed the level of 10 million b / s at a price of $ 58-60 per barrel.

The temporary delay between the dynamics of oil prices and production is due to technological moments and specific investment decisions. As you know, the start of production is preceded by service drilling operations. The correlation diagram for active drilling rigs in North America is shown below from mid-February 2015. The drilling volume depends on the price of oil, but it is not entirely possible to call this dependence strictly linear (Figure 11).

For the first half of 2017 was characterized by a continued increase in the number of active drilling in the US. However, in the second half of the year the situation simply stabilized. Despite the rise in oil quotations, the increase in drilling activity is no longer observed. And you can not write everything off on a time lag. A long period of time has already passed.

Results and discussion

Positive risks to the oil market in 2018

1. Fall of production in Venezuela. IEA predicts a decline in production in Venezuela due to political and other factors by 0.5-0.6 million b / s on average

through 2018. Undoubtedly, in the medium-term horizon OPEC partners will try to replace the loss of production, but it is likely that promptly this can not be done. The worse the situation in Venezuela is from the economic and political point of view, the more the positive risks for oil quotes.

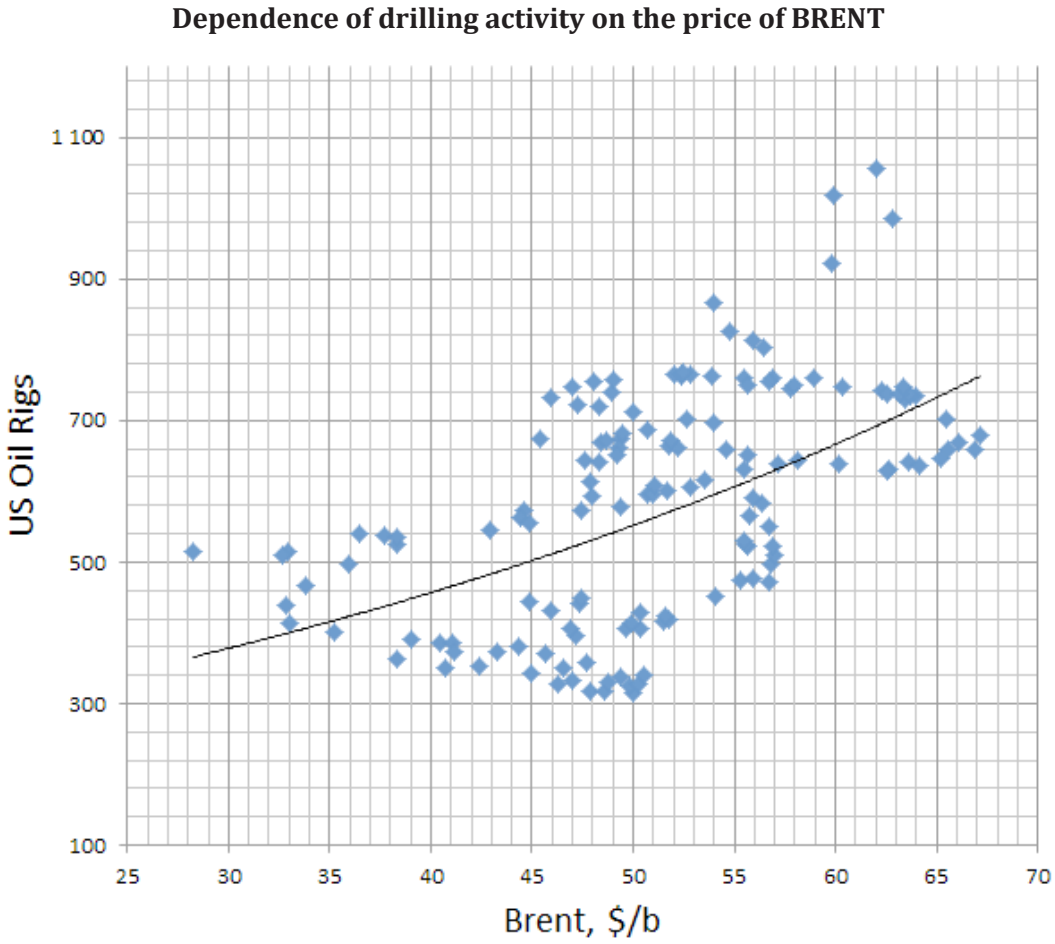

Figure 11 – Dependence of drilling activity on the price of BRENT
Sources: US Energy Information Administration

2. Weather phenomena. In the IEA forecasts in 2018, warmer winters and summers are expected in the northern hemisphere, as a result of which the number of heating days will decrease. Given the rather poor predictability of weather events, the opposite situation can be considered a positive risk, with lower average temperatures and more precipitation (Anderton: 2017, 400).

In addition to the risks of a cold winter, it is worth mentioning the hurricane season in the US in the second half of the year. Stopping some of the production capacity with a relatively small drop in demand could provide a significant support to oil quotes. The example of 2017 is indicative.

3. Libya and Nigeria are OPEC members, but until 2018 they did not participate in the OPEC + deal. But from next year, production quotas extend to them at the level of 1 and 1.8 million b / s, respectively. However, the political situation in these countries contributes to permanent disruptions in supply. In November 2017, Libya produced 0.97 million b / s, Nigeria – 1.79 million b / s. Despite the fact that from spring to October, these two oil producers increased production by 0.7 million b / s, the growth looks unstable. This factor is poorly projected.

4. Complicating the political situation in the Middle East, as a result of which the extraction or transportation of raw materials may be threatened. We are talking about a wide range of countries that are somehow involved in production and logistics chains. This is Saudi Arabia, Iran, Iraq,

Qatar, Yemen. The complication of the political conjuncture both within each individual country, and the deterioration of relations between them, can support raw material quotes.

5. Accelerate economic growth. There is no reason to expect a more rhythmic growth of the economy in Europe or Asia than what is already implied in the forecasts of energy agencies. Nevertheless, one can note the rapid advance of the tax reform in the United States. This may somewhat push the US economy's growth towards 3% y / y, which may indirectly affect the increase in demand. It is true to say that the effect of tax cuts will come about in 2018, too early.

Negative risks to the oil market in 2018

1. Acceleration of US oil production. The majority of analytical agencies are inclined to consider extraction as the most important negative risk for the price dynamics of oil in the USA. Private slate producers are persistently looking for ways to reduce the cost of production. There is a risk that drilling activity in the US may begin to grow again, even at current oil prices. Based on the correlation diagram and the increase in hedging operations (the sale of long-term futures contracts), such a scenario is quite realizable.

The American shale shadow threatens the negotiators from OPEC and Russia from the very beginning of the idea of a pact. Today, companies like Apache Corp, Pioneer Natural Resources or EOG Resources Inc plan to invest billions in production for decades at the largest American deposit, Permian.

December 22, 2017 Donald Trump finally signed the law on the new tax reform. In addition to possible economic growth and a potential increase in the demand for oil, this step will to some extent affect the cost reduction and cost reduction of US oil companies, further enhancing their competitiveness in the global market. Formally, this is a negative factor for oil prices, but its influence is stretched in time.

2. Acceleration of production in Canada. In this country there is an increased drilling activity, which in the end can lead to an increase in production volumes.

3. Exit from the OPEC + deal. It is necessary to distinguish between two scenarios. Unexpected and planned exit from the deal to limit production. We can not predict the first. But for the second you can follow. This may be preceded by the active rhetoric of politicians from the countries participating in OPEC +, the elaboration of an exit strategy, on which an adequate short-term reaction of oil quotations should be expected. The scenario of the planned completion of the collective pact can be realized if the level of stocks approaches the target values of the cartel.

4. The slowdown of the world economy. The risks of China's slowdown are discussed not for the first year. Globalization in this case can result in a slowdown in the entire Asian region. In addition, the Fed is actively pursuing an anti-cyclical policy, which can also contribute to cooling not only the American, but also the world economy.

5. Strong growth of the dollar against the background of the continuation of the rate increase cycle in the US. The tightening of monetary policy in the US will help increase demand for the dollar, which will have some restraining influence on all actively traded commodities.

6. Abnormally warm weather conditions. As indicated above, the natural factors are poorly predictable. In particular, the IEA is already being laid for the warmer winter and spring of 2018.

Baseline scenario

The basic scenario for the development of price dynamics of oil in 2018 assumes the absence of negative risks or their insignificant influence. Nevertheless, even in this case both OPEC and IEA forecast a significant surplus of production in the I quarter. 2018 This is due in large part to the seasonal decline in demand. Stocks of raw materials, most likely, will stop the decline. As a consequence, locally this may negatively affect oil quotations and general market sentiment. It is possible that Brent at the beginning of next year can reach the $ 56-60 mark.

In the II quarter. the growth in demand with a slight change in production will lead to a market balance. This is evidenced by the forecasts of the IEA and OPEC. In the Ministry of Energy, the US believes that production will exceed consumption by about 0.5 million b / s. Seasonal decline in inventories should resume and last up to the fourth quarter (Baryshnikov: 2018).

In the baseline scenario, given the projected growth in production in North America and the absence of negative risks, Brent prices may return to the area of $ 65 per barrel. At the same time, we note that in the first two quarters the deviation from the expected temperature conditions in the northern hemisphere will play an important role among the risks, in one direction or another.

In the III quarter. in the absence of negative risks, all analytical agencies predict a deficit in the

oil market, on average, at about 0.65 million b / s. Optimistic OPEC with a figure of 1.5 million b / s. A conservative forecast, which, in our opinion, most realistically reflects the situation on the market, is presented by the US Energy Ministry. According to him, in the III quarter. the deficit will be 0.25 million b / s.

This moment can become the apogee of the growth of oil quotations. Given the expected positive dynamics at the end of the II quarter. it is possible that the price will be about $ 70 per barrel or even higher, but only short-term.

During the deficit period (from the end of the second quarter to the end of the third quarter) and due to the freezing of the level of oil production within the OPEC + deal, stocks could fall by 60 million barrels based on the average deficit (according to the IEA, EIA, OPEC). This is not enough to reduce inventories in OECD countries to 5-year averages, but enough to be a reason for discussing the exit strategy from the OPEC + deal. Such a news background will put pressure on quotes, which could again return below $ 65-63 at the beginning of the IV quarter.

In the IV quarter. According to the IEA and OPEC, there will be a generally balanced situation on the market with a possible small deficit. Again, the forecast of the US Energy Ministry indicates a return to a small overproduction, according to the current estimate – 0.35 million b / s.

According to OPEC + plans, the deal on limiting production has been extended until the end of 2018. Therefore, only the cartel itself predicts a deficit of 0,7 million b / s for the whole of 2018. EIA and IEA do not believe that the market will be balanced, mainly due to the growth in production in the US.

Thus, throughout the year the market will be more sensitive to the data on drilling activity in North America and the growth of oil production in the US, rather than to the dynamics of reserves.

Negative scenario

The negative scenario is mainly based on the onset of a number of relevant risks. First of all, these are the risks of supply, namely the acceleration of production in North America as a whole. That is, the rate of increase in supply will be steadily outpacing the growth in demand. This will interfere with the balancing of the oil market. In this scenario, we can see a noticeable adjustment of oil prices relative to today's levels. As an option, it is possible to drop to $ 50-54 by Brent.

Any manifestations of disagreements in the OPEC + deal can also hit hard at prices, as soon as the grounds for a new price war begin to be laid along with a race to increase production. This is not the most likely scenario, but its implementation can lower the price confidently below $ 50.

Positive scenario

The implementation of any scenarios of oil shock with the take-off of quotations towards $ 75 and above looks difficult to predict. It is not necessary to expect a sharp acceleration of demand for oil above expectations. So as a positive driver there is only a scenario with any problems in the Middle East. We will not consider its probability. Let's just say that any significant increase in oil quotes will immediately activate production in the OPEC + regions of the world that are not involved in the deal, which in turn will subsequently act as a reduction factor.

Conclusion

The world oil market will reach a balance of supply and demand in the second half of next year, but if necessary there is an option to extend the deal to reduce global oil production after 2018.

We can only say that the overall mood is very good – the deal is 100% executed, which has never happened. Therefore, if some actions are necessary for further balancing, of course, such an option (extension) always exists, and no one will argue that the deal must in any case be terminated.

The parameters of the exit from the OPEC + deal will be discussed closer to the period when the market balancing is outlined. Therefore, even when we reach a balance of supply and demand, and there is a consensus among ministers (OPEC +), we must prevent the creation of an excess of raw materials on the market when we exit the transaction and, as a consequence, return the situation to the starting positions.

We all perfectly understand that in summer demand is growing, which speeds up the rebalancing, but at the same time we must predict what will happen in the fall and in December... We have a common understanding on this issue, but we would not like to discuss hypothetical scenarios – first it is necessary to achieve a balance in the market.

Meanwhile, we also consider premature any talks about making changes to the global OPEC pact, because the oil market is likely to come to balance no earlier than in the second half of next year. So far stocks have been falling in line with our expectations. But the surplus is still about 150 million barrels, which are unlikely to leave the

market before the second half of 2018. According to our calculations, oil reserves will either change little, or increase in the first few months of 2018, which is due to seasonal factors. In connection with this, we consider premature any talk about possible changes in the policy. The earliest, when it will be possible to assess the condition of the market, is June (next year).

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5-бөлім

ОҚЫТУ ӘДІСТЕМЕСІ

Раздел 5

МЕТОДИКА ПРЕПОДАВАНИЯ

Section 5

METHODS OF TEACHING

ҒТАМР 16.31.51

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ШЕТ ТІЛІН ОҚЫТУДА СТУДЕНТТЕРДІҢ ӘЛЕУМЕТТІК-МӘДЕНИ БІЛІКТІЛІГІН ҚАЛЫПТАСТЫРУ

Мақалада тілді меңгерту арқылы өзге елдің мәдениетімен, тұрмыс-тіршілігімен етене танысудың, сол елдің тұрақты азаматы сияқты әлеуметтік-мәдени құзіреттілігін қалыптастыру үшін жан-жақты (мәдени, әлеуметтік, экономикалық, саяси, ұлттық-этнографиялық, дәстүрлі) ақпаратты тіл арқылы меңгертудің тың әдістемелік технологиясы қажет болды. Авторлар осы технологияның маңыздылығын жұмысымызда айқындап көрсеттік. Әлеуметтік-мәдени құзіреттіліктің лингвомәдени, лингвокогнитивтік, дискурстық, мәдениаралық коммуникация аясында қалай қалыптасатыны жөніндегі ұсыныстарымыз болашақта қазақстандық дипломаттарды дайындауда, мемлекетті танытушы өкілдерді даярлауда, шетелдегі елші-корреспонденттердің тұлғасын қалыптастыруда кеңінен қолданыла алады. Сондай-ақ жалпы қазақстандық азаматтардың әлемдік элита ортасында еркін қарым-қатынасқа түсе алуына септігін тигізеді.

Қазіргі таңда Қазақстандағы шет тілін үйретудің ең негізгі міндеттерінің бірі – тілді шынайы және толыққанды қарым-қатынас құралы ретінде үйрету. Сондықтан да, отандық әдістемеде дұрыс мәдениетаралық қарым-қатынас және мәдениет диалогын жүргізуге қабілетті тілдік тұлға даярлау мәселесі алдыңғы орынға шықты.

Жаңа заман талаптары шет тілін оқытушы ұстаздардың алдына жаңа міндеттер қойып отыр, соған сай шет тілінде қарым-қатынасқа түсу бұрынғыдай белгілі бір пәннің, уақыттың аясында шектеліп қалмай, әртүрлі мәдениетаралық байланыстарға түсу, басқа елдердің рухани құндылықтарына құрметпен қарай отырып, елді әлемдік аренаға таныстыру мәселесіне бағытталып отыр.

Осы мәселені жүзеге асырудың ең басты жолы студенттердің бойында әлеуметтік-мәдени біліктілікті қалыптастыру.

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Formation of socio-cultural skills in teaching foreign languages to students

In this article there is considered the methodology for investigating another country's culture and its everyday life, as its citizen, in order to form the competence of socio-cultural (cultural, social, political, ethnographic, traditional) information. This is what the technology of exploring the country by means of learning the language was needed for. The creators of this technology showed the whole necessity of this technique. Our proposals on how social and cultural competence can be formed in linguistic, discursive, and in intercultural communicative spheres can be widely used in the process of preparation of future Kazakh diplomats, training of government representatives, and shaping the personalities of correspondents abroad. Also, this technique allows citizens of Kazakhstan to be involved into the society of the world elite. At present, the main requirement for the teaching of foreign languages in Kazakhstan is the use of a foreign language as a means of communication. Therefore, the folk methodology of intercultural

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relations and the introduction of cultural dialogue took the leading place in the formation of language identity.

Contemporary demands, set before foreign language teachers, form new goals. In this regard, the teaching of foreign languages is not circumscribed by time and by a specific subject. The task of promoting the country on the international arena through various intercultural ties, taking into account the spiritual values of other countries, is formulated. The main way to solve this problem is to improve the skills of students in the socio-cultural sphere.

Key words: intercultural communication, socio-cultural, competence, international correspondent, qualification.

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Формирование социально-культурной квалификации в преподавании иностранных языков студентам

В данной статье рассматривается методика изучения культуры другой страны, ее бытовой жизни для формирования компетентности социокультурной (культурной, социальной, политической, национально-этнографической традиционной) информации. И для этого была необходима технология изучения страны посредством изучения языка. Авторы данной технологии показали всю необходимость этой методики. Наши предложения касательно того, как социальная и культурная компетентность могут быть сформированы в линговокультурной, лингвопознавательной, дискурсивной, межкультурной коммуникации, могут широко использоваться при подготовке будущих казахстанских дипломатов, подготовке представителей правительств, и формировании личности корреспондентов за рубежом. Также, данная методика позволяет гражданам Казахстана внедряться в общество мировой элиты. В настоящее время основным требованием к преподаванию иностранных яыков в Казахстане является использование иностранного языка как средства коммуникации. Поэтому народная методика межкультурных отношений и введение культурного диалога заняли лидирующее место по формированию языковой идентичности.

Современные требования, поставленные перед преподавателями иностранных языков, формируют новые цели, в связи с этим преподавание иностранных языков не ограничивается временем и определенным предметом. Посредством разных межкультурных связей, принимая во внимание духовные ценности других стран, формулируется задача продвижения страны на международной арене. Основным способом решения этой проблемы является повышение квалификации студентов в социально-культурной сфере.

Ключевые слова: межкультурная коммуникация, социально-культурная, компетентность, международный корреспондент, квалификация.

Кіріспе

Бүгінгі таңда шет тілін оқытудың басты мақсаттарының бірі – мәдениетаралық қарым-қатынасқа қабілетті, шет тілін сол тілде сөйлеуші ұлттық тілдік және әлеуметтік-мәдени ерекшеліктеріне сай, дұрыс қолдана алатын, білімді де мәдениетті мамандар даярлау болып табылады. Бұл мақсатқа жетуде «тіл-ұлт-мәдениет» үштігін өзара тығыз байланыста қарастырудың, студенттің бойында әлеуметтік-мәдени біліктілікті қалыптастырудың маңызы зор. Өйткені Шет тілін оқытудың бұл аспектісі тілді этностың мәдениетімен тығыз байланысты қарастыруды, соның негізінде студенттердің бойында тілін үйреніп отырған халықтың салт-дәстүрі, наным сенімдері, тарихы т.б. жайындағы білімді қалыптастыруды талап етеді. Ал мұндай шынайы өмірге негізделген білім студентті көп мәдениетті орта жағдайында, әрекет ете алуға, жағдайға сай шешім қабылдауға, Шет тілін тек тілдік нормаларға ғана емес, сонымен қатар сол тілде сөйлеуші ұлт дәрежесінде қолдануға мүмкіндік беретіні сөзсіз (Романова:1998, 138).

Негізінен Шет тілінің әлеуметтік-мәдени біліктілігін оқыту мәселесі ғылымда орын алған жаңа бағыттың бірі екендігіне қарамастан әртүрлі отандық және әлем ғалымдарының зерттеу жұмыстарының нысанына айналған. С.Г. Тер-Минасева 3 тіл және мәдениетаралық коммуникация еңбегінде мәдениет аралық коммуникация теориясының тілмен байланысы жан жақты қарастырылған (Тер-Минасева, 2000:134). С.С. Құнанбаеваның Қазіргі шет-

тілдік білім берудің теориясы мен практикасы еңбегінде шеттілдік білім берудің жаңа жүйесін жасаудағы концептуалды негіз ретінде көрініс табатын когнетивтік лингвомәдени әдіснама туралы ғылыми негізделген түсініктің қалыптасуын қарастырады (Құнанбаева, 2010: 324).

Сонымен бірге мәдениеттану біліктілігі тілді нақты бір жағдайда қолдануды анықтайтын және міндеттейтін фактор ретінде оған көп көңіл бөлу керек деген С.В. Сенченконың пікірімен келісеміз. Әлеуметтік-мәдени біліктілік біздің түсінігіміз бойынша нақты бір әлеуметтік ортада тілді лингвистикалық, психологиялық, мәдени қабылданған әлеуметтік ережелерді білу. Бұл ережелерді оқушыға меңгерту табиғи жолмен әлеуметтік және қатысымдық арақатынасы кезінде сол қоғамның өміріне әлеуметтік мәдени құрамдас бөлігін енгізген білім берудің мазмұнын жаңарту керек. Шет тілін оқыту мазмұнының әлеуметтік-мәдени құрамдас бөлігі студенттің мәдениетаралық еркін қатынас алуға себеп болатынын таныстыруға, әртүрлі ұлттардың мәдениетін түсініп, құрметтей білуге үйретеді десек, оның мұндай маңыздылығы әлеуметтік-мәдени біліктілікті теориялық және практикалық тұрғыдан тереңірек зерттей түсуді қажет етеді. Қоғамдық сұраныспен ұштасып жатқан әлеуметтік мәдениет құрамдас бөлігін енгізген білім берудің мазмұнын жаңарту керек. Шет тілін оқыту мазмұнының әлеуметтік-мәдени құрамдас бөлігі студенттің мәдениетінің диалогқа еркін қатыса алуға себеп болатын тұлғалық қасиеттерін дамытуда маңызды рөл атқарады.

Өз кезегінде әлеуметтік-мәдени біліктілік қатысым құзіреттері: тілдік біліктілік, сөйлеу біліктілігі, оқу-танымдылық біліктілігімен қатар жүретін негізгі құрамы.

Сонымен, әлеуметтік-мәдени біліктілік дегеніміз не?

Әлеуметтік-мәдени біліктілік дегеніміз – оқып жатқан тіл елінің немесе елдерінің әлеуметтік-мәдени ерекшеліктері туралы білімін кеңейту, тілдік және тілдік емес іс-әрекетті сол ерекшеліктерге сай қолдана білуін дамыту, өз елі мен оқып жатқан тіл елінің жалпы және жеке мәдени ерекшеліктерін айыра білу.

Осы ережеге қарап, бұл іскерлік өзінің негізі бойынша өте күрделі және оны меңгеруге еңбек керек екенін көрсетеміз. Әлеуметтік-мәдени қатысымға түсу үшін жақсы дайындық қажет. Аудармалардың тұлғалық қасиеттерін дамытуда маңызды рөл атқарады.

Әлемдік тәжірибе бойынша XXI ғасыр жоғары оқу орындарының қызметін және ондағы білім беру мазмұнын анықтауда бірқатар жаңа тұжырымдық тәсілдердің негізгі бағыттары түзілгендігін көрсетеді. Осы тұрғыдан алып қарағанда тіл үйренушіге алған білімнің негізінде өмірдің өзгермелі жағдайларын еркін бағдарлауға, білімін толықтырып дамытуға, сол арқылы сөз мүмкіндіктерін іске асыруға және адамгершілік тұрғыда өз бетінше дұрыс әрі жауапкершілікпен шешім қабылдауға бағыт беретіндей болуы тиіс. Білім берудің бұл тұжырымдарыбүгінгітаңдажаңа«компетенттілік тәсіл» «компетенция» «компетенттілік», яғни соңғы уақыттары «біліктілік» ұғымдары арқылы беріліп келеді.

Екі елдің ойлау дәрежесіндегі бірізділікті тіл арқылы айқындап, жастардың әлеуметтік-мәдени құзіреттілігіне сіңірудің тәсілдері әлемдік қарым-қатынастың биік шыңына қол жеткізуге мүмкіндік береді.

Жаңалығы:

1. Әлеуметтік-мәдени біліктілікті қалыптастырудың лингвомәдени, лингвокогнитивтік, прагматикалық, коммуникативтік парадигмалары анықталды, олардың ұқсас және айырым белгілері көрсетілді;

2. Жалпы білім берудің ішінде тілдік білім берудің өзіндік әдіс-тәсілдері, қиындықтары мен психологиялық бейімділік пен қабілеттілік өлшемдері айқындалды.

3. Шет тілін оқыту арқылы әлеуметтік-мәдени біліктілікті қалыптастыруды зерттеген қазіргі ғалымдардың тұжырымдамалары салыстырылып, әдістеменің бағыттары анықталды. Соның ішінде «қазақ-ағылшын тілді тұлғаны» қалыптастыруда тиімді қолданылатын әдістерге талдау жүргізілді.

4. Әрбір ұлт тіліндегі реалияларды таныту арқылы сол ұлттық әлеуметтік-мәдени болмысын тіл үйренушіге терең сіңірудің түрлі жолдары көрсетілді.

Әдістері

1. Лингвомәдениеттанымдық әдіс. Әлеуметтік-мәдени құзіреттілікті қалыптастыру үшін ең тиімді әдіс. Себебі, бұл әдіс арқылы оқытылатын екінші тілдің ұлттық-мәдени болмысын терең тануға болады және аударуға келмейтін төл ұлттық тіл бірліктеріне ұқсас баламаны оңтайлы пайдалануға мүмкіндік береді. Мысалы, қазақ тіліндегі «Абылайдың асындай», «Асан қайғыға салыну» сияқты прецедентті тұрақты

тіркестерге балама табу үшін тура аударылмайды, мағынасына қарай, молшылық, қайғыға түсу, мұңдану ұғымдарының мәнін қолдануға тура келеді. Сондай-ақ ағылшын тілінде қыз бала мен бойжеткен сөздерін сипаттайтын, яғни жас ерекшелігіндегі өзгешелігіне қарай таңбаланған тіл бірліктері жоқ. Тек жалпы қыз ұғымын білдіретін *girl* сөзі ғана кездеседі. Ал орыс тілінде девочка және девушка сөздерінің қазақ тіліндегі (қыз бала – бойжеткен) балама аударма атаулары бар. Сондай-ақ ағылшын тіліндегі *bank*' – өзен жиегі мен *shore* – теңіз жағалауын білдіретін екі сөз орыс тілінде бір ғана «берег» сөзімен ғана таңбаланады. Ал қазақ тілінде өзен жиегі, теңіз жағалауы немесе өзен жағалауы, теңіз жиегі деген тіркестер жарыспалы қолданыла береді. Осындай ерекшеліктер лингвомәдениеттанымдық әдіс арқылы жүзеге асырылады.

2. Контент-талдау әдісі. Берілген мәтінді ойда тиянақтап, негізгі айтылмақ ойды, басты идеяны, ол мәтіннің нәтижесін тезистеу үшін, санада терең сақтап, тілдік қолданыста еркін пайдалану үшін, әрбір мәтін арқылы осылайша тілдік қолданыстың жүйесін игеру мақсатында контент-талдау әдісі қолданылады.

3. Салыстырмалы-сипаттамалы әдіс. Шет тілін оқыту барысында бұл әдіс өте жиі қолданылады. Әсіресе фразеологизмдерді, бейнелі сөздерді аудару кезінде оларға дәл келетін баламаны табу кезінде ағылшын тіліндегі тілдік бірлікті мәтін мазмұнындағы қолданысын нақты айқындау үшін қазақ немесе орыс тіліне аударып, салыстыру әдісін қолдану, Шет тіліндегі сөйленістің сауатты шығуына мүмкіндік береді.

4. ***Ассоциациялық эксперимент әдісі***. Ағылшын ұлтының өкілі мен қазақ ұлтының азаматына ассоциациялық эксперимент жүргізіп, нәтижелерін салыстыру арқылы, қарапайым ойлау деңгейіндегі ұқсастық пен айырмашылықты анықтау. Мәселен, қазақ баласы «***бақыт***» деген ұғымға *өмірге келу, жетістікке жету, балалы болу, ұрпақ өсіру, ата-ананың амандығы, баланың қызығын көру* деп ассоциация беруі мүмкін. Ал ағылшын ұлтының өкілі *бүкіләлемге саяхат жасау, ғарышқа ұшу, мақсатқа жету, сүйіктіммен мәңгі болу*, т.б. деп жауап беруі мүмкін. Олар үшін қазақ секілді балалы болу, ұрпақ жалғастыру аса маңызды бақыттың қатарына жатпайды. Ассоциациялық эксперимент арқылы әлеуметтік-мәдени құзіреттіліктің әр ұлт өкілі үшін тепе-тең емес екенін аңғаруға болады.

Болжамы

Тілді меңгерту арқылы өзге елдің мәдениетімен, тұрмыс-тіршілігімен етене танысудың, сол елдің тұрақты азаматы сияқты әлеуметтік-мәдени құзіреттілігін қалыптастыру үшін жанжақты (мәдени, әлеуметтік, экономикалық, саяси, ұлттық-этнографиялық, дәстүрлі) ақпаратты тіл арқылы меңгертудің тың әдістемелік технологиясы қажет болды. Осы технологияның маңыздылығын жұмысымызда айқындап көрсеттік. Әлеуметтік-мәдени құзіреттіліктің лингвомәдени, лингвокогнитивтік, дискурстық, мәдениаралық коммуникация аясында қалай қалыптасатыны жөніндегі ұсыныстарымыз болашақта қазақстандық дипломаттарды дайындауда, мемлекетті танытушы өкілдерді (представитель) даярлауда, шетелдегі елші-корреспонденттердің тұлғасын қалыптастыруда кеңінен қолданыла алады. Сондай-ақ жалпы қазақстандық азаматтардың әлемдік элита ортасында еркін қарым-қатынасқа түсе алуына септігін тигізеді. Жұмыста ұсынған ғылыми жаңалықтарымыз арқылы ағылшын-қазақ тіліндегі кейбір ұғымдарды танытудағы ұштастыққа көз жеткізуге болады. Мәселен, ағылшын және қазақ ақындарының абстрактілі ұғымдарды тану деңгейі, яғни лингвокогнитивтік өрісі ұқсас болып келеді. «Өмір» концептісі қазақ ақындарында тартыс, күрес, бірде буырқанатын, бірде толқынмен тербелетін теңізбен символданса, ағылшын ақындарында да өмірдің тыныш кезі мүлгіген мұхитқа, өмірдің қиын сәттері мұхиттың дауылына, штормға теңеледі.

Сондай-ақ ағылшын, қазақ поэзиясында символдау ерекшелігі жағынан ұқсастықтар кездеседі. Мысалы, емен – жалғыздық символы, тұманды түндер – қайғы, мұң символы, т.б. Осындай екі елдің ойлау дәрежесіндегі бірізділікті тіл арқылы айқындап, жастардың әлеуметтік-мәдени құзіреттілігіне сіңірудің тәсілдері әлемдік қарым-қатынастың биік шыңына қол жеткізуге мүмкіндік береді

Қазіргі таңда Қазақстандағы шет тілін үйретудің ең негізгі міндеттерінің бірі – тілді шынайы және толыққанды қарым-қатынас құралы ретінде үйрету. Сондықтан да, отандық әдістемеде дұрыс мәдениетаралық қарым-қатынас және мәдениет диалогын жүргізуге қабілетті тілдік тұлға даярлау мәселесі алдыңғы орынға шықты.

Жаңа заман талаптары шет тілін оқытушы ұстаздардың алдына жаңа міндеттер қойып отыр, соған сай шет тілінде қарым-қатынасқа түсу

бұрынғыдай белгілі бір пәннің, уақыттың аясында шектеліп қалмай, әртүрлі мәдениетаралық байланыстарға түсу, басқа елдердің рухани құндылықтарына құрметпен қарай отырып, елді әлемдік аренаға таныстыру мәселесіне бағытталып отыр.

Осы мәселені жүзеге асырудың ең басты жолы студенттердің бойында әлеуметтік-мәдени біліктілікті қалыптастыру. Өйткені тіл – ұлт – мәдениет үштігін өзара тығыз байланысты қарастыру. Қандай болмасын шет тілін оқыту процесінің жемісті болуына өз септігін тигізері анық.

Қазіргі кезде бұл ұғымдардың мән-мағынасын талдауға арналған ірі ғылыми-теориялық және ғылыми әдістемелік еңбектер жарық көре бастады.

Шет тілін оқытудың стандартына сай біліктілік адамның белгілі – бір ортада әрекет етуге дайындығы және қабілеттілігі «Біліктілікті игеру – мәдени» адамды академиялық білімнің өкілі ретінде «белсенді», «әлеуметтік бейімделген» тұлғаға айналдырады. Ол өз кезегінде тұлғаны ақпарат алмасу мақсатында қарым-қатынасқа түсіп қана қоймай, қоғамда әлеуметтенуге, сол қоғамды өзгерту мақсатында оған әсер ете алатын тұлғаға айналуына көмектеседі (Гез: 2003, 3).

Сондай-ақ қазақстандық ғалымдар да ұлттық білім беру жүйесін әлемдік білім кеңістігіне кіргізу және қоғамдық сұраныстарға жауап беру мақсатына сәйкес білім берудегі біліктілік моделіне зерттеулер жүргізіп, оны мектеп, жоғары оқу орны тәжірибесіне енгізу мүмкіндігін қарастыра бастағаны көңіл қуантарлық жай. Соның ішінде «біліктілік» ұғымына өз еңбегінде Д.Н. Кулибаева тереңірек тоқталады (Кулибаева: 2002, 216).

Сонымен қатар, А.К. Мыңбаева, З.М. Садвакасова бірлесіп қазіргі білім беруде компетенттілік тәсіл мәселесін зерделесе (Мынбаева: 2012, 355), Ш.Т. Таубаева (Таубаева: 2014,10), Н.Э. Пфейфер, Л.Ю. Гущина (Пфейфер: 2004, 115), болашақ оқытудың кәсіби біліктілігін қалыптастыру мәселесін қарастырады.

Қазақстандық білім беру жүйесінде жиі қалыптасып жүрген «біліктілік» ұғымы – «тұлғаның белгілі бір пәндер шеңберінде қатысты мәселелерді меңгеруі, білуі» немесе «тұлғаның белгілі бір мәселелер шеңберінде таным мен тәжірибеге ие болуы» деп талқыланып, Е.М. Верещагин, В.Г. Костомаров (Верещагин: 1976, 58), И.Л. Бим (Бим: 2001, 12), И.В. Елухина, Н.Д. Гальскова (Гальскова: 2000, 9) сияқты ресейлік және шетелдік авторлар мен зерттеушілердің лингводидактикасында кеңінен қолданылады

Шет тілінде сөйлей алудың ерекшеліктерін есепке ала отырып, аталмыш талдаушыға «хабардарлық», «бір нәрсемен таныс болу дәрежесі» деген анықтамалар қосылуы мүмкін (Шукин: 2010,165.).

«Біліктілік» Шет тіліндегі әдебиеттерде «тәжірибе», «іскерлік» «дағды» мағыналарында көбірек қолданса, отандық әдебиеттерде бұл «білім», «теория» ретінде түсіндіріледі.

Берілген анықтамаларға талдау жасай келе, компетенция деп бір-бірімен тығыз байланысқан білім, біліктілік, дағды және студенттердің шығармашылық іс-әрекеттерінің жиынтығын айтсақ, компетенттілік деп тіл үйренушінің білімі мен дағдыларын тәжірибеде күнделікті өмірде қандай да бір практикалық және теориялық проблемаларды шешу үшін қолдана алу қабілеттілігін айтуға болады. Компетенция мен компетенттілік ұғымы, яғни оған қоса біліктілік бірін-бірі толықтырады және өзара байланысты.

Студенттердің біліктілігі ең әуелі мектепте, сосын жоғары оқу орнында оқыту үрдісі кезінде қалыптасады. Ол оқу үрдісінің негізгі сапа көрсеткіші болып табылады және қойылған педагогикалық мақсатқа жетуді көздейді. Біліктілік оқу нәтижелерімен қатар студенттің шығармашылық іс-әрекеттері мен құндылық бағдарламаларының жүйесін көрсетеді.

Қорыта келгенде «біліктілік» – бір нәрседен хабардар болу, белгілі бір іс-әрекетте білімнің, тәжірибенің таныс болудың біршама дәрежесі, тұлғаның қасиеті.

Сонымен, бір нәрсені оқып үйрену, жетік білу барысында қалыптасқан білімнің, дағдының, іскерліктің жиынтығы деген мағынада қолданатын біліктілікті қалыптастыру ісінің маңызы уақыт өткен сайын арта түсуде.

Европалық кеңестің шет тіліне қатысты материалдарда біліктіліктің мынадай түрлері көрсетіледі.

Жалпы біліктіліктер және коммуникативтік тілдік біліктіліктер

Жалпы біліктіліктерге жататындар.

1) оқуға қабілеттілік (ability to learn);

2) экзистенциялды компетенция (existential competence);

3) декларативтік біліктілік (declarative competence);

4) іскерліктер мен дағдылар (skill and know – how).

Коммуникативтік тілдік біліктіліктерге жататындар:

1) лингвистикалық компоненттер (linguistic competence-lexical, phonological-syntactical knowledge and skill);

2) әлеуметтік лингвистикалық компоненттер (sociolinguistic component);

3) прагматикалық компоненттер (pragmatic component knowledge existential competence and skill and know how relating to the linguistic system and its sociolinguistic variation) жатады (Әкімішова, 2002: 27).

Біліктілік мәселесі Д. Хаймс, Р. Уайт, Д.Ж. Равен, И.В. Кузьмина, А.К. Маркова, Г.Э. Белицкий, А.В. Хуторский сияқты басқа да ғалымдардың еңбектерінде жан-жақты зерттелді. Осындай зерттеулерге сай ғылымда біліктілікке негізделген білім беру мәселесі (competence based education) Америкада тіл теориясына қатысты Н. Хомский «біліктілікті» тілді шынайы жағдайларда (perfomance) игеруден гөрі тек оның жүйесін білумен байланысты лингвистикаға тән термин ретінде қолданса, Д. Хаймс кез келген тілді жетік үйрену грамматикалық және лексикалық іскерліктерді қалыптастырумен ғана емес, сонымен бірге оны әртүрлі жағдайларда қолдануға қажетті біліктілікті қалыптастырумен тығыз байланысты екенін дәлелдеді, сонымен қатар ғылымға «коммуникативтік біліктілік» терминін енгізеді. Ал коммуникативтік біліктілік өз кезегінде шынайы қарым-қатынас жағдайында аса қажет болатын бірнеше құрамдас бөліктерге бөлінеді.

Әлеуметтік-мәдени біліктілікті қалыптастыру қажеттілігі мәдениет пен тілдің өзара тәуелділігіне байланысты. Адам өміріндегі материалдық және рухани құндылықтар олардың өмір сүру жағдайларына байланысты тілді толық меңгеру үшін тұлға әлеуметтенуі керек, яғни жаңа құндылықтарды, қарым-қатынастық жаңа нормаларымен танысуы керек (Борисов, 2003: 127).

Енді әлеуметтік-мәдени біліктілік ұғымына берілген анықтамаларға тоқталып өтер болсақ, олардың бұл терминнің мағынасын әртүрлі қырынан жан-жақты ашуға көмектесетінін көруге болады.

Білім беру стандартынан бұл ұғымның бұдан да толығырақ мағынасын табуға болады: «әлеуметтік-мәдени біліктілік (Sociocultural competence) – басқа мәдениет өкілі бола отырып, тілін үйреніп отырған халықтың мәдениет ерекшеліктерін білу, олардың салт-дәстүрлерін, мінез-құлық нормаларын, этикетін білу және олардың қарым-қатынас жағдайында дұрыс түсінік, адекватты түрде қолдана алу іскерлігі.

Жоғары оқу орындарында әлеуметтік-мәдени құзыреттілікті қалыптастыру және дамыту шеңберінде өткізіліп жатқан зерттеулер болашақ мамандарды шет тілін кәсіби бағытталған оқытуда әлеуметтік-мәдени аспектінің рөлін анықтау әрекеті болып табылады. Ұсынылып отырылған өзге тілді әлеуметтік-мәдени құзырлықты қалыптастыру үлгісінің негізіне келесі ұстанымдар енгізілген:

– оқыту контексінің аутенттік;

– шет тілін оқытудың кәсіби дайындық мазмұнымен өзара байланысы;

– шет тілі мен ана тілін мәдени байланыста зерттеу;

– жаңа тілдік жағдайларына бейімделу қабілеттілігін ынталандыру;

– оқытудың аутентті материалдар мен тәсілдердің алуан түрлігі мен жеткіліктілігі;

– пайдаланылатын материалдардың прагматикалық релеванттығы.

Студенттерге шет тілін үйретуде негіз болатын оқу әдебиеті қосымша аутентті әлеуметтік-мәдени материалды іріктеуді және кәсіби бағытталған мәдени танымдық тапсырмалар кешенін жасақтауды талап етеді.

Шет тілін үйретудің әлеуметтік-мәдени мазмұнын келесі бөлшектер құрайды: өзге тілді әлеуметтік-мәдени білімдер, дағдылар мен әдеттер; ұлттық мәдениеттің жұмыс істеу өрісі мен шағы өрісі; өзге мәдениет болмысының аспектін көрсететін жағдайлар; аутентті мәтіндер мен мәдениет танымдық сипаттағы өзге тілді тапсырмалар жүйесі.

Ұлттық мәдениет басқа ұлттық мәдениетте болатын қатынастардан өзге алуан түрлі құбылыстар, факторлар мен олардың өзара әрекетінің бірлігін көрсетеді; қайта құрушы болмыстың үрдісі мен нәтижесі, материалды және рухани құндылықтар жиынтығы; жас ұрпақты оқыту мен тәрбиелеу мазмұны мен мақсаты.

Мәдениет адам қызметінің барлық жағын қамтиды, болашақ мамандардың шетелдік әріптестері мен тұтынушылармен кәсіби бағытталған мәдени аралық әрекеттестікке қажетті өзге тілді әлеуметтік-мәдени құзырлықты қалыптастыру мәселесін шешу тұрғысында оқыту мазмұны болашақ мамандар тікелей кездесетін және әлеумет пен оның өкілінің ұлттық мәдени өзгешелігі көрінетін тіршілік әрекеті өрістерімен негізделеді: қоршаған ортамен қарым-қатынасы; физикалық тіршілік етуді қамтамасыз ету; кеңестікке, уақытқа қатысы; оқу-кәсіби қызметі.

Өзге тілді коммуникативті және әлеуметтік-мәдени шеберлікті интегративті дамыту қажеттілігі оқып жатқан тіл елінің мәдениетін үйретудің мәселелі сипатын айқындады. Оның өзі әлеуметтік-мәдени білім мен коммуникативті шеберлікті игеруде студенттердің ойлағыштық және ой-тілдік қызметін белсендіруге бағытталған өзге тілдік тапсырмалар пайдалануды болжайды (Барышников: 2003, 15).

Студенттердің өзге тілді әлеуметтік-мәдени құзырлығын қалыптастыруға қажетті барлық мәдени танымдық мәселелі тапсырмалар кәсібі бағытталған сипатта болады және танымдық, ізденімпаздық, зерттеушілік түрде болады: Тұлғаның туған және зерттеп жатқан мәдениеттегі мұқтаждық-мотивациялық және құндылық-мағыналық приоритеттерін анықтау.

Өзге тілді әлеуметтік-мәдени құзырлықты қалыптастырудың жасақталған үлгісі екі кезеңде іске асырылады. Бірінші кезеңде оқытудың мақсаты студеттерде мәдени аралық өзгешеліктерге психологиялық зеректікті қалыптастыру болып келеді (құндылық нысаналар, менталитет, әртүрлі мәдениеттердегі таным тәсілдері, адамгершілік дамуы, эмоцияны ажырату және бағалау, психикалық бұзылудың ерекшеліктері, даулы жағдайлардағы жүріс-тұрыс стратегиясы, психологиялық бейімделу мен реакциясы, уақытқа, материалдық құндылықтарға, еңбекке, дінге, отбасына қатынасы).

Үлгіні іске асырудың осы кезеңінде әлеуметтік-мәдени компонент ағылшын тілін оқытудың мазмұнына танымдақ ізденушілік тапсырмалар түрінде кірістіріледі:

Кәсіптік маңызды мәдениетаралық коммуникацияға өзге тілде дайындаудың екінші кезеңінде болашақ мамандар әр қилы тәжірибелік жағдайларда әлеуметтік-мәдени білім, дағды, әдеттерін қолдануды үйренеді.

Өзге тілді әлеуметтік-мәдени құзырлықты қалыптастырудың екінші кезеңінің айрықша белгісі студенттердің қабылдау, ұғу мен түсінуден мәдениаралық байланыс орнату кезінде ынта көрсету шеберлігін ұйғаратын.

Қорытынды

Ғылым қол жеткізілген жерден тоқтап қалмады. Қазір басқа да қызықты әдіс-тәсілдер жасалуда, олардың көмегімен студеттерді оқытудың алға қойылған мақсаттарына қалай да жету үшін оқытудың жағымсыз жағдайларына қарсы тұруға, оқулықтар мен бағдарламалардың қатал шеңберінен шығуға тырысады. Қазір оқытудың күрделі кешені ескерілу қажеттілігі түсініледі – тілдік ортаның және шет тілді тәжірибелік қолдануда студеттерде табиғи қажеттіліктің болмауы, оқушыларда тіпті бір жас ерекшілікті топтың, шет тілдік сөйлеуді табысты игерудің әртүрлі психолого-педагогикалық алғышарттардың болуы.

Сонымен, біздің ойымызша, Шет тілін оқытуда студенттердің әлеуметтік-мәдени біліктілігін қалыптастыру болып табылатын зерттеуімізде біз нақты нәтижелерге қол жеткіздік.

Шет тілін оқытудағы өзекті мәселелердің бірі лингвоелтанушылық аспектіні және мәдениетті дайындау болса, әртүрлі әдістемелік арсенал түрінде: көшірме, үлестіру материалдары, кесте, сызба, әсіресе слайдтар және кинофильмдер, елтану мазмұнындағы мәтіндер жазбаларының кассеталарын пайдалану өте тиімді болады. Сонымен қатар, өзекті қажеттіліктерді, қызығушылықтарды, оқушыға маңызды мақсат, ниеттерді ескеру маңызды. Осылайша, шет тілін осы тілде сөйлейтін халықтың ұлттық мәдениетімен тығыз байланыста оқытуды ұйымдастыру, оқытудың, соның ішінде оқу материалдарының лингвоелтанушылық реңкі оқушылардың коммуникативтік танымдық ниетін күшейтуге, жалпы әлеуметтік-мәдени ой-өрісін кеңейтуге мүмкіндік береді, жұмыстың әдістері мен нысандарын түрлендіруге жағдай жасайды, оқытуды тәрбиелеумен үйлестірудің жалпы дидактикалық талабын тиімді жүзеге асырады.

Біздің пікірімізше, оқытудағы осындай тәсілдерді жүзеге асыру ниетті, белсенділікті, студенттің сабақтағы бастамасын көтеруге мүмкіндік береді, яғни білім алуға және шет тілі бойынша шеберлік пен дағдыға тілек, қажеттілік туындайды.

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ОПЫТ ПОДГОТОВКИ БУДУЩИХ КВАЛИФИЦИРОВАННЫХ ПЕДАГОГОВ К ДЕЯТЕЛЬНОСТИ В СОВРЕМЕННОЙ ШКОЛЕ С ОБНОВЛЕННЫМ СОДЕРЖАНИЕМ

Программа развития образования в Республике Казахстан нацелена на подготовку компетентных специалистов, которые будут активно внедрять современные подходы в образовании, умело орудовать навыками и умениями, которые они должны приобрести в процессе обучения.

Цель исследования: путем внедрения ключевых идей семи модулей программы развития образования, эффективной организации групповой и индивидуальной работы обучить студентов применять идеи семи модулей программы на практике. Сформировать у студентов профессиональные навыки и компетенции, такие как познавательная активность и творческая самостоятельность. Совершенствование сферы образования начинается с постановки целей, определения направления и нахождения принципов, на которые данная программа будет опираться. Программа модернизации образовании опирается на конструктивистские и соцконструктивистские идеи.

Результаты исследования: повысился уровень усвоения учебного материала студентами и развилась познавательная активности и творческая самостоятельность. Наблюдается повышение мотивации студентов к профессиональной деятельности и развитие профессиональной компетенции.

Ключевые слова: развитие образования, семь модулей, конструктивистские идеи, профессианальные компетенции, мотивация; SWOT-анализ.

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The Experience of Training Future Qualified Pedagogues to the Activity in Modern School with Updated Content

The program to develop educational system in Kazakhstan is aimed to prepare competent specialists who will actively implement contemporary approaches in education, who will know how to use their skills and habits having been acquired at university.

The aim of researches is to teach students to use ideas of 7 models of the program by implementing the main ideas of the seven models of the program to develop education, effective management of group and individual work. The improvement of the sphere of education begins with setting goals, determining the direction and finding the principles upon which this program will draw. The program of modernization of education is based on constructivist and social constructive ideas.

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Results of researches are the following: the level of assimilation of educational material has been raised, cognitive activity and creative independence have been developed as well.

Key words: development of education, seven models, constructivist ideas, professional competences, motivation, SWOT-analysis.

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Болашақ білікті мұғалімдерді заманауи мектепте жаңартылған мазмұнмен жұмыс істеуге дайындау

Қазақстан Республикасында білім беруді дамыту бағдарламасы білім беруде заманауи тәсілдерді белсенді енгізетін, оқу процесі кезінде игеруі тиіс іскерлік дағдылармен қаруланған құзіретті мамандарды даярлауға бағытталған.

Зерттеудің мақсаты: білім беру бағдарламасының жеті модулінің негізгі идеяларын енгізу арқылы, студенттердің топтық және жеке жұмысын тиімді ұйымдастыру, жеті модульдің идеяларын практикада қолдануға үйрету. Сондай-ақ студенттердің бойында танымдық белсенділік және шығармашылық тәуелсіздік сияқты құзіреттіліктерді қалыптастыру.

Білім беру саласын жетілдіру мақсаттарды қойып, бағытты айқындайды және осы бағдарлама негізделетін принциптерді табудан басталады. Білім беруді модернизациялау бағдарламасы конструктивистік және әлеуметтік конструктивті идеяларға негізделген.

Зерттеу нәтижелері: студенттердің оқу материалын түсіну деңгейі тереңдей түсті және таным белсенділігі мен шығармашылық дербестігі дамыды. Студенттердің кәсіптік қызметке ынтасы артып, қәсіби құзреттіліктері дамыды.

Түйін сөздер: білім беруді дамыту, жеті модуль, конструктивтік идеялар, кәсіби құзіреттіліктер, мотивация, SWOT-талдау.

Введение

Программа развития образования в Республике Казахстан нацелена на подготовку компетентных специалистов, которые будут активно внедрять современные подходы в образовании, умело орудовать навыками и умениями, которые они должны приобрести в процессе обучения.

Внедрение идей модернизации образования в практику – требование современности. Рынок труда требует хорошо подготовленных и профессиональных кадров со стороны высших учебных заведений. Следовательно, целью высших учебных заведений является внедрение новых практик обучения будущих специалистов согласно Государственной программе развития образования и науки Республики Казахстан на 2016-2019 годы (Шурупов: 2016, 40-43.).

Методология

К данным практикам относятся 7 модулей Программы по обновлению образования Республике Казахстан.:

– Новые подходы в преподавании и учении.
– Обучение критическому мышлению.
– Оценивание для обучения и оценивание обучения.
– Новые подходы в преподавании и обучении.
– Обучение талантливых и одаренных детей.
– Преподавание и обучение в соответствии с возрастными особенностями учеников.
– Управление и лидерство в обучении (Программа курсов дополнительного профессионального образования: 2015, 43).

Данная программа опирается на опыт и научные труды таких ученых, как Л.С. Выготский, Н. Мерсер, Д. Флавелл, Д. Дьюи, а так же на компетентностный подход в образовании.

Совершенствование сферы образования начинается с постановки целей, определения направления и нахождения принципов, на которые данная программа будет опираться. Программа модернизации образовании опирается на конструктивистские и соцконструктивистские идеи.

Дискуссия

Конструктивизм берет свое начало в трудах Ж. Пиаже, так же встречается в работах К. Брунера, Л. Выготского, Дж. Дьюи. Конструктивизм как одно из направлений науки философии, поя-

вившееся в конце 70-х – начале 80-х годов XX в., определялся как один из эпистемологических подходов, в котором познание формируется путем активного построения объектом собственной интерпретации окружающего мира, а не путем простого отражения модели мира (Жадрина: 2002, 28).

Конструктивизм по своей идеологии стоит рядом с личностно-ориентированным подходом. Основная идея конструктивизма – конструирование собственного знания на основе ранее приобретенного опыта, ранее усвоенных знаний. Эта концепция берет начало в социологии, философии и когнитивной психологии. Конструктивизм рассматривает процесс обучения как активный, познавательный процесс, в котором ученики не являются пассивными реципиентами информации от учителя, а активно принимают участие в учебном процессе, в котором знания не передаются, а создаются, на основе ранее полученных знаний и опыта (Касавин: 2009, 124). Конструктивизм, подразумевающий подходы, центрированные на ученике, а так же с учетом активного участия учеников в процессе обучения, противопоставляется директивному обучению, при котором учитель передает информацию в готовом виде ученику, а ученик поглощает.

Создатель конструктивизма Ж. Пиаже, так же разработал теорию когнитивного развития, делал акцент на логических структурах мышления, названными операциями (Полат: 2006, 400). В свою очередь, один из сторонников конструктивизма Ж. Пиаже – Л.С. Выготский ставил в центр социальные факторы, влияющие на развитие ребенка. Таким образом, появление социального конструктивизма связано с Л.С. Выготским.

Учитель, работающий в соответствии с конструктивистскими идеями, обладает следующими компетенциями:

1. Коммуникативные (понимание текстов, работа с информацией, выступление, написание текстов).

2. Информационные технологии (компьютерные – Интернет, эл. почта, программирование и т.д.).

3. Исследовательские (естественнонаучные и гуманитарные методы исследования).

4. Проектные (проектное мышление – разработка проектов и участие в их реализации).

5. Работа с числами (вычисления, использование мат. методов для решения практических задач).

6. Организационные (координация деятельности людей для достижения целей).

7. Работа в группе (взаимодействие с другими в процессе достижения общей цели).

8. Умение учиться (планирование, рефлексия, самооценка, самостоятельная работа по теме, поиск информации из разных источников и т.д.)

9. Личностная (рефлексия сильных и слабых сторон своей личности, характера, приспособление к своим личностным особенностям, принятия себя, своего «Я») (Садыков: 2003,164).

Новая роль учителя состоит в том, чтобы педагог создавал образовательную среду, в которой ученик чувствует себя комфортно и смело создает новые идеи, и которая способствует развитию коммуникативных навыков у учащихся. А так же задача современного педагога – не стоять на месте, развиваться и учиться новым методикам и приемам обучения, совершенствовать в своем деле и быть конкурентоспособным профессионалом своего дела (Маркова: 1996, 312).

Основная часть

Актуальность данной темы тесно связана с тем, что потребность общества в педагогах с развитым критическим, аналитическим видом мышления, готовых к работе с обновленными программами обучении, и к работе с учащимися на двух языках, достаточно высока. Ведь на данный момент в школах осуществляется преподавание химии в 7 классах по обновленной программе. На сегодняшний день, лишь 3-6% выпускников школ поступают в университет обучаться учительской профессии. Из них лишь 13% идут осознанно и в дальнейшем работают в школах (Халиков: 2011,179). Таким образом, стоит следить не только за количеством студентов, которые выбрали профессию учителя, но и за качеством подготовки квалифицированных кадров. Поэтому вопросы подготовки студентов к будущей работе в школе не совершенны, что делает эту тему актуальной и современной.

В процессе обучения студентов, которые выбрали профессию педагога, следует применять новые идеи, подходы, концепции, соответствующие современным требованиям. В данной работе представляем различные подходы и методики, отвечающие требованиям современного образования в университете, изложены результаты педагогического эксперимента с применением новых форм работы, способствующих формированию профессиональных компетенций студентов, а так же повышению мотивации профессиональной деятельности.

Учитывая все вышеперечисленные аргументы, у студентов четвертого курса необходимо сформировать определенные компетенции будущего преподавателя химии. В данной работе изложены результаты педагогического эксперимента, проведенного со студентами выпускного курса, которым предстоит деятельность в современной школе с обновленным содержанием.

Для этого возможно использования новых форм самостоятельной работы, групповой работы, технологии развития критического мышления.

На занятиях по элективной дисциплине «Инновационные технологии в организации учебного процесса в школе» нами был проведен педагогический эксперимент, в котором принимали участие 15 студентов четвертого курса полиязычной группы. Для участия в эксперименте были выбраны именно студенты выпускного курса, т.к. студентам предстоит трехмесячная педагогическая практика в школе. Студенты четвертого курса, обучаясь три года по кредитной системе образования, которая направлена на самостоятельную и индивидуальную деятельность студента, уже обладают компетенциями самостоятельности и стремлением самообразования.

Данный курс, изучаемый студентами на последнем году обучения бакалавриата, предусматривает только семинарские занятия, таким образом, происходит обучение в действии. Формат семинарских занятий был осуществлен в виде тренингов. Занятия проходили 1 раз в неделю 3 пары по 50 минут. Этого времени хватало, чтобы осуществить все цели занятий.

В ходе проведения эксперимента применялись следующие формы работы на уроке: групповая работа, методы развития критического мышления, SWOT-анализ, составление плакатов, диаграммы Исикавы (Фишбоун) и другие (Баезов: 2017, 606).

Данные формы работы и методики будущие учителя смогут применять в процессе прохождения педагогической практики и в будущей работе. Как было отмечено, что стержневой фигурой в совершенствовании деятельности школ и обеспечении успешности обучения учеников сегодня является учитель (Raj Chetty: 2014,125), следовательно, именно от профессионализма и компетентности учителя зависит качество преподавания и обучения в школе.

Цель эксперимента состояла в том, чтобы подготовить будущих квалифицированных педагогов к деятельности в современной школе с обновленным содержанием. Задачи эксперимента состояли в следующем:

– разработать и экспериментально проверить условия подготовки будущих педагогов к деятельности в современной школе с обновленным содержанием;

– ознакомить с новыми методиками и подходами в учебном процессе;

– сформировать у студентов понимание, что необходимо саморазвитие на протяжении всей жизни;

– мотивировать к будущей профессии – учитель.

Педагогический эксперимент состоит из трех этапов: констатирующего, формирующего и контрольного. За время проведения эксперимента были разработаны различные задания для каждого этапа, которые служили диагностическим и формирующим инструментарием.

Для констатирующего этапа эксперимента были использованы задания, с помощью которых можно установить начальный уровень знаний студентов о технологиях преподавания химии. Формирующий этап эксперимента включает в себя различные методики и формы работы на занятиях, которые формируют знания и их осмысление. На контрольном этапе способы проверки знаний остались прежними, за исключением содержания заданий. В качестве контрольной работы студентам было задано задание написать эссе-рефлексию пройденного курса.

1. Констатирующий этап проведения эксперимента

На начальном этапе проведения эксперимента необходимо определить уровень знаний учащихся. Для этого было проведено вводное тестирование с учетом тем, изученных на 3 курсе по методике обучения.

Вводное тестирование показало результаты, оформленные в таблице 1.

Таблица 1 – Оценки студентов по итогам вводного тестирования

Оценки	Количество студентов	%
>90	6	40%
>75	7	46,70%
<75	2	13,30%

Для наглядности была построена диаграмма (Рисунок 1).

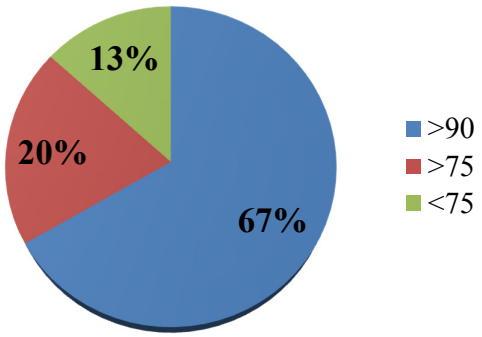

Рисунок 1 – Диаграмма вводного тестирования студентов

Высший балл получили всего 40% учащихся, 47 % получили среднюю оценку и 13% получили удовлетворительно. Можно сделать вывод, что качество знаний студентов хорошее. Но есть то, над чем нужно поработать.

Так же необходимо было оценить мотивацию студентов, ведь мотивация – это внутренняя энергия, включающая активность человека в жизни и на работе. Мотивация для студентов является наиболее эффективным способом улучшить процесс обучения. Мотивация является главной движущей силой в поведении и деятельности человека, в том числе, и в процессе формирования будущего профессионала. Поэтому особенно важным становится вопрос о стимулах и мотивах именно учебно-профессиональной деятельности студентов.

Для оценки мотивации на начало проведения эксперимента была использована методика оценки мотивации К. Замфир в модификации А. Реана (Реан, 1999:6).

Таким образом, студентам был предоставлен бланк ответов отраженный в таблице 2.

Таблица 2 – Бланк ответов для изучения мотивов профессиональной деятельности

Мотивы профессиональной деятельности	Балл
1. Денежный заработок	
2. Стремление к продвижению по работе	
3. Стремление избежать критики со стороны руководителя или коллег	
4. Стремление избежать возможных наказаний или неприятнгостей	
5. Потребность в достижении социального престижа и уважения со стороны других	
6. Удовлетворение от самого процесса и результата работы	
7. Возможность наиболее полной самореализации именно в данной деятельности	

Студентам необходимо было прочитать ниже перечисленные мотивы профессиональной деятельности и дать оценку их значимости по пятибалльной шкале:

1 – в очень незначительной мере
2 – в достаточно незначительной мере
3 – в небольшой, но и в немаленькой мере
4 – в достаточно большой мере
5 – в очень большой мере

Обработка результатов оценки мотивации студентов показала следующие результаты, отраженные в рисунке 2.

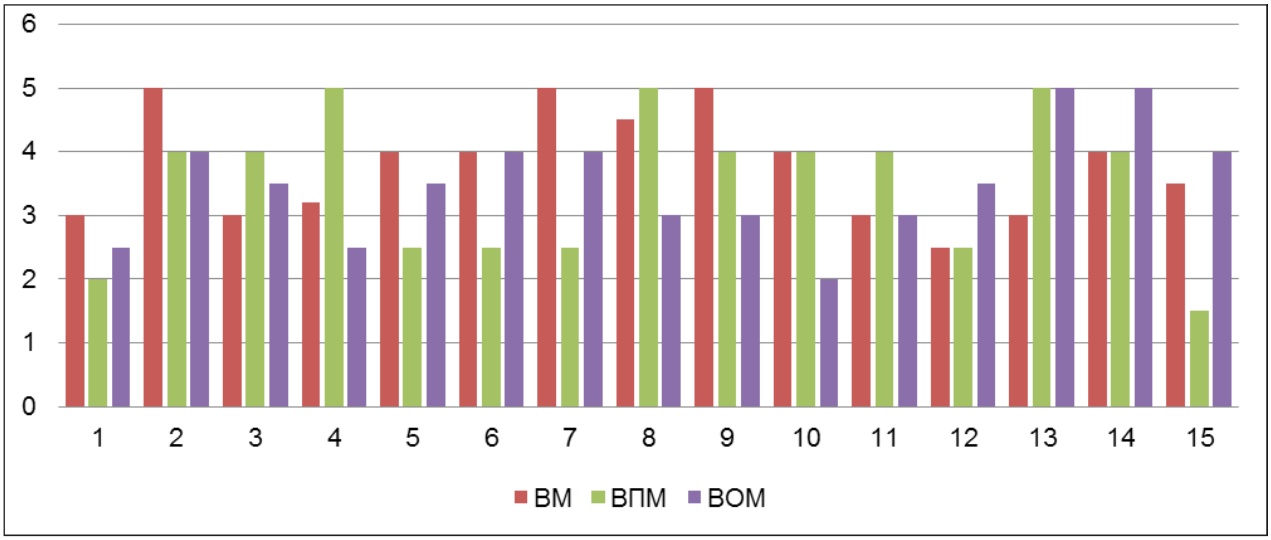

Рисунок 2 – Мотивация профессиональной деятельности студентов группы до начала эксперимента

Анализ полученных результатов показал, что студенты пока имеют небольшую мотивацию к выбранной профессии. Выбирая между наилучшим, оптимальным и наихудшим типами соотношений, большинство студентов выбрали оптимальный комплекс, представленный сочетаниями: ВМ > ВПМ < ВОМ (40% опрошенных) и ВМ = ВПМ < ВОМ (26,7%), ВПМ > ВМ > ВОМ (26,7% опрошенных), где ВМ – внутренняя мотивация, ВПМ – внутренняя положительная мотивация, ВОМ – внутренняя отрицательная мотивация. Это свидетельствует о том, что студенты с данными мотивационными комплексами недостаточно мотивированы для профессиональной педагогической деятельности. Наихудшие мотивационные комплексы отсутствовали.

2. Формирующий этап проведения эксперимента

После проведения констатирующего этапа эксперимента, где были установлены уровни полученных ранее знаний и мотивации студентов, следует этап эксперимента – формирующий. На этом этапе мы должны проверить ценность разработанной нами методики и вероятность гипотез, выдвинутых в начале исследования. То есть целью формирующего этапа эксперимента является проверка и доказательство эффективности методики, разработанной для формирования педагогических компетенций, развития с применением приемов и стратегий.

Приемы, использованные в нашей методике: «Кластеры», презентации, диаграммы Венна, эссе и схемы, SWOT-анализ, Диаграммы Исикавы, групповая работа, индивидуальная работа (Kokibasova, 2017,108-112).

Приведем примеры некоторых занятий. На занятии **«Управление и лидерство в обучении»** студентам было предложено работать в группах и составить SWOT-анализ семи навыков лидера:

Была использована классификация лидера Стивена Кови «7 навыков лидера» (Rukovodstvo trenera.Pervoye izdanie.2015,122 s.):

1. Про-активность. Человек не должен останавливаться на проблемах, контролировать их, он должен искать возможности, чтобы двигаться вперед и концентрироваться на будущем.

2. «Начинай думать с конечного результата». Думай о том, чего бы ты хотел достичь, каким бы хотел стать ты и твой коллектив, твои ученики.

3. «Лидер ставит все по порядку», т.е. ставит перед собой приоритеты.

4. Развитие навыка «выиграл-выиграл». Развитие мышления, настроенного на победу: и лидер, и его последователи выигрывают.

5. Стремиться понимать, а затем быть понятым. Эта черта поведения наиболее важна в создании отношений, в процессе обучения. Из исследований известно, что учителя и руководители наиболее худшие слушатели, т.к. сами хотят произвести впечатление. Действительно эффективный лидер умеет очень хорошо слушать. Существует правило – 20:80. Говори 20%, слушай 80%.

6.Синергия. Признание того, что другие тоже могут быть энергичными и успешными. Если люди отличаются от нас, это не значит, что они не правы. Руководители должны укреплять доверие и взаимопонимание, чтобы было меньше конфликтов.

7. «Заточите пилу». Эффективные лидеры в течение всей жизни продолжают обучение, учатся новому, разрабатывают стратегии, чтобы хорошо выполнять свою работу (Stephen R. Covey. 1989,179)

Матрица SWOT-анализа представлена на рисунке 3.

Данный анализ показал, что профессия учителя имеет как некоторые недостатки, так и ряд преимуществ. И студенты в процессе проведения рефлексии после данного занятия осознали, что необходимо тренировать свои навыки лидера и заниматься самообразованием.

Следующее занятие проходило с темой: **«Мотивирование учащихся»**. Цель занятия: определение мотивации учащихся, стимулирование процесса обучения. На данном занятии были запланированы следующие задания:

1. ***Мозговой штурм***

– Как вы понимаете выражение «барьеры в обучении?» (Факторы, которые могут сделать процесс обучения более трудным для школьников).

– С какими барьерами в обучении сталкиваются дети?

2. Обсуждение таблицы «Факторы, влияющие на обучение» и заполнение диаграммы Исикавы.

Студенты работали с факторами, влияющими на обучение.

Диаграмма Исикавы, или причинно-следственная диаграмма (иногда ее называют диаграмма «рыбья кость»), применяется с целью графического отображения взаимосвязи между решаемой проблемой и причинами, влияющими на ее возникновение. Данный инструмент используют совместно с методом мозгового штурма, т.к. он позволяет быстро отсортировать по ключевым категориям причины проблем, найденных с помощью мозгового штурма.

Диаграмма Исикавы дает возможность выявить ключевые параметры процессов, влияющих на характеристики изделий, установить причины проблем процесса или факторы, влияющие на возникновение дефекта в изделии. В том случае, когда над решением проблемы работает группа специалистов, причинно-следственная диаграмма помогает группе достичь общего понимания проблемы. Также, с помощью диаграммы Исикавы можно понять, каких данных, сведений или знаний о проблеме недостает для ее решения и тем самым сократить область принятия необоснованных решений. Когда строится диаграмма Исикавы, причины проблем распределяют по ключевым категориям. В качестве таких категорий выступают человек, методы работы (действий), механизмы, материал, контроль и окружающая среда. Количество категорий при построении диаграммы можно уменьшать в зависимости от рассматриваемой проблемы.

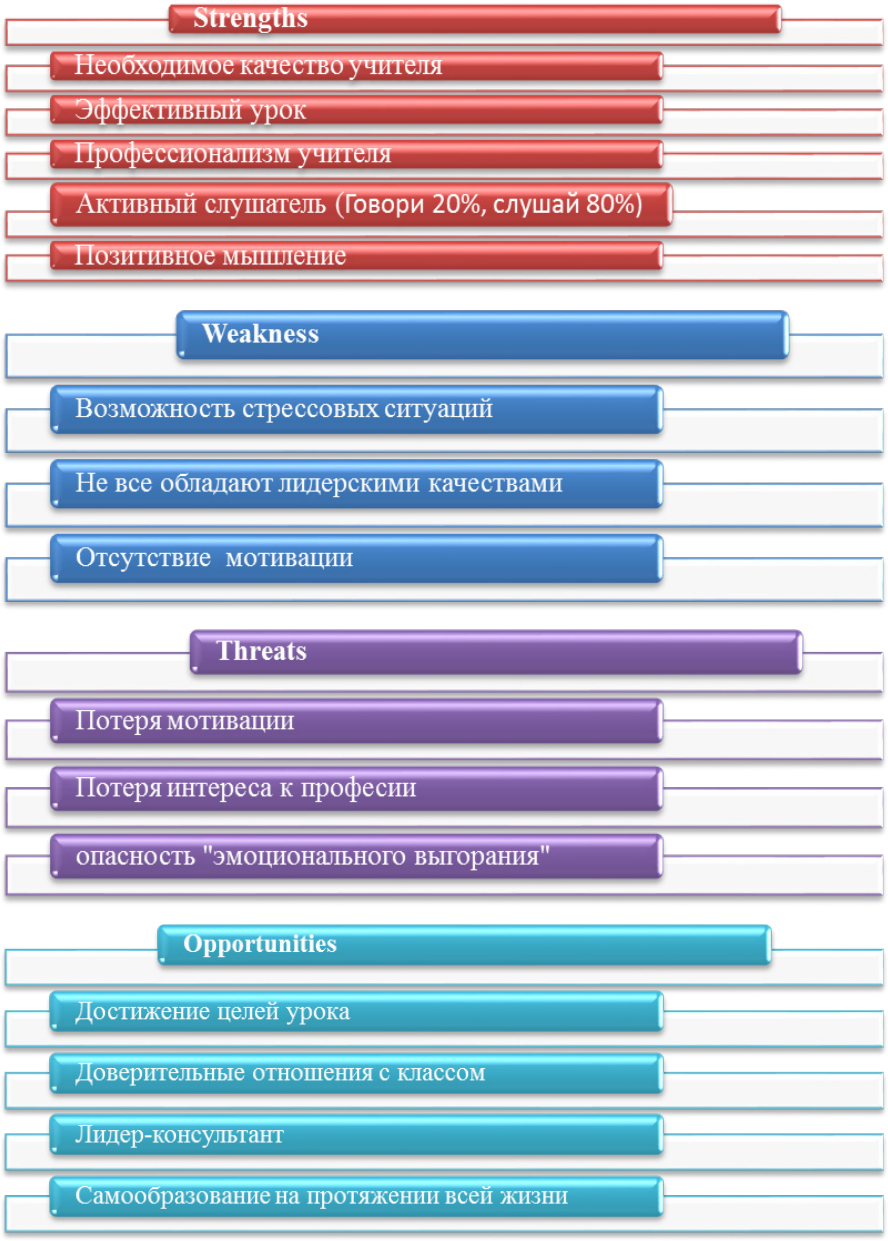

Рисунок 3 – Матрица SWOT-анализа

Следующий этап занятия был построен в форме групповой работы, где студенты составляли плакаты о барьерах в обучении и их преодолении.

Одна группа определила барьерами в обучении, отвлекающие факторы, такие как интернет, социальные сети, смартфон, компьютерные игры, собственную лень, а так же отсутствие внимания со стороны родителей и учителей. Решением являлось составление распорядка дня, изолирование от социальных сетей, уделение больше времени на общение с семьей.

Вторая группа определила барьерами одиночество, скучные уроки, отсутствие материальной базы (книги, одежда), сонливость. Решения были предложены следующие: поставить цели, стремиться к успеху, составить распорядок дня, быть заинтересованным и оставаться позитивным.

Таким образом, студенты отобразили барьеры со стороны ученика, какими он их видит и как ему справится. На следующем этапе занятия студенты выступили с диаграммами, на которых были отображены решения со стороны учителя, и объединили в одну диаграмму (рисунок 4).

Вывод, сделанный студентами – барьеры в обучении встречаются на каждом шагу, важная роль педагога – помочь ученику преодолеть их.

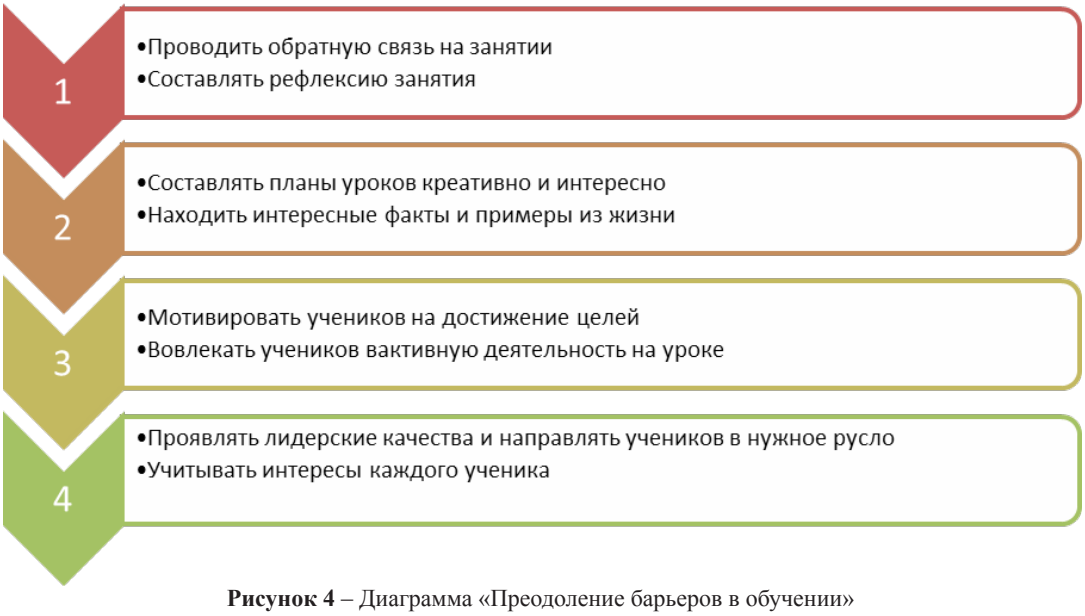

Рисунок 4 – Диаграмма «Преодоление барьеров в обучении»

3. Контрольный этап проведения эксперимента

На контрольном этапе проведения эксперимента было дано несколько заданий. Так как студенты по окончании шести учебных недель должны сдавать рубежный контроль, форма первого рубежного контроля – письменная, было составлено тестирование по пройденным темам курса. А так же студентам дано было задание, – составить глоссарий новых терминов, которые встречаются в курсе обучения.

По результатам итогового тестирования после пройденных тем были получены следующие результаты, оформленные в таблице 3.

По этим данным можно отметить, что уже большинство студентов получили оценку «отлично» (67%) и всего 20% получили отметку «хорошо», что демонстрирует прогресс у обучающихся.

Для наглядности результаты тестирования до и после эксперимента представлены в виде рисунка 5.

Таблица 3 – Оценки студентов по итогам контрольного тестирования

Оценки	Количество студентов	%
>90	10	67%
>75	3	20%
<75	2	13%

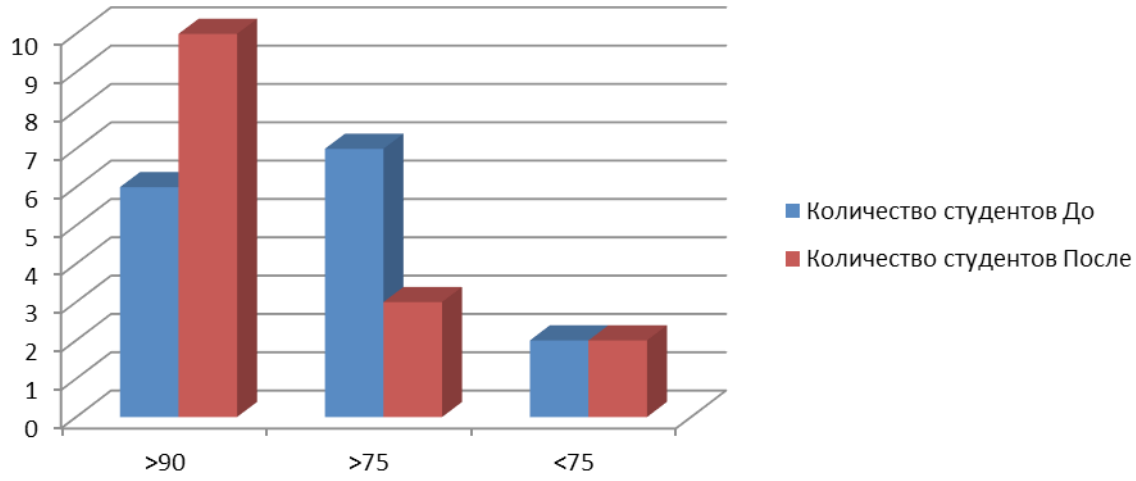

Рисунок 5 – Сравнительные результаты вводного и контрольного тестирования

Также одним из контрольным этапов эксперимента было написание эссе-рефлексии объемом 500 слов на тему: «Почему я хочу стать учителем». В своем эссе студенты отобразили результаты пройденных семинаров-тренингов, а так же сделали для себя определенные выводы касаемо будущей деятельности.

Так же на контрольном этапе была проведена оценка мотивации студентов по окончании пройденных тем. Результаты показали следующее (рисунок 6).

Анализ полученных результатов показал, что, выбирая между наилучшим, оптимальным и наихудшим типами соотношений, большинство студентов выбрали оптимальный комплекс, представленный сочетаниями: ВМ = ВПМ > ВОМ (53,3% опрошенных) и ВМ > ВПМ > ВОМ (46,7%). Это свидетельствует о том, что студенты готовы работать и вовлекаться в деятельность с полной отдачей своему делу без корыстных побуждений. Таким образам, по итогам проведенной работы внутренняя отрицательная мотивация студентов уменьшилась, в свою очередь возросли внутренняя мотивация и внутренняя положительная мотивация.

Таким образом, это те студенты, которых привлекает, прежде всего, интерес к самому процессу учения, они склонны выбирать более сложные задания, что позитивно отражается на развитии их познавательных процессов. Наихудшие мотивационные комплексы отсутствовали.

Данные эксперимента демонстрируют, что удовлетворенность педагога избранной профессией тем выше, чем оптимальнее у него мотивационный комплекс: высокий вес внутренней и внешней положительной мотивации и низкий – внешней отрицательной. Чем оптимальнее мотивационный комплекс, чем более активность педагога мотивирована самим содержанием педагогической деятельности, стремлением достичь в ней определенных позитивных результатов, тем ниже эмоциональная нестабильность.

К наилучшим, оптимальным, мотивационным комплексам следует относить следующие два типа сочетания: ВМ>ВПМ>ВОМ и ВМ=ВПМ>ВОМ. Наихудшим мотивационным комплексом является тип ВОМ > ВПМ > ВМ (Бордовская, 2006.307).

Таким образом, можно проследить повышение мотивации профессиональной деятельности у студентов в конце эксперимента. Это означает, что работа была проведена эффективно.

А так же на контрольном этапе эксперимента был использован опросник профессиональных склонностей Йовайши. Данная методика направлена на выявление профессиональных склонностей. Достоинство методики заключается в косвенных, а не прямолинейных, как в большинстве методик, вопросов, которые выявляют скрытую мотивацию.

По результатам тестирования студенты показали следующие результаты (рисунок 7).

Из диаграммы видно, что 80% студентов имеют склонность к работе с людьми. Им подходят профессии, связанные с обучением, воспитанием, обслуживанием (бытовым, медицинским, справочно-информационным), управлением. Люди, успешные в профессиях этой группы, от-

личаются способностью находить общий язык с разными людьми, понимать их настроение, намерения, хорошо помнить их личные качества и особенности. 13 % студентов проявили склонность к эстетическим видам деятельности, т.е. к профессиям творческого характера, связанным с изобразительной, музыкальной, литературно-художественной, актерско-сценической деятельностью. Людей творческих профессий, кроме специальных способностей (музыкальных, литературных, актерских), отличает оригинальность и независимость. Эти качества очень ценятся в учителях, которые творчески подходят к своей работе и создают благоприятную среду для преподавания. 7% студентов проявили склонность к практической работе.

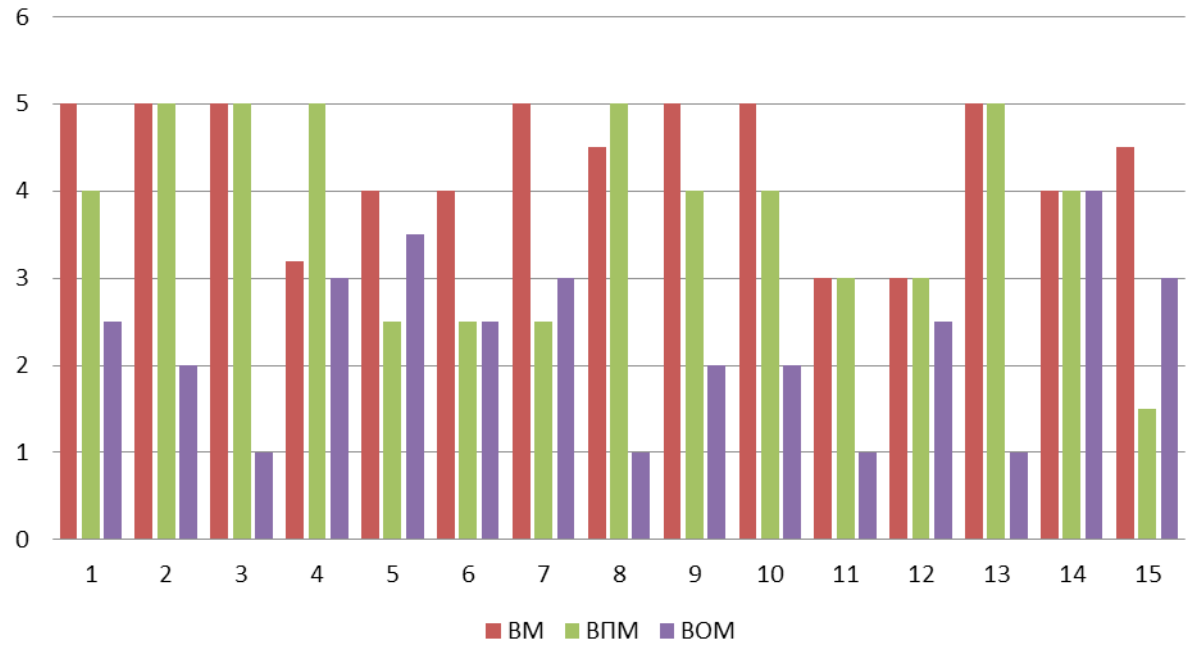

Рисунок 6 – Мотивация профессиональной деятельности студентов по окончании эксперимента

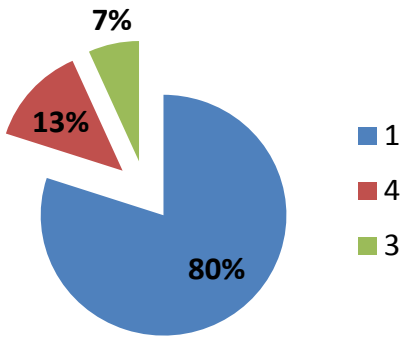

Рисунок 7 – Результаты тестирования Йовайши

Заключение

Результаты эксперимента показывают улучшение уровня знаний в вопросах современных технологий преподавания химии. По окончании курса уже больше студентов планирует связать будущую профессиональную деятельность с преподаванием в школе, что демонстрирует эффективность проведенных занятий. А так же студенты поверили в свои силы и обрели мотивацию на осуществление педагогической деятельности, к тому же следует учитывать, что эксперимент проводился в довольно небольшие сроки (в течении семестра), что не является достаточным сроком для формирования профессиональных компетенций. Этого можно достигнуть при проведении целенаправленной и безотрывной работы с постоянной диагностикой результатов обучения.

Разработаны и апробированы методики проведения практических занятий с применением различных приемов, составлены задания, с помощью которых можно обеспечить практическую готовность студентов выпускных курсов

вузов к организации процесса обучения в школе. Разработаны методики, формирующие у студентов профессиональные компетенции педагога, в том числе понимание, что необходимо саморазвитие на протяжении всей жизни.

Результаты проведенных исследований и использованные методики могут быть использованы при создании семинарских занятий на занятиях методики обучения и современных технологий обучения.

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ДОС ЖӘНЕ ӘРІПТЕС ТУРАЛЫ ЕСТЕЛІК

В ПАМЯТЬ О ДРУГЕ И КОЛЛЕГЕ

IN MEMORY OF A FRIEND AND COLLEAGUE

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ПЕДАГОГ – ЕЁ ВЫСШЕЕ ПРИЗВАНИЕ. СВЕТЛОЙ ПАМЯТИ РОЗЫ ЕСХАНОВНЫ САРБАЕВОЙ

Высшее образование и наука Казахстана понесли большую утрату: после тяжёлой болезни ушла из жизни педагог по призванию и велению души, замечательный учёный, кандидат исторических наук, доцент Роза Есхановна Сарбаева.

Трудно поверить в безвременную кончину этого солнечного, светлого человека.

Роза Есхановна родилась 20 июля 1965 года в селе Биржан Енбекшильдерского района Кокчетавской области. С отличием закончила факультет английского языка Кокчетавского Педагогического Института им. Чокана Валиханова.

Трудовой путь Розы Есхановны, её дорога в ведущий национальный университет страны и в науку начались на кафедре иностранных языков. Вся трудовая биография Розы Есхановны связана с высшим образованием, прошла практически все ступени становления высококлассного педагога и ученого. Всю свою сознательную жизнь она посвятила педагогике, преподавала английский язык для студентов и магистрантов, специализировавшихся по мировой экономике и политике.

Поиск новых знаний и форм самореализации привел ее много лет назад в Казахский национальный университет им. аль-Фараби. Здесь она серьезно занялась наукой под эгидой известной школы международников, которой руководил профессор Ибрашева Ж.У. Он и стал ее учителем, научным консультантом, руководителем, которого она боготворила и уважала настолько, что была, пожалуй, единственной, кто до последней минуты Учителя оставался приверженцем его идей евразийской интеграции. Однако первоначально, увлеченная проблемой гендерного неравенства, Роза Есхановна постепенно убедила и Ибрашева Ж.У. в научной значимости гендерной проблематики. Она сконцентрировала свой исследовательский интерес на серьезном изучении гендерных аспектов в международной политике. Тема исследования, выбранная вместе с научным руководителем Ж.У. Ибрашевым – «Гендерная политика международных организаций – ООН и ОБСЕ: исторический и современный аспект», была успешно защищена в 2010 году. Несмотря на то, что работа над диссертацией была нелегкой, Роза Есхановна, благодаря неутомимой энергии, 27 октября 2010 года успешно защитила кандидатскую диссертацию.

Целеустремлённая, ответственная, активная, с отличным знанием английского языка была сразу замечена руководством. Роза Есхановна отличалась особым креативным духом, была очень требовательной, принципиальной как к себе, так и к своим коллегам и студентам, оставаясь доброжелательной и порядочной, не допуская высокомерия и беспочвенных споров.

Роза Есхановна пользовалась большим авторитетом среди студентов, преподавателей нашего факультета и всего университета. Она открыто выражала своё мнение, предлагая конструктивные идеи, предложения.

Благодаря высокому профессионализму, эрудиции, интеллигентности, уважительному отно-

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шению к студентам и окружающим её людям, Розу Есхановну приглашали в качестве лектора на договорной основе в Казахский Государственный Университет Мировых языков и Международных отношений; в Лингвистический Центр КИМЕП; на кафедру ЮНЕСКО, международной журналистики и связям с общественностью читать лекции на английском языке.

Область исследований была обширна: лингвострановедческие аспекты преподавания английского языка, коммуникативная компетенция; профессионально-ориентированное обучение иностранному языку, новые технологии преподавания; гендерная политика Казахстана; Евразийская интеграция. В целях исследования вышеназванных актуальных аспектов Роза Есхановна принимала активное участие во всех научно-методических мероприятиях, проводимых на кафедре, а также на уровне факультета, университета и за рубежом.

Первый грант на стажировку в Международном летнем Институте «Democracy and Diversity» по программе Департамента политических наук для Восточной и Центральной Европы Университета New School Роза Есхановна получила в июле 2004 г. и прошла в Кракове, Польше. После этой стажировки Роза Есхановна получала немало зарубежных грантов по разным программам (в основном по гендерной политике), совершенствуя свой потенциал в Германии, Великобритании, Франции, Индии, Кыргызстане, России и др. странах. В рамках научно-исследовательской деятельности она оставалась активных и действующим аналитиком, ученым, ею опубликовано около 50 работ. В сфере учебно-методической работы ей принадлежит соавторство восьми типовых программ ГОСО для специальностей МО, МП, МЭ; 4 учебных пособия (в соавторстве); двух монографий, более 30 научных статей, а также она является составителем-разработчиком тестовых заданий для ежегодной Предметной Олимпиады «Аль-Фараби» КазНУ. Изданные учебные пособия остаются полезными, необходимыми для обучения студентов и магистрантов факультета. За учебное пособие «English for Economists» в 2016 году ей был вручен Диплом 1 степени как за лучшее учебное пособие года.

Роза Есхановна являлась членом Центра гендерного образования КазНУ им. аль-Фараби, была зам. директора Евразийского научно-исследовательского центра ФМО КазНУ им. аль-Фараби, заместителем заведующего кафедрой дипломатического перевода по научно-исследовательской работе и международному сотрудничеству.

Следует особо отметить огромную роль ее супруга Баккали в становлении Розы Есхановны как педагога и учёного. По ее признанию, именно он давал ей силы, именно он помог ей реализовывать свой потенциал; он поддерживал ее стремление к научному росту, педагогическому совершенствованию, и никогда она не слышала упреков за «отдаление» от семейных радостей. Как она рассказывала, это шло в разрез традиционному воспитанию мужа в отношениях с целеустремленным «северным» характером Розы. Наоборот, она сама переживала за ситуации, возникавшие из-за необходимости ее выезда за рубеж, проведения ответственных университетских мероприятий и пр., например, в периоды её зарубежных командировок и стажировок. На самом деле они создали превосходную, гармоничную семью, воспитали прекрасную, такую же творческую натуру, как они сами, дочь Акшолпан.

Роза Есхановна, нежная и тонкая натура, одновременно была очень мужественным человеком. С юности ей самой приходилось преодолевать немало трудностей – рано испытала утрату матери, и по жизни нередко сопровождали невзгоды, и никогда, какие бы ни были сложности, она не перекладывала их на других, не жаловалась. Узнавали об этом постфактум. Потому что она всегда излучала свет, она оставалась для всех очень позитивным, жизнерадостным, неизменно приветливым человеком с согревающим взглядом, тонким чувством юмора.

Окружающие не догадывались о ее болезни, Роза Есхановна никогда не говорила, тем более не жаловалась на свое состояние. Только очень близкие, не сразу были посвящены и очень надеялись на чудо, которого она заслуживала. До последнего вздоха она переживала за студентов, за новые и новые задания, которые не успевала вовремя сдать, за то, что «Гульнаре, у которой своя нагрузка, приходится ее заменять», что «Маре не успевает дать материал для очередной статьи», что «не позвонила Ляззат», что «с Марьяш не проработала план очередного учебного пособия» и т.д. К своей болезни она относилась по-философски, не говорила о ней, не обсуждала. Просто как-то шутя, заметила: «Всевышний посылает такие испытания только сильным. Он, наверное, готовит меня к какой-то серьёзной миссии».

Планов у Розы было очень много, и она искренне надеялась включиться в полную силу за

их осуществление. Начатое ею, конечно, мы завершим, в память о соратнике, в благодарность за дружбу, которую она нам подарила.

Розу Есхановну, без всяких сомнений, можно отнести к тому редкому типу людей, которые всегда очень искренни в своих чувствах, словах, поступках, Она была открыта для общения и искренней дружбы, для точного понимания жизненных обстоятельств. С ее утратой начинаешь осознавать, что редко, кто может быть таким правдивым в проявлениях силы и нежности своего характера: она находила верную ноту для слов поддержки и сочувствия в сложной ситуации, в которой оказывался ее коллега, ее студент, близкие. Она умела вместе сопереживать, забывая о себе, а это многого стоит и почему-то мало ценится при жизни. Для каждого у нее находился свой ключик – ненавязчивое слово, легкая шутка, совершенно бескорыстное предложение помочь, поддержать. Порой она могла действовать решительно, не оглядываясь на звания и статусы, и добивалась справедливого решения! Но не для себя.

Уверены, что Роза Есхановна Сарбаева навсегда останется в памяти Скромным, Добрым и очень Значимым Человеком, особенно для тех, кто стал ей близок по духу и жизненному настрою. Нам очень не будет хватать Розы Есхановны.

от коллектив факультета международных отношений Казахского национального университета имени аль-Фараби

Макишева М.К., доцент КазНУ кафедры дипломатического перевода
Карипбаева Г.А., старший преподаватель кафедры дипломатического перевода
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МАЗМҰНЫ – СОДЕРЖАНИЕ

1-бөлім Халықаралық құқықтың өзекті мәселелері
Раздел 1 Актуальные проблемы международного права

Seralieva A., Baimagambetova Z., Aronov A.
The protection of copyright in the development of new digital technologies 4

Жунусбекова А.Ж.
Трансшекаралық суды қорғау саласындағы халықаралық құқық құралдары 11

Toktybekov T., Sylkina S., Akpambetova A.
International legal regulation of food safety on the example of the European Union and the Eurasian Economic Union 22

Mukhatayeva G., Buzurtanova M.
On effectiveness of «soft» law the case of un treaty bodies instruments 33

Хон Сун Ки
Актуальные вопросы авторского права в индустрии культуры – корейская перспектива 40

Begzhan A., Umbetbayeva Zh.
About the concept and content of legal regulation of public procurement 52

2-бөлім Халықаралық қатынастардың қазіргі мәселелері
Раздел 2 Современные проблемы международных отношений

Makasheva K., Gubaidullina M., Konuspayev Ye.
Transport integration as the development trend's of the Eurasian Economic Union 62

Molchanov M., Baikushikova G., Kuzembayeva A.
Educational migration in Eurasia: new trends 71

Aydın G.
Cooperation of the EU and Kazakhstan on civil society development in Kazakhstan 80

Kukeyeva F., Alipkyzy R., Shokparova Zh., Batrbekova A.
Some theoretical aspects of the public diplomacy 88

Rajan S., Delovarova L.
Contemporary refugee and forced migrants issues: an analysis in the context of legal framework 97

Ayyildiz E., Alipbayev A., Byuzheyeva B., Wang Xiaohong
Kazakhstan–Chinese relations within the framework of the SCO 109

3-бөлім Жаңа Жібек жолын зерттеу мәселелері
Раздел 3 Вопросы изучения Нового Шелкового пути

Muyzenberg M., Issova L., Jumatai G.
The problem of energy security in the PRC foreign policy 118

Zhekenov D., Aznabakiyeva M.
Chinese dream in XXI century 125

Nuraliyeva S., Balaubaeva B.
How do 'people to people' relations contribute to the implementation of obor in Central Asia? 133

4-бөлім Раздел 4
Әлемдік экономика мәселелері Вопросы мировой экономики

Sailybayev A.M., Ongdash A.O.
Global trends and prospects in digital economy 144

Калыбекова Д.Б.
Цифровизация Казахстана как ключевой фактор экономического развития в условиях модернизации 152

Алтаева Г.
Авиационная отрасль в системе национальной экономики Республики Казахстан 160

Chitanova S.O., Bekmukhametova A.B., Ilyasova G.G.
The current state of the world oil market 169

5-бөлім Раздел 5
Оқыту әдістемесі Методика преподавания

Мұртаза А.Ш., Жанұзақова Г.А.
Шет тілін оқытуда студенттердің әлеуметтік-мәдени біліктілігін қалыптастыру 186

Кокибасова Г.Т., Карипбаева Г.А.
Опыт подготовки будущих квалифицированных педагогов к деятельности в современной школе с обновленным содержанием. 194

Дос және әріптес туралы естелік – В память о друге и коллеге

Макишева М.К., Карипбаева Г.А., Губайдуллина М.Ш.
Педагог – её высшее Призвание. Светлой памяти Розы Есхановны Сарбаевой 206

CONTENTS

Section 1
Actual problems of international law

Seralieva A., Baimagambetova Z., Aronov A.
The protection of copyright in the development of new digital technologies 4

Zhunusbekova A.Zh.
Instruments of international law in the sphere of transboundary water protection....11

Toktybekov T., Sylkina S., Akpambetova A.
International legal regulation of food safety on the example of the European Union and the Eurasian Economic Union 22

Mukhatayeva G., Buzurtanova M.
On effectiveness of «soft» law the case of un treaty bodies instruments 33

Sung-Kee Hong
Actual issues of copyright in the cultural industry – the Korean perspective 40

Begzhan A., Umbetbayeva Zh.
About the concept and content of legal regulation of public procurement....52

Section 2
Contemporary problems of international relations

Makasheva K., Gubaidullina M., Konuspayev Ye.
Transport integration as the development trend's of the Eurasian Economic Union....62

Molchanov M., Baikushikova G., Kuzembayeva A.
Educational migration in Eurasia: new trends 71

Aydın G.
Cooperation of the EU and Kazakhstan on civil society development in Kazakhstan....80

Kukeyeva F., Alipkyzy R., Shokparova Zh., Batrbekova A.
Some theoretical aspects of the public diplomacy....88

Rajan S., Delovarova L.
Contemporary refugee and forced migrants issues: an analysis in the context of legal framework....97

AAyyildiz E., Alipbayev A., Byuzheyeva B., Wang Xiaohong
Kazakhstan-Chinese relations within the framework of the SCO 109

Section 3
Issues of new Silk Road study

Muyzenberg M., Issova L., Jumatai G.
The problem of energy security in the PRC foreign policy 118

Zhekenov D., Aznabakiyeva M.
Chinese dream in XXI century 125

Nuraliyeva S., Balaubaeva B.
How do 'people to people' relations contribute to the implementation of obor in Central Asia? 133

Section 4
Issues of the world economy

Sailybayev A., Ongdash A.
Global trends and prospects in digital economy....144

Kalybekova D.
Digitalization of Kazakhstan as a key factor of economic development in the conditions of modernization....152

Altayeva G.
Aviation industry in the system of national economy of the Republic of Kazakhstan 160

Chitanova S.O., Bekmukhametova A.B., Ilyasova G.G.
The current state of the world oil market 169

Section 5
Methods of teaching

Murtaza A.Sh., Zhanuzakova G.A.
Formation of socio-cultural skills in teaching foreign languages to students 186

Kokibassova G.T., Karipbayeva G.A.
The Experience of Training Future Qualified Pedagogues to the Activity in Modern School with Updated Content 194

In memory of a friend and colleague

Макишева М.К., Карипбаева Г.А., Губайдуллина М.Ш.
Педагог - её высшее Призвание. Светлой памяти Розы Есхановны Сарбаевой 206