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# ХАБАРШЫ

Халықаралық қатынастар және халықаралық құқық сериясы

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КАЗАХСКИЙ НАЦИОНАЛЬНЫЙ УНИВЕРСИТЕТ имени АЛЬ-ФАРАБИ

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1-бөлім

**ХАЛЫҚАРАЛЫҚ ҚАТЫНАСТАР МЕН  
ДИПЛОМАТИЯНЫҢ МӘСЕЛЕЛЕРІ**

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Section 1

**QUESTIONS OF INTERNATIONAL  
RELATIONS AND DIPLOMACY**

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Раздел 1

**ВОПРОСЫ МЕЖДУНАРОДНЫХ  
ОТШЕНИЙ И ДИПЛОМАТИИ**

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**РОССИЯ И ЦЕНТРАЛЬНАЯ АЗИЯ:  
ИСТОРИЯ И СОВРЕМЕННОСТЬ  
ЭКОНОМИЧЕСКИХ ОТНОШЕНИЙ**

**Аннотация.** После распада Советского Союза отношения России и стран Центральной Азии насыщены различными и противоречивыми событиями. Каковы их современные и будущие последствия? В попытке ответить на этот сложный вопрос необходимо междисциплинарно рассмотреть российско-центральноазиатские отношения с фокусом на их экономической составляющей. Уникальность продолжающегося с 2003 года исследования (Paramonov, 2004), являющегося основой для статьи, заключается в стремлении системно оценить ключевые элементы взаимодействия России и стран Центральной Азии в сферах политики, безопасности, экономики (в том числе в сегменте энергетики), а также в социальной сфере. Через призму этого также обозначаются наиболее важные факторы и этапы отношений в период 1991–2018 годов, приводятся ранее не объединенные в одном материале статистические данные. Целью статьи является выявление и сравнение основных элементов взаимоотношений России и стран Центральной Азии. Для достижения этой цели используется междисциплинарный подход, методы диалектического и структурно-функционального анализа. Актуальность статьи заключается в растущем влиянии целого ряда факторов (как внешних, так и внутренних), благодаря которым Центральная Азия становится одним из важнейших, практически безальтернативных, геоэкономических и геополитических регионов для России. Кроме того, ситуация в Центральной Азии также меняется более быстро и динамично. В том числе это связано с дальнейшей активацией региональной и международной политики Узбекистана. Делается вывод, что экономические связи в последние годы характеризуются определенной динамикой. Тем не менее пока рано говорить о долгосрочных тенденциях и значительных успехах в российско-центральноазиатских отношениях.

**Ключевые слова:** Россия, Центральная Азия, Казахстан, Кыргызстан, Таджикистан, Туркменистан, Узбекистан, политика, экономика, торговля, инвестиции, трудовая миграция.

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**Russia and Central Asia:  
History and Present of Economic Relations**

**Abstract.** After the collapse of the Soviet Union, the relationships of Russia and the countries of Central Asia are saturated with different events. What have been and what will be the effects of this? In an attempt to answer this complex question, it is necessary to assess the situation in one of the most important spheres of the relations – economics. The uniqueness of the ongoing research since 2003 (Paramonov, 2004), which serves as the basis for this article lies within a systematic evaluation of the key elements of interaction between Russia and Central Asian countries in political, security, economic (including the energy sector), as well as social spheres. Through this prism, the most important factors and stages of the relations in the period 1991–2018 are indicated. The article also provides some important statistical information which has not been combined in one material before. The article aims at identifying and comparing the main elements in relationships between Russia and countries of Central Asia. An interdisciplinary approach with the methods of dialectic and structural-functional analysis has been used to achieve this goal. The relevance of the article lies within the growing influence of numerous factors (both external and internal) due to which Central Asia is becoming one of the most important geo-economic and geopolitical regions for Russia. Furthermore, the situation in Central Asia is also changing more rap-

idly and dynamically. Primarily, it is related to the continued activation of the regional and international policies of Uzbekistan. The article concludes that economic relations can be characterized by certain positive dynamics. Nevertheless, it is still too early to talk about the long-term trends and significant success in Russian – Central Asian relations.

**Key words:** Russia, Central Asia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan, politics, economy, trade, investments, labor migration.

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### **Ресей және Орталық Азия: экономикалық қатынастардың тарихы мен қазіргі заман**

**Аңдатпа.** Кеңес Одағы ыдырағаннан кейін Ресей мен Орталық Азия елдерінің қатынастары әртүрлі және қарама-қайшы оқиғаларға толы. Олардың қазіргі және кейінгі жоспары қандай? Бұл күрделі сұраққа жауап беру талпынысында олардың экономикалық құрамдас бөлігіне назар аударумен Ресей-Орталық Азия қарым-қатынастарын екіжақты қарау қажет. Мақаланың негізі 2003 жылдан бері жалғасып келе жатқан зерттеудің бірегейлігі (Paramonov, 2004) Ресей мен Орталық Азия елдерінің саясат, қауіпсіздік, экономика салаларындағы (соның ішінде энергетика сегментінде), сондай-ақ әлеуметтік саладағы өзара іс-қимылының негізгі элементтерін жүйелі бағалауға ұмтылу болып табылады. Осының призмасы арқылы 1991-2018 жылдар аралығындағы қатынастардың аса маңызды факторлары мен кезеңдері белгіленеді, бұрын бір материалда біріктірілмеген статистикалық деректер келтіріледі. Мақаланың мақсаты Ресей мен Орталық Азия елдерінің өзара қарым-қатынасының негізгі элементтерін анықтау және салыстыру болып табылады. Осы мақсатқа жету үшін пәнаралық тәсіл, диалектикалық және құрылымдық-функционалдық талдау әдістері қолданылады. Мақаланың мәні бірқатар факторлардың (сыртқы және ішкі) өсіп келе жатқан ықпалынан тұрады, соның арқасында Орталық Азия Ресей үшін маңызды, іс жүзінде баламасыз, геοэкономикалық және геосаяси аймақтардың бірі болып табылады. Сонымен қатар, Орталық Азиядағы жағдай да тез және серпінді өзгеріп отырады. Оның ішінде бұл Өзбекстанның аймақтық және халықаралық саясатын одан әрі күшейту болды. Соңғы жылдары экономикалық байланыстар белгілі бір динамикамен сипатталады деген қорытынды жасалады. Дегенмен, Ресей-Орталық Азия қатынастарындағы ұзақ мерзімді үрдістер мен жетістіктері туралы айту ерте.

**Түйін сөздер:** Ресей, Орталық Азия, Қазақстан, Қырғызстан, Тәжікстан, Түркіменстан, Өзбекстан, саясат, экономика, сауда, инвестиция, еңбек көші-қоны.

### **Введение**

После распада Советского Союза пришедшая к власти в Российской Федерации (РФ) во главе с Борисом Ельциным новая элита стала решительно избавляться от наследия СССР, разрушая тем самым фундаментальные основы бывшей советской государственной системы. Поэтому в начале 90-х годов Центральная Азия (ЦА) рассматривалась как некий ненужный и неприоритетный регион. По отношению к нему проводилась политика по избавлению от «груза национальных республик». Соответственно, и в самих странах ЦА возник некий «барьер отчуждения», а действия ельцинской администрации подталкивали их ко все более решительным шагам по диверсификации своих внешних связей.

Однако, начиная с середины 90-х годов, стали появляться первые признаки того, что Рос-

сия пытается выработать принципиально новые внешнеполитические подходы вообще и в отношении постсоветского пространства (включая Центральную Азию) в частности. Значение региона в системе национальных приоритетов РФ существенно выросло, когда концептуальной основой российской внешней политики стал курс «на многополярность», озвученный в 1996 году новым главой российского МИД Евгением Примаковым.

При этом очевидно, что именно деятельность Е. Примакова на посту министра иностранных дел (период 1996–1998 годов), а затем – в должности премьер-министра (период 1998–1999 годов) во многом задавала тон и направленность процессу концептуального поиска Россией своего нового места и своей новой роли в формирующейся системе международных отношений, а в этой связи – переосмыслению значения ЦА

и всего постсоветского пространства. До своего прихода в большую политику Е.Примаков получил уникальный опыт государственной работы, возглавлял Службу внешней разведки (период 1991–1996 годы) и весьма скептически оценивал перспективы «интеграции» РФ в западном направлении. Более того, по мнению Е.Примакова, некоторые западные государства стремились использовать в своих интересах факт ослабления влияния РФ в мире в целом и на постсоветском пространстве в частности. Так, в одной из работ Е. Примаков отметил: «особую роли России в стабилизации обстановки в бывших республиках СССР» и важность «тенденций на их сближение с Россией» (Примаков, 1999: 133).

Приход же к власти в 2000 году Владимира Путина и его команды стал во многом поворотным событием в развитии отношений между РФ и ЦА. Российская внешнеполитическая стратегия стала приобретать все более отчетливо выраженную направленность на становление страны в качестве одного из центров современных международных отношений. По сути, в основе этого продолжала лежать концепция «многополярного мира», выдвинутая еще академиком Е.Примаковым.

В свою очередь и для самих стран ЦА российское направление постепенно становилось все более приоритетным. К тому же центрально-азиатские государства длительное время испытывали объективную потребность (в условиях глубокой взаимозависимости) в сотрудничестве с РФ для того, чтобы «сдвинуть с мертвой точки» процесс экономической ре-интеграции и формирования устойчивой системы региональной безопасности (Paramonov, 2006: 4, 6–11; Paramonov, 2008a: 2–3, 13–14, 16–17, 19).

Однако, насколько устойчивы наблюдаемые сегодня положительные тенденции? Представляется, что в стремлении ответить на этот сложный вопрос необходимо попытаться оценить состояние дел в одной из наиболее важных сфер отношений – экономической. Тем более, что именно ее динамика достаточно характерно отражает тенденции во всех других основных сферах (политической, социальной и сфере безопасности), а поэтому заслуживает приоритетного внимания.

### **Исторические этапы отношений и их основные итоги**

После развала СССР команда Б.Ельцина сделала все возможное для разрушения единого экономического пространства. В этом плане особо

выделяется политика правительства Егора Гайдара по вытеснению республик региона из рублевой зоны. Известно, что в период 1992–1993 годов в ЦА еще пользовались единым с РФ платежным средством – российским рублем. Причем в самих центральноазиатских странах оставалось огромное желание сохранить с Россией единую систему товарно-денежного обращения. Однако в 1993 году ельцинская команда в одностороннем порядке «отсекла» государства региона от рублевой зоны, по сути, оставив страны Центральной Азии без платежных средств. Показательно, что в период 1992–1993 годов объемы торговли РФ с государствами региона упали в среднем почти в 10 раз по сравнению с 1991 годом (приблизительно с 60 млрд. долларов до порядка 6.3–6.7 млрд. долларов), а в период 1994–1995 годов оставались примерно на таком же низком уровне (WB, 1993–1997; ADB, 2002).

Хотя в 1993 году Е.Гайдара на посту премьер-министра сменил Виктор Черномырдин, как представляется, это не оказало существенного влияния на концептуальные аспекты внешней политики России, в том числе в сфере экономики. Сильный хозяйственник В.Черномырдин занимался в основном внутриэкономическими вопросами и почти не принимал участия в выработке стратегии внешнего курса страны (за исключением, конечно, тех случаев, когда это напрямую не касалось интересов «Газпрома»).

Во второй половине 90-х годов либеральные представители команды Ельцина так же как и ранее не придавали сколько-нибудь важного значения развитию экономического сотрудничества со странами Центральной Азии. Не будет преувеличением сказать, что процесс фрагментации постсоветского экономического пространства, запущенный еще гайдаровским правительством, продолжился. Единственное отличие состояло в том, что стало наблюдаться некоторое оживление взаимодействия в нефтегазовом сегменте экономической сферы, которое коснулось Казахстана (вопросы транспортировки казахстанской нефти на внешние рынки) и Туркменистана (вопросы транспортировки туркменского газа в Россию / российском направлении) (Paramonov, 2008b: 4–6).

Однако все это лишь с большой долей условности можно было отнести к знаковым изменениям в экономическом сотрудничестве. Наиболее ярким свидетельством этому является то, что объемы российско-центральноазиатской торговли снизились даже по сравнению с первой половиной 90-х годов. Так, в период

1996–1999 годов объемы товарооборота уменьшились примерно в 2 раза – с 7.2 до 3.7 млрд. долларов (ADB, 2002). При этом в силу дефицита в России и государствах региона валютных средств торговля между ними в ряде случаев осуществлялась по бартеру.

Только с началом 2000-х годов стала наблюдаться заметная активизация российского бизнеса и в целом экономической политики РФ в ЦА. В первую очередь стратегические интересы России коснулись все того же нефтегазового сегмента, где была представлена подавляющая часть российских инвестиций. Наиболее высокая проектная активность стала заметна именно в тех странах, которые обладают промышленными запасами углеводородов (Казахстане, Туркменистане и Узбекистане). Здесь усилия РФ оказались направлены на поиск, освоение месторождений и транспортировку нефти и газа. Кроме того, российские компании (в основном «Газпром») стали все более активно заниматься освоением рынка нефтепродуктов (особенно Кыргызстана и Таджикистана) (Парамонов, 2008b: 1–9).

Соответственно, постепенно стала заметна и определенная интенсификация торговли. В частности, в период 2003–2007 годов средне-

годовой уровень товарооборота достиг 10.7 млрд. долларов, что было на более 80% выше среднегодового уровня периода 1996–1999 годов и примерно на 60% выше уровня периода 1992–1995 годов.

Последовавший глобальный финансовый кризис, обозначив начало нового этапа в отношениях, достаточно негативно сказался на экономическом, в том числе торговом, сотрудничестве между Россией и странами Центральной Азии. После выхода на уровень 26 млрд. долларов по результатам 2008 года, в последующие два года объемы товарооборота снизились примерно на 5–8 млрд. В дальнейшем, после периода очередной нестабильности, показатели торговли вновь стали демонстрировать поступательный рост, достигнув по итогам 2018 года более чем 25 млрд. долларов.

### Общая динамика и новые тенденции

За прошедшие с момента распада СССР годы экономические отношения между РФ и странами ЦА характеризуются чередой «взлетов» и «падений», что достаточно точно отражает общая динамика торговли (диаграмма 1).

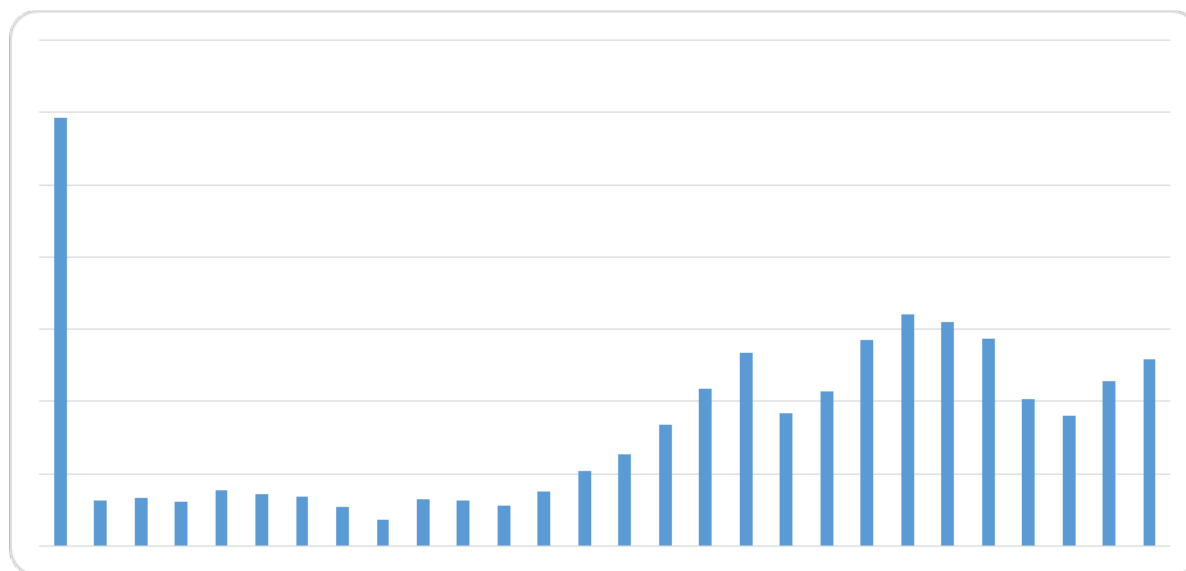


Диаграмма 1 – Торговля между РФ и ЦА, млн. долларов США.

Источники: Данные за 1991 год – Всемирный банк (WB, 1993–1997) (Данные за 1991 год в первоисточниках даны в советских рублях, так как в то время страны ЦА входили в состав СССР. В настоящей диаграмме данные за 1991 год пересчитаны в долларах США, исходя из соотношения курса советского рубля к доллару, который устанавливался Государственным банком СССР на основе паритета покупательской способности валют (1 доллар США = 0.78 рубля.); данные за период 1992–2001 годов – Азиатский банк развития со ссылкой на национальные статистические органы государств ЦА (ADB, 2002); данные за период 2002–2018 годов – Международный торговый центр (ИТС, 2019).

Тем не менее, в последние годы, в условиях сохраняющихся санкций Запада, Центральная Азия, как представляется, становится для России одним из наиболее важных, причем безальтернативных, экономических регионов. Соответственно начинают проявляться некие новые тенденции по интенсификации и углублению экономического взаимодействия, в том числе диверсификации связей по отраслям экономики, расширению географии и улучшению качества сотрудничества.

В частности, положительная динамика в развитии отношений стала заметна на фоне определенного усиления инвестиционно-финансовой политики России. По данным МИД РФ, по состоянию на конец 2017 года, российские инвестиции в ЦА составили около 20 млрд. долларов. При этом, только за период 2007–2017 годов объем «финансового содействия» России государствам Центральной Азии (как на двусторонней, так и на многосторонней основе) превысил 6 млрд. долларов. Также была списана задолженность Кыргызстану (488 млн. долларов) и Узбекистану (865 млн. долларов) (Лавров, 2017).

По состоянию же на конец 2018 года – начало 2019 года, объемы российских инвестиций в регионе достигли уже около 24–26 млрд. долларов, в том числе примерно 3.8–4.4 млрд. прямых инвестиций (ЦБ РФ, 2019а):

- в Казахстане – порядка 12.2–14 млрд., включая 3.2 млрд. прямых инвестиций (АП РФ, 2018);

- в Узбекистане – немногим менее 9 млрд., в том числе 130 млн. прямых инвестиций (ФИНАМ, 2018);

- в Таджикистане – около 1.67 млрд., из которых, по одним данным 925, а по другим данным 370 млн. прямых инвестиций (Спутник, 2019);

- в Кыргызстане – не менее 1.27 млрд. (причем, только за период 2004–2018 годов), включая 170–200 млн. прямых инвестиций (АП РФ, 2019; Кактус Медиа, 2019).

В свою очередь, в Туркменистане российские инвестиции, скорее всего, крайне незначительны. Это подтверждают и исследования проектной активности РФ и российских компаний в нефтегазовой отрасли Туркменистана, как известно, являющейся основой туркменской экономики (Парамонов, 2010: 152–179). Как справедливо признают специалисты из Министерства экономического развития РФ, «улучшение российско-туркменских торгово-экономических отношений во многом зависит от положительной

динамики долгосрочного сотрудничества России и Туркменистана в нефтегазовой сфере» (МЭР РФ, 2015: 8). Опубликованные же МЭР России данные со ссылкой на информацию Центрального банка РФ свидетельствуют о том, что объемы, например, российских прямых инвестиций в Туркменистане по состоянию на 1 октября 2017 года были на уровне менее 500 тыс. долларов (МЭР РФ, 2018: 78).

На этом фоне, и это малоизвестный факт, важную роль в развитии экономических отношений играли и продолжают играть инвестиции из самих стран ЦА в РФ. По данным ЦБ России, их объемы могут достигать не менее 5.1–5.5 млрд. долларов, включая более 4.6 млрд. долларов прямых инвестиций:

- из Казахстана – около 3.6–4 млрд. (АП РФ, 2018), в том числе 3.1 млрд. прямых инвестиций;

- из Узбекистана – не менее 1 млрд. только прямых инвестиций;

- из Таджикистана – 326 млн. только прямых инвестиций;

- из Кыргызстана – примерно 161 млн. только прямых инвестиций;

- из Туркменистана – около 102 млн. только прямых инвестиций (ЦБ РФ, 2019б).

Более того, уже многие годы динамично и масштабно развиваются отношения между Россией и странами Центральной Азии в сегменте трудовой миграции. По данным со ссылкой на Федеральную миграционную службу и Министерство внутренних дел РФ, по состоянию на май 2019 года в России находилось не менее 4.5 млн. граждан стран ЦА (Малева, 2019: 40);

- граждан Таджикистана – около 1 млн. 255 тысяч;

- граждан Узбекистана – примерно 2 млн. 99 тысяч; по другим данным, их число по состоянию на конец 2018 – начало 2019 годов могло быть еще больше и достигать 2 млн. 644 тысяч человек (Новости Узбекистана, 2019);

- граждан Кыргызстана – около 713 тысяч;

- граждан Казахстана – примерно 480 тысяч (Малева, 2019: 40).

В свою очередь, количество граждан Туркменистана, временно находящихся в России, а тем более занимающихся трудовой деятельностью, скорее всего сравнительно не велико и измеряется всего лишь десятками тысяч человек. Например, в 2018 году на миграционный учет МВД РФ было поставлено 98 тысяч граждан Туркменистана, а в 2017 году – 74 тысячи (Отдельные показатели миграционной ситуации в



РФ, 2018–2019), значительная часть которых (более 21 тысячи человек по состоянию на начало 2017 учебного года (ФСГС РФ, 2018)) приехала в РФ на учебу. О достаточно низкой трудовой активности туркменских граждан в России косвенно свидетельствуют и крайне невысокие объемы денежных переводов из РФ в Туркменистан, измеряющихся всего лишь сотнями тысяч долларов в год. Скорее всего, это объясняется тем, что между двумя странами существует визовый режим. К тому же основное количество туркменских трудовых мигрантов находится в Турции – стране, с которой у Туркменистана нет визового режима.

В целом же, значение трудовой миграции высоко не только для РФ, как экономической, так и других сфер, но и для самих стран ЦА. В этом плане особо показательны объемы валютных поступлений из России в государства Центральной Азии от частных лиц, в первую очередь в результате их трудовой деятельности. Так, по данным МИД РФ, только за период 2013–2016 годов трудовые мигранты из региона перевели в свои государства более 37 млрд. долларов (Лавров, 2017). В свою очередь, по данным со ссылкой на ЦБ России, за период 2018 года из РФ в ЦА было переведено порядка 10 млрд. долларов: около 4.1 – в Узбекистан, 2.5 – Таджикистан, 2.4 – Кыргызстан, 0.8 – Казахстан и 0.05 – Туркменистан (Кун.уз, 2019). Как представляется, с учетом других форм отправки денежных средств из РФ в ЦА объемы финансовых поступлений от частных лиц могут быть еще выше и, соответственно, играть более существенную роль в экономических, социальных и иных отношениях.

Важно и то, что параллельно все более устойчивому развитию связей в инвестиционно-финансовом и трудовом сегментах также растет и проектная активность РФ и российского бизнеса. По данным МИД России, только по состоянию на конец 2017 года, в ЦА действовало примерно 7.5 тысяч российских компаний и совместных предприятий. Однако уже меньше чем через два года, по состоянию на начало 2019 года, их количество резко увеличилось и достигло не менее 11 тысяч:

- в Казахстане – около 9.6 тысяч, или более трети (37.7%) от общего числа предприятий с иностранным капиталом (МИД РК, 2019);
- в Узбекистане – более 1 тысячи (ФИНАМ, 2019);
- в Кыргызстане – почти 700 только совместных предприятий (АП РФ, 2019б);

– в Туркменистане – порядка 190 (со ссылкой на туркменские данные) (РИА Новости, 2018; МЭР РФ, 2015);

– в Таджикистане – 149 (Спутник, 2019).

## Выводы

В последние несколько лет российско-центральноазиатские отношения характеризуются достаточно высокой динамикой, что особенно заметно на примере экономической сферы. Безусловно, что развитию взаимодействия во многом благоприятствуют традиционно тесные двусторонние и многосторонние связи: в силу исторической общности, географического соседства, социокультурной и иной близости, наличия институциональных форматов, взаимного стремления к сотрудничеству.

Тем не менее, пока еще крайне рано говорить об устойчивых положительных тенденциях, а тем более о достижении некоего значительного «прорыва» в отношениях, в том числе экономических. С одной стороны, это во многом связано с довольно динамичными процессами внутренней трансформации самого региона и усиливающимся внешним влиянием. С другой стороны, похоже, что Россия пока так и не выработала научно-обоснованную, долгосрочную и объединенную единым планом стратегию действий в регионе, в том числе окончательно не отказалась от ложного, во многом советского стереотипа восприятия ЦА как «груза» – «убыточного региона».

При этом также важно четко понимать и то, что в пределах постсоветского пространства только РФ, учитывая масштабы ее геоэкономического и геополитического потенциала, способна взять на себя роль локомотива комплексного развития и безопасности. В этой связи, как представляется, России принципиально важно осознать приоритетность научных подходов к выработке внешней и внутренней стратегии. Ведь только при грамотной – научно-обоснованной политике, учитывающей все основные сферы отношений (включая экономическую), Центральная Азия способна стать наиболее эффективным регионом для российского капитала и гарантом стабильности всей внутренней Евразии. Именно в этом случае можно будет говорить не только о начале принципиально нового этапа российско-центральноазиатских отношений, но и о достижении кардинальных успехов в экономической интеграции на всем постсоветском пространстве.

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## CHINESE FOREIGN POLICY THROUGH THE PRISM OF “COMMUNITY OF COMMON DESTINY”

**Abstract.** Since the accession to power of the fifth generation of rulers headed by Chinese President Xi Jinping, serious changes have taken place in the principle of foreign policy of the People's Republic of China. The principle “not to be a leader in international relations, be in shadow” which had been strictly observed of Mao Zedong and Ding Xiaoping, was given to oblivion. China has transferred to new principles, now it is ready to assume responsibility in solving the common human problems on the global level sticking to the motto of mutually beneficial peace and politics in order to become “the leader” in their settlement. These changes are vividly seen in the Chinese “Belt and Road” initiative, rejuvenation of “the Chinese dream” and the initiative of “the common destiny of mankind” which have become the motto of foreign policy of Xi Jinping. At any meeting or summit of the global level (bilateral, multilateral, at the sessions of regional and international organizations), Xi Jinping is constantly bringing up the issue of “the common destiny of mankind”. Due to the fact that they do not manifest any visible expansionistic or empirical sings, they gain more supporters of their initiatives by their attractive proposals in tackling such global problems as international terrorism, global warming, ecology, etc. The article analyses the principles of foreign policy of People's Republic of China by studying the we initiatives focusing on its merits and demerits, advantages and threats to other states.

**Key words:** The People's Republic of China, Xi Jinping, Chinese foreign policy, “The common destiny of mankind”, “Chinese dream”.

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### Қытайдың сыртқы саясаты: «Адамзаттың ортақ тағдыры» бастамасы

**Аңдатпа.** Қытай Халық Республикасының сыртқы саясат ұстанымдарында мемлекет басына Си Цзиньпин бастаған бесінші буын басшылары келгелі бері күрделі өзгерістер көрініс бере бастады. Мао Цзедун, Дэнь Сяопинь замандарынан бері қатаң сақталып келе жатқан, «Халықаралық мәселелерде көшбасшы болмау, көлеңкеде болу» сияқты ұстанымдар (принциптер), адамзатқа ортақ халықаралық мәселелерді шешуде Қытай жауапкершілікті өз мойнына алуға, бейбітшілік пен өзара тиімді саясатты ұран еткен «көшбасшы болуға» дайын деген жаңа ұстанымдарға ауыстырыла бастады. Бұл өзгерістерді Қытайлық «Белдеу және жол» бастамасынан, «Қытай арманын» қайта жаңғырту, Си Цзиньпин сыртқы саясатының ұранына айналып отырған «Адамзаттың ортақ тағдыры» бастамаларынан анық байқауға болады. Си Цзиньпин халықаралық дәрежедегі кез-келген кездесулерінде (екіжақты, көпжақты, аймақтың ұйымдар мен халықаралық ұйымдардың отырыстарында) «Адамзаттың ортақ тағдыры» мәселесін тұрақты түрде көтеріп келеді. Анық көрініп тұрған экспанциялық немесе эмпирикалық көріністер болмауы, керісінше, адамзатты жалпы мазалайтын халықаралық террор, ғаламшардың жылынуы, экология сияқты тағы да басқа тартымды ұсыныстардың болуы бұл бастаманы қолдаушы тараптарды көбейтіп отыр. Мақалада Қытай Халық Республикасы сыртқы саясат ұстанымдары осы бастамаларға талдау жасау арқылы талданып, оның артықшылықтары мен кемшіліктері, басқа мемлекеттерге пайдасы мен мүмкін болатын қауіп-қатерлер туралы баяндалады.

**Түйін сөздер:** Қытай Халық Республикасы, Си Цзиньпин, Қытай сыртқы саясаты, «Адамзаттың ортақ тағдыры», «Қытай арманы».

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### **Внешняя политика Китая сквозь призму «Сообщества с единой судьбой»**

**Аннотация.** В принципе внешней политики Китайской Народной Республики с приходом к власти пятого поколения правителей во главе с Си Цзиньпином стали проявляться серьезные изменения. Принципы «не быть лидером в международных вопросах, быть в тени», которые жестко сохранялись со времен Мао Цзедунa, Дэн Сяопина остались позади, Китай начал переходить на новые принципы, он готов взять на себя ответственность в решении общих для человечества международных проблем, придерживаясь девиза взаимовыгодного мира и политики стать «лидером» в их решении. Эти изменения отчетливо видны из инициатив «Пояса и Пути», возрождения «Китайской мечты» и инициатив «Общая судьба человечества», которые являются девизом внешней политики Си Цзиньпина. Си Цзиньпин постоянно поднимает вопрос «Общей судьбы человечества» на любых встречах международного уровня (двусторонних, многосторонних, на заседаниях региональных и международных организаций). Отсутствие явно видимых экспансионных или эмпирических проявлений, наоборот, наличие привлекательных предложений в решении проблем всего человечества, таких как международный терроризм, глобальное потепление, экология и т.д., увеличивают сторонников, поддерживающих эту инициативу. В статье анализируются принципы внешней политики Китайской Народной Республики путем изучения этих инициатив, излагаются ее преимущества и недостатки, польза или возможные угрозы для других государств.

**Ключевые слова:** Китайская Народная Республика, Си Цзиньпин, Китайская внешняя политика, «Общая судьба человечества», «Китайская мечта».

## **Introduction**

Since the entry of humanity into the 21st century, deep and complex changes have taken place in the international environment; a new stage in the development of the world's structure has begun. Economic globalization has led to the redistribution of resources throughout the world, the multipolarity of the world – to a deep adjustment of international relations, social informatization – to the unity of the whole world, cultural diversity – to exchanges of many cultural movements. Radical changes in global governance and internationally are accelerating. In this regard, the interconnection and interdependence in relations between all countries is becoming more distinct, greater equilibrium is achieved in the balance of forces at the international level, the general desire for peaceful development is becoming an unchanging trend. These changes indicate the direction of historical progress, affect the well-being of the peoples of all countries of the world and require that we should together defend them. At the same time, the factors of instability and uncertainty that exist in the world have become apparent. There are not enough impulses for the growth of the global economy, the gap between the rich and the poor is expanding day by day, a continuous series of acute

problems spans many regions, and unconventional security threats such as terrorism, cybersecurity, serious infectious diseases and climate change are spreading in the world. Mankind actually faces many common challenges.

In this case, Chinese leaders have been offering acceptable variation of the development of International Relations. Today, President Xi Jinping has given the world a new name – a community of common destiny. For understanding and analyzing this, you should research a foreign policy concept of China. The study of foreign policy discourse today is becoming an important tool for applied political analysis. Various conceptual documents (doctrines, concepts, strategies, etc.), as well as speeches and statements by officials, which allow us to identify both the stable structures of the national foreign policy discourse on the formation of the international order and the dynamics of their perception, can be the object of the study.

Speaking at the 19th Congress of the Chinese Communist Party, which opened on October 18, 2017, Chairman Xi Jinping said: “Socialism with Chinese characteristics is entering a new era.”

What marked this new era in China's foreign policy? To answer this question, we can, for example, recall the actions of Xi in the international arena

since 2012, being at the head of the country. None of the Chinese leaders were able to attract so many leaders of foreign states to China. For some five years, Xi has held five major international summits: the fourth summit of the Conference on Interaction and Confidence-Building Measures in Asia (May 2014), the Asia-Pacific Economic Cooperation Summit (November 2014), and the G20 Summit Hangzhou (September 2016), One Belt – One Road International Cooperation Forum (May 2017) and the ninth BRICS Summit (September 2017). In addition, on September 3, 2015, thirty Heads of state and governments gathered in Beijing to attend a military parade on the occasion of the seventieth anniversary of the victory over Japan in World War II. Moreover, none of the Chinese leaders has made so many trips around the world in such a short span of time. Since 2013, Xi has traveled abroad 28 times, visiting five continents, 56 countries, as well as the headquarters of major international and regional organizations.

In addition, China has never had such an impact on the development of the world economy. Under Xi Jinping, Beijing initiated the creation of the Asian Infrastructure Investment Bank, the Silk Road Fund and the New Development Bank, three international financial institutions with a combined registered capital of more than \$ 200 billion. At the same time, he began the implementation of the “Belt and Road” initiative – an unprecedented large scale plan for the development of transport infrastructure throughout the Eurasian continent. (<https://carnegie.ru/2018/01/23/ru-pub-75325>)

With the continuous expansion of friendly cooperation between China and all countries of the world, the concept of the community of common destiny is finding ever-wider support and approval from the international community. In 2017, the concept of the community of common destiny was consistently written in the resolutions of the UN Commission for Social Development, the UN Security Council and the UN Human Rights Council. At the 19th All-China Congress of the CPC, the idea of forming the community of common destiny was included in the Charter of the Chinese Communist Party. Based on the results of the voting at the first session of the 13th NPC, the decision was made to include the wording “promoting the formation of the community of common destiny» in the PRC Constitution. This reflects China’s unwavering determination and solemn promise, time by time with all countries of the world, “to fight for the cause of the progress of all humankind.”

## Relevance

Since the inception of the concept of the Community of common destiny, international news agencies, consultancies and academia have published news coverage, commentaries, reports, and research on the topic. Many of them are mere descriptions of known facts or presentations of opinions and commentaries published elsewhere; also today, we have had many research results, monographs of famous scholars and brainstormings of influential politicians. Even though, we cannot say that the world academia circle has found an answer for describing the main character of New Chinese foreign policy. We still have had so many unanswered questions about this issue. Notwithstanding, we can underline some of the important research papers in our state point below.

Denghua Zhang, professor Coral Bell School of Asia Pacific Affairs, Australian National University, in his article called “The Concept of the Community of Common Destiny in China’s Diplomacy: Meaning, Motives and Implications” concluded that the final acceptance of the Community of common destiny concept by other states will be at the hands of these countries. It requires Beijing to become more transparent about the motives behind the concept, to put more effort into trust building and to solve disputes with other countries in a frank and equal spirit. Perhaps, a good step might start from addressing the territorial disputes in the South China Sea (Zhang, 2017).

Freelance Researcher of the Mercator Institute for China Studies (MERICS) *Jacob Mardell* in his research works said: “A “community of common destiny” is achieved through creating both a “community of shared interests” and a “community of shared responsibilities.” The “community of shared interests” roughly corresponds to a situation of economic interdependence, or “fulfilling each other economically.” The “community of responsibility” refers to the political and security realms, or a situation of “complete political mutual trust.” (Mardell, 2017) However, these authors could not clarify the challenges and problems of this issue. Everything has pros and cons and this new concept cannot be spared from drawbacks and impediments either.

In addition, help us to understand the meaning of the Community of common destiny and foreign policy of China the main speeches, conversations, official announces of the Chinese leader. The book “The Government of China” (Jinping, 2014, 2017)

that contains a special chapter called “A community of shared future” has given us the main information that is related to our subject. Also, the first volume has had a special part about the Chinese dream and rejuvenation of Great China. Today we can see a huge number of Chinese diplomats, scholars and independent experts from China who are 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).

Finally, we can underline interesting overviews in the articles of the following authors: Callahan AW., “Dreaming as a Critical Discourse of National Belongings: China Dream, American Dream and World Dream” (Callahan, 2017), Godbole A., “China’s Asia Strategy under President Xi Jinping” (Godbole, 2015), Kivimaki T., “Soft Power and Global Governance with Chinese Characteristics” (Kivimaki, 2014), Xing L., “Traditional Chinese Culture and China’s Diplomatic Thinking in the New Era” (Xing, 2015), Zeng L., “Conceptual Analysis of China’s Belt and Road Initiative: A Road towards a Regional Community of Common Destiny” (Zeng, 2016).

### **Theoretical-methodological bases**

The strong personalization of power has led the official propaganda and Chinese experts close to the establishment, if not about “xijinpingization,” then to the formation of a special system of views of Xi Jinping on the government, which naturally affects foreign policy as well. At the same time, the question remains open whether in the first five years after Xi Jinping came to power, an updated and holistic concept of China’s foreign policy was created, which is based on a fundamentally new understanding of the tasks and goals of diplomacy.

In the Chinese official discourse, the term “Xi diplomacy” (Xi shi weijiao) has been established, and the Xinhua News Agency uses the hashtag #Xiplomacy1 in its English-language channel on Twitter. However, literature does not yet have a unified understanding of China’s modern foreign policy – depending on the views of the researcher, China appears to be either a revisionist power striving to destroy the Western liberal order (Benner, 2017), or a benefactor who brings harmony to the world and generously shares the fruits of his phenomenal growth (Liu, Dunford, 2016).

A Community of common destiny literally refers to a group of people/nations bonded together by

common interests and fate. Scholars of international relations have widely used the term community in such forms as political community, international community and moral community (Agnew 1994, pp. 62–63; Boucher 1998, p. 375). Ernest Haas, for example, referred to like-minded scientists as ‘an epistemic community’ and highlighted their role in transferring new knowledge to international organizations (1990, pp. 40–41). Hedley Bull made a distinction between ‘a system of states’ and ‘a society of states’ in his discussion of international order. In ‘a system of states’, states interact with and affect one another while acting on their own interest and values, but in ‘a society of states’, states conceive themselves to be bound by a sense of common interests, rules, values and institutions (2002, pp. 8–15). This definition of ‘a society of states’ is literally close to a CCD.

In addition, it is 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 new concept “the Community of common destiny” 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.

### **Discussion**

In February 2016, the US Council on Foreign Relations published a report, “Xi Jinping on the Global Stage: Chinese Foreign Policy Under a Powerful but Exposed Leader.” Authors Robert Blackville and Kurt Campbell set themselves the task of analyzing Beijing’s actions on the world stage under the current chairperson of the PRC, whom they call “the strongest leader of China since Deng Xiaoping” (Blackville., Campbell, 2016).

This kind of “analytical note” was written specifically for the new president, regardless of which party he will represent. However, there is no particular disagreement between Republican R. Blackville and Democrat C. Campbell over Washington’s “Chinese politics”. Both experts proceed from the assertion that the PRC is the main geostrategic competitor of the United States, and friction between the two great powers will always exist.



The authors argue that Xi Jinping's actions were not dictated by his personal desires, but by the conditions in which China is today. That is why R. Blackville and C. Campbell characterize Chairman C as a "strong but vulnerable", in other words, "dependent" leader. At the same time, they proceed from the fact that Chinese foreign policy in the upcoming years will be determined by a slowdown in China's economic growth.

For almost thirty years, the country's GDP growth exceeded 10% per year, and today, according to some critical estimates, it has reached 5%. Since an economic success can no longer serve as the basis for the legitimacy of the CCP in power, Xi Jinping will have to rely on new mechanisms to ensure public loyalty. The authors of the report conclude that Beijing has opted for nationalism and even the imposition of the Xi personality cult. All this takes place against the backdrop of the intensification of the anti-corruption campaign, designed to restore public confidence in the authorities and to "clear" the political elite from the opposition.

In order to create conditions in which the leader can demonstrate his power, Xi Jinping will need "small victorious wars". In order to fuel the growth of nationalist sentiments and create conditions in which the leader can demonstrate his power, Xi Jinping will need "small victorious wars". American experts expect Beijing to take the path of increasing confrontation in territorial disputes on the border with India, in the South China and East China Seas, and take a tougher stance in dealing with Washington. According to the authors, in this Xi Jinping takes an example from Vladimir Putin, who uses similar mechanisms to increase his rating in Russia (Blackville., Campbell, 2016).

American experts can analyze and can give determination for Chinese foreign policy from their national interest. This opinion can include not full description about the Community of common destiny. In this case, to make opposite parallels for comparison you have to search the state point of Chinese officials.

On March 3, 2019, during the "two sessions", Xiao Jian interviewed the former deputy head of the Department of International Relations of the CPC Central Committee, deputy director of the Association of the Chinese People for Disarmament and Peace Zhou Li. In an interview, he talked about his point of view on pressing issues such as foreign investments of domestic enterprises, the Belt and Road initiative, relations between China and Russia, and the country's diplomatic course.

According to Zhou Li, the successes achieved over the last five years in the field of foreign policy are closely linked with the diplomatic ideas of Xi Jinping. The diplomacy of a major power with Chinese characteristics is an important component of Xi Jinping's concepts of socialism with Chinese characteristics in the new era. It is embodied in the following aspects. Firstly, it is necessary to adhere to the principles of mutual respect and mutually beneficial cooperation, to achieve the cohesion of all countries and to jointly follow the path of peaceful development. Secondly, to protect world peace and promote joint development, thereby promoting the development of a community of one destiny. Thirdly, to uphold the concept of justice and equality, as well as direct the process of reforming the global governance system. Fourth, adhere to the principle of "joint consultation, joint construction and joint use of the fruits of development" in order to promote the construction within the framework of the "Belt and Road" initiative. Fifth, based on deepening the diplomatic approach to create a global partnership. Sixth, to consider the protection of national interests as a certain limit, which in no case can be crossed, and to defend the sovereignty, security and national interests of the country. Seventh, to form the unique diplomacy of China, combining the best traditions of foreign policy with the characteristics of the new era (Jian, 2019).

Ambassador Extraordinary and Plenipotentiary of China to the Russian Federation Li Hui in his interview expressed three main characteristics or explanations of the Community of common destiny.

Firstly, this is an international situation, the roots of which lie in the era of globalization. The world today has entered a period of great development, big changes, big reconfiguration, the system of international relations and the world order are undergoing fundamental changes. With the deepening and development of multipolarity, the globalization of the economy, the informatization of society, and cultural diversity, a whole host of developing countries and emerging markets have embarked on the path of rapid development, numerous development centers are gradually being formed in various regions of the world, and the trend of peaceful development will not be reversed. With each passing day, the interconnectedness and interdependence of all countries are deepening, there are fewer and fewer opportunities for the isolated development of the state, and the tendency towards mutually beneficial cooperation and joint development is becoming increasingly apparent. At the same time, many difficulties turn into inevitable

for any state, requiring problems to be solved by joint efforts: environmental pollution, food crises, lack of natural resources, climate change, network security, epidemics of dangerous diseases, terrorism, transnational crime and much more. No state can stand aside and only care about its own well-being. Harmonious coexistence and cohesion should become a natural way out.

Secondly, it is a Chinese civilization based on openness and inclusiveness. It is typical for Chinese traditional culture to strive for unity, even with differences, to adhere to the principle of reaching agreement in case of disagreement, to perceive the whole world as one family, and thus the goal is equal cooperation and joint progress for the common prosperity of different countries, regions and cultures. In Chinese culture, there are only traditions of “good relations with neighbors”, “consent in the presence of differences”, and historically there is no room for aggression against other peoples and claims for world domination. China does not seek to dominate the world and does not accept the logic of “hegemony of the strong.” There is an ancient expression: “One flower of spring does not, spring comes when all the flowers open.” This is the concept of China’s development and the hopes that China has in the world. An important initiative for the formation of a human community with a common destiny is called upon to establish relations among all such different cultures of the world, guided by the postulate of Chinese philosophy, which says “all principles are implemented together and do not conflict with each other.” It is necessary to promote the resolution at the deep level of conflicts and confrontations that are becoming more acute every day in the modern world, to stimulate cultural exchanges and mutual knowledge by maintaining cultural diversity.

Thirdly, it is the duty and responsibility that China needs to assume. As China’s total power grows continuously, its international position gradually becomes higher, and China needs to clearly explain to the world its own course of action, while the world expects China to play the role of a major power. Although China is the largest developing country, it occupies only the 70th place in the world in terms of per capita GDP. As a permanent member of the UN Security Council and the second largest economy in the world, China intends to assume responsibility in international affairs, commensurate with its position, intends to make an appropriate contribution to the peaceful and harmonious development of the world community. Based on the foregoing, President Xi Jinping of the People’s Republic of China has put forward an important initiative to form a human

community with a common destiny and proposed from five positions at once – politics, security, economy, culture and ecology – to promote the building of a clean and beautiful world community with a lasting peace and general security, common prosperity, openness and tolerance. This is an initiative that corresponds to the course of historical development, meets the requirements of the era, and this is the carefully thought out development option that China is ready to offer the world (<http://ru.china-embassy.org/rus/dssghd/t1642278.htm>).

Nevertheless, it is difficult to imagine that Xi Jinping’s personal qualities will have a decisive influence on Beijing’s foreign policy strategy. Even under the radical Mao, Chinese foreign policy was cautious and pragmatic: in relations with the Soviet Union, the PRC dispensed with “Chinese warnings,” and in the midst of the Cold War went on rapprochement with the capitalist United States. Moreover, today, it seems, the “great freedom of expression” that Beijing suddenly began to allow itself is a well-considered strategy that has nothing to do with emotions or psychological complexes. Xi Jinping will bite the hand that feeds, quarrel with the main trading partners of China, either from nationalist considerations or from allied agreements.

## Conclusion

In conclusion, from our state points we have witnessed the changes that have happened over the last years. Moreover, what will China’s foreign policy be in the next five or ten years? Xi Jinping’s report at the 19th CCP Congress contains some hints. This important document is not a mere talk about the achievements of the past, but it also outlines the priorities for the future.

The report refers to the “great revival of the Chinese nation” 27 times, and 6 and 5 times, respectively, to the “community of common destiny” and the Belt and Road initiative. However, far more important is the fact that these three formulations are now enshrined in the party’s charter in the form of amendments adopted at the congress. Moreover, the concept of “great power” is mentioned seven times, but nothing is said about “relations of a new type with great powers”. The phrase “international relations of a new type” appears twice in the report.

Taken together, these signs indicate that the “great revival of the Chinese nation” will be Beijing’s top priority until 2049, when China will celebrate 100th anniversary. At this point, the report states, the country will become “a modern, powerful

socialist power.” According to Xi Jinping, “the advent of socialism with Chinese characteristics in a new era means that the Chinese nation is facing a great leap: it has risen to its feet, began to live a better life and is turning into a strong and powerful nation.”

Nevertheless, the Chinese dream of national revival does not come down to restoring the country’s former greatness. On the contrary, Beijing is determined to transform the whole world into a “society with a single destiny,” in particular through

the “Belt and Road” initiative and the creation of a new type of international relations. This plan is not designed for one country, even the largest in the world in terms of population; it is an unprecedentedly ambitious and bold concept for all of humanity. Not a single state in history, including the Roman and British Empires or the United States of America, has offered such a world. The current program is have other than China’s bid for world leadership. Thus, China, having gained wealth and power, will usher in a new era in international politics.

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**THE GOVERNMENT'S ROLE IN INDUSTRIAL DEVELOPMENT AND  
TECHNOLOGICAL INNOVATION:  
FRANCE'S NATIONAL POLICY TOWARDS NUCLEAR  
ENERGY DEVELOPMENT**

**Abstract.** This short article attempts to answer the question, what would be the best perimeter to launch a sustainable and successful innovation policy? Policy towards nuclear energy in France is the principle focus to provide a partial answer to the question. The example of the French nuclear industry, whose creation and management pertaining to a state initiative at the end of World War Two, provides a typical example of a sector-based development on innovation resulting from a long term tradition of state interventionism and public initiatives, which can be described as a high tech Colbertisme. Considering those difficulties faced by such a prominent national champion in an economic milieu, it is questionable whether or not the adoption of the Lisbon Agenda in support of innovation and of its wide diffusion was realistic. French nuclear operators within their national boundary have been characterised as quasi-monopoly for such a long period of time. However, it is questionable whether it was worthwhile for sustainable innovation, or to the contrary, it constituted mere a cumbersome obstacle constraining further marketable value creation. Pitelis' comprehensive strategic model, – recognising government as an important actor as one of the determinants to sustainable value creation affecting both meso- and macro-environment at different time periods –, to some extent fills the theoretical gap in this area.

**Key words:** French industrial policy, energy, nuclear, Colbertisme, state regulation.

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**Үкіметтің индустриялық дамудағы және технологиялық инновациядағы рөлі:  
Францияның атом энергетикасын дамыту саласындағы ұлттық саясаты**

**Аңдатпа.** Бұл қысқа мақалада тұрақты және табысты инновациялық саясатты іске қосу үшін оңтайлы формат қандай болар еді деген сұраққа жауап беруге әрекет жасалды? Франциядағы ядролық энергетикаға қатысты саясат бұл сұраққа ішінара жауап бере алатын кілті болып табылады. Француз атом өнеркәсібінің мысалы екінші дүниежүзілік соғыстың соңында құрылуы және басқарылуы, мемлекеттік бастамасы ретінде сектордың дамытудың типтік мысалы, оның негізінде мемлекеттік араласудың көпжылдық дәстүрі және қоғамдық бастамалардың туындайтын инновациялар, оны жоғары технологиялық Кольбертизм ретінде сипаттауға болады. Экономикалық ортада көрнекті ұлттық көшбасшы тап болатын қиындықтарды назарға ала отырып, Лиссабон күн тәртібіндегі инновацияларды қолдау және оның кең таралуына қабылдау шынайылығына күмән тудырады. Француз ядролық операторлары өзінің ұлттық шекарасы шегінде ұзақ уақыт бойы квазимонополия ретінде сипатталды. Алайда, бұл инновацияларды тұрақты енгізу үшін орынды болды ма, әлде керісінше, ол нарықтық құнды одан әрі құруды тежейтін үлкен кедергі болды. Бұл сұраққа жауап беру және қазіргі бар теориялық вакуумды толтыру үшін – мақала әртүрлі уақыт кезеңдерінде мезо-, сондай-ақ макросредаға әсер ететін құнды тұрақты құру детерминанттарының бірі ретінде үкіметті маңызды актор ретінде танитын Пителистің кешенді стратегиялық моделін қарауға ұсынылған.

**Түйін сөздер:** Францияның өнеркәсіп саясаты, ядролық энергетика, Колбертизм, мемлекеттік реттеу.

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**Роль правительства в промышленном развитии и технологических инновациях:  
национальная политика Франции в области развития ядерной энергетики**

**Аннотация.** В этой статье предпринята попытка ответить на вопрос, каков был бы оптимальный формат для запуска устойчивой и успешной инновационной политики? Политика в отношении ядерной энергетики во Франции является главным направлением для обеспечения частичного ответа на этот вопрос. Французская атомная промышленность, создание и управление которой относятся к государственной инициативе в конце Второй мировой войны, представляет собой типичный пример развития сектора на основе инноваций, вытекающих из многолетней традиции государственного вмешательства и общественных инициатив, которые можно охарактеризовать как высокотехнологичный Кольбертизм. Принимая во внимание те трудности, с которыми сталкивается видный национальный чемпион в экономической среде, вызывает сомнение реалистичность принятия лиссабонской повестки дня в поддержку инноваций и ее широкого распространения. Французские ядерные операторы в пределах своей национальной границы характеризовались как квазимонополии в течение столь длительного периода времени. Однако сомнительно, было ли это целесообразно для устойчивого внедрения инноваций, или наоборот, оно представляло собой лишь громоздкое препятствие, сдерживающее дальнейшее создание рыночной стоимости. Для ответа на этот вопрос и для заполнения существующего теоретического вакуума статья предлагает для рассмотрения комплексную стратегическую модель Пителаса, признающую правительство в качестве важного актора, одного из детерминантов устойчивого создания стоимости, влияющего как на мезо-, так и на макросреду в различные периоды времени.

**Ключевые слова:** Французская промышленная политика, энергетика, атомная энергетика, кольбертизм, государственное регулирование.

## Introduction

Policies fostering innovation are the key elements of industrial policy. It is not easy to disentangle how to make these policies most effective and competitive. Is the state with its own traditions and bureaucracy the important factor, or rather the regional force? Regional pressure becomes a key factor in economic development and appears to be one of the most prevalent trends in our current international community (Ohmae, 1995). This essay attempts to answer the question, what would be the best perimeter to launch a sustainable and successful innovation policy? Policy towards nuclear energy in France is the principle focus of this essay to provide a partial answer to the question.

Among many examples of innovation policies, the French definition of industrial policy and the European building process are worth enquiring. Indeed, the example of the French nuclear industry, whose creation and management pertaining to a state initiative at the end of World War Two, provides a typical example of a sector-based development on innovation resulting from a long term tradition of state interventionism and public initiatives, which can be described as a high tech Colbertisme. Colbertisme is a political doctrine coined after the name of Jean-Baptiste Colbert, the Finance Minister

of Louis the XIVth, who developed national industries through state interference and the granting of a nationwide monopoly. To some extent, such a doctrine is considered as a legacy of protectionism and is based on a mercantilist conception of wealth. The “high tech” colbertisme refers to the tradition of State interventionism based on the very specific French workforce and infrastructures.

Culminating into the building of a national champion – a position endorsed by the AREVA Group – innovation policy seems to be considered as a success on a national basis, however, with much less achievements, on a regional scale. As a matter of fact, the nuclear sector is diversely defined on the following two levels: nationwide, it encompasses a handful of operators, whose roots are those of a public service with long term stakeholders, such as national laboratories, national technical agencies combined with a technically-oriented educational system (via so-called French “*Grandes Ecoles*”) sharing the same system of values. Meanwhile, on a regional scale, the nuclear sector presents a couple of national champions whose erratic cooperation is to be more ‘monitored’ than ‘managed’ by the EURATOM<sup>1</sup> organisation.

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<sup>1</sup> The European Atomic Energy Community (EURATOM)

The difficulties faced by the French nuclear operator, AREVA on the European market apparently to highlight the limits of the duplication of the industrial and innovative policy. Considering those difficulties faced by such a prominent national champion in an economic milieu, it is questionable whether or not the adoption of the Lisbon Agenda in support of innovation and of its wide diffusion was realistic. It is important to ask the question whether nationalised way of adoption has any significance in the design and sustainability of innovation policy. Moreover, should it be the case, what should be the way, in light of the French and European nuclear case, to nurture an efficient “wheel of innovation” when the articulation between national and regional definition of the industrial policy seems to go awry?

The success of French nuclear sector is well-recognised pertaining to the principles of a long-term and specific conception of the state-led innovative operator, which will be explained in the following part of the essay, after evoking the evolution of the French nuclear sector. Followed by this, the theoretical explanations will be added of the high tech Colbertisme and finally the essay attempts to analyse the reasons for the discrepancy between the national success and its relative failure on the European level.

### Evolution

The French nuclear industry provides a remarkable example of a national industrial policy aiming at the diffusion of innovation and the sustainable maintenance of the energetic landscape of an entire country.

Pioneered by the nuclear research ever since the discovery of radioactivity at the end of the XIXth Century by Henri Becquerel, Pierre and Marie Curie, the French government has first considered nuclear research for a more military concern. In 1945, the creation of the Commission for Atomic Energy (*Commissariat à l'Énergie Atomique (CEA)*)<sup>1</sup>, for Charles de Gaulle, the then president of the Council of the Provisory Government of the newly re-established French government, was considered as a way to combine science, industry and national defence. Such a combination paved the way for launching the first French nuclear bomb without which France would not have recovered its lost rank as a super-power nation in the newly established world order arising from the Yalta Conference.

Such an approach chosen by de Gaulle is therefore that of a public monitoring of the overall nuclear sector assured by rather exhaustive list composed by the five departments of the CEA: nuclear energy, technological research, life sciences, sciences of matter and military application. Such a state agency is viewed as the leading conductor of the whole creation of that sector in France in accordance with a very strict governmental goals and specific planning and with enormous workforce amounting almost 15,000 labour force by 2009. They are mainly composed of engineers recruited from the “*Grandes Ecoles*” and administrators from the civil service. In fact, the French nuclear landscape is mostly composed of two public operators<sup>2</sup>. On the one hand, the “*Electricité de France*” Group (EDF) remains in charge of the generation and distribution of the electricity while managing the 59 nuclear power plants built in France. On the other hand, AREVA, a multinational conglomerate created in September 2001 in the form of a fusion of two public operators, FRAMATOME and COGEMA, who are in charge of crafting and constructing nuclear plants as well as operating the entire system.

### Colbertisme

The establishment of nuclear sector in France resulted from a specific industrial policy defined as *High Tech Colbertisme*, a sector based policy in the manufacturing industry by which industrial specialisation has been moulded (Cohen, 2007). Such an approach to industrial innovation is based on three principles. Firstly, the intervention of a sovereign state endorsed with the monopoly of general interest in the future industries. Secondly, the idea of a great industrial project brought actors from various fields including bureaucracy and research bodies but animated by the same set of shared values. Thirdly, a regalia approach to innovation and industrial development resulted in gains going much beyond the economic returns in fostering national autonomy and preservation. It was strongly legitimised due to the particular situation when the energy independence was felt threatened after the consecutive oil crises of the 1970s. Moreover, such a project must follow an industrial planning supported by ad hoc financial supports that are extended far beyond the national budget usually considered as the unique possible sources of national funding adopted by the Members of Parliament on a yearly basis.

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<sup>1</sup> Ordinance n° 45-2563 of 18<sup>th</sup> October 1945

<sup>2</sup> The state owns more than 87% of the shares of EDF and almost 90% of the shares of AREVA

The development of nuclear sector heavily relied upon the principle stakeholder, the state, as the results of the nationalisation process with some ebbs and flows since 1936. It has been amplified in 1981 with the election of François Mitterrand supported by a left-oriented coalition including the Communist Party. In this respect, shaping of the nuclear sector under the guidance of the state aimed at effective control of industrial dominant positions. It was a form of anti-trust policy implemented by a middle-sized country like France in pursuance of preventing private operators from seizing infrastructure industry that are reserved for the sake of general interest of wider public (Stoffaes, 1983). Innovation is therefore interpreted as the consequence of the state's financial support granted to groups who are strong enough to contract debts and to maintain innovation. In this context, the nuclear sector was considered, especially in the 1980s, as the main investor of the whole French industry (Stoffaes, 1983).

The French nuclear sector has therefore benefited from a *de facto* monopoly as well as its recognition as a national priority. Therefore, the building of national champions, EDF and AREVA, is considered as an emblematic success of a national way of fostering innovation through *ad hoc* mechanisms. AREVA, while enjoying its international visibility as a creed among decision makers ever since its creation, has been regarded as incarnation of the success of the high tech Colbertisme. And yet, its implementation constantly ignored the political upheavals.

The existence and current situation of the group evoke some doubts whether their performance is worth taking as a real credential. Indeed, the fact that AREVA remains still under the governmental control shows the limit of the French conception of national championship. As Ellie Cohen (2007) points out, those companies have natural ends to be freed from the state's intervention and to be privatised; thus being robust enough to face the market on an autonomous basis. In addition, the nuclear sector has a European dimension also that has considerably evolved over the past fifty years. Being included in the starters' group of the European building process, the EURATOM organisation was launched on the same day of the Treaty of Rome and the nuclear sector has gained *de jure* recognition as a component of the future European market whose creation took almost 30 years. But, such a regional dimension of the nuclear energy sector has been ignored by the French national authorities and consequently, EURATOM, until recently, has generated more

a normative impacts<sup>1</sup> than substantial industrial competitiveness in the market.

### Filling the theoretical gap

Beyond the practical goals claimed by governments, what else can be the theoretical explanations on how to lead an industrial policy to a successful path to foster and spread innovation? Would such a framework provide reasons why it seems that a nationally successful experience cannot be duplicated in the regional context? In fact, nuclear-related industrial sector is a good subject for those theories, for example, Porter (1995), and Francis (1993), whose beliefs basically support the idea that stronger governmental regulations would bring better results in technological innovation. Particularly in the case of nuclear energy, due to its nature of a public good with potential military use, government's intervention would be inevitable and even desirable. The nuclear sector requires, more than any other technology intensive sectors, highly sophisticated governmental policy guides and constant regulations. Francis (1993) provides an insightful explanation on how the French government could win public support in nuclear energy development. Among many factors, three were most decisive, namely, lessons from US experience, energy shortage of that time, and strong confidence in technological superiority.

Some important questions still remain unanswered. Would state intervention in high value sector like nuclear energy be continuously legitimised for a sound and long-run industrial development? French nuclear operators within their national boundary have been characterised as quasi-monopoly for such a long period of time. However, it is questionable whether it was worthwhile for sustainable innovation, or to the contrary, it constituted mere a cumbersome obstacle constraining further marketable value creation. The following points analyse the motives and consequences of the French government's engagement in this field of industrial policy.

Firstly, the state had to play its regalia part in defining the framework required to perform and diffuse innovation. As Zysman & Al (1990) rightly pointed out, the state, unlike private operators, can spread desirable technology at a lower cost and achieve scale economies and positive technical externalities for the whole society. In this respect,

<sup>1</sup> Such as the Article 37 of the EURATOM TREATY on environmental issues and cross-bordering cooperation

the building of a national champion needs several conditions to be met which illustrate why nuclear energy per se is one of the most relevant sectors to become the topic of a national program. According to Paul Seabright (2006), such a policy requires large firms, high technology, a low variety of techniques available on the market, large scale economies, and strong commitment of stakeholders.

Secondly, innovation in such a high tech sector requires a risk-taker that can support potential failures. As Schumpeter observed, the less numerous competitors play in a given market, the easier may higher benefits be secured, so as to safely block other companies to enter the market. Therefore, the leading company shall keep innovating to maintain its leadership. As Arrow (1962) rightly envisaged, only the state might be prone to invest in huge technological program. But the monopoly granted by the French Government to its nuclear operators had side-effects on innovation, although it was legitimised as the fuel of the European Building process and of its unique market development. According to the 'substitution effect', inasmuch as innovation creates value, it inevitably entails negative externalities for the origin of the innovation. Therefore, a monopoly is less prone to be innovative as it does not necessarily stand still with bearing the costs of any negative externality occurred by continuous innovation.

Thirdly, in the light of a more neoclassical approach, innovation must proceed from the competition among firms and should not therefore be the results of a direct intervention of the public authorities. Indeed, companies have direct knowledge of the market and benefit from some information whose acquisition remains costly for the state, which can be well described in the principle of asymmetry of information.

Finally, the initiative of the industrial policy for innovation and the origin of the French nuclear sector remain purely vertical-based (Cohen, 2006). Such a conception of industrial development tends to be outdated as for a main driving force of long-term growth. Sustainable innovation may be resulting from the stock of human capital (Nelson-Phelps, 1966), thus calling for a new conception of innovation policy on a broader base encompassing education and social structures, which will ultimately lead to the higher level of value capture. It seems to be clear that the recent decline of AREVA in the European market gives a message that the strengths of the French innovation model seems to be jeopardised as they no longer match the new regional deal of the European

single market, in other words, more regional based horizontal model. In March 2009, the strategic alliance built between the French operator AREVA and its counterpart SIEMENS has been ceased. The German operator entering a partnership with the Russian company ROSATOM begins to develop its international platform. Such an episode can be interpreted as the difficulty met by the French national champion in transferring its knowhow and its way to foster innovation on an extended scale; namely the European Market and its competitor operators in the global market.

The European building process becomes contradictory with French authorities' initial policy but it is still categorised under the national champion framework. The creation of the Unique European Market in 1986 and its progressive implementation have generated many issues, notably the agenda of cooperation between national champions from different member countries. As for an example, the German champions were built on social compromises rather than on a direct and continued state interventionism. Cultural differences in industrial policy-making were discovered as a noticeable barrier pertaining to the market regulation between the European and the French legal systems. In this respect, the notion of a relevant market defined by the European Commission could lead to the dismissal of the implementation of a national industrial policy calling for the creation of a national champion on a monopolistic basis relying on the consumer protection defence.

The decision to foster innovation through the setting of a regional agenda, as that of Lisbon in 2000<sup>1</sup>, is based on a horizontal conception of industrial policies. They were based on the premises that public authorities do not have the relevant information or required tools to allocate resources more efficiently than the market, which might support the inevitability of adopting purely market based Coasian bargain solution (Coase, 1960; Ellickson, 1989; Farrell, 1987). Nevertheless, without any political incentive to create European champions that can substitute for existing national champions, such a trend might create even further constraints.

Overall, European integration does not seem to put an end to the existence of 'national' economic policies confined to the origin of innovation. As shown by the Maurel Report (1999), increased

<sup>1</sup> European Council, 23<sup>rd</sup> and 24<sup>th</sup> of March 2000 that aimed to "make Europe, by 2010, the most competitive and the most dynamic knowledge-based economy in the world".



regional specialisation and agglomeration have caused the spread of industrial activity across regions to be more uneven, thus rendering vain the project to build a balanced economic union and to create some European champions substituting themselves to already national companies in strategic fields, notably a sector like nuclear energy. How is it possible to overcome these difficulties faced by the duplication and the enlargement of what was successful, in terms of innovation and industrial dominance, on a national basis?

Pitelis' comprehensive strategic model provides illuminating explanations and nicely fills the theoretical gap in this area. Pitelis recognises government as an important actor as one of the determinants to sustainable value creation. Government influences the institutional and macroeconomic context, through legal and regulatory tools. Its role affects 'the meso-environment through its competition, industrial and regulation policies and the macro-environment through its macroeconomic policies' (Pitelis, 2004: 218). It also generates and maintains fundamental values such as education and public health, which are crucial social capital for long term innovation. However, as Pitelis' (2004) model (Fig 2 "Three 'actors' of productivity, value and wealth-creation") comprehensively indicates, all multi-layered structure has to be scrutinized in order to have a completed picture of the industrial

performance, as many factors interact on different levels at different time periods.

### Conclusion

Nuclear in France is an example of a major success based on an interventionist policy aiming for the diffusion of sustainable innovation in a high value sector. However, many unexpected difficulties were faced in transferring the national model into regional model of development in the European context, and may consequently fail in the near future to remain as competitive as in the previous monopolistic situation. The evolution and development of French nuclear industry demonstrate that although to some extent, closed national border and protectionist policy play a significant role for a while, many other factors have to be considered to keep fostering such a massive industry. The case clearly shows the necessity of diverse levels of interactions among core elements such as technological capacity, government's will, well-established institutions, planned but flexible regulations, and so on. All these factors may influence industrial changes but none of them is conclusive. In addition, for a European industry, regional approach is crucial while making a constant balance between regional level cooperation and preserving national competitiveness to survive the globalising economy.

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## EVOLUTION OF CONCEPTUAL BASICS OF RUSSIAN FEDERATION'S FOREIGN POLICY TOWARDS COUNTRIES OF CENTRAL ASIA

**Abstract.** Relations between the Russian Federation and the Central Asian countries have always been of strategic importance for both sides. The topic of the study is interesting because against the background of historical events, in the absence of experience in the conduct of foreign policy only by the newly independent Central Asian countries and building their own ways of development, it is possible to trace changes in the conceptual foundations of foreign policy and strategy of the Russian Federation in relation to this region. Despite the twenty-eight years since the collapse of the Soviet Union, there remains a high degree of interdependence between Russia and the Central Asian States. This is due not only to the large extent of the common state borders, but also to the common economic policy promoted both within the framework of the Eurasian Economic Union and on a bilateral basis. Thus, the Central Asian region is a major supplier of energy resources to Russia, through the territory of which raw materials are transported to the countries of the European Union, while Russia exports mineral products, machinery and equipment to the Central Asian countries. However, it is worth noting that, despite the efforts made by the Russian authorities to establish relations with the Central Asian States on a bilateral and multilateral basis, to this day there is no single separately developed concept that would determine the long-term strategy of the Russian Federation in Central Asia. It is no secret that official conceptual sources are required for the study of relations between countries, but since there is no single document of the strategy in relation to the Central Asian countries in the Russian Federation, it is necessary to turn to other concepts. Thus, in this article the authors examined the evolution of the conceptual basics of foreign policy and strategy of Russia towards Central Asian countries with which it is possible to identify stages of relationships, the strategic goals of the Russian Federation and the region's place in Russian foreign policy.

**Key words:** Russian Federation, Central Asia, foreign policy concept.

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### Ресей Федерациясының Орталық Азия елдеріне қатысты сыртқы саяси тұжырымдамаларының негіздерінің эволюциясы

**Аңдатпа.** Ресей Федерациясының Орталық Азия елдерімен қарым-қатынасы әрқашан екі жақ үшін де стратегиялық маңызды болды. Зерттеу тақырыбы тарихи оқиғалар аясында, тәуелсіздікке жаңадан қол жеткізіп Орталық Азия елдерінің сыртқы саясатты жүргізуде тәжірибесі аз және өзіндік даму жолын енді құрған кезеңде, осы аймаққа қатысты Ресей Федерациясының сыртқы саясаты мен стратегиясының тұжырымдамалық негіздеріндегі өзгерістерді байқауға болатындығымен қызығушылық танытады. Кеңес Одағы ыдырағаннан бері жиырма сегіз жыл өткенімен Ресей мен Орталық Азия мемлекеттерінің өзара тәуелділігі жоғары деңгейде қалып отыр. Бұл тек ортақ мемлекеттік шекаралардың үлкен көлеміне ғана емес, сонымен бірге Еуразиялық экономикалық одақ аясында да, екіжақты негізде де жүргізіліп жатқан ортақ экономикалық саясатқа да байланысты болып отыр. Осылайша, Орталық Азия аймағы Ресейге энергия ресурстарын жеткізушілердің ішіндегі ірісі, оның аумағы арқылы Еуропалық Одақ елдеріне шикізат тасымалданады. Ресей болса Орталық Азия елдеріне минералды өнімдерді, машиналар мен жабдықтарды экспорттайды. Алайда, Ресей билік өкілдерінің Орталық Азия мемлекеттерімен екіжақты және көпжақты негізде қарым-қатынас орнату жөніндегі күш-жігеріне қарамастан, бүгінгі күнге дейін Ресей Федерациясының Орталық Азияға қатысты ұзақ

мерзімді стратегиясын анықтайтын жеке әзірленген тұжырымдамасы жоқ. Елдер арасындағы қатынастарды зерттеу үшін ресми тұжырымдамалық дерек көздерді қажет ететіндігі жасырын емес, бірақ Ресей Федерациясында Орталық Азия елдеріне қатысты бірыңғай стратегиялық құжаты болмағандықтан, басқа тұжырымдамаларға жүгіну керек. Мақалада авторлар Ресей Федерациясының Орталық Азия елдеріне қатысты сыртқы саясаты мен стратегиясының тұжырымдамалық негіздерінің эволюциясын қарастырып, соның негізінде қатынастардың қалыптасуының кезеңдерін, Ресей Федерациясының стратегиялық мақсаттарын және Ресейдің сыртқы саясатында Орталық Азия аймағының орнын анықтады.

**Түйін сөздер:** Ресей Федерациясы, Орталық Азия, сыртқы саяси тұжырым.

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### **Эволюция концептуальных основ внешней политики Российской Федерации по отношению к странам Центральной Азии**

**Аннотация.** Взаимоотношения Российской Федерации со странами Центральной Азии всегда носили стратегически важный характер для обеих сторон. Тема исследования интересна тем, что на фоне исторических событий, в условиях неимения опыта во ведении внешней политики только обретшими независимость центральноазиатскими странами и построения ими своих собственных путей развития, возможно проследить изменения концептуальных основ внешней политики и стратегии РФ по отношению к данному региону. Несмотря на прошедшие двадцать восемь лет с развала Советского Союза, между Россией и государствами Центральной Азии сохраняется высокая степень взаимозависимости. Это связано не только с большой протяженностью общих государственных границ, но также с общей экономической политикой, продвигаемой как в рамках Евразийского Экономического Союза, так и на двусторонних основах. Так центральноазиатский регион является крупным поставщиком энергоресурсов в Россию, через территорию которой сырье транспортируется и в страны Европейского Союза, в то время как Россия экспортирует в страны ЦА минеральные продукты, машины и оборудование. Однако стоит отметить, что, несмотря на предпринимаемые властями России усилия по налаживанию отношений с государствами Центральной Азии на двусторонней и на многосторонней основах, по сей день не существует единой отдельно разработанной концепции, которая бы определяла долгосрочную стратегию РФ в ЦА. Не секрет, что для исследования взаимоотношений стран требуются официальные концептуальные источники, но так как единого документа стратегии по отношению к странам ЦА в РФ не существует, следует обратиться к иным концепциям. Таким образом, в этой статье авторами была рассмотрена эволюция концептуальных основ внешней политики и стратегии РФ по отношению к странам ЦА, благодаря которой можно определить этапы становления отношений, стратегические цели РФ и место региона во внешней политике России.

**Ключевые слова:** Российская Федерация, Центральная Азия, внешнеполитическая концепция.

### **Introduction**

On December 8, 1991, in Viskuli near Brest (Belarus), the leaders of the RSFSR, Ukraine and the Republic of Belarus signed an Agreement on the collapse of the Soviet Union and the creation of the Commonwealth of Independent States. For almost three decades, Russian foreign policy has undergone a number of major changes, characterized by the transition from complete political domination of the Atlanteans, to defend the role of one of the most powerful centers of the multipolar world.

The first Minister of foreign Affairs of the newly formed Russian Federation Andrey Kozyrev saw the main priority of Russia's foreign policy

in cooperation with Western countries, in active support of their course and familiarization with it. Instead of the classic version of confrontation with Western countries, he called Russia's best choice – an Alliance with NATO which was reflected in the first document of the conceptual foundations of Russian foreign policy. However, Atlantean ideas could not fit into the routine of Russian politics, and, soon, this idea was abandoned. Three years after the adoption of the first Concept, in 1996, Kozyrev was replaced by Yevgeny Maksimovich Primakov, known for his anti-Western stance. It is with the name of Yevgeny Maksimovich that Russia's transition from Atlanticism to a multi-vector foreign policy is connected.

Despite the heterogeneity and contradictions of the Russian foreign policy at the beginning of its independent path, it is worth noting that since the independence of a number of former Soviet republics, that is, during the work of Kozyrev, and to date, the development of bilateral relations with the Commonwealth countries has always been a priority in the foreign policy of the Russian Federation, as evidenced by the fundamental documents in this area.

### **Theoretical and methodological basis of the study**

For decades, the Central Asian region was part of the Soviet Union and therefore for a long time was not a subject of international relations. As of today there is no single official document of Russia, defining its strategy towards the countries of Central Asia, the theoretical basis for this study were taken all taken with the independence of the foreign policy Concept of the Russian Federation, of which there are only five documents: the foreign policy Concept of the Russian Federation 1993 foreign policy Concept of the Russian Federation, 2000, foreign policy Concept of the Russian Federation, 2008 the foreign policy Concept of the Russian Federation in 2013 and the foreign policy Concept of the Russian Federation in 2016, the current. Through the method of studying the document and content analysis, the study can trace the evolution of the conceptual foundations of the foreign policy of the Russian Federation in relation to the Central Asian countries, which is the aim of the authors. The level analysis allowed the authors to comprehensively consider the evolution of the foreign policy of the Russian Federation in Central Asia.

Thus, following the changes in the conceptual documents, we can draw conclusions about the changing priorities of Russia in relation to this region in different periods of its activity. The first Concept of 1993 was the first official document defining the foreign policy of Russia (The Foreign Policy Concept of the Russian Federation, 1993). In the early 90's, for the newly independent successor state of the Soviet Union, there was an active process of formulating its political identity, and the first FPCRf clearly shows its attempt to conceptualize strategies for each region of the world. Central Asia was given the place of a strategically important region for Russia, but the priorities specified in the document were only generalizing, emphasizing that it is desirable to create an organization on the basis of the Commonwealth that allows "harmonizing" the political courses of

these countries. The 2000 FPCRf was a kind of "revision" of the 1993 Concept, the institutions within which the integration of the Commonwealth States was supposed to take place were already clarified and the desire to introduce a common fight against terrorism and extremism was also expressed. In the FPC 2008 first used the term "Central Asia" (The foreign policy Concept of the Russian Federation, 2008). It is in this document that the primacy of the military-political orientation of relations with the region was replaced by an economic orientation. The 2013 concept envisaged active integration within the Eurasian economic community (The Foreign Policy Concept of the Russian Federation, 2013), and the 2016 Concept envisaged closer integration with Central Asian countries such as Kyrgyzstan and Kazakhstan (The Foreign Policy Concept of the Russian Federation, 2016).

### **Literature review**

Among the works devoted to the issues of Central Asia and the policy pursued by the Russian Federation in relation to this region, we can note the works of such Russian authors as Bogaturov A. (Bogaturov, 2007), Kulmatov K. N. (Kulmatov, 2002), Savichev Yu. N. (Savichev, 2016). New trends in the foreign policy of Russia in Central Asia is devoted to the work of Chufrin G. "Russia in Central Asia" (Chufrin, 2010). The analysis of the evolution of the foreign policy of the Russian Federation and the policy in Central Asia is devoted to the works of such authors as Andrew Monaghan (Monaghan, 2013), Włodkowska-Bagan A. (Włodkowska-Bagan, 2012), Francisco J. Ruiz González (González, 2013), Maria Raquel Freiré (Freiré, 2009) Reinhardt R., Zonova T. (Reinhardt, Zonova, 2014), Omelicheva M. (Omelicheva, 2018), Safranchuk I. (Safranchuk, 2014). In the work of the Kazakh author Laumulin M. (Laumulin, 2012) the idea of the directions of studying Central Asia in Russia is given. The work of the famous Kazakh researcher Nursha A. (Nursha, 2015) attempts to understand what Russia pursues as its main goal, implementing the "Eastern turn" in its foreign policy. The work of Shkapyak O. (Shkapyak, 2013) is devoted to the identification of the main directions in the evolution and development of Russian foreign policy in Central Asia.

### **Central Asia is on the agenda**

Even before the conceptual framework of foreign policy, the CIS region, including the

countries of Central Asia (Tajikistan, Kazakhstan, Uzbekistan, Kyrgyzstan, Turkmenistan), occupied a leading place in Moscow's foreign policy interests. After the collapse of the Soviet Union, the Central Asian countries are actively searching for new ways to develop independently without management from a single center. It was assumed that the former Soviet republics were themselves interested in close cooperation with Russia, which would continue to regulate their actions. However, having gained independence, the Central Asian countries no longer sought to coordinate their policy with Moscow and, on the contrary, in an effort to break the Soviet past, declared a priority of their foreign policy, as well as Russia, relations with Western countries. The Russian Federation, finding itself in a new round of history, in search of a better way of development, was more occupied with its own problems of self-determination. With the arrival of the first Minister of foreign Affairs of the Russian Federation Andrei Kozyrev, Russia has chosen the path from peaceful confrontation with the West to relations based on Alliance with him. According to the policy of Atlanticism promoted by the Minister, Russia had to take a course, first of all, on the development of relations with economically powerful and technologically advanced Western neighbors, and new industrial countries. Naturally, only the newly independent countries of Central Asia were not included in this list. However, it is worth paying tribute that the security issues of this region and the border territories of Russia, related to the problems that arose after the collapse of the USSR, have always been the object of attention of the Russian Federation.

The adoption of the first Foreign Policy Concept of the Russian Federation (FPC of the Russian Federation) during the presidency of Boris Yeltsin in 1993 was no exception. This was the first attempt to conceptualize the country's foreign policy after the collapse of the USSR, until now the state has done without any official document that would coordinate its foreign policy. According to the text of the first Concept, relations with the countries of the CIS region were supposed to be "brought to the level of full-scale interstate relations, ensuring full cooperation in all areas on the basis of reciprocity" (Shakleina T., 2002). Conflict resolution and prevention methods have been included in the long-term objectives for the region. This was supposed to be done through bilateral forms of Russian mediation and the involvement, if necessary, of such international actors as the UN, CSCE, EU, etc. In addition to bilateral relations, the document led

to the desire of the Russian Federation to create a full-fledged multilateral form of cooperation in the region, which would include the following points:

1. Transformation of the region into an effective interstate formation of sovereign entities based on voluntary participation and common interests. At the same time, Russia did not deny the slow and progressive development of this process in order to obtain a better result.

2. Creation of such mechanisms of work of the Commonwealth which will allow to harmonize political courses of the participating countries, to reveal commonality of their interests and to become a platform of their political interaction.

3. Improvement of the legal framework of the Commonwealth as an international regional organization. At the same time, Russia admits an uneven and multi-speed approach to the formation of the organization, in case of unwillingness of individual States to deeper cooperation. Ukraine, Belarus and Kazakhstan play a special role here.

4. The implementation of the agreements on cooperation in the field of security, etc.

One of the key goals defined in the text of the Concept, set before the policy of Russia – "the inclusion of the Russian Federation in the world community as a great power." Hence the active and clearly defined position of countering attempts to increase the military and political presence of third States in countries adjacent to its borders.

But it is worth noting that the painted priorities were only generalizing and did not have a well-built structure or plan of the Institute, within which these goals could be implemented or put into action.

In the run-up to the 1995 presidential election, President Boris Yeltsin replaced the foreign Minister. Andrei Kozyrev, an avid supporter of Atlanticism, was replaced by Yevgeny Primakov, a supporter of a multi-vector foreign policy. With his arrival there is a rethinking of the priorities of the foreign policy of the Russian Federation, which led to the rejection of the orientation of the policy in only one direction and proclaimed the primacy of national interests and equal relations with all States.

Just in this period, in the Wake of the search for new ideas for self-determination, the search for new ideological and political trends, the ideas of Eurasianism and the development of Russia as a Eurasian state began to be popularized. Within the framework of this idea, the experts proposed to consider Central Asia as a region where Russia could strengthen its position as a regional power by strengthening and intensifying cooperation with the countries of this space in matters of international

security and the military sphere. We can say that the ideas of Eurasianism still prevail in Moscow's foreign policy strategy, and we can see this by the example of the practical implementation of these ideas in the creation of the Eurasian economic community, and after the Eurasian economic Union.

Thus, seven years after the adoption of the first Concept, in a situation of sharply changed direction of foreign policy priorities of the country, as well as with the coming to the post of President of the Russian Federation Vladimir Putin, a new Foreign Policy Concept of the Russian Federation in 2000 was adopted.

By that time, the Central Asian countries were already able to show the first successes in their foreign policy, demonstrating the ability to independence and independence. The development of the oil and gas industry, the expansion of ties with other political actors, participation in integration processes – all this has led to the fact that the region has become an important subject of international relations. However, along with the successes, the old problems related to drug trafficking, international terrorism and extremism, illegal migration have also worsened. The new Concept required special attention to the development and maintenance of security institutions in the Central Asian region.

According to the text of the new document, the old priorities of Russian foreign policy required revision in connection with the international situation prevailing at that time, in which some calculations from the 1993 Concept were not justified. Thus, it was necessary to create a new Concept.

The new Concept was adopted on June 28, 2000 and was a document of the country's foreign policy, with an already strengthened international position, while under the FPC 1993 Russia only sought to restore its international status (The Foreign Policy Concept of the Russian Federation, 2000).

Relations with the CIS countries in the text of the new Concept were formulated by the first paragraph in the Chapter, under the heading "Regional priorities", where the main emphasis was placed on the need to build good-neighborly relations with the countries of the region, taking into account the willingness to take due account of the interests of the Russian Federation. According to this Concept, Russia continued to adhere to multi-speed and multi-level integration with the Commonwealth countries, but in narrower associations, such as the Customs Union and the collective security Treaty. Special attention is paid to the military-political sphere, where the priority of interstate relations is joint efforts to resolve conflicts in the CIS member

States, as well as the development of cooperation in the security sphere, including the fight against international extremism and terrorism. They noted the importance of developing economic cooperation, creating a free trade zone, as well as Russia's participation in the formation of mutually beneficial cooperation with coastal States on the status of the Caspian Sea.

According to the Russian researcher Bogaturov A., Russia's priorities crystallized as a doctrine only in 2006 in the speech of the country's leader to ambassadors and permanent representatives. Previous attempts to conceptualize Russian interests were devoid of a common core idea that links certain areas of foreign policy into a single logic (Bogaturov, 2007).

In this regard, the Concept of 2008, adopted during the presidency of Medvedev D., was a kind of expanded version of the FPC of 2000, which appeared under the influence of transformations that occurred in international relations, and the change in the status of Russia on the world stage (The Foreign Policy Concept of the Russian Federation, 2008). The document indicates that the role of the country in international Affairs has increased, as well as responsibility in connection not only with the implementation, but also with the formation of the international agenda, therefore, a "rethinking of the priorities of Russian foreign policy" is required.

In the Chapter "Regional priorities" relations with the CIS member States are now built on the basis of taking into account the interests of each other. Issues of military cooperation and security have given way to economic cooperation in the regional priorities. In the military-political sphere, the main tasks for Russia were to neutralize the terrorist threat and drug threat emanating from the territory of Afghanistan and to prevent the destabilization of the situation in Central Asia. The term "Central Asia" was first used in the 2008 Concept. These actions were planned to be carried out within the framework of the Eurasian economic community and the collective security Treaty Organization. Regarding the activities of sub-regional entities and other structures in the Commonwealth, the document notes that depending on respect for Russian interests and existing cooperation mechanisms, such as the CIS, CSTO, EurAsEC and SCO, Russia's attitude to the presence of third parties in the region is built. Russia continued to position itself as one of the centers of a multipolar world, a power with regions of special interest.

Five years later, in connection with the "rapid acceleration of global processes and the strengthening

of new trends” in the new world of the XXI century, it was necessary to rethink the priorities of Russia’s foreign policy “in view of its increased responsibility for the formation of the international agenda and the foundations of the international system.” Thus, 2013 marked the emergence of a new, fourth Concept of Foreign Policy of the Russian Federation (The Foreign Policy Concept of the Russian Federation, 2013).

The document stated the goal “to actively support the process of Eurasian economic integration, implementing together with Belarus and Kazakhstan the task of transforming the Eurasian economic community and forming the Eurasian economic Union, to promote the involvement of other EurAsEC member States in this work, to take steps to further develop and improve the mechanisms and regulatory framework of the Customs Union and the Common economic space”. Thus, it becomes clear that the priority task for Russia is the formation of the Eurasian economic Union as a model of unification that determines the future of the Commonwealth countries.

Russia regards the collective security Treaty Organization as an important element of ensuring security in the post-Soviet space. Neutralization of such threats as international terrorism, extremism, drug trafficking, transnational crime, illegal migration emanating from the territory of Afghanistan and prevention of destabilization of the situation in Central Asia are called the primary tasks in the sphere of mutual security. Russia continues to play an active role in the political and diplomatic settlement of conflicts in the CIS.

Three years after the adoption of the Concept of foreign policy of the Russian Federation in 2013, Russian President Vladimir Putin issued a decree on the entry into force of a new, relevant foreign policy doctrine (The Foreign Policy Concept of the Russian Federation, 2016).

In comparison with the Concept of 2013, the new doctrine focuses on the expansion and deepening

of integration within the EAEU with such Central Asian countries as Kazakhstan and Kyrgyzstan, which is a key task for the Russian Federation in foreign policy. In General, the remaining items remain unchanged.

### Conclusion

Taking into account all the above, comparing and analyzing the texts of documents of all Concepts of Russia, we would like to note that all five adopted foreign policy doctrines are based on the same principles of openness, pragmatism, predictability and defending the interests of the Russian Federation. Of course, relations with Central Asia were not fully painted in the texts of the documents, but the example of building relations between Russia and the Commonwealth countries can be understood, what Russia aspired and aspires to in this region. With the strengthening of Russia’s role on the world stage, the position of the state began to sound different: if in 2000 one of the goals in the foreign policy course was “to promote a positive perception of the Russian Federation in the world”, in 2008 the goal was “to promote an objective perception of the Russian Federation in the world”, which suggests that Russia realizes itself as one of the global players on the world stage.

In general, in relation to individual regions, Russia’s priorities are not subject to strong changes. The development of bilateral and multilateral cooperation remains a priority of the Russian foreign policy. Security, conflict prevention, economic development and integration, protection of rights and freedoms of Russian citizens abroad, as well as a common policy in the field of cultural development can be noted as common priorities for each Concept in relation to the Central Asian countries. Russia is building relations of strategic partnership and Alliance with States that show readiness for deeper development of relations.

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2-бөлім  
**ХАЛЫҚАРАЛЫҚ ҚҰҚЫҚТЫҢ  
ӨЗЕКТІ МӘСЕЛЕЛЕРІ**

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Section 2  
**TOPICAL ISSUES  
OF INTERNATIONAL LAW**

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Раздел 2  
**АКТУАЛЬНЫЕ ВОПРОСЫ  
МЕЖДУНАРОДНОГО ПРАВА**

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## THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD TO LEGAL SYSTEM OF THE REPUBLIC OF KAZAKHSTAN

**Abstract.** Special significance in the study of the problems of the implementation of international law into national legislation is acquired in the context of the implementation of international standards in the field of juvenile rights. In the modern period, the problem of implementing the norms of the United Nations Convention on the Rights of the Child, adopted by General Assembly resolution 44/25, opened for signature in the city of New York on November 20, 1989, and other international treaties into the national legislation of the Republic of Kazakhstan is being actualized. This article monitors and analyzes the practical realization of the International Acts on protection the interests and rights of the child, ratified in the Republic of Kazakhstan, and other documents concern the Juvenile Justice System. The research accomplished in the context of the entire array of the current Law System of the Republic of Kazakhstan, focused on the implementation the international standards for the protection of Human Rights in general and particular in the Rights of the Child. Basing on the Civil Law legislation of the Republic of Kazakhstan, criteria are considered for the legal capacity of minors. The civil procedural capacity of minors is analyzed on the basis of the Civil Procedure Code. The principle of the best safeguarding of children's rights, the need for its primary consideration in activities related to children, is enshrined in codified and other laws of the Republic of Kazakhstan, in which state policy in the interests of children is recognized as a priority area of activity of state authorities. In accordance with the aim of the study, the problem of the implementation in the national legislation of the norms of the United Nations Convention on the Rights of the Child is analyzed.

**Key words:** minor, rights, convention, implementation, Convention on the Rights of the Child.

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## Қазақстан Республикасының заңнамасына Бала құқықтары туралы Конвенцияның нормаларын имплементациялау

**Аңдатпа.** Халықаралық құқықтың ұлттық заңнамаға имплементациялау мәселелерін зерделеу жағынан көмелетке толмағандардың құқықтары саласындағы халықаралық стандарттарды қолдану тұрғысы ерекше маңызға ие. Қазіргі заманда 1989 жылы 20 қарашада Нью-Йорк қаласында қол қою үшін ашылған, Біріккен Ұлттар Ұйымының Бас Ассамблеяның 44/25 резолюциясымен қабылданған, Бала құқықтары туралы Конвенцияның нормаларын және басқа да халықаралық шарттарды Қазақстан Республикасының ұлттық заңнамасына имплементациялау мәселесі өзектелуде. Бұл мақалада балалардың мүдделері мен құқықтарын қорғау жөніндегі Қазақстан Республикасында ратификацияланған халықаралық актілердің, ювеналды әділет жүйесіндегі басқа да құжаттардың, іс жүзінде орындалуы жөнінде мониторинг және талдау жасалды. Талдау Қазақстан Республикасының қолданыстағы заңнамасының тұтастай алғанда адам құқықтарын, атап айтқанда, баланың құқықтарын қорғаудың халықаралық стандарттарын имплементациялауға бағытталған барлық жағдайларында жүргізілді. Қазақстан Республикасының Азаматтық құқық нормаларына сүйене отырып, көмелетке толмағандардың

әрекетке қабілеттілігінің өлшемшарттары қарастырылады. Азаматтық іс жүргізу кодексі негізінде кәмелетке толмағандардың азаматтық іс жүргізудегі әрекет қабілеттілігі талданады. Балалардың құқықтарын қамтамасыз етудің үздік қағидаты, балалармен байланысты іс-шараларда оны бірінші кезекте қарау қажеттілігі кодификацияланған және Қазақстан Республикасының басқа да заңдарында бекітілген, мұндағы мемлекеттік билік органдарының қызметінің басымдықты саласы ретінде балалар мүдделері жөніндегі мемлекеттік саясаты танылады. Зерттеу мақсатына сәйкес Қазақстан Республикасының заңнамасына Біріккен Ұлттар Ұйымының Бала құқықтары туралы конвенциясының ережелерін енгізу мәселесі талданды.

**Түйін сөздер:** кәмелетке толмағандардың құқықтары, конвенция, имплементация, Бала құқықтары туралы Конвенция.

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### **Имплементация норм Конвенции о правах ребенка в законодательство Республики Казахстан**

**Аннотация.** Исследование проблематики имплементации норм международного права в национальное законодательство особую значимость приобретает в контексте реализации международных стандартов в области прав несовершеннолетних. В современный период актуализируется проблема имплементации норм Конвенции Организации Объединенных Наций о правах ребенка, принятой резолюцией 44/25 Генеральной Ассамблеи, открытой для подписания в городе Нью-Йорк 20 ноября 1989 года, и иных международных договоров в национальное законодательство Республики Казахстан. В данной статье осуществлен мониторинг и анализ практической реализации международных актов по защите интересов и прав детей, ратифицированных в Республике Казахстан, и иных документов в системе ювенальной юстиции. Анализ осуществлен в контексте всего массива действующего законодательства Республики Казахстан, ориентированного на имплементацию международных стандартов по защите прав человека в целом и прав ребенка в частности. На основе норм Гражданского законодательства Республики Казахстан рассмотрены критерии дееспособности несовершеннолетних. Гражданско-процессуальная дееспособность несовершеннолетних проанализирована на основе Гражданско-процессуального кодекса. Принцип наилучшего обеспечения прав детей, необходимость его первоочередного учета в мероприятиях, касающихся детей, закреплён в кодифицированных и других Законах Республики Казахстан, в которых государственная политика в интересах детей признаётся приоритетной областью деятельности органов государственной власти. В соответствии с целью исследования проанализирована проблема имплементации в законодательство Республики Казахстан норм Конвенции Организации Объединенных Наций о правах ребенка.

**Ключевые слова:** несовершеннолетний, права, конвенция, имплементация, Конвенция о правах ребенка.

### **Introduction**

The problem of the implementation of international law into domestic law does not lose its actuality primarily in connection with the application of international law in national courts. (Ferdinandusse Ward N. 2006: 36) There are solid developments of this problem in the modern legal literature of foreign countries (McDonald R.St. J., 1979: 220-223; Nuotio Kimmo, 2002; Scheinin Martin, 1996, Джебрин Джабер Джебрин, 1984). Various aspects of the problems were studied in

the works of Russian researchers: the mechanism of national legal implementation of rules of international law in the Russian Federation (Lafitsky, 2009, Rykhtikova, 2006), the procedure for the implementation of international legal norms in the criminal law of the Russian Federation (Vdovin, 2006), main directions of interaction between international and national systems (Gavrilov, 2006), the development of American jurisprudence about interaction of international and domestic law (Ginzburg, 1994), the impact of international law to national criminal law (Dodonov, 2009), questions

of correlation of national and international criminal law (Yezhov, 2005, Inogamova-Khegai, 2007)

In the Republic of Kazakhstan, the problems of the implementation of international law into national legislation are not sufficiently studied. The study gains particular importance in the context of the implementation of international standards in the area of juvenile rights.

The purpose of this study is to substantiate the practical problems of implementing the norms of the international Convention on the Rights of the Child in the national legislation of the Republic of Kazakhstan.

### **Research methodology**

Based on a systematic approach, the authors of the study monitor and analyze the practical realization of the International Acts on protection of the interests and rights of the child, ratified in the Republic of Kazakhstan, and other documents concerning the Juvenile Justice System. The analysis was carried out in the context of the entire array of the current Law System of the Republic of Kazakhstan, focused on the implementation of the international standards for the protection of Human Rights in general and particular in the Rights of the Child. The institutional approach and the method of qualitative analysis made it possible to analyze the implementation of the norms of the Convention on the Rights of the Child into content of legal and regulatory acts of the Republic of Kazakhstan. General and special research methods were used in the work.

### **Discussion**

On June 8, 1994, Kazakhstan ratified the international Convention on the Rights of the Child, adopted and open for signature, ratification and accession by the UN General Assembly resolution 44/25 of November 20, 1989. Kazakhstan also acceded to the Convention on the Recovery Abroad of Maintenance (1999); The ILO Minimum Age Convention (2000); two Optional Protocols to the Convention on the Rights of the Child to increase the protection of children from involvement in armed conflicts and from sale, prostitution and pornography (2002), The Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (2002).

November 2005 Kazakhstan ratified the International Covenant on Civil and Political

Rights and in 2009 ratified its Optional Protocol which allows citizens to submit individual complaints to the UN Human Rights Committee. In 2005 Kazakhstan ratified the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, signed in New York City on March 21, 1950 and its Final Protocol. In 2008 Kazakhstan acceded to the Optional Protocol to the Convention against Torture ratified in 1998. Kazakhstan has also ratified the UN Convention against Transnational Organized Crime, The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, the Worst Forms of Child Labour Convention, 1999. Kazakhstan acceded to the Protocols Additional to the Geneva Conventions of August 12, 1949, concerning the protection of victims of non-international armed conflicts, which prohibits slavery and the slave trade in all their forms. The Republic of Kazakhstan has ratified the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (2010), the Convention on the Civil Aspects of International Child Abduction (2012).

In recent period become actual the issue of implementing the provision of the Convention on the Rights of the Child, adopted by General Assembly resolution 44/25, open for signature in the city of New York on November 20, 1989, and other international treaties in the national legislation of the Republic of Kazakhstan. The Convention on the Rights of the Child entered into force on September 2, 1990, and ratified by the Resolution of the Supreme Council of the Republic of Kazakhstan on June 8, 1994 No. 77.

International treaties ratified by the Republic of Kazakhstan include the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (Law of the Republic of Kazakhstan from July 4, 2001 No. 221-II of ratification the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict) and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (Law of the Republic of Kazakhstan from July 4, 2001 No. 219-II of ratification the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography). The normative provisions of International Acts ratified by Kazakhstan are additional guarantees for implementation the principles of the Convention on the Rights of the Child with respect to the rights,

freedoms and interests of children, providing them with access to justice.

According to the provision of Article 1 of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier (Convention on the Rights of the Child 1989). Therefore the Convention prescribes the possibility of establishing the age of majority below 18 years based on the principles of the Convention (optimal providing the interests of the child and non-discrimination). The Law System of the Republic of Kazakhstan complies with the provisions of the Convention both in determining the definition of the child and in establishing the age of majority.

As for the age of responsibility of a minor for certain offenses, as well as his legal and procedural legal capacity, the legislator approaches differentially, taking into account rule 4.1. of United Nations Standard Minimum Rules for the Administration of Juvenile Justice. The lower limit of this age should not be set at a too low age level, taking into account aspects of emotional, spiritual and intellectual maturity. In accordance with Paragraph "A" Part 3 of Article 40 of the Convention on establishment of a minimum age below which children are considered unable to violate criminal law, the following provisions are indicated in the criminal legislation of the Republic of Kazakhstan. Only a sane individuals who reached the age established by the Article 15 of the Criminal Code shall be subject to criminal responsibility. According to the Part 1 of given Article sane individual, reached the age of sixteen at the time of the commission of a criminal infraction shall subject to the criminal responsibility. According to the Part 2 of given Article Persons, reached the age of fourteen at the time of the commission of a crime shall subject to a criminal responsibility for murder (Article 99), intended infliction of grievous harm to health (Article 106), intended infliction of medium-gravity harm to health under aggravating circumstances (second part of Article 107), sexual assault (Article 120), sexual battery (Article 121), kidnapping (Article 125), attack against persons or organization, enjoying international protection (Article 173), inciting social, national, ethnic, racial, class or religious discord (Article 174), infringement on life of First President of the Republic of Kazakhstan – Leader of the Nation (Article 177), infringement on life of the President of the Republic of Kazakhstan (Article 178), diversion (Article 184), theft (second, third and fourth part of Article 188), robbery (second, third and fourth part of Article 191), robbery with violence (статья 192),

blackmailing offenses (second, third and fourth part of Article 194), misappropriation of car or other means of transport with no intent of stealing under aggravating circumstances (second, third and fourth part of статья 200), intentional destruction or damaging another's property under aggravating circumstances (second and third part of Article 202), an act of terrorism (Article 255), promotion of terrorism or public call for commission of an act of terrorism (Article 256), creation, managing a terroristic group and participation in its activity (first and second part of статья 257), financing of terrorist or extremist activity and other aiding to terrorism or extremism (Article 258), hostage taking (статья 261), attack against building, construction, means of transportation and communication or their seizure (Article 269), knowingly false message on act of terrorism (Article 273), theft or extortion of weapons, ammunition, explosive substances and explosive devices (Article 291), hooliganism under aggravating circumstances (second and third part of Article 293), vandalism (статья 294), stealing or extortion narcotic drugs, psychotropic substance, their analogues (Article 298), desecration of the dead bodies and burial places under aggravating circumstances (second part of Article 314) and intentional disablement of means of transport or ways of communication (Article 350) (The Criminal Code of the Republic of Kazakhstan, 2014).

Exceptions to the above age criteria are indicated in Part 3 of Article 15 – if the minor has attained the age provided by first or second part of this Article, but in consequence of gap of mental development, not related with mental disease, during commission of criminal infraction could not be fully aware of the actual nature and social danger of his (her) actions (omission) or control them, he (she) shall subject to criminally responsibility (The Criminal Code of the Republic of Kazakhstan, 2014).

The civil legislation of the Republic of Kazakhstan established the following criteria for the legal capacity of minors. Firstly, the minors from the age of fourteen and eighteen years may independently conclude only petty daily transactions that are appropriate to their age and executed at the time of their completion. All other transactions are performed by legal representatives, unless other is provided by legislative acts. Secondly, the minors from the age of fourteen and eighteen years are entitled to make transactions with the consent of their legal representatives. Thirdly, the minors from the age of fourteen and eighteen years may independently dispose their salary, scholarships, other income and the objects of intellectual property

rights created by them, as well as to make petty daily transactions. They shall be held responsible for any harm caused by their acts (Article 22 of the Civil Code). Fourth, a minor who has reached the age of 16 may be declared emancipated if he (she) works under an employment contract or with the consent of his (her) legal representatives is engaged in entrepreneurial activities (Article 22-1 of the Civil Code). Fifthly, in some cases legislative acts may establish cases where the commitment of a transaction by a minor and on behalf of a minor shall require prior consent of the guardianship or sponsorship authorities (Article 24 of the Civil Code).

The civil procedural capacity of minors is defined in the Civil Procedure Code, three age criteria for the civil procedural capacity of individuals are identified: 1) reaching the age of 18 (Part 1 Article 46) 2), minors from the age fourteen to eighteen years are protected in court by their parents or other legal representatives. In such cases the court shall be obliged to involve the underage persons themselves and prosecutor. However, in cases stipulated by law, upon the cases related to distribution of salary or income received from business activities, the underage persons from fourteen to eighteen years old have right to defend their rights and legitimate interests in the court by themselves. Involvement of legal representatives of the underage persons to render support to them depends on the court discretion; 3) minors under the age of fourteen are represented in court by their legal representatives and the prosecutor (The Civil Procedure Code of the Republic of Kazakhstan, 2015).

Part 2 of the Article 43 of the Law of the Republic of Kazakhstan on the Rights of the Child contains a provision that the rights and interests of minor children protected by the Law at the age from fourteen to eighteen years shall be protected by their legal representatives with the exception of cases when the legislation of the Republic of Kazakhstan provide the right of a minor child to enter into civil, family, labour and other legal relations and protect own rights and interests on an independent basis.

Paragraphs 1 and 2 of Article 67 of the Code of the Republic of Kazakhstan on Marriage (Matrimony) and Family regulate the minor's right to independently appeal to the court to protect their rights and legitimate interests when they reach the age of 14 years.

Must be noted the fact that this norm is not working on national legislation, declarative. The law does not provide a mechanism for the realization of such right and the participation of a minor in trial.

The child is not granted the right to protect his rights in case of violation of his rights, freedoms and legitimate interests by actions (inaction) and decisions of officials and others, in addition to parents and legal representatives.

In accordance with Part 1 of Article 65 of the Code on Administrative Offenses, administrative responsible shall be incurred by persons who, by the theminors who at the time of committing an administrative offence was sixteen, but under eighteen years of age.

The UN Convention on the Rights of the Child contains regulation of comprehensive international principles:

- Juvenile Justice legislation should apply to all persons under the age of 18;

- Juvenile Justice is an integral part of the national development of the state and as such requires sufficient resources so that Juvenile Justice can be organized in accordance with international principles;

- the principle of non-discrimination and equality is apply in Juvenile Justice System, and this prevent the discrimination against the child and his(her) family (Article 2 of the Convention on the Rights of the Child);

- fundamental principle of any Juvenile Justice Policy is the best interests of the child shall be a primary consideration (paragraph 1 Article 3 of the Convention);

- delays in resolving issues related to the child are contrary to the best interests of the child (paragraph (d) of Article 37 and paragraphs 2 (b) (ii) and 2 (b) (iii) of Article 40 of the Convention);

- every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age (paragraph (c) of Article 37 of the Convention);

- in all stages child should be treated in a way of promoting the child's reintegration and the child's assuming a constructive role in society (paragraph 1 Article 40);

- the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child (Articles 12,13 of the Convention);

- the child shall have the right to freedom seek, receive and impart information concerning the Juvenile Justice System in a form accessible to child and appropriate to the needs of child (article 13 of the Convention and principle 11 (b) of the



Guidelines for Action for Children in the Criminal Justice System);

- Juvenile Justice should be organized in such a way as to comply with the rights of the child to privacy, family, home and correspondence (article 16 of the Convention);

- a child temporarily or permanently deprived of his or her family environment shall be entitled to special protection and assistance (paragraph 1 Article 20);

- no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment (Article 37 of the Convention and Rule 87 (a) of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty);

- no child shall be deprived of his or her liberty unlawfully or arbitrarily (paragraph (b) Article 37 of the Convention);

- the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time (paragraph (b) Article 37 of the Convention);

- parents must be notified of any detention, imprisonment, exile, deportation or death of their child (Paragraph 4 Article 9 of the Convention and Rule 56 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty).

Under the Convention initiated an international mechanism for monitoring the implementation of the provisions of the Convention as the Committee on the Rights of the Child. It is authorized to review periodically (every 5 years) the reports of States on the measures on implementation the provisions of the Convention (Article 44). In addition, Article 45 provides that the Committee is the coordinator of international cooperation to achieve the goals set in the convention. One of the main innovations is the provision according to which States Parties shall make their reports widely available to the public in their own countries (Paragraph 6 Article 44).

The preamble and contents of Articles 2-4 of the Convention on the Rights of the Child States Parties oblige to take all necessary measures to ensure that the child is protected from all forms of discrimination or punishment, to provide the child protection and care as is necessary for well-being. Due to this States Parties shall provide all appropriate legislative administrative and other measures to exercise the rights recognized in the Convention. Given provision comply with Paragraph 1 Article 27 of the Constitution of the Republic of Kazakhstan. This Article regulates the provision that marriage and family, motherhood, fatherhood and childhood

are protected by the State. The Law of the Republic of Kazakhstan on the Rights of the Child from August 8, 2002 details noted provision of the UN Convention and the Constitution of the Republic of Kazakhstan in the content of Chapter 2. State Policy in the interests of Child which regulates the goals of State Policy, the empowerment of State Authorities to protect the Rights of the Child, the Status of the Commissioner on the Rights of the Child.

The Constitution also contains provisions that Kazakhstan accepts the obligation that human rights and freedoms in the Republic of Kazakhstan shall be recognized and guaranteed (Paragraph 1 Article 12), everyone shall have the right to be recognized as subject of the law and protect his rights and freedoms with all means not contradicting the law including self-defense (Paragraph 1 Article 13), everyone shall have the right to judicial defense of his rights and freedoms (Paragraph 2 Article 13), the equality of everybody before the law and court (Article 14), the inadmissibility to restrict the rights and freedoms provided in Articles 10, 11, 13-15, Paragraph 1 of Article 16, Articles 17, 19, 22, Paragraph 2 of Article 26 of the Constitution (Paragraph 3 Article 39) and others. The Law of the Republic of Kazakhstan on the Rights of the Child from August 8, 2002 detailed the specified provisions of the UN Convention and the Constitution of the Republic of Kazakhstan in Chapter 8. Protection of the rights and interests of the child protected by law, Chapter 9. Features of the child's responsibility and impact on his behavior.

The procedure for normative consolidation and protection the rights of the child should be in a logical sequence from the UN Convention on the Rights of the Child to the Constitution of the Republic of Kazakhstan, furthermore it should be expressed in industry legislation and acts of State Authorities: a logical relationship shall lead to the most complete realization of the rights and legitimate interests of minors, as well as the full potential of the Constitution of the Republic of Kazakhstan in industry legislation. The Constitution of the Republic of Kazakhstan does not contain any contradictions with the Convention on the Rights of the Child. At the same time, the becoming urgent the problem of providing more perfect and optimal mechanism for protecting the rights of minors based on constitutional and legal rules and captured in the Government sectoral legislation.

The principles and provisions of the Convention on the Rights of the Child and other international legal acts are implemented not only in the main Law of the State and the special Law on the Rights of the Child, but also in the content of following regulatory

legal acts that establish and ensure the Rights and interests of Child (political, social economic, cultural and others), as well as the legal basis for applying for judicial protection:

A) Laws of the Republic of Kazakhstan: “On the Rights of the Child in the Republic of Kazakhstan” dated August 8, 2002 No. 345-II, “On the prevention of juvenile delinquency and the prevention of child neglect and homelessness” dated July 9, 2004 No. 591, “On prevention of offenses” dated April 29, 2010 No. 271-IV, “On Prevention of Domestic Violence” dated December 4, 2009 No. 214-IV, “On Family type Children’s Villages and Youth Houses” dated December 13, 2000 No. 113-II, “On amendments and additions to some Legislative Acts of the Republic of Kazakhstan on Issues of securing protection of the Rights of the Child” dated November 23, 2010 No. 354-IV, “On amendments and additions to Some Legislative Acts of the Republic of Kazakhstan on the Improvement of the Activities of the Internal Affairs authorities in the field of Public Safety” dated December 29, 2010 No. 372-IV, “On the Procedure and Conditions for the Detention of Persons in Special Institutions Providing Temporary Isolation from Society” dated March 30, 1999 No. 353-I, “On Mediation” dated January 28, 2011 No. 401-IV; “On amendments and additions to some Legislative Acts of the Republic of Kazakhstan on Mediation” dated January 28, 2011 No. 402-IV; “On amendments and additions to some Legislative Acts of the Republic of Kazakhstan on the Issues of Probation Service” dated February 15, 2012 No. 556-IV; “On the Citizenship of the Republic of Kazakhstan” dated December 20, 1991 No. 1017-XII; “On State Youth Policy in the Republic of Kazakhstan” dated February 9, 2015 No. 285-V; The Law of the Republic of Kazakhstan dated October 31, 2015 No. 378-V “On amendments and additions to some Legislative Acts of the Republic of Kazakhstan on the Improvement of the System of Administration of Justice”; The Law of the Republic of Kazakhstan dated April 9, 2016 No. 501-V “On amendments and additions to some Legislative Acts of the Republic of Kazakhstan on the Protection of the Rights of the Child”; The Law of the Republic of Kazakhstan dated December 30, 2016 No. 38-VI “On Probation” and other acts;

B) Codes (acts) containing special sections (chapters), as well as separate rules guaranteeing minors access to justice:

Articles 22-25 of the Civil Code (General part) from December 27, 1994,

Articles 925, 926, 927, 939, 940, 941 of the Civil Code (Special Part) from July 1, 1999 No. 409-1;

Chapters 5 Protection of the health of citizens, 9-1 The main provisions of the national preventive mechanism of the Code of the Republic of Kazakhstan on Human Health and the Healthcare System” dated September 18, 2009 No. 193-IV;

Chapters 10, 13. 25. State registration of the birth of a child and other from the Code on Marriage (Matrimony) and Family, dated December 26, 2011 No. 518-IV;

Chapter 33-1. Proceedings the cases concerning the place of minors in special educational organizations or organizations with special treatment regimes, Chapter 36-1. Proceedings of applications for adoption of a child, Articles 27, 45, 206, Paragraph 3-1, Part 1, Article 289, Civil Procedure Code from October 31, 2015 No. 337-V;

Chapter 9. Administrative responsibility of minors, Chapter 12. Administrative offenses that infringe on the rights of minors of the Code of the Republic of Kazakhstan on Administrative Offenses from July 5, 2014 No. 235-V;

Chapter 6. Criminal liability of minors (Articles 80-90), Chapter 2. Crimes against the family and minors (Articles 132-144), as well as Article 15, Part 2 Article 47, Part 1 Article 63, Part 2 Article 64, Part 8 Article 72, Part 2 of Article 73, Part 2 of Article 76, Part 5 of Article 77, Part 2 of Article 170 of the Criminal Code of the Republic of Kazakhstan dated July 3, 2014 No. 226-V;

Chapter 56. Proceedings in cases of Juvenile Crime (Articles 530-545), Part 5 of Article 35, Part 1 Article 64, Part 3 Article 40, Paragraph 2 Part 1 Article 44, Part 3 Article 53, Part 2 Article 72, Part 2 Article 75, Part 2 Article 76, Part 2 Article 131, Paragraph 4 Part 1 Article 137, Article 144, Part 1 Article 215, Part 1 Article 154, Part 5 Article 157, Part 8 Article 178, Article 187, Article 215, Part 13 Article 220, Articles 307, 315, 317, 371, Part 5 Article 390, Part 1 Article 414, Part 5 Article 428, Part 1 Article 447, Article 541 of the Criminal Procedure Code of the Republic of Kazakhstan dated July 4, 2014 No. 231-V;

Chapter 23. Special aspects of serving the sentence of imprisonment by minors, as well as Articles 20, 69, 169, 174 and others from the Criminal Executive Code of the Republic of Kazakhstan dated July 4, 2014 No. 234-V;

Articles 31, 69, 76, 77 of the Labor Code of the Republic of Kazakhstan dated November 23, 2015 No. 414-V.

## Conclusion

The main principles of protecting the Rights of the Child reflected in Paragraphs 98–121 of the

Inception Report on Implementation the Convention in 2003 and Paragraphs 90–95 of the Second and Third Periodic Reports on implementation the Convention on the Rights of the Child by the Republic of Kazakhstan in 2007, and the Fourth Periodic Report on implementation the Convention on the Rights of the Child by the Republic of Kazakhstan in 2011.

The principle of best providing the Rights of the Child and necessity for its primary consideration in activities related to children captured in codified and other Laws of the Republic of Kazakhstan as on the Rights of the Child in the Republic of Kazakhstan”, “On education”, “On Social and Medical-Pedagogical Correctional Support for children with Limited Opportunities ”, the Labor Code of the Republic of Kazakhstan, the Code of the Republic of Kazakhstan on Human Health and Healthcare System ” where the State Policy with interests of children recognized as a priority area of Public authorities. The Priority Principle of the best Rights of the Child is recognized as a priority in Public authorities work. According to the provisions of the Code of the Republic of Kazakhstan “On Marriage (Matrimony) and the Family”, the Law “On Education”, parental rights cannot be exercised in conflict with the interests of children. Otherwise, parents are responsible in the manner prescribed by Law. Similar requirements apply to persons replacing parents that are tutors and foster carers. Corporal punishment prohibited in education organizations. In education institutions educator shall be prosecuted under the legislation

of the Republic of Kazakhstan for the violation of duties and ethics (Suleimenova, 2011).

In this way Kazakhstan take efforts to implement to the Legal System and in practice of the Republic of Kazakhstan the Provisions of International Legal Acts: about 60 international documents relating to human rights have been ratified, of which more than 15 relate to the protection of children’s rights (the Government of the Republic of Kazakhstan dated September 29, 2014 No. 1038).

Since June 2014, within the framework of Agreement on Cooperation between the Government of the Republic of Kazakhstan and the UN Children’s Fund (UNICEF), for workout the recommendations on divergence, probation, alternative sentences and the pre-trial stage of juvenile cases consummated the three-year Program on Improving the Justice System for children and protecting their Rights in the Republic of Kazakhstan.

Since the submission by Kazakhstan the Inception Report in 2003 on implementation the Convention on the Rights of the Child, the further development of legislation to ensure the Rights and Interests of children carried out in order to more fully comply with the Principles and Provisions of the Convention and provide legal conditions for the prevention of social problems of a Child [2]. General Principles and Rules of the Convention implemented in the Constitution and legislation of the Republic of Kazakhstan. The Principle of the best Protection the Rights of the Child recognized as the priority direction of Public Authorities.

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**PROBLEMS OF APPLYING THE NORMS  
OF THE FAMILY LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN  
TO THE LEGAL RELATIONS ARISING FROM THE REGISTRATION  
OF A MARRIAGE COMPLICATED BY A FOREIGN ELEMENT**

**Abstract.** This article analyzes the specifics of marriage complicated by a foreign element. In accordance with the national legislation of the Republic of Kazakhstan, even stateless persons and foreign citizens who have confirmed their belonging to a foreign state are equally subject to protection in matters of family and marriage with citizens of the Republic of Kazakhstan. The application of the family law of the Republic of Kazakhstan in the presence of foreign elements is impossible without reference and appeal to the norms of international treaties, especially in the context of p. 3st.4 of the Constitution stating that the "...International treaties ratified by the Republic have priority over its laws". It follows that in case of collision of provisions of the national legislation of the Republic of Kazakhstan and norms of the international Treaty ratified by Kazakhstan regulating the same question of marriage and family relations, the norm of the international Treaty will have priority action.

Currently, the Republic of Kazakhstan has ratified, through the adoption of the relevant law, a significant number of international treaties in the field under study.

As for marriages between foreign citizens or stateless persons and citizens of the Republic of Kazakhstan, concluded outside Kazakhstan, but in compliance with the current legislation of the state in whose territory they were concluded, are recognized as valid in the Republic of Kazakhstan. At the same time, conceptually important is the fact of compliance with the requirements of the relevant norms of the CMF RK.

**Key words:** Marriage, family, foreign element, registration, conflicts.

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**Қазақстан Республикасының отбасы заңнамасының нормаларын  
шетелдік элемент асқынған некені тіркеу кезінде туындайтын  
құқықтық қатынастарға қолдану мәселелері**

**Аңдатпа.** Бұл мақалада шетелдік элемент асқынған неке қиюының ерекшелігі талданады. Қазақстан Республикасының ұлттық заңнамасына сәйкес, тіпті азаматтығы жоқ адамдар және өзінің шет мемлекетке тиесілігін растаған шетел азаматтары Қазақстан Республикасының азаматтарымен тең дәрежеде отбасы және неке мәселелерінде қорғалуға жатады. Шет ел элементі болған жағдайда Қазақстан Республикасының Отбасы құқығы нормаларын халықаралық шарттардың нормаларына жібермей және жүгінбей қолдану мүмкін емес, соның ішінде «...Республика бекіткен халықаралық шарттардың оның заңдары алдында басымдығы бар» деп көрсететін ҚР Конституциясының 3-б.4-т. контекстінде. Осыдан келіп шығатыны, Қазақстан Республикасының ұлттық заңнамасының ережелері мен Қазақстан ратификациялаған халықаралық шарттың неке-отбасы қатынастарының бір мәселесін реттейтін нормалары соқтығысқан жағдайда, халықаралық шарттың нормасы басым күшке ие болады. Қазіргі уақытта Қазақстан Республикасы тиісті заңды қабылдау арқылы зерттелетін саладағы халықаралық шарттардың едәуір санын ратификациялады. Шетелдік азаматтар не азаматтығы жоқ адамдар мен Қазақстан Республикасы азаматтарының арасындағы Қазақстаннан тыс жерлерде қиылған некеге қатысты, бірақ олар аумағында жасалған мемлекеттің қолданыстағы заңнамасын сақтай отырып, Қазақстан Республикасында жарамды деп танылады. Бұл ретте, ҚР КоБС тиісті нормаларының талаптарын сақтау фактісінің тұжырымдамалық маңызы бар.

**Түйін сөздер:** неке, отбасы, шетел элементі, тіркеу, коллизия.

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**Проблемы применения норм семейного законодательства  
Республики Казахстан к правоотношениям, возникающим  
при регистрации брака, осложненного иностранным элементом**

**Аннотация.** В данной статье анализируется специфика заключения брака, осложненного иностранным элементом. В соответствии с национальным законодательством Республики Казахстан, даже лица, не имеющие гражданства, и иностранные граждане, подтвердившие свою принадлежность иностранному государству, равным образом с гражданами Республики Казахстан подлежат защите в вопросах семьи и брака. Применение норм семейного права Республики Казахстан при наличии иностранного элемента невозможно без отсылки и обращения к нормам международных договоров, тем более в контексте п.3ст.4 Конституции РК, указывающего, что «...Международные договоры, ратифицированные Республикой, имеют приоритет перед ее законами». Из чего следует, что в случае столкновения положений национального законодательства Республики Казахстан и норм ратифицированного Казахстаном международного договора, регулирующих один и тот же вопрос брачно-семейных отношений, приоритетное действие будет иметь норма международного договора.

В настоящее время Республикой Казахстан ратифицировано, посредством принятия соответствующего закона, значительное количество международных договоров в исследуемой области.

Что касается брака между иностранными гражданами либо лицами без гражданства и гражданами Республики Казахстана, заключенного за пределами Казахстана, но с соблюдением действующего законодательства государства, на территории которого он был заключен, то он признается действительным в Республике Казахстан. При этом, концептуальное значение имеет факт соблюдения требований соответствующих норм КоБС РК.

**Ключевые слова:** брак, семья, иностранный элемент, регистрация, коллизии.

## Introduction

The current family legislation regulates not only marriage and family relations between a man and a woman who have Kazakh citizenship, but also similar legal relations in the case when one of the spouses has Kazakh citizenship, and the other – the citizenship of a foreign state (or is a stateless person). However, given the different approaches to legal regulation, and in principle to the institution of marriage in different States, in practice, there are many problems, the solution of which depends on the national legislation of each individual state, and on the norms of international law.

## Research methodology

The methodological basis of this study consists of such General scientific methods as dialectical and deductive methods, systematic approach and analysis, methods of epistemology, formal logic, and social management.

In addition, special research methods were used: comparative legal and statistical methods, including a detailed analysis of the existing practice of developed countries with the reorientation of the main findings on the legal system of the Republic

of Kazakhstan, as well as specific sociological and formal legal methods.

## Discussion

This problem has been studied both by specialists of the Republic of Kazakhstan and foreign civilists, whose works are devoted to family law and / or private international law. Among such authors we can note: L.P. Anufrieva (Anufrieva, 2000), B. Audit (Audit, 2000), M.M. Boguslavsky (Boguslavsky, 2011), E.E. Veselkova (Veselkova, 2014), V.V. Gavrilo (Gavrilo, 2002), Zh.S. Kaipbergenova (Kaipbergenova, 2009), L.A. Lunts (Lunts, 2002), G.K. Praliev (Praliev, 2007), L.R. Kiestra (Kiestra, 2014), N.J. Osmonalieva (Osmonalieva, 2013), U. Magnus, P. Mankowski (Magnus, 2012), P. Gannagé (Gannagé, 2019), M.-C. Najm (Najm, 2005) and others (Steffek, 2013).

The conclusions described in the works of these authors were useful both in improving the national legislation of the Republic of Kazakhstan on the legal regulation of family and marriage relations complicated by a foreign element, and in further studies of various aspects of these legal relations.

Currently, the legal basis for the regulation of family relations complicated by a foreign

element are, first and foremost, the Constitution of the Republic of Kazakhstan (Constitution of the Republic of Kazakhstan, 1995), the Code of the Republic of Kazakhstan "On marriage (matrimony) and family" (Code On marriage (matrimony) and family, 2011) and the decree of the President of the Republic of Kazakhstan having the force of law "On legal status of foreign citizens in the Republic of Kazakhstan" (Law on legal status of foreign citizens in the Republic of Kazakhstan, 1995), international agreements and treaties, ratified by the Republic of Kazakhstan in accordance with the established procedure.

According to the Law of the Republic of Kazakhstan "On Citizenship," dual citizenship is not recognized in the Republic of Kazakhstan (Citizenship Law, 1991).

The norms of the current family legislation of the Republic of Kazakhstan are aimed at legal regulation of marriage and family relations of persons who have citizenship of Kazakhstan, but who have registered family relations under the laws of a foreign state. However, we must not forget about the existence of a provision according to which a marriage will not be recognized if it contradicts the current legislation of the Republic of Kazakhstan (public order clause) (clause 2 of article 229 of the Code on marriage (matrimony) and the family of the Republic of Kazakhstan)

With regard to the operation of the family law of a foreign country, according to article 230 of the Code on marriage (matrimony) and the family of the Republic of Kazakhstan, they regulate the legal relations of citizens of Kazakhstan that we study exclusively within their jurisdiction. But it is worth noting that only in cases where persons entering into marriage have established marriage and family relations in accordance with the legislation of these states. This is what determines the application of the family law of a foreign state in accordance with the national family law of Kazakhstan (Law on the Legal Status of Foreign Citizens in the Republic of Kazakhstan, 1995).

It is worth emphasizing that according to the national legislation of Kazakhstan, even persons without citizenship and foreign citizens who have confirmed their belonging to a foreign state, are equally protected with citizens of the Republic of Kazakhstan in matters of family and marriage (Nukusheva, 2007: 87).

In this regard, continuing the reasoning started by A.A. Nukusheva, we can agree with the point of view of another author, namely M.Zh. Mukanov, indicating the conditional presence of three groups

of foreign persons who marry and citizens of the Republic of Kazakhstan: oralmans, citizens of the near abroad (CIS) and citizens of the far abroad (Mukanova, 2010).

Thus, considering the first group, which includes oralmans, it is worth noting that in recent years, this category of citizens in a significant part of them returned to their historical homeland, that is to say Kazakhstan. Given that most of them were married under the legislation of a foreign state (where they and / or their ancestors were forced to move in the early 20th century), which in turn has a number of distinctive features, there was a need to activate the legal mechanism for the recognition of such marriages in the territory of the Republic of Kazakhstan when they change their citizenship to the citizenship of the Republic of Kazakhstan.

A similar mechanism was the current Code of the Republic of Kazakhstan dated 26 December 2011 No. 518-IV "On marriage (matrimony) and the family", which regulates the family rights and obligations of persons belonging to the category of oralman.

The second group, as we noted above, consists of citizens from the States of the former USSR, who until 1991 were citizens of one country, and after the collapse of the USSR became citizens of different States. This category of citizens actively participates in public relations of marriage and family nature, which leads to the emergence of mutual rights and obligations.

However, the legislators of these states, many of which are members of the CIS, have adopted a number of bilateral and multilateral treaties and agreements, the norms of which regulate marriage and family relations between spouses with different nationalities of the CIS member states.

The third and most significant group of foreign citizens contains non-CIS citizens living or temporarily staying for a specific purpose on the territory of the Republic of Kazakhstan (Law on the Legal Status of Foreign Citizens in the Republic of Kazakhstan, 1995).

In the case of registration of marriage with a person from the third group, the spouses on an equal footing (similar to citizens of the Republic of Kazakhstan) will acquire family rights and obligations in the event of marriage and divorce, conclusion and dissolution of a marriage contract, rights and obligations towards children (including adopted) in the manner prescribed by the law of the Republic of Kazakhstan), payment of alimony, separation of property, etc.

This aspect is of particular relevance when regulating the current Code of the Republic of Kazakhstan dated December 26, 2011 No. 518-IV "On marriage (matrimony) and the family", marriage and family relations complicated by a foreign element.

Separately, it is worth noting persons who do not have the citizenship of any state, or who do not have the opportunity to confirm their belonging to any state – stateless persons (Tamaru, 2012). A similar point of view is supported by a number of scientific experts, including foreign countries (Bogdan, 2011). Despite the small composition of this category of citizens, their marital and family relations taking place on the territory of the Republic of Kazakhstan, or if they are married by citizens of the Republic of Kazakhstan, will also be regulated by the norms of the Code on marriage (matrimony) and the family of the Republic of Kazakhstan.

Considering the problems of recognition of marriage and family relations with the participation of a foreign element in the Republic of Kazakhstan, it is important to note that, as A.S. Kenzhebaev rightly notes, it is necessary for current notaries to remember that dual citizenship is not recognized in Kazakhstan, therefore, a foreign citizen having such the form of citizenship should provide only one document, which indicates its belonging to any one state. Moreover, when a citizen presents documents other than Kazakhstan, the notary should find out his proper citizenship (Kenjebayeva, 2015: 12).

The application of the norms of family law of the Republic of Kazakhstan in the presence of a foreign element is impossible without reference and appeal to the norms of international treaties, especially in the context of clause 3, article 4 of the Constitution of the Republic of Kazakhstan, indicating that "... International treaties ratified by the Republic have priority over its laws" (Constitution of the Republic of Kazakhstan, 1995).

From which it follows that in the event of a clash of the provisions of the national legislation of the Republic of Kazakhstan and the norms of the international treaty ratified by Kazakhstan, governing the same issue of marriage and family relations, the norm of the international treaty will have priority.

Currently, the Republic of Kazakhstan has ratified, through the adoption of the relevant law, a significant number of international treaties in the studied area (Law on the Accession of the Republic of Kazakhstan to the Convention on the Collection of Alimony Abroad, 1999).

But despite this, the basic mechanisms and conflict-of-laws rules applicable in the event of a

discrepancy between rules RK and norms of foreign family law contained in the criminal Code of the Republic of Kazakhstan "On marriage (matrimony) and family" (Code on marriage (matrimony) and family, 2011).

So, according to the legislation of the Republic of Kazakhstan, "...for the conclusion of marriage (matrimony) is required the full and free consent of men and women entering into marriage (matrimony), marriageable (marriage) age" (article 9 of the Code of the Republic of Kazakhstan "On marriage (matrimony) and family") (Code On marriage (matrimony) and family, 2011).

Registration of marriage and family formation in the Republic of Kazakhstan with a foreign element are created in accordance with the same Code of the Republic of Kazakhstan "On marriage (matrimony) and the family". This applies to all aspects, including form, order, and marriage age, which is set at 18 years old, regardless of whether a marriage is made between citizens of the Republic of Kazakhstan or one of the potential spouses has foreign citizenship.

Similarly, equal requirements are established with respect to the fact that spouses should not be in another marriage and not be direct relatives, as well as be capable persons.

Regarding the conditions of marriage in the Republic of Kazakhstan, they are established for everyone and everyone who marries. Moreover, as most civilians note, a personal law for a person is determined in accordance with his citizenship at the time of marriage, unless otherwise provided by an international treaty ratified by both states to which the couple belong (Kudashkin, 2004), with the obligatory observance of the requirements of the relevant norms Code of the Republic of Kazakhstan "On marriage (matrimony) and family".

The conditions for registering a marriage by a stateless person in Kazakhstan are determined by the legislation that was in force at the time of registration of a person in the state – the permanent residence of this stateless person. According to the Family Code of the Republic of Kazakhstan: "Divorce between citizens of the Republic of Kazakhstan and foreigners or stateless persons, as well as marriage between foreigners on the territory of the Republic of Kazakhstan, is carried out in accordance with the family legislation of the Republic of Kazakhstan."

Foreign citizens on the territory of a state have the right to enter into and terminate a marriage with citizens of that state and persons with citizenship of other states, and also have the same family legal personality provided by applicable law and international treaty norms (Kuznetsov, 2010).



As for the category of “stateless persons”, persons falling into this category temporarily residing in the Republic of Kazakhstan present an identity document issued by the competent authorities of their country of residence and registered in the established procedure with the internal affairs bodies of the Republic of Kazakhstan.

A foreign citizen, along with presenting a passport (identity document), must submit a notarized translation of its text in the state or Russian languages. The translation is also certified by the Consulate (embassy) of the state of which the person is a citizen (the country of permanent residence of the stateless person) or by the Ministry of foreign Affairs of that state. It is possible that the authorities registering acts of civil status of a foreign state under the legislation of this state have the right to require the competent authority to obtain a special permit to marry a foreigner. If a foreign national such permission has not, on the records of acts of civil status upon receipt of the application should explain to persons entering marriage and first citizen (citizen) of the Republic of Kazakhstan that their marriage can be declared invalid in the country which citizen is the person you marry.

If, despite such explanations, the applicants insist on the registration of a marriage, the marriage is registered and the record of the marriage certificate makes a note that the persons entering into the marriage are familiar with the procedure and conditions of marriage with foreigners in force in the relevant state (Pointer, 2004).

If a citizen of the Republic of Kazakhstan at marriage adopted the surname of the spouse, the civil registry office, which registered the marriage, recommends him to exchange an identity card, passport, and a foreign citizen – a residence permit. Registration of marriage of citizens of the Republic of Kazakhstan with persons who have returned to their historical Homeland (oralmans) and have not taken citizenship of the Republic of Kazakhstan shall be made on a General basis”. (Government Decree, 1999).

## Results

Thus, from an analysis of the norms of international law and the national legislation of the

Republic of Kazakhstan, it follows that marriage between citizens of the Republic of Kazakhstan who live in the territory of a foreign state can be concluded at embassies or consular offices of the Republic of Kazakhstan located abroad. Between foreigners, a marriage may be concluded in the Republic of Kazakhstan at foreign embassies or at consular posts of that state, which is recognized on a reciprocal basis in the Republic of Kazakhstan, if these persons were citizens of this foreign state at the time of marriage.

As for marriage between foreign citizens or stateless persons and citizens of the Republic of Kazakhstan, concluded outside Kazakhstan, but subject to the current legislation of the state in whose territory they were concluded, are recognized as valid in the Republic of Kazakhstan. At the same time, the fact that compliance with the relevant norms of the Code on marriage (matrimony) and the family of the Republic of Kazakhstan, “... in relation to circumstances giving the right to marry is of conceptual significance. Marriages registered between foreigners concluded outside the territory of Kazakhstan in compliance with the laws of the state in the territory of which they are concluded are recognized as valid in the Republic of Kazakhstan” (Explanatory Letter from the Ministry of Justice, 2000).

Divorce is similar to the conclusion, can be carried out by citizens of the Republic of Kazakhstan with a spouse living outside the territory of Kazakhstan, regardless of his citizenship, in a court of the Republic of Kazakhstan.

If the legislation of the Republic of Kazakhstan provides for the possibility of dissolution of a marriage with a foreign citizen or a stateless person in the registry office, then this marriage may be dissolved in embassies or consular offices of the Republic of Kazakhstan. If the divorce between citizens of the Republic of Kazakhstan and foreigners or stateless persons, which took place on the territory of a foreign state, but in compliance with the legislation of the corresponding foreign state, it is also recognized in the Republic of Kazakhstan. Similarly, the issue of dissolution of marriage between foreign citizens or stateless persons that took place on the territory of a foreign state is resolved.

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