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FORMATION OF THE INTELLECTUAL PROPERTY RIGHTS AS AN INDEPENDENT BRANCH OF LAW

Amir Aliyev
(al.amir.ib@mail.ru)
Doctor of Laws, professor
(Baku State University)

Aydan Mammadova
PhD Candidate
(Baku State University)

Abstract

The article reveals the process of formation of the intellectual property rights as a separate branch of jurisprudence and analyzes the modern interpretation of these rights. The concept of intellectual property is not static, it has changed and continues to change and therefore this branch of law is characterized by complex terminology and it needs constantly evolving legislation. The first laws concerning intellectual property rights and the very origin of this branch of law should be attributed to Western Europe of the IV century. However, these laws had the character of privileges and were not generally valid. Nevertheless, those did not take long to wait. The article notes four approaches to the definition of the essence of the term intellectual property.

Further, in the article modern problems of the international intellectual rights and their relevance in the conditions of globalization are analyzed. An important feature of intellectual property rights is a significant role in their trans-territorial settlement of international treaties and organizations.

The last part of the article analyzes current trends in the international regulation of intellectual law. The notion of territoriality and its influence on the development of private international law and international economic turnover in the field of intellectual property are disclosed.

Keywords: *intellectual property, international private law, international organizations, principle of territoriality, conflict of laws*

Introduction

The formation of the intellectual property right as a separate area of jurisprudence occurred relatively recently, with the entry into force of the Paris Convention for the Protection of Industrial Property (1883) and the Berne Convention for the Protection of Literary and Artistic Works (1886). The norms and provisions of these conventions laid the foundations of international intellectual property law, which were further developed due to the specific nature of the new areas of application and the corresponding complication of the practice of protected rights. The objective basis and species diversity of intellectual activity are presented as an endless process. Only the fact that the objects generating these rights are the results of human intellectual activity makes this category multispectral, covering all new fields of production, science, literature, art. This is natural, just like the fact that the capabilities of the human intellect, has no boundaries and is the leading and inexhaustible resource of social development in the modern world. Such a feature of the subject of research requires refinement and deeper analysis in revealing the essence of the very notion of intellectual property and its modern interpretations.

Evolution of practice and theory of intellectual property law

The concept of "intellectual property" is not static, it has changed and continues to change, which causes an objective need for legislative consolidation of moral and economic rights to the

results of creative activity. Hence the assertion that "intellectual property law is characterized by complex terminology, non-trivial problems and constantly developing legislation" [1, p. 79].

In the early stages of social development, intellectual property was not distinguished as an independent field of scientific research, although throughout the history of mankind works of painting, literature, architecture, as well as inventions of industrial and technological nature had been greaten and appreciated. Their social, economic and cultural role was very significant in the life and development of different peoples and humanity as a whole. As the first examples of the assertion of intellectual property rights, the law in ancient Greece can serve as the fact that the works of authors should be brought to the public in undistorted form, and even the royalty for creative activity was known to ancient Rome [4, p.20]. The reason for the emergence of legal norms governing the rights to the results of creative activity was the introduction of intellectual property in commercial circulation. Previously, many works were created for years and eventually became a public good. But when their number grew, there increased demand on them and it was necessary to prove copyright, legitimizing intellectual property and giving them the status of a commodity traded on the market. However, for a long time the rights to intellectual property had the character of privileges, they were not applied systematically and did not have any protection mechanisms.

Intellectual property began to take institutional parameters in the form of copyright with the advent of Gutenberg's typewriter machine in 1469th year. Thus, literary works and scientific researches became not only accessible to wide layers of the population, but also acquired an evidentiary basis of author's belonging. This marked the beginning of the commercialization of the results of intellectual activity. For the first time this sphere of activity began to bring not sporadic, but systematic incomes to its subjects. At the same time, there was a need for the authors to have the opportunity to enjoy the fruits of their creations, as well as to protect the works they created from being used by people who do not have any relation to them. An effective mechanism for this could be provided only by the state. The legislative function of the state became an increasingly necessary tool for the regulation of intellectual property relations. But this was a new and not entirely familiar sphere of legal regulation, in which it was necessary to deal with intangible property objects. Nevertheless, the rapid development of civilization, scientific and technological progress and rising of the cultural level of society as a whole pointed to the need to create certain legal guidelines for the actions of people engaged in intellectual activity. It was necessary to have a letter of the law, that is, "a normative act adopted in a special order by an organ of legislative power and possessing the highest legal force" [8, p.141]. As John Locke wrote, law is a constant rule for life when human activity becomes independent of the unstable, uncertain, unknown, autocratic will of the other person [12]. This definition has a direct relation to the product of intellectual activity, as it is intangible, and to which any member of society can join and not only in his country, but also beyond his borders.

The first laws concerning intellectual property rights, as well as the very origin of this field of law, should be attributed to Western Europe, since it was there that the first laws were created that were harbingers, and some even prototypes of modern national as well as international legal norms in the field intellectual property rights. For example, in Florence in 1421, the world's first patent for invention was issued. It was an invention of the Italian Filippo Brunelleschi, who invented a rotary crane for ships. In England in 1449, King Henry VI issued one of the oldest patents for the invention of colored glass. However, as noted above, these acts were more of a privilege character and were addressed to specific individuals, not being generally applicable laws. Nevertheless, those did not take long to wait. Among the first laws mentioning the right to inventions (modern patent law) was the Venice Charter of 1474, which is of particular importance for several reasons. First, it set a specific time (14 years) for the exclusive right to use the author of his invention. The next important feature was that the document specified certain conditions to be protected by these rights. It was supposed to be original and unique on the territory of Venice. And last, in our opinion, a very important feature of this Charter is that it

first indicated the moral rights of the owner. That is, the rights to intellectual property were first considered not from the point of view of commerce, but as natural rights inherent in the author or the inventor, not as a result of the contract, but independently of it. In general, speaking about the origins and ways of developing intellectual property rights and understanding the term itself, it should be noted that throughout the development of legal science, four approaches (theories) have been formed to define the essence of the term intellectual property.

The first and most popular is the theory of economic efficiency. Very specifically, this theory was developed in the work of V.Landes and R.Pozner on copyright [10, p.14]. The need for intellectual property rights in it is explained by the fact that such a legal system with its exclusive rights to created works and inventions granted to the author for a certain period provide economic efficiency, and also stimulate the development of innovative processes in society. As noted by V.Landes and R. Posner, "a characteristic feature of intellectual products is that they are easily copied and that their use by one person does not interfere with the use of the second and third person. These features, in turn, lead to the threat that the creator will not be able to compensate for himself the costs that he incurred while creating the work, which in turn entails the refusal to engage in creative activity" [10, p.15]. Thus, the theory of economic efficiency explains the existence of intellectual property law as a necessary system for ensuring the further development of innovation processes, as well as science and the arts as a whole.

Another theory of intellectual property rights, the so-called theory of "labor," is directly related to the theory of natural law. It became popular and became widespread in the eighteenth century in France. However, the theory of natural rights in relation to intellectual rights is based on the views of J. Locke with its idea of the author's natural right to objects that are the result of his work, including creative activity. In this theory, the position is stressed that "guaranteeing the right of ownership, the state must recognize, also the achievements of intellectual labor and ensure their protection" [12].

The third approach to intellectual property rights is based on the concept of individual rights. This approach is based on the views of Hegel and Kant on the right of private property. The right of private property, in their opinion, is one of the most important components for the common prosperity of each person and one of its necessary fundamental needs. At the same time, intellectual property rights create the conditions for a person to engage in creative, intellectual activity, thereby improving his life. There is also a fourth theory, which in some ways resembles the theory of utilitarianism. Its supporters argue that, intellectual property rights should be aimed at achieving a more just and attractive society, as well as ownership in general.

All these theories, one way or another, explain the need for intellectual property rights for the development of the creative potential of society. To some extent, all these four approaches to intellectual property are interrelated and do not contradict each other. Moreover, in our opinion, they complement each other, encompassing a certain sphere of law enforcement relations related to intellectual property. In addition, it should be noted that each of these theories corresponds to a certain historical period and thus is based on the views and ideas of educators, philosophers and jurists, taking into account the realities of their time and the need for the regulation of intellectual rights.

Prerequisites for the Inception of International Intellectual Property Law

The society continues to develop, and with it relations appear that need legislative consolidation of rights and obligations that must be protected and respected. With the advent of ever new diverse intellectual products of creative work, all the relations arising from the processes of economic turnover with these products began to need legal protection. But the products of the human intellect have long ago not bordered on their turnover with the borders of states. For example, the opportunities created by the World Wide Web (WWW) via the Internet allow in seconds to transfer data or information to any part of the world. This fact has a great influence on the very development of the field of law that we are considering. In the 21st century, the information and distribution system has acquired a completely new dimension and is

no longer limited to the walls of libraries and universities. Now every person has access to any desired information in his home, in the workplace and in the end is simply in his pocket. This process can also be called informational globalization. It is in connection with these processes that the issues of international intellectual law have acquired increased relevance. But the urgent need for international legal protection of intellectual property ran into difficulties that were related to the fact that intellectual property law had a territorially limited character and its own forms within individual states. The state, in which the creation of an intellectual product takes place, as well as its registration, is also the place of its primary legal recognition and protection. Thus, the only way to protect intellectual property rights outside a country was the conclusion of bilateral, multilateral and universal international treaties. In this regard, we can only agree with the opinion of Getman-Pavlova that "the specific nature of the legal regulation of intellectual property law as an area of private international law is the most significant role of international public law than in all other branches of private international law" [3] Despite the fact that many states continue to develop their national legislation in the field of intellectual property rights, thus consolidating the methods of its regulation and protection, international law has been and remains the most important and even leading legal source for this sphere. In this connection, the question arises: what place does intellectual property rights take in international law and what is the mechanism for protecting intellectual property in it? As already noted above, intellectual property rights have a special restrictive feature - territoriality. By territoriality in this case is understood that "the protection of these rights is granted only in the territory of the state where it is requested and granted under the law of the state" [7, p.1] This entails consequences in the form that intellectual rights, which are protected by the law of one state, are not necessarily protected as objects of intellectual property in the territory of other states. Thus, there is no automatic protection of intellectual property rights recognized in one state in the territory of another. The reasons for the appearance of such a legal conflict precisely with respect to intellectual property rights have both historical and political prerequisites. Leanovich explains this by saying that "intellectual property implies practically the monopoly rights that are necessary to stimulate investment of market participants in intellectual achievements and in this process the state renders support primarily to its citizens and organizations" [7, p.2]. Thus, the issue of intellectual property rights with a foreign element is decided by the law of the state from which this right is claimed. In the future, this situation leads to a practical lack of any conflict-of-law regulation of intellectual property issues with a foreign element. In this connection and some other problems arising from the territorial nature of IP rights, a number of issues arise related to the procedure for the protection of IP rights in several states simultaneously. Under these conditions, international public law comes to the assistance of international private law.

One of the peculiarities of the intellectual property rights as an area of private international law is its closer, in contrast to other legal spheres, connection with the norms of public international law. The issue is that the territorial framework for the protection of intellectual property rights can only take an extraterritorial nature through broad international regulation.

To date, an important layer of work on this issue is carried out through the activities of international organizations. Thus, in 1967, the Stockholm Convention was concluded, under which leadership the international cooperation in the field of intellectual property rights is conducted. It should be noted that it includes all the set of intellectual property rights. As noted in Article 3 of the Convention, its purpose is to "... promote the protection of intellectual property throughout the world through the cooperation of States and, as appropriate, in cooperation with any other international organization [5]. Protection of the results of human intellectual activity for the sake of cultural, economic and social development of mankind is also the most important function of the World Intellectual Property Organization (WIPO). The statutory tasks of this organization emphasize the promotion of activities designed to improve the protection of intellectual property throughout the world and to harmonize national legislation in this area [11]. A significant role in the international mechanism for the protection of intellectual

property rights is played by the World Trade Organization (WTO), which specializes in regulating the international exchange of objects of sale and purchase (goods, services), which contain a number of legal provisions on trade in intellectual property. Moreover, one of the conditions for countries to join the WTO is to improve the system of legal protection of intellectual property. In 1994, the Agreement on Trade-Related Aspects of Intellectual Property Rights-TRIPS (Agreement on Trade-Related Aspects of Intellectual Property Rights) was concluded in the Uruguay Round of the WTO, which provides for certain sanctions in case of violations of these rights. It can be said that in the international legal field there is a sufficiently large mechanism for protecting the results of the creative and intellectual activity of a person. In addition to international universal and regional organizations, there are also a number of non-governmental organizations engaged in the protection of intellectual property rights. These organizations are created by producers of specific types of goods, in which products of intellectual activity are embodied, and in whose protection both at the national and international levels there is a need. These include, for example, the International Intellectual Property Alliance, the International Union for the Protection of Industrial Property (Paris Union), the Union for the Protection of Selection Achievements, the International Federation of the Recording Industry (International Federation of Phonographic Industries) and others [9 with. 327]. Some of these organizations are members of WIPO, but there are also acting as independent subjects of the branches of intellectual specialization.

Current trends in the international regulation of intellectual property law

All these organizations are part of the system of international protection of intellectual property rights. However, returning to the essence of intellectual rights or in other words of ownership rights to the results of the activity of the human mind, it becomes obvious that these rights act as private, despite their intangible characteristics. As Velyaminov notes "an immaterial benefit is always the result of intellectual activity of people, individuals. However, like any property, intellectual property can be transferred from one owner to another, even in advance, not yet being created. In any case, the right of intellectual property is a private right, guaranteed by the state power. ... The regulation of intellectual property rights is a sovereign state prerogative " [2, p.337]. Thus, it turns out that, for legal intellectual property in another country, it is required either to achieve such protection under the law of a foreign state. The principle of territoriality of intellectual property rights is noted in almost all works on private international law. The reason for this approach was precisely in relation to intellectual property rights, is the economic and political interpretation of intellectual rights, when "the territorial nature of intellectual property rights is due primarily to the objectives of economic policy pursued by the state [3, p. 2]. But this approach practically eliminates the conflict method of regulating the relations of intellectual property rights in the presence of a foreign element, which is an anachronism in the world of globalization. Despite this, many states, however, are not in a position to abandon this principle in favor of adopting the extraterritorial power of rights that protect intellectual property rights. To a large extent, the shortcomings caused by the prevalence of the territorial principle in the protection of intellectual property rights, primarily by facilitating the uncontrolled movement of intellectual products among countries is compensated by international agreements in this field. But defining intellectual rights as strictly territorial, some authors argue about the complete absence of conflict problems in this area. This approach is somewhat radical and, as S.Krupko notes, "... restrains the development of private international law and negatively affects international economic turnover in the sphere of intellectual property" [6, p. 9]. Without having an extraterritorial effect, intellectual right is limited in solving a number of topical problems of modern regulation of the market for creative products. To understand this issue it is necessary, first, to define the concept of territoriality. The principle of territoriality is one of the types of spatial scope of the law and, in turn, is divided into relative and absolute territoriality. Territoriality absolute implies the application of only national law in internal processes and the inadmissibility of foreign intervention. Relative territoriality allows the

possibility of indirect application of foreign law within the state. The essence of such legal situation is that "foreign courts can be endowed with the competence to resolve disputes arising from relatively territorial laws" [2, p.7]. It should be noted that sporadic application of the law of a foreign country does not lead to universal extraterritoriality of the decisions taken. Speaking about the spatial distribution of the law, we must also note two more of its subspecies: relative universality and absolute universality. Relative universality is a concept sufficiently approximate to the aforementioned territoriality of the law, but they already create some mobility in their use. Absolutely universal law implies the possibility of its use, as well as the exercise of the rights arising on its basis both within the country and abroad. However, this form of spatial distribution of the law is a rarity for today. Certain of its manifestations can be observed in integration associations of countries, such as the European Union, as one of the sources of European law is supranational regulations. The conflict issue may arise in the event that the legal relationship can be exercised abroad. In other words, it is sufficient that the law on the basis of which the legal relationship arose was relatively territorial. Art. 5.2 of the Berne Convention provides for a combination of the principles of territoriality and the national regime, which logically leads to the application in respect of objects of intellectual property rights of the law of the country in which protection is sought (i.e., the country whose court is considering the case) – lex fori. That is, regardless of whether the court of which country is considering the case, referring to the law of the country, "where protection is sought", may lead to the application of the law of a foreign state.

Conclusion

In international private law today, universal laws relatively prevail. As a result, intellectual property rights are not regulated by specific universal norms having the power of some supranational institution capable of streamlining the process of recognizing subjective rights to the results of intellectual activity. The principle of territoriality also opposes this process. Each state determines the conditions for granting these rights in its own way and according to its specific criteria. In addition, the fact of registration of IP rights is also a sovereign act of the state and cannot be recognized abroad. However, all these arguments are valid with absolute territoriality of the law and do not exclude the relative territoriality of legal relations in the field of intellectual property rights. Conflict issues in the presence of a foreign element in the process of creating and using the results of intellectual activity are also not excluded from their relative territoriality. Therefore, conflict problems are something that should not be radically rejected by arguing about the territoriality of intellectual property law rights.

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ISSUES OF MODERNIZATION OF NATIONAL ECONOMIC MODELS IN THE CONTEXT OF GLOBALIZATION

Kaysin Khubiyev
(khubiev48@mail.ru)
Doctor of economic sciences, professor
(Moscow State University, Russia)

Amil Maharramov
(amagerramov@gmail.com)
Doctor of economic sciences, professor
(Baku State University)

Hadjiagha Rustambekov
(haji_@mail.ru)
Doctor of economic sciences, Associate Professor
(Baku State University)

Emin Garibli
(egaribli@hotmail.com)
PhD
(Azerbaijan University of Economy)

Abstract

This article focuses on the modernization of national economic models in the context of globalization. In this article, the tendencies of the world economy development are considered, including the struggle for a new trade and economic division of the world, the countercyclical and debt nature of the world economy movement. In fact, the political economic approach presupposes the interrelation of economic development with national interests. This is very important for achieving the optimal balance between national and supranational mechanisms of progress in the economic and social fields.

The article substantiates the need to use a nationally oriented approach in the political economy, which is a national economic system of market relations in unison with the national factors characteristic of the country. Each national economy can be defined as an institutional model, open to external relations in various degrees, but adhering to evolutionary claims that have evolved over the centuries under the influence of economic, political and cultural factors. In addition, the article shows that progress in the global economic space will reflect a fuller manifestation of interests in those countries where national economic interests are fully integrated into the network of economic processes of a sovereign country that has an institutional system for ensuring national security and citizens' rights, as well as a more complete manifestation these interests.

In the context of these trends, the article discusses the impact of global economic trends on the national economy.

Keywords: *economic model, competitiveness, institutions, national interests, national model of economy, economic integration.*

Humanity entered the 21st century with the hope that it will leave in the past and get rid of everything that is destructive, unfair, alarming, and dangerous to the outlook and fates of people and individuals. Hopes have not come true. With the collapse of the USSR the world became unipolar and the total responsibility for the global development passed over to the side of

developed capitalism. The so-called "evil empire" was destroyed and it seemed, no one was impediment in creating "the empire of good". However, a quarter of a century is an enough historical period to have shown the world the results of good deeds. The world observed the following "good" things: destruction of impunity of the whole countries, including by military means; turning them into a testing ground for the implementation of the technology of internal strife; deployment of a new wave of economic wars, etc. Attempts to spread "liberal values" of the capitalist social order throughout the world did not make the world safer and fairer. Capitalism has not only failed to overcome the accumulated problems of the global economic development, but also saddled them with new ones: ethnic and religious conflicts, terrorism, and mass migration of the population. However, the old problems of poverty and increased differentiation, worsening of environmental problems have been preserved acquiring a global scale. Awareness of these facts receives becomes fairly widespread, at the same time doubts are intensified about the prospects of the dominance of the unipolar world values. The need to change the foundations of the social order is placed even in international forums organized by the elite of the capitalist countries, in particular, the Davos Forum.

In the economic field, new types of crises are raging: financial, debt, mortgage; the volatility of stock markets increased, the influence of world energy prices sharply increased, which significantly affects the "well-being" of the world economy. The question of the need to change the foundations of the social order is posed even at world forums organized by the elite of the capitalist countries [8].

According to Klaus Schwab, the founder and president of the World Economic Forum in Geneva, if in the 1990s the total capitalization of the three largest companies of Detroit was $ 36 billion with revenues of 250 billion and the number of employees to 1.2 million. And in 2014, the aggregate market capitalization of the three largest companies in the Silicon Valley was more than $ 1 trillion, with a profit of $ 247 billion, but the number of employees is almost ten times less. This fact testifies to the intensive growth of technological unemployment in national economies [8].

Economic science is far behind the theoretical analysis of the current world economic trends, which is closely linked to the national economies of sovereign states in the context of globalization. And, though the world economy for today has grown according to the rules of the market globalization, it is more and more clearly seen as the compositional system, which main parts are the national economies. They differ today – not by the formation-typical characteristics but more obviously seen in the most different forms of institutional-model specification. From this point of view, it can hardly be reconciled with the idea that "in our days the boundaries of the national economy are being eroded" [1].

Political economy approach supposes the correlation of the economic development's global determinants with the national interests, obtaining the optimal balance between national and supranational mechanisms of progress in economic and social fields. That's why in this article the analysis of the objective processes in the world economy is accompanied by the determining the factors and institutes that influence the formation of the national economy's advantages.

In the politico-economic aspect of the research the world economic processes are closely correlated with motivation in integration of countries - subjects of the world economy, and their national economic interests. The concentration of attempts on the primacy of the national economic interests forms the context approach to the processes of globalization for each national economy. In particular, the national context of globalization problems leads to putting forward the aims and tasks, realization of what implements in the vector of multiple methods such as political, diplomatic and self-affirmative in the modern world.

Based on the need to use a nationally oriented approach in the political economy, one can say that the representation of a national economic system as a system of market relations in

unison with the national factors characteristic of the country. Taking this into consideration the following point of view is drawn – there is an existence of a very important "dimension" of economic globalization, which has two circles of problems. First of them is the set of parameters, using what it is possible to predetermine the lead tendencies of globalization in the world economy; and, the second one is related to figuring out the degree of realization the national economic interests in the process of globalization. National economic interests represent the economy of a certain country as an economy of a subject of the world economy; and the degree of their realization determines the efficacy of the external economic relations. In particular, in this context the questions on providing a rational integration of Azerbaijan into the world economy are also interesting. To get this result it is needed to clearly understand the tendencies of development of the world economy in the contemporary conditions and in perspective.

Although there is a certain similarity – in general frames – of the market typology among the existing economies of the countries, each national economy is the unique organism. They have their own, different evolutional paradigm, because the resource potential, production factors structure and the forms of the economic organization are different to various extents. The differences in the main productive power – in a human, his way of thinking and behavior, traditions and manners, preferences and values, the choice of the goals and methods of their achievement act as a fundamental principle of such a variety. All this directly impacts the quality and ethics of the production relations, modifying the economy in the national forms.

Friedrich List in the beginning of the XIX century wrote that "as it is acknowledged the existence of nations with their living conditions and interests, it is important to assume the corresponding change in the economy of the human society according them" [10].

In this case we are referring to the forms that add specifics to the economic system, but do not limit its integrity. Therefore, due to the objective laws interest in global communications for all the subjects of the world economy, and also research on the appropriate directions and methods of the foreign economic relations organization more and more increases.

Only the national economy representing an integral organism is capable to express and protect its interests in a concentrated way, and also to effectively realize the purposes of economic residents.

Obviously, the last ones act as market entities in such a perspective, but, first of all, as the domestic market entities, which have their own characteristics of macroeconomic balance on a national scale and functional purposes. Thus, world economy acts as a sphere of contradictory interaction of certain countries national economic models. The global economic interests are formed in this dialectical interaction (ecological, food, energetic and so on), but they are secondary in relation to the national interests. It is connected with the fact that in the sphere of global economy national economic interests face the strongest competition which in a most accurate way reveals the strong and weak points of national economies and, at the same time, differentiates them on macroeconomic parameters of development. The advantage in such a competitive environment is associated with what quantity of world GDP shares each country appropriates during global interactions. From this point of view we can talk about donor countries and recipient countries in the world economy. But despite of it, the process of globalization naturally promotes economic development of all countries.

It results from the fact that in a globalization algorithm micro-subjects of national economies (entrepreneurs, firms, corporations), joining the world economic process, reach the success that depends on the macro-subject development level, which is open in the appropriate ways for the global connections of their residential allocations. In these conditions it is very important not just to state, but to provide the real mechanism of factors interaction:

a) Integral, but not fragmentary development of economy;

b) Optimum, but not absolute or chaotic exposure in foreign economic relations;

c) Competitive, but not conjectural benefits in the world markets.

In total, they substantially increase realization opportunities of national economic interests by means of foreign economic relations, building-up of efforts in order to increase the international competitiveness of the country and, therefore, to ensure the national security. A lot of things here depend on the state economic development strategy by taking into account the fact that in the global economy the great number of other reproduction factors interacts, rather than in micro or macro economy.

For example, it is necessary to interact with such subjects of the world economy as the international economic organizations, the transnational capitals, regional integration associations. They also have their own straightforward market or engaged interests. The answer to a question in what degree these interests match with the national economic interests of the certain countries as well with global ones is far from clear. It is one of the reasons of an aggravation of the uneven economic development tendency between countries and regions and, therefore, intensification of contradictions in the process of globalization. How to resolve this contradiction in the world and for each country in order to make inevitability of inclusion in the global economic communications have a positive effect by increasing the degree of national economic interest's implementation causes discussions. In most cases, the solution of this problem is shifted on the global institutes; the inconsistency of activities consists of insufficient assessment made by them of national (informal) economic development factors in certain countries and regions of the world. This, in its turn, promotes strengthening of the transnational corporations' position in the world economy, indifferent to national interests. Such a model of the global relations revives the ghosts of the past. But if in the last centuries it was followed by colonial conquests and political subordination of resources of other national space, then in modern conditions these objectives are achieved by implementation in one or another resource environment with the help of economic methods. Therefore, there is a need "to watch closely a contour of the global interests" [9]. With the purpose of the country's external economic interests optimization. Id est., we can speak about the presence of own global interests in each country integrated with national economic interests. In this case the mechanisms of implementation of these interests shall be determined. Generally, this mechanism suggests the strategy of the economic model development of the country as the adapted environment of activities in which each subject joins prerequisites and results of implementation of own interests as the integral parts of the national ones.

The promotion in the world economic space will reflect more complete manifestation of the interests in those countries where the national economic interests are integrally plait into the web of sovereign country's economic processes possessing institutional system of ensuring national security and the rights of citizens, also more complete manifestation of these interests.

The implementation of individual interests is in a causal relation and dependence with functional wellbeing of microeconomic structures of a higher level (partnerships, corporations). The implementation of the integrated interests of the companies and their effective functioning, in its turn, depends on the macroeconomic environment and economic policy (inflation rate, currency rate, interest rate, taxation and customs policy). The implementation of non-corporate entrepreneurs' and households' individual interests also depends on the macroeconomic level. In the harmonization of the emphasized three-level areas of interest matures the national economic interest. The same interest, already conceptualized on a macroeconomic level, enters the global economic sphere and due to it obtaining an opportunity to pursue interests of all subjects of national economy. And in this space the potential of economic opportunities, thanks to which the access to mechanisms of a world product assignment is provided, starts to show itself. First of all, it is the mechanism of the international economic competition. Its action is many-sided, not always visible, can be disguised as political or ideological slogans. But the fact that there are serious distinctions in spatial and high-quality economic parameters which look contrast in the modern world is still immutable.

It is important to note the reverse-connected chain of developments. The economic cataclysms of the world scale: the world financial crises, volatility of financial markets, fluctuation of exchange rates of the reserve currency, economically important political happenings influence directly on the macroeconomic climate within the national economies, and, as it was mentioned above, on the prosperity of the individuals. Leading countries of the world economy in their economic policy should also distinguish the interests of others, less developed. Something can be beneficial to one, but not to everyone. For example, the devaluation of the US dollar by 1% reduces China's foreign exchange reserves by 10 billion dollars, Japan by 7 billion dollars, Russia by 3 billion dollars [4].

The main contradiction of the global economic system, or to be exact, a contradiction between interests of different levels is reflected in it. Coordination of these interests is difficult, but opportunities for this purpose exist, and they are connected not only with universal approval of the formal and market principles of economic development, but also with their model modification, taking place under the influence of informal (sociocultural) institutes. From this point of view, each national economy can be determined as an institutional model, open for external relations to various extents, but adhering to the statements of evolution which developed for centuries under the influence of economic, political and cultural factors. One of the most famous modern economists Hernando De Soto notes that the key factor of a progress is the recognition of countries' specifics, but not a transfer of the clichés that were previously used by others. In his opinion, it is necessary "to learn to absorb that knowledge and those practices that exist in other countries and to use both them and modern technologies, for the benefit of their nations". [3] The same thing must be taken into consideration by all the global actors, the centers of industrial technology development, the international economic organizations. Eventually, more equal development of the countries and the world regions is in a range of their long-term interests. But there are no sufficient prerequisites for institutional and organized resolution of conflicts between the global and national economic interests yet; the independent efforts of the states on ensuring quick and successful economic development shall be more and more active. There are examples of alternative approaches to the selection of the development models providing the achievement of competitive positions in the world economy. We must understand that the national state remains the most important force in shaping the world economy [6].

Globalization, according to Mrs. M. Thatcher, "opened national economic systems for the international competition" [11]. But this competition, even in case of an assumption of the economic relations equivalence, won't be mutually beneficial as the interacting national economies aren't equivalent.

Economies of many countries of the world aren't ready for the free competition on a considerable circle of the produced products and need therefore, protectionist measures for identification and creation their own benefits in the foreign trade. It is interesting that particularly protectionist countries have been increasing most quickly not a share of the GDP commodity exports, but the countries practicing the free trade which isn't able to reach the increase in export and high growth rates. The new industrial countries (NIC) taking considerable positions in the world economy today can be taken as an example.

Basically, NIC demonstrate groundbreaking exit from discrepancy of the world economic environment, which looked like a complicated one for many countries. National modification of economy with simultaneous introduction of innovations from the outside and protectionist measures provided the high level of the production development.

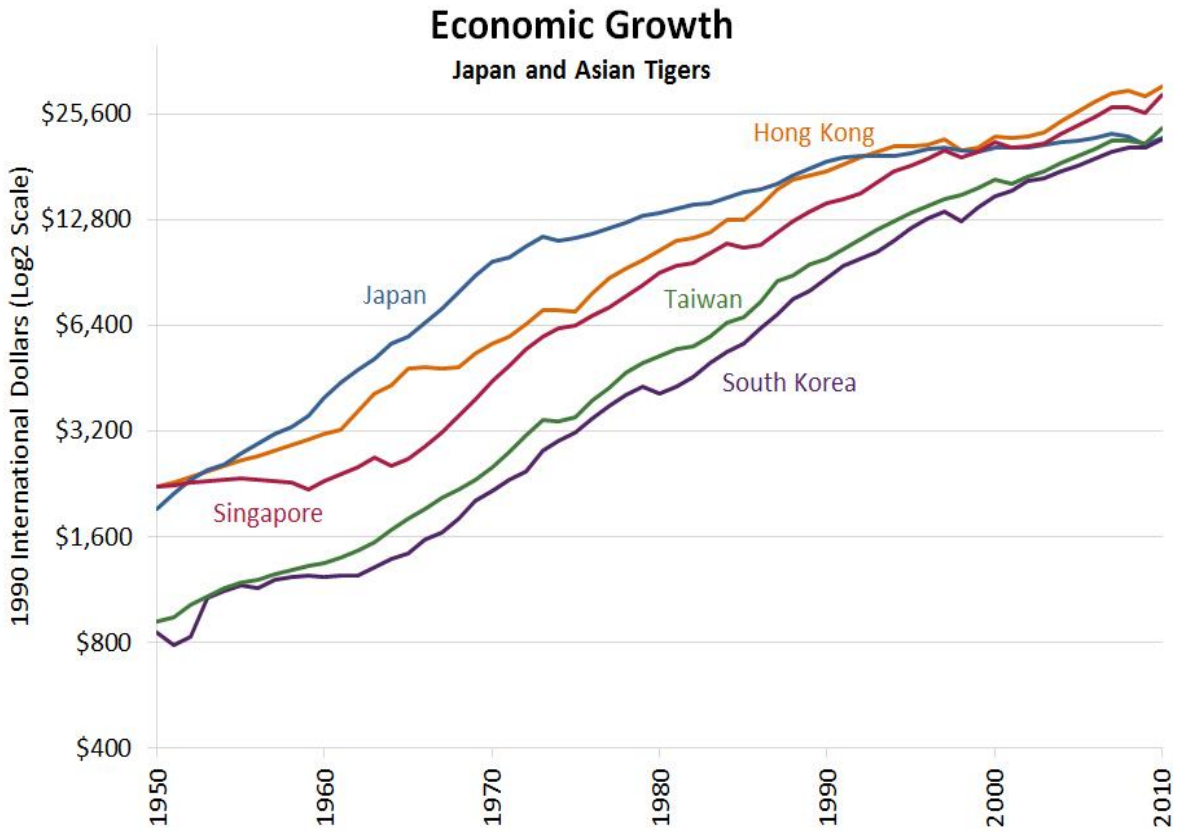
Additionally, all the newly industrialized countries have determined some characteristic features in their development, particularly, the following ones. They show the highest tempo of economic growth (8% a year at 1st wave NIC), and at the period of a global crisis most of them didn't suffer deep recession, just a declining in a growth rate has been observed. At the same time, with the assistance of state, the national capital of these countries grew quickly and began

to master the world markets. In these countries the closest involvement into the global system of interdependence was followed by preserving and enhancement of variety potential in the organization of economic life, available only under the conditions of national economy. We can also note a practice of economic development in Azerbaijan possessing considerable resources in the form of the rich natural reserves, the developing industrial base and a skilled labor force. At the present stage there is an intensive concentration of these factors in the direction of diversification of the external economic capacity of the country. Close attention is paid to the positions strengthening concerning a number of the traditional directions of industrial specialization. For example, before the collapse of the USSR the oil mechanical engineering in Azerbaijan provided with the machinery and equipment satisfying up to 70% of fuel and energy complex requirements of the common state [5]. Today the country can become a large exporter of these products on the world markets. In this plan creation of the cluster which is pulling together mining, metallurgic, metalworking and machine-building spheres of economy of Azerbaijan with target financing of its scientific base, infrastructure, project service, insurance service by establishing the state preferences according to the government program acts as priority one. A correlation of a triad "science-innovation-industry" in this regard becomes more and more urgent. We must not forget that today Azerbaijan remains one of the important players on the global energy market. Since more than 200 promising structures, in total, in the Azerbaijani sector of the Caspian, 145 promising structures have been identified, including 40 structures at a sea depth of 60 m, 33 structures - at a depth of sea of 60-200 m, 72 structures - at the depth of the sea more than 200 m. [2]

State patronage over strategically important spheres of economy and bringing them to a competitive export condition shall be followed by methods of selective protectionist restriction on the delivery of identical products from abroad. The world practice confirms that some of the production or technological innovations can be introduced in the economy from the outside, but in applied value not the parameters of their "progressiveness" will play a role in general plan released from specific conditions, but from the point of view of perception at one or another national economic environment. Such an environment as it has already been noted is specific, first of all, institutionally, and, therefore, the economic activity is performed on the basis of those adapted regulations and rules which are specific for each described country. The competition of national economy models in which informal institutes will play the increasing role for the approval of world economic system positions of each country's system.

Institutions of a mega – trend plan exists that have the general destination for all the human civilization. For example, the financial institutions, such as money turnover or the banking functions, occur everywhere in different forms. The same could be attributed to the relations in the field of formation the fundamental demands, the reproduction processes, the property relations, goods exchange etc. All they could be attributed to display the world "mainstream" – the main direction of the development of a human civilization, including also its economic evolution. With that, doubtless, it is needed to emphasize the "nation-streams", that choose the ways of adaptation of a man and humanity to the concrete spatial environment and obtaining a special forms in the process of economic development of the separate societies.

Tab 1. **[7]**



In the frames of a national institutional system factors of "mainstream" and "nation-stream" are performing in the dialectic unity. This leads to the modification of the production relations and, finally, to the model changes in economies of different countries. The model here plays the role of a protective shield for the national global interests. In this aspect it is very important the formation of a point of view on the world economy from "the window of native home"; the priorities and perspectives of development in global, but contradictory world in the prism of interests. In turn, this supposes the objective estimation of possibilities and the elaboration of methods of the most profitable usage of competitive advantages on the international arena connected with the technological achievements generated in the country and acquiring from abroad that play as the production base for the modernization of a national economic model.

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GENESIS AND PROGRESS OF THE RIGHT TO LEGAL AID

Anar Baghirov
(anar.baghirov@barassociation.az)
PhD, Chairman of the Bar Association of the Republic of Azerbaijan

Abstract

The current article explains and throws light upon factors that caused to emergence of concept of legal aid as constitutional right; reveals what the main stages it has passed within its progress and how it has been improved; describes peculiarities and types of the legal aid depending on certain historical epochs; forecasts trend of future improvement of the right to legal aid.

Keywords: legal aid, free legal aid, lawyer, logograph, constitution, human rights.

The right to legal aid, which finds its direct determination in Art. 61 of the Constitution of the Azerbaijan Republic is one of the basic and inalienable rights of the person and the citizen. Considering its importance, and also substantial essence, it is difficult to overestimate the importance of the specified constitutional right for all mechanism of ensuring constitutional rights and freedoms of the person and the citizen. At the same time, the special attention is deserved by a complex research of historical aspect of genesis and development of the right to the qualified legal aid.

One of the important components, which determine the level of comprehensiveness of different research of the legal phenomena and processes, is, first of all, the resort to their sources. As constitutional rights and freedoms of the person and citizen in general, the right to legal aid, have the long history.

Among scholars, the researching features of realization of the right for legal aid, it is worth to mention V. B. Isakov, D. A. Kerimov, A. E. Kozlov, O. E. Kutafin, E. A. Lukasheva, A. A. Mishin, A. P. Movchan, S. V. Polenina, Yu. I. Stetsovsky, Yu. A. Tikhomirov, B. N. Topornin, V. I. Chervonyuk, B. S. Ebzeev, M. V. Yarovaya's works and many other. At the same time separate aspects, including historical, emergence and evolutions of the right for legal aid, still require special attention.

It should be noted that the reference to historical prerequisites of emergence and development of the right for legal aid, first of all, allows to solve a number of problems that has theoretical and methodological aspects: first, to establish factors which have affected the specified constitutional right, that is have caused its emergence and evolution; secondly, to find out what main stages it has passed in process of the development and as at the same time has changed; thirdly, to reveal features and types of his realization in concrete historical stages of development and their legal systems; fourthly, to predict tendencies of further development of the right for legal aid; and lastly, as a result, it is deeper to learn essence of this subjective right. At the same time, the above objectives display also a degree of relevance of this research.

As D.A.Kerimov fairly claims, out of the historical context connecting the present phenomena with those phenomena which preceded them, as well as with those which will arise on their basis in more or less remote prospect it is impossible to learn this modernity. And it is quite natural as "in society, there are always remains of the past, a basis of the present and rudiments of the future. Any modern phenomenon or process has the roots in the past which through the reflection in the present is directed to the future" [1, p.100]. Having extrapolated the above directly to researched by us the subjective right, it should be noted that the last can not limit itself to a state which would reflect only real the moment of his existence as the relationship of cause and effect in the historical development of human right on legal aid will be in that case lost.

Genesis and evolution of any subjective rights and freedoms of the person and citizen including the rights for legal aid, it cannot be investigated without reference to documentary historical and legal achievements of mankind, that is to written sources of the rights of the different people, in various historical epochs. The analysis of such sources of the right needs to be carried out in the logical sequence of their emergence, considering a certain historical periodization.

Of course, at early stages of development of a human civilization the main instrument of regulation of human relations, the custom had an inherent moral character. For example, already in the most ancient times the people of Southeast Africa (Gafrs, Bechuan, Zulus), in Ancient India, Ancient China the first manifestations of rendering legal aid arose. It was provided by relatives, friends, neighbours, and fellows' villager of the parties who disputed in a judicial proceeding. Certainly that the specified categories of persons had a very little general with the concept "human rights activist" in the true sense of this word, they were not considered as experts [2, p.12]. It should be mentioned also about judicial system about which in the true sense this word, during the specified period (it is about the period of existence of a primitive-communal system) it is possible to speak very conditionally, legal proceedings were conducted, as a rule, by elders of tribes, leaders, referring to the same customs, ceremonies, traditions.

So to speak, the remote manifestations of a legal aid, take place in the I millennium BC in Ancient Babylon. In the period of the New Babylon monarchy (the end of the 7th century BC - the second half of the 6th century BC), taking into consideration the additional functions of priests which they owned in legal procedure, it is possible to come to a conclusion that priests gave the legal aid (mediated) to the parties of legal procedure. They collected, and also brought to trial documents which the parties handed them for confirmation of the claims, helped to execute judgments and etc [3, p.88].

It should be noted that for a long time as well in Turkey there were scientists-experts of the Islamic right (mufti) to whose duties giving legal recommendations, consultations to disputing parties belonged. That is, the persons performed functions of legal advisers.

Other, subsequently the right analyzed by us acquires broader content. It is known that the category of persons who were called "interpreters of the sacred right" could be involved in the judicial criminal trial at the period of emergence and development of the Athenian state. The explanation to the persons wishing to prosecute the criminal (as a rule, it were victims) how it needs to be done, was their main obligation. That is the victim could get legal advice necessary to him. Over time, during the blossoming of the Athenian statehood (the 6-5th centuries BC), in the same judicial criminal procedure, there are persons which can already give legal aid not only to the victim, but also the person which is brought to legal liability. At the same time, these persons were divided into two categories - logographs or, in other words "writers of things" and sinegor, that is "the helping speakers" [4, p.6].

The first one proceeded a little the second in the emergence at the time, however subsequently logographs were gradually forced out by sinegor. Logograph could not satisfy quite the need for judicial protection of that time [5, p.19-20]. As they directly were not involved in the trial, and only wrote the composition of judicial speeches for claimants and defendants, in the last there were difficulties on their studying by heart. Also, the logography suited only for accusatory and claim speeches and could have very limited and imperfect application to speeches for the defence and remarks. As the logograph could prepare for disputing parties the claim or accusation in advance, but it wasn't able to object the prosecutor or the claimant, without knowing in the accuracy what proofs will be provided by them in court, it could not foresee all arguments of the opposite party with reliability to confuse them before they are stated.

Considering stated above becomes clear that logograph could not replace oral speeches. Moreover, as truly noted by Sineokiy A.V., protection assumptions, at least, in criminal cases, began to require as well simple justice. That is, it confirms awareness by society already of that time of need of the objective, impartial relation to the person which is only accused of crime

execution and whose guilt has not been proved judicially yet. And there were sinegor which already personally provided a direct legal aid (protection) to accused of legal procedure by preparation and declaration for them court speeches, thereby promoting the same justice.

A feature of the activities of defenders stated above who provided a legal aid in Athens of that time was the fact that their activities were more connected with oratory, but not with jurisprudence. In the specified context it is pertinent to quote the statement of the famous Roman teacher of eloquence Mark Fabia Quintilian (approx. 35 g - approx. 96 g): "The judge listening to us with pleasure almost already trusts us" [6, p.409].

With emergence and existence of Ancient Rome (8th century BC - 5th century AD), especially at later stages, the legal aid comes to the qualitatively new phase of the development. It is considerably filled in the substantial relation, and also diversified in an expression form. It was generally provided by professionals. Generally, one may say, that the understanding of the right of that time for provision of a legal aid more similar to his modern understanding.

First of all, it is necessary to focus attention that during this historical period there is a written right. Having addressed to the texts of the main Roman Law, in particular to such as Twelve Tables (mid-5th century BC), Guy's Institutions (143 AD), Digesta Justiniani (530-533 AD), it is possible to find a provision, specifying existence of institution of a legal aid in society of that time, which at the same time reflect these or those forms of its manifestation, its characteristic features thereof.

In particular, in Ancient Rome legal scholars who performed a professional activity on rendering legal aid were conditionally divided into three main categories, upon a purpose of these activities: cavere (to constitute new claims and transactions), agere (to process case in court), respondere (to give answers). The first of the specified types of legal activities that is "cavere" meant activities of lawyers on rendering legal aid in the form of creation of claims, transactions and wills. The formulas of deeds, claims which were quite often receiving names of the creators were so developed. Concerning the second, it should be noted that "agere" was implied as activities of the lawyer on conducting matter at court, where the last undertook functions of the party in the process. These activities took place to be both in civil, and in a criminal trial. Special significance in Ancient Rome was attached to a question of ensuring legal aid to the person brought to trial. At the same time defenders were divided into three types: advocati, laudatores, patroni. And, the third form of rendering legal aid in Ancient Rome - "respondere", was expressed in the statement of opinion of the legal adviser at the request of individuals.

Considering requirements concerning article’s volume, we would not stop in detail on the characteristic features of the provision of a legal aid in Ancient Rome, and we will only note some, in our opinion, key provisions which are actually concerning the direct development of the specified right.

So, in Justinian Digests, in the First Book (Title XVI) it is specified that the pro-consul "shall provide lawyers to those who request it, mainly to women, either minor, or another vulnerable person or that who not in the right mind if someone requests it, and if nobody requests, then the pro-consul shall present the lawyer anyway. But if someone specifies that owing to influence of the opponent it cannot retain to itself (himself) the lawyer, then for the sake of justice, it is necessary to him with the lawyer" [7, p.182-183]. Considering this provision, it is possible to state that at the level of the law to less-protected segments of the population, and also the right to the lawyer for rendering legal aid was guaranteed to persons which possessed the smaller amount of legal personality (to women, minor, sick, etc.).

In the Third Book, in particular in the Title III "About procurators and defenders (De procuratoribus et defensoribus)" in one of the provisions it is said that in case of absence of the defendant in judicial session, legal aid shall be provided to it. At the same time, the public advantage of such provision is emphasized: "if any absent accused can be accused, then it is fair and there corresponds to an established procedure the assumption of the one who will speak for

him and with defending his innocence". In the period of the late Roman Republic and the Roman Empire, free participation of the lawyer was guaranteed to needy citizens of Rome. And on criminal cases participation of the defender was mandatory. If the party had no defender, then the pretor appointed such defender. For refusal of the lawyer from "defending by appointment" could easily expel it from the association [8, p.30].

It is impossible to ignore the *hospitium privatum* institute existing in Ancient Rome which protected property interests of the strangers coming to Rome. It was that the Roman citizen has become a patron of the stranger who was put in the client's position, gave the last a legal aid, making deeds in his interests, protecting his interests before the Roman court, etc. At the same time, a patron acted not as the stranger's representative, and as the defender of his interests, on its own behalf. The conscientious attitude of the patron to the assumed obligations was provided with the sacral right: the perfidious patron was to the highest punished: it appeared fateful to a revenge of gods - *sacer esto*, and therefore became out of the protection of the law [9, p.75]. Thus, not only citizens of Rome, but also the person who were strangers could use the right to a legal aid. Moreover, this right was exercised both within criminal and within civil processes.

During the existence of the feudal states, the right to a legal aid was not mentioned not much in literature. At the same time, it is possible to draw conclusions on features of the implementation of this right, proceeding from the analysis of the legal status of persons which directly gave a legal aid at the appointed time. As we know, the Institute of the legal profession was the most widespread and, respectively, his representatives are lawyers.

For example, in France till 12th century an obligation of lawyers were usually carried out by clerical persons. In the 12th century of a representation of clericals in secular courts were prohibited that promoted emergence of professional lawyers in secular courts [10, p.487]. Since the end of the 13th century, the legal profession in France begins to be exposed to a legislative regulation. So, in 1270 there were well-known "St. Louis Establishment" which put the first bases of the French judicial system and legal proceedings. According to the decree by the King from the 1274 year lawyers functioned at courts. Since the 1344 year lawyers were divided into defenders and advisers. At the same time, Catholics, persons subjected to church punishment, monks could not be lawyers [11, p.40].

It should be noted that in the 13th century in the French kingdom for the first time there was such an official as the prosecutor, one of the main functions of which originally was a rendering legal aid to the claimant and defendant in civil cases. At the same time, the prosecutor was appointed, generally to vulnerable.

In Prussia, since 1781, the attempt was made to establish institution of legal profession as the public position: rendering legal aid to the parties was assigned to members of courts as a part of which the special members - "assistants" receiving a salary from the state were allocated for this purpose [12, p.616]. Further "assistants" were replaced by the commissioners receiving the royalties from persons, addressing to them; a procedural law of commissioners was expanded, but all of them continued to be considered as officials of the judicial department.

In Germany the Regulations on Legal Profession from July 1, 1878, were the document regulating provision of legal aid. The lawyer independently prepared the case, acted in proceedings, participated in the execution of judgments.

In England, for example, the Institute of legal profession arose rather early, at the same time it used quite broad self-governance [13, p.524]. Lawyers who rendered legal aid divided into two main categories: the barristers, who were engaged mainly in acting at court and attorneys and solicitors - the intercessors on cases, who were engaged in the preparation of these cases for judicial review. The highest category of lawyers was constituted by the sergeants who had some special rights. Let us note that from that people the judges of the supreme courts were elected.

Legal aid on civil cases during the specified period was given in England quite actively. As for the right of the defendant to protection, here the situation was worse. By William III's statute

of 1696, the defendant during a hearing of his cases "on high treason" was granted the right to invite the defender. Then the defender began to be allowed also in cases of felonies. At the same time quite long time the rule existed according to which it was forbidden to address to court with speech for the defence or counsel of the accused. In 1836 William IV's law eliminated all restrictions on rendering legal aid in criminal cases [14, p.11].

As Melnichenko R.G. fairly notes, although the situation with rendering a legal aid which satisfied needs of the society in the Middle Ages, it was unsatisfactory in its subsequent development. So to speak, afterwards, this institution gets the 'license' to render legal aid during establishment in some states where the constitutional system was functioning. At the constitutional stage, the quantitative elements of the right increased, and the right to a legal aid became defined in the majority of constitutions of the different states.

So, while researching the history of development of the right to a legal aid, special attention should be paid at the time of directly constitutional fixation of the subjective right studied by us in the relevant legislation of various countries of the world including in the Republic of Azerbaijan. Especially as disclosure of this issue will allow finding out to what generations these basic rights and freedoms of the person and citizen is necessary to refer.

It is known that as one of the first official constitutions were considered the United States Constitution of America (1787), the Constitution of France (1791), and the Constitution of Poland (1791). Concerning features of a legal regulation of constitutional rights and freedoms of the person and citizen in the specified sources of constitutional right, it is possible to note that the first two from the constitutions stated above, should be considered more progressive, as more attention in that documents is devoted to the rights and freedoms of the person and citizen including to the right to a legal aid.

In the United States of America's 1787 Constitution, which is the fundamental law, the right of the defendant to defence was defined. So, on September 25, 1789, the United States Congress of America proposed the first ten amendments to the United States Constitution. According to the Amendment VI "In case of any criminal prosecution, the defendant has the right... to the aid of the lawyer for defence" [15, p.149-150].

It is also necessary to note that in the United States of America in XVIII-XIX centuries legal aid was performed generally by lawyers who were divided into various specialities depending on a type of legal activities. One was engaged in acceptance of cases and preparatory work, others carried out obligations of legal advisers, the third - only acting at court.

According to item 9, Chapter 5 "About judicial authority", Constitutions of France (as of September 3, 1791), "defendant cannot be refused of the attorney" [16, p.167].

Also French Declaration of Human Rights accepted by the resolution of the French National assembly on August 26, 1789, enjoyed human right and the citizen were considered as the first generation of the rights, in particular Article 14 contains a provision according to which "citizens have the right to establish independently or through the representatives need of taxes, to agree on its free collection, to monitor its use and to determine its share, the size, a payment procedure and duration" [17]. That is, considering the content of the quoted provision, it would be logical that there is a conclusion about forming and fixing at the end of the 18th century of the institution of representation of legal interests of citizens of France in the sphere of the taxation.

Hence, it is obvious that in the first constitutions only one of the types of rendering a legal aid was defined, namely a right of defence of the defendant in the criminal process. It is possible to explain it with special importance and need of legal aid at a stage of detention of the person and bringing it to criminal liability. At the same time, it is necessary to understand that content of the right to a legal aid is much broader.

Regarding Constitution of the Republic of Azerbaijan and enshrined in its rules of law on a legal aid, it should be noted that proceeding from the analysis of provisions of constitutions which during this or that period acted on the territory of Azerbaijan (the Constitution of 1921, the Constitution of 1927, the Constitution of 1937, the Constitution of 1978 and the Constitution

of 1995 existing for today) it is possible to trace a certain evolution of this constitutional right, in particular a legal regulation of its substantial expression.

So, in the Constitution of the Azerbaijani Soviet Socialist Republic of 1937, in Art. 118 only the right of the defendant to defence was defined. The constitution of the Azerbaijani Soviet Socialist Republic of 1978, along with the right of the defendant to protection (Art. 170) also fixed a provision according to which for rendering legal aid to citizens and the organizations there is the Bar (Art. 173) functions. Moreover, in the specified article it was also noted that «in cases, stipulated by the legislation, legal aid is given to citizens free of charge".

The fact that the Constitutional Act 1991 of the Azerbaijan Republic "About recovery of the state independence of the Republic of Azerbaijan" as well granted legal aid to each citizen who is out of the territory of the Republic of Azerbaijan Republic (the p. 3 of Art. 18). It widened actually, even more, the substantial content of the subjective right researched by us.

Based on above-mentioned points, it is necessary, to sum up. The right to a legal aid traces the roots back to an extreme antiquity. Before being created, filled with content which is in conformity with modern understanding of this subjective constitutional right it underwent long, difficult process of the evolutionary changes caused, first of all, its comprehension by the person of the fact that without proper regulation of this right positive development and existence of the person in society and the state where the system of legal values dominates is impossible. The emergence of the right to a legal aid, in particular, legal defence against accusation in court, to its standard fixing in hand-written sources of law was promoted by aspiration of a man towards the justice. Among the most ancient and widespread institutions on rendering a legal aid, it is necessary to consider institution of the legal profession which originates in ancient Greece and Rome.

The interrelation of this right, actually its development, with the development of systems of law in the different countries of the world, in particular, their jurisdictional processes (civil, criminal, etc.), interrelation with the mechanism of ensuring protection and protection of the rights and personal freedoms is undoubted. Granting the defendant of a right of defence was one of the first types of implementation of this right. However subsequently its content considerably extended, especially with the development of constitutionalism in some countries of Europe and the USA. Also, considering all aforesaid, it should be concluded that the right to a legal aid should be obviously referred to the first generation of the rights and freedoms of the person and the citizen.

In the Republic of Azerbaijan at the constitutional level, the right to legal aid that has been analyzed by us should be regarded to the first half of the XX century. Of course, the most comprehensively, considering the constitutional provisions stated above, it is necessary to consider the right to a legal aid established in Art. 61 of the current Constitution of the Republic of Azerbaijan. Here the special emphasis on receipt of qualified legal aid is given. At the same time, such aid in the cases provided by the law is given free of charge, at the expense of the state. Generally, enhancement of the mechanism of providing the right to a legal aid, improvements of its effectiveness, especially forming of a standard basis and system of a free legal aid in the Republic Azerbaijan, for today, is the primary function of public authorities, scientific, and also various public organizations.

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HISTORICAL AND LEGAL TRADITIONS OF ADOPTION PROCEDURES IN UKRAINE AND THE REPUBLIC OF AZERBAIJAN

Yaroslava Tubolceva
(syaska@ukr.net)
PhD Candidate,
(Yaroslav Mudryi National Law University, Ukraine)

Abstract

The present publication is focused on the comparative analysis of adoption laws in Ukraine and the Republic of Azerbaijan. Particular attention is paid to the history of establishment of the adoption procedure in these counties. The analysis of historical development of adoption laws at different periods of the establishment of Ukraine and the Republic of Azerbaijan as sovereign states, indicates transformation of the adoption procedure and the tendency to the reinforcement of legal regulation of the adoption at the present stage of social development.

Characteristics of individual requirements for adoption in Ukraine and the Republic of Azerbaijan, as well as the procedural order of consideration of this type of cases, are analysed. The author admits that processing of adoption cases by the court has been proven over time and provides an opportunity to respect the best child interests.

Attention is paid to the fact that the mutual exchange of knowledge and experiences in solving problems arising during processing of adoption cases, will guarantee further development of the legislation of the countries.

Keywords: *adoption, history of adoption law, Republic of Azerbaijan, legislation, Ukraine.*

Introduction. The rationale for the chosen topic of this article was determined by the need to research historical standards of jurisprudence and legal framework for adoption in Ukraine and the Republic of Azerbaijan. These countries were chosen for a good reason, since in both these countries the civil procedure laws regulating adoption process are more or less subject to certain amendments and additions. At the same time, the intention of legislative bodies of the two countries to recognize the rights of the man and democratize various procedures aimed at improving the legal status of a person, is entrenched in the Constitutions of both counties. For example, Article 12 of the Constitution of the Republic of Azerbaijan contains a provision, which is generally equivalent to the one stated in Article 3 of the Constitution of Ukraine, according to which the supreme goal of the state is to ensure the rights and freedoms of the man and of the citizen, and to provide a decent standard of living [8; 9].

The adoption procedure as a process of improvement of the social and legal status of a person, requires special attention both in European and in West Asian countries. Scientific interest in the legislation of Azerbaijan stems from the fact that this country, unlike many others where the majority of the population confesses Islam, is declared a secular state by the Constitution. According to Article 7 of the Constitution of the Republic of Azerbaijan, religion there is separated from the state.

As of February 2018, 95% of the population of Azerbaijan are Muslims [3]. The Quran regards the institution of adoption as a falsification of the human nature: "Allah has not made for any man two hearts inside his body. Neither has He made your wives whom you declare to be like your mothers' backs, your real mothers, nor has He made your adopted sons your real sons. That is but your saying with your mouths. But Allah says the truth, and He guides to the (Right) Way "(Quran, 33: 4) [10, p.343]. The above shows that in Muslim countries, such as, for example, Iran and Afghanistan, where religious regulations make an integral part of legal norms, adoption is generally not allowed. The only Muslim country where the institution of adoption

exists, is Tunisia [17; p. 26]. In present-day conditions, according to a number of legal experts, religious doctrine remains the main source of the existing Islamic law in only a few countries, including Saudi Arabia, Oman and Principalities of the Persian Gulf. In most other Muslim countries religious doctrine has already lost this role and was directly substituted by a normative legal act [20].

In this regard, one of the positive aspects in the civil procedure laws of the Republic of Azerbaijan is the adoption procedure set forth by these laws, which is executed by competent authorities, such as law enforcement authorities.

Ukrainian legislation gives a significant consideration to the adoption of children, defining the adoption as a priority way to provide proper conditions to orphans and children deprived of parental care [14]. According to the State Judicial Administration of Ukraine, during the 2013-2016 the courts of civil jurisdiction reviewed 12,543 adoption cases. According to the Unified State Register of Judicial Decisions, since 01.01.2017 up to the time of preparation of the present manuscript, the number of adoption cases that have been examined by the courts of civil jurisdiction has made 1,004 cases [5]. In contrast, in the Republic of Azerbaijan with a population 4 times lower than in Ukraine, 877 children found a new family in 2017 [3]. These statistical data, therefore, indicate a fairly common practice of adoption. This fact makes it necessary to investigate both the institution of law and the legal framework for adoption in these countries.

The aim of the present paper is to analyse historical standards of establishment, development and functioning of the institution of adoption in modern Ukraine and Azerbaijan.

The conceptual framework for the present paper was created by publications of Ukrainian authors, as well as legal academicians and historians from other countries, including specialists in the field of the family law and civil procedure: Ye.A. Buyanova, L.M. Zilkovskaya, I.V. Kovalchuk, V.V. Komarov, N.P. Kosenko, V.V. Kustovaya, A.N. Liovushkina, M.A. Movsumov, G.A. Svetlichnaya, N.F. Sinkevich, T. A. Stoyanova, and others.

One has to agree that the adoption, as a complex social phenomenon, reflects universally recognized, constitutional (general legal) principles, as well as specific principles, such as the principles of the family law in each country, bearing their inherent national features [19, p.35]. Conventional instruments that have made a significant contribution to the development of international concepts of adoption of children include, first of all, the United Nations Convention on the Rights of the Child of November 20, 1989, and the European Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950. The principles and rules of these documents are usually referred to as "convention law" [2]. Thus, the United Nations Convention on the Rights of the Child which was ratified in Ukraine by Verkhovna Rada Resolution No. 789-XII of February 27, 1991 and which was joined by the Republic of Azerbaijan on August 13, 1992, in Article 20 establishes that a child who is temporarily or permanently deprived of his or her family environment or who, in his own best interests, cannot remain in such an environment, has the right to receive special protection and assistance from the State. Such assistance may include, in particular, foster care, "kafala" under Islamic law, adoption or, if necessary, placement in appropriate childcare facilities [7].

According to Article 116.1.of the Family Code of the Republic of Azerbaijan (approved by the Law of the Republic of Azerbaijan of December 28, 1999, No. 781-IQ), children deprived of parental care can be transferred to a new family (for adoption, custodianship, guardianship by an individual or a family), and in the absence of such an opportunity they should be admitted to social welfare institutions, educational, medical and other similar institutions provided for children deprived of parental care, or orphans [16].

In Ukraine, adoption means the process performed on the basis of a court decision whereby an adoptive parent takes into his / her family a person as a daughter or son [16]. The procedure for such judicial review is regulated by the Civil Procedure Code of Ukraine and, like in the Republic of Azerbaijan, is conducted in compliance with the rules of special proceedings.

The scientific community considers that the court proceedings for adoption shall to the maximum extent ensure the implementation of the adoption procedure in compliance with the legally provided order by establishing the circumstances which the law relates to the occurrence of the relevant legal consequences, by investigation and evaluation of the evidence added in their confirmation, by conclusions of the competent authorities on the appropriateness of adoption and its compliance with the child's interests. All of the above shall make the court proceedings for adoption a guarantee of a legitimate and informed decision, efficient protection of the rights and interests of the child, as well as other persons interested in the judicial examination of the case [6; p.135].

In Ukraine, such attitude and approach to the regulation of the procedure studied, was formed based on analysis of scientific literature and legal and regulatory framework pertaining to various historical periods of the establishment of the institution of adoption in the modern country. In different historical periods, adoption followed different rules depending on the direction of social policy and the level of development of the society.

As was accurately stated by T.A.Stoyanova, an analysis of the historical development of adoption laws demonstrates the existence of various forms of adoption in different periods of human development, transformation of conditions for adoption and tendency to increase the level of legal regulation of adoption at the present stage of social development. The judicial form of adoption is historically justified and well-reasoned and is the one which enables the observance of the best interests of the child during implementation of adoption [18, p.9].

Adoption as a form of life arrangement for orphans and children deprived of parental care, has been known to mankind since ancient times. The emergence of the adoption as a social, and later, legal phenomenon, and understanding of its meaning, were set as far back as at the time of the tribal communities and further developed in the first civilizations of the Ancient Near East and the ancient states.

In Ukraine, the development of the procedural institution of adoption, which presents a legally regulated procedure carried out by competent state authorities, had a number of specific features related to the long history of establishment of the state independence. The fact that in Ukraine people had been living under domination of other states for many centuries, affected the formation of domestic legal and regulatory framework, including the adoption laws. An analysis of historical regulatory documents with were in effect in the territory of Ukraine at different time periods, lets us speculate about the non-independent, receptive nature of Ukrainian legislation.

One of the first regulations of the adoption procedure in the territory of Ukraine is the Civil Code of Austria of 1811, which stipulated the conclusion of an agreement between the parties that must have been approved by the court.

In the territory of Ukraine being at that time the part of the Russian Empire, for each demographic group there were specific judicial and other procedures, provided for by the statutory provisions of the Statute of Civil Procedure (1864) and the Volume X of the Code of Civil Law. The procedures were introduced by the Law of March 12, 1891 "About adopted and legalized children" and the Law of June 3, 1902 "On improving the conditions for illegitimate children". In those days, the judiciary reform of 1864 was in effect also in the territory of Azerbaijan with the "Regulations on the introduction of the Statutes in the Transcaucasian Territory issued on November 20, 1864 ", which was approved on November 22, 1866.

The period of establishment of the Soviet power was quite eventful in terms of regulatory and legal consolidation of procedural aspects of the adoption procedure in the territories of Ukraine and Azerbaijan, since the legal bases of these two countries had been developing according to general principles.

As it is known, in the Central Asian republics of the former Soviet Union, as well as in the Caucasus region, Muslims constituted the main part of the population. The socialist legal system rejected Muslim law. There were regulations acting against social customs that were regarded as "vestiges" of the past needed to be struggled against to overcome their influence on the

consciousness and behaviour of citizens [20]. In 1926-1940, the development of the adoption law in different Soviet Union republics went different ways. In the Ukrainian Soviet Socialist Republic and Azerbaijan Soviet Socialist Republic, amendments to the adoption law were made following the changes in the Family Law of the Russian Soviet Federated Socialistic Republic (RSFSR), with additions and amendments being in many respects identical to the Code of Laws on Marriage, Family and Guardianship of the RSFSR of 1926. In contrast, in other Soviet Union republics (Uzbek SSR, Kazakh SSR) there was generally no influence of the Russian adoption law and therefore, local family legislation in those republics developed very slowly until the Great Patriotic War [21].

The Code of Laws on Marriage, Family, Custodianship, Guardianship and Acts of Civil Status of the Azerbaijan Soviet Socialist Republic, was adopted on May 29, 1928 at the 3rd session of the 5th convocation of the Central Executive Committee of Azerbaijan Soviet Socialist Republic and came into force on July 15, 1928. The Code was supplemented with a separate chapter entitled "On Adoption." The Resolution of 1929 introduced Article 49-1, which established that the responsibilities for keeping minors and disabled children in need were to be assigned to a stepfather or a stepmother in the following cases: a) if the parents of these children died; b) if parents did not have sufficient means to support their children [12, p.38].

Legal regulation of adoption during the 1970's - 1990's was based on The Marriage and Family Code of the RSFSR of 1969 and on subsequently adopted similar republican codes (The Marriage and Family Code of the Ukrainian Soviet Socialist Republic1970, The Marriage and Family Code of the Azerbaijan Soviet Socialist Republic of 1970). The Soviet Union continued to elaborate the mechanism of this institution, which was later reflected not only in the family law, but also in other fields of law, related to adoption (labour and civil law, housing and land legislation, etc.). Such elaboration was aimed at establishing parental rights and was under the state control of the Soviet Union through its authorized bodies. The adoption could only take place based on the decision of the public law body [22].

The adoption decision was delegated to guardianship and custodianship agencies. As it is known, in Ukraine such practice was used until 1996. The turning point resulting in significant changes in the legal regulation of the institution of adoption, namely the introduction of a judicial procedure for examination of this type of cases, became the discovery of a mass illegal adoption of Ukrainian children by foreigners, organized by the heads of medical institutions, the Deputy Chairman of the Lviv Regional State Administration and the Chairman of one of the Lviv District State Administrations.

To date, the Civil Procedure Code of Ukraine, adopted on March 18, 2004 and amended on February 24, 2013, regulates the judicial procedure in the civil law and contains the chapter "Judicial consideration of adoption cases". Legal regulation of the pre-trial stage is carried out on the basis of the Resolution No.905 of the Cabinet of Ministers of Ukraine of 08.10.2008 "On Approval of the Procedure for Adoption and Supervision of the Observance of the Rights of Adopted Children" and Articles 213, 218, 220, 229 and 231 of The Family Code of Ukraine of January 10, 2002. Further, in order to avoid any violations of this law, any mediatory, commercial activity related to adoption of children or their transfer for guardianship, custodianship or parenting to families of Ukrainian citizens, foreigners or stateless persons is prohibited (Article 216 of The Family Code). Article 169 of the Criminal Code of Ukraine establishes criminal liability for such activities.

In Azerbaijan, the Family Code and the Civil Procedure Codes were put into effect simultaneously, on September 1, 2000. According to M.A.Movsumov, such different approaches have their advantages and disadvantages. The simultaneous adoption and enforcement of sectoral codes regulating substantive and procedural relations means a step-by-step, evolutionary mode of the law development and gives to the law-enforcer time to study and generalize the judicial practice, to develop uniform approaches to the application of substantive law standards, and to the legislator - to take appropriate measures to further improve legislation in the field of

substantive law, and subsequently to introduce a more advanced procedural law, with the account of the practice needs [6].

The most significant events in the history of the institution of adoption in Ukraine have been the legislative consolidation of the priority of foster placement of children left without parental care in a new family, and, of course, the resumption of the judicial procedure for examining and resolving cases of adoption.

The current procedure and substantive aspects of adoption under the laws of Azerbaijan and Ukraine have both common and distinctive features.

Adoptive parents in Azerbaijan may be adults of both sexes. Further, the Family Law of this country states that adoption is allowed in relation to minors and only in favour of their interests. In contrast, in Ukraine in exceptional cases the court can render a decision on the adoption of an adult who has no mother and father or was deprived of their care. The adopter of the child can be a capable person, at least twenty-one years old, with the exception of cases when the adopter is a relative of the child, which indicates that Ukrainian legislation encourages adoption by this category of people.

In the countries of interest, the law sets a minimal allowed age difference between the adopter and the adopted. In Azerbaijan, a minimum difference is 16 years, in Ukraine - 15 years. For reasons adjudicated as legally excusable, the age difference can be reduced. In case of adoption of an adult in Ukraine, the age difference cannot be less than eighteen years.

There is also a rule of adoption of children having siblings. The legislation of both countries analysed pays special attention to this issue, and therefore adoption of siblings by different persons is not allowed, except when children benefit from this. In Ukraine and Azerbaijan, adoption case in examined by the court based on the application by the person(s) wishing to adopt. The adoption case is considered by the court in accordance with the special proceedings provided for by civil procedure legislation with mandatory participation of applicants, interested parties, guardianship and custodianship authorities, and if required, other interested persons and the child himself.

The mandatory evidence for adoption cases is the opinion of the guardianship and custodianship authority providing justification of adoption and stating the observance of interests of the child being adopted and confirming that the living conditions of a person willing to adopt the child have been examined. In Azerbaijan, the court obliges the guardianship and custodianship authority to submit such an opinion prior to the case consideration, at the pre-trial stage. Based on this provision, the proceedings of the case will be suspended until the opinion is obtained. And the Civil Procedure Code of Ukraine requires that when applying to the court for adoption, the applicants should attach to their application the conclusion of the guardianship and custodianship authority.

The fact of adoption is registered at the relevant executive authority based on the court decision on adoption of the child, whereby the court sends a copy of the decision after it has been made. Under the legislation of all states, the child is considered adopted starting from the date when the decision on adoption enters into force. As many researchers correctly report, some special aspects of the adoption law in former Soviet republics and the Baltic States, demonstrate that many legislative provisions are universal, time-proven, and their expediency is beyond arguments [4; p. 89]. Further, undoubtedly, with due regard to the totality of legal regulation of adoption in the recent past; similarity of legal, economic and social conditions at present time, and presence of common problems related to adoption, there is a good reason to believe that the mutual exchange of knowledge and experience (especially regarding various ways of solving similar issues of adoption) will guarantee an improvement of the adoption law in these countries [11].

Conclusion

In summary, further development and improvement of the institution of adoption in Ukraine and Azerbaijan is one of the priority activities for children's right protection; and this is

performed through harmonization of laws and regulations on protection of the rights for those children who for some reason have lost their family, with the United Nations Convention on the Rights of the Child and other international acts.

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CONTRADICTION IN THE MEASUREMENT OF HUMAN CAPITAL

Mansur Madatov
PhD in economics

Abstract

The article is devoted to the contradiction in the measurement of human capital. Different approaches to the measurement of human capital are analyzed. Basic methods of measuring and estimating human capital are shown. The author indicates some contradictions and problems: 1. There are different views concerning the costs of investments in human capital and consumer expenditures that ensure the current reproduction of labor or the needs of a person; 2. The production of the HC presumes not only money, but also a significant contribution of its own labor to those to whom these investments are directed; 3. Most calculations of investments in the HC do not take into account costs that do not have a monetary equivalent. Accordingly, some controversies are revealed and the ways of solution of such controversies are proposed by author

Keywords: *human capital, measurement methods, the contradiction in measuring human capital*

Measuring the human capital (HC) on the basis of past efforts is associated with the most productive, investment aspect of HC theory. However, for the application of this method, it is necessary to determine which costs at the individual level, firm level and macro level should be considered as investments in the HC.

Here, two extreme approaches are possible, which are combined in different ways, giving an endless variety of specific techniques. In accordance with the first approach, the costs of manufacturing the HC are equated with the costs of reproducing the person as a physical and social being. The second approach relates most of these costs to consumption, allocating as investments only those that increase the productive capacity of people.

Supporters of the first approach consider the HC as an aggregate value of the entire population of the country. Accordingly, investments in the HC include all costs (or most of them) aimed at maintaining human life. For the first time such an approach was applied by Engel in 1883. He calculated the reserve of the HC as the sum of the expenses of the family for the upbringing and support of children until they reach 25 years old [6].

Advocates of the second approach until recently in practice were the majority of researchers. They initially paid special attention to the formation and accumulation of production experience, and, above all, investments in formal education. Having data on the duration of education within each level of education and on the unit costs of obtaining it, the approximate value of the national education fund can be calculated.

However, the education fund reflects, although significant, but still only a part of the HC accumulated by the population of the country. An indirect empirical confirmation of the fact that a significant part of the HC accumulates outside the formal education system - in the process of family education, informal communication, at work, etc., can be the mentioned discrepancies between representative estimates of the HC, based on the parameters of education, on the one hand, and directly on the skills and competencies of the population - on the other.

The classical version of the combined approach, which takes into account the costs of physical reproduction of man as an element of the reserve of the HC, is Kendrick's calculation. He divides the cumulative social wealth, on the one hand, into the tangible and intangible, on the other hand, to the incarnate in the person (HC) and separated from it. As part of the investment in the so-called "tangible human capital", Kendrick allocates the costs of raising children up to the age of 14 years. To intangible investments in people, he refers to the costs of improving

quality and increasing labor productivity. They include the costs of health and safety, education and training, as well as the so-called missed benefits - the lost earnings of students, which they could get if they preferred to give their time to work and not to study.

In this scrupulous and contradictory work, practically all the vulnerabilities are highlighted, which are associated with the measurement of the HC stock as a sum of past efforts. Human capital is simultaneously the result of purposeful material and labor investments (it is time and / or leisure investment) and an organic part of a person's living personality, inseparable from his natural and social properties and abilities. There are many contradictions and problems.

First, researchers differ significantly in their views on what costs should be considered investments in human capital and which ones should be attributed to consumer expenditures that ensure the current reproduction of labor or the needs of a person as individuals not directly related to his productive activities. Since there are no procedures for empirical verification of the contribution of these or those costs to the increase in the productive capacities of a person and they are unlikely to appear in the foreseeable future, researchers classify consumer and social expenditures for consumption and investments in accordance with their own preferences. For example, Kendrick refers to the investments in the HC as 50% of national health expenditure and occupational safety programs.

Secondly, unlike the accumulation of traditional capital, the production of the HC presumes not only money, but also a significant contribution of its own labor to those to whom these investments are directed. It follows that with equal volumes of financial investments, as a result, different volumes of HC can be formed.

The quality of the acquired equipment can be judged with a high degree of accuracy by its price and the characteristics of the manufacturer. Two computers manufactured at the same plant using the same drawings with a probability close to 1 will have almost identical operational parameters. However, two graduates of the same institution, who attended the same courses in the same institution teachers, will inevitably differ in the volume and quality of acquired knowledge, skills and other valuable, from the point of view of the employer, properties. The volume of educational capital with which a graduate leaves the university limits is determined not only by the quality of teaching, the content of the courses, technical equipment, but also by the personal efforts and natural aspirations of the student.

Thirdly, most calculations of investments in the HC do not take into account costs that do not have a monetary equivalent: work to raise children in the family and the students' own work during the educational process. A peculiar attempt to compensate for this gap is the inclusion in the investment of the shadow component - the hypothetical lost earnings of students. Lost earnings are included in almost all calculations of the stock of human capital, performed on the basis of the method of aggregate investments. The discussion on the methodological validity of this article of costs is rooted in the difference between the methodologies of neoclassical theory and Marxist political economy. However, in any case, not only the legality of such an investment item, but also the technical aspects of its calculation, immediately reveal how approximate any quantitative assessment of the HC is.

Controversy 1. At what age should the lost earnings be accounted for? In the classical version, the bar is set at the level of post-secondary (tertiary) education. However, today, at least in developed countries and transformational economies, the problem of youth unemployment is acute. In the economy, there is no place for young people who have not received proper vocational education and who are formally eligible to work. Another approach is from the point of view of the social norm. It is not by chance that the most widely used indicators for intercountry comparisons are adult education indicators - over 25 years old, including because in developed countries the bulk of young people complete their education and enter the labor market in search of regular (permanent) employment at about this age .

It is different in less developed countries, where the usual age of starting work is lower, and therefore the lost earnings are logically taken into account from an earlier age. It turns out that in post-secondary countries post-secondary education is associated with relatively high costs, and the same level of education achieved will contain a fundamentally different stock of accumulated HC.

Contradiction 2. What is behind the "lost earnings"? If these are just lost profits, we get an absurd conclusion: the amount of investment (and, accordingly, the accumulated capital stock) changes depending on the changing situation in the labor market: reducing the unemployment risk for people with low education means automatically increasing the reserves of the national HC by the corresponding amount of lost earnings those who continue to study. Moreover, the national reserves of human capital, for example, Brazil (where today the population is considered to be able to work from the age of 11) will fall sharply, and the accumulation of capital will slow down as soon as the law on the prohibition of child labor is adopted. Although, logically, everything should be the other way around.

Contradiction 3. If this is still a representative estimate of labor costs, then how good is it? Obviously, with the labor market situation, the labor inputs of students do not correlate at all, and their value assessment, if connected, is weak, and is unknown, negative or positive. And most importantly, what about the labor costs of children of primary and secondary school age? For them (in a normal economic system), no alternative strategy is considered that is related to employment, but this does not mean that at this age the mastery of knowledge and skills does not require investment of one's own labor.

In modern society, the imperative gradually becomes a lifelong learning. Despite the trend towards an increase in the average length of study in the formal education system, its contribution to the creation of the total reserve of the HC is gradually decreasing. Moreover, the formation of the skills and competences of the adult population occurs primarily as a result of "learning-by-doing", and not in the framework of special programs of professional development. The greatest contribution to the informal accumulation of HC is made by creative activities, when "elite" knowledge and production experience accumulate. However, studies show that training in the process of today plays a significant and growing role far beyond the R & D sector. According to some estimates, the contribution of post-school education directly to the workplace in modern developed economies is almost half of the accumulated HC [2].

Not all investments in the HC are the result of deliberate, conscious efforts. The accumulation of production experience is only a side effect of labor processes and in most cases does not involve special targeted investments. "At each given time, the individual's accumulated stock of human capital is the cumulative result of the flow of events that occurred throughout his previous life" [9]. It follows that neither sophisticated representative evaluations combining natural indicators of education nor monetary estimates of the flow of targeted intangible investments are able to cover all the wealth of diverse knowledge embodied in people.

A bizarre combination of targeted and unconscious investments is observed with the accumulation of so-called cultural capital within the family. In many cases, it is not associated with any special efforts. However, the stock of skills and competencies acquired in the early period of life largely determines the success, duration and pace of further accumulation of the HC in the process of formal education and work [1].

The realization that in the case of the HC, the connection between the volume of investments made and the quality of the result is not at all obvious, forcing many researchers to approach the problem from the other side - to measure the scale of the accumulated HC, based on the return it brings.

Supporters of measuring human capital on the basis of its predicted returns argue their approach in that to take into account, measure and evaluate the person's intangible wealth makes

sense insofar as it is involved in the economy and, accordingly, brings tangible benefits to its owners [7, p.602].

Researchers, of course, understand that the possession of human capital brings not only monetary but also non-monetary benefits: reducing the risk of unemployment, satisfaction with content and working conditions, better career prospects. There are also significant benefits that lie outside the sphere of labor and employment and outside the sphere of market relations: holders of large reserves of educational capital on average have better health and have a longer life. However, this intangible flow of additional utility is poorly measurable and does not lead to a single basis [10, p.122].

Thus, researchers attempting to measure the scale of the accumulated HC, equating them to the flow of future benefits, also face serious methodological difficulties.

The inevitability of deviations - both in the direction of increasing and decreasing in real reserves - is due to the presence of several types of distortion. First, with the impossibility of any total accounting and bringing to the common denominator the multitude of future non-monetary benefits from the possession of the HC. In this case, non-monetary returns not only exist in a variety of forms, but can also vary in a different trajectory than the monetary one. Secondly, with the probabilistic, uncertain character of the future [5]. Thirdly, with the multiplicity of factors affecting wages and labor incomes, the difficulty in distinguishing between incomes for the HC and other factors of production.

It is clear that the third type of distortion is key and calls into question the very possibility of assessing the value of the HC based on the capitalization of its return [7, p.8-9]. In the standard approach, it is implicitly assumed that the stock necessarily assumes a return: no return - no capital. "If the market price of goods and services (produced with the participation of the HC) grows, then the value of human capital grows." If this price falls, the value of human capital also decreases" [10, p.1].

At the same time, the return depends not only on the size and quality of the good itself, but also on external circumstances in relation to it - the parameters of demand, economic and institutional conditions [8]. First, the HC can not be used (for example, during the period of unemployment), underemployed or used unproductive (at workplaces that do not require the skills and competences available to the employee). Secondly, the return on individual investments can be differently distributed among the owner of the HC, the owners / managers of the enterprise where this capital is realized, and the society / state. In many ways, this depends on the correlation of class forces, the development of institutions for the protection of the rights of subjects of labor relations, etc. In other words, the benefits expected by the employee may not reach it, losing themselves in intermediary links.

In the context of globalization, the situation is also changing. Moving with its stock to other conditions, for example, from village to town, from a small city to a large one, from Russia to the US, it is possible to increase the return on practically unchanged human capital several times.

A convincing empirical confirmation of the methodological inconsistency of estimating the size of the HC, based on its monetary returns (earnings), was presented by Hendricks [3]. Studying the earnings of immigrants in the US, he demonstrated that the differences in the parameters of the national HC allow us to explain only a small part of the differences in both individual labor incomes and in the GDP of developed and developing countries. Based on the materials of the 1990 population census, Hendricks compared the earnings of immigrants from 67 countries with the earnings of their compatriots in the donor countries, on the one hand, and the earnings of Native Americans, on the other. His analysis showed that the earnings of immigrants, regardless of the level of development of the donor country, the level of pay there and the national GDP per capita as a whole, slightly differ from the earnings of Native Americans with similar characteristics (age, sex, education level, scope of activity). In the case

of relatively poor countries (with a per capita GDP level of less than 18% of the US level), differences in the inventories of the HC, taking into account differences in the quality of education, explain only one fifth of GDP per capita differences, in the stocks of material and human capital - the third part. The rest of Hendricks relates to the total factor productivity.

Mulligan and Sala-i-Martin made an elegant attempt to smooth out the impact on the salary of factors external to the worker and to highlight the net effect of the HC in differentiating earnings. They measured trends in the accumulation of HC in various regions of the United States on the basis of the Labor-Weighted Indices (LC) index, based on their approach to measuring the HC by capitalization of earnings. In order to neutralize the factor of higher earnings in the more developed and technologically advanced regions that are not associated with the HC, all earnings are calculated in relative amounts. At the same time, the unit of labor remuneration in each state (where all workers are supposed to exist in the same techno-technological and institutional environment) takes the income of the employee without education. Mulligan and Sala-i-Martin note that the CW reserve calculated according to their method grew significantly faster than standard representative estimates of education. This, in their opinion, testifies to the improvement of the quality of education and the degree to which it meets the needs of the national economy [4].

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CONSTITUTIONAL AND LEGAL BASIS OF REPATRIATION (HOMECOMING)

Rasim Aghasiyev
(rasim_agasiyev@mail.ru)
PhD Candidate,
National Academy of Sciences of Azerbaijan

Abstract

In article, under investigation are the legal bases of repatriation (homecoming) in the Republic of Azerbaijan, the analysis of the normative legal acts adopted in connection with its application, the legal nature of the concept of repatriation (homecomings).

The author has also carried out comparisons of similar and distinctive features of legislations of Israel, Germany and Poland in the sphere of repatriation (homecoming) and makes a number of scientific proposals for the purpose of improvement of the national legislation.

Keywords*: repatriation (homecoming), repatriates, refugees, displaced persons, emigrants, visa*

One of the legal terms used in modern legal literature is connected with the concept of repatriation. Meaning of the word "repatriation" (lat. “re” – again, back and “patria” – homeland) is understood as return of the prisoners of war, displaced persons, refugees, emigrants home [9, p.888].

The Department of Repatriation of the State Committee of the Republic of Azerbaijan for Affairs of Refugees and Internally Displaced Persons (IDP) deals with the issues of repatriation (homecoming) in the Republic of Azerbaijan. The department has been created by the Order of the Cabinet of the Republic of Azerbaijan №180 on October 30, 1998. The main objective of the Department of Repatriation consists in return of refugees and displaced persons homes or their resettlement to more acceptable places of residence, resettlement on the former or new places of residence, and solution of other problems.

Aiming to bring the questions of repatriation (homecoming) in compliance with modern standards in the Azerbaijan Republic a number of changes have been made in the national legislation. Among these changes, it would be desirable to note the amendment in the Law of the Azerbaijan Republic “On introducing amendments to the Law of the Azerbaijan Republic "On fight against human trafficking" of April 19, 2013, №609 – IVQD of Article 20 - "Repatriation of the foreigners and persons without citizenship who are victims of human trafficking" in the Law of the Azerbaijan Republic "On fight against human trafficking" in Article 20.4-1.

So, in the mentioned article it is stated: "20.4-1. For the purpose of coordination of activities of the public authorities involved for repatriation of the foreigners or persons without citizenship who have become the victims of human trafficking, and prevention of repeated transforming these persons into the victims of human trafficking, the appropriate authority of executive power adopts rules of repatriation of the victims of human trafficking. These rules also provide taking measures in connection with providing the children who were injured from human trafficking, opportunity to use the right for education and providing necessary care to them, and acceptance of them by families or the relevant structures of guardianship."

On paragraph 3 of the Decree of the President of the Azerbaijan Republic of May 7, 2013, №887 on application of the Law of the Azerbaijan Republic "On introduction of amendments to the Law of the Azerbaijan Republic "On fight against human trafficking" of April 19, 2013, №609 – IVQD as the body adopting rules of repatriation of the victims of human trafficking in the mentioned Article 20.4-1, is established the Cabinet of the Azerbaijan Republic [5, p.3].

It should be noted that though in a number of the countries which are closely cooperating with the Azerbaijan Republic, laws on repatriation have been adopted, in our country the law on repatriation is still not adopted, in this sphere still there are problems with application of procedural rules. For example, while in Georgia the relevant law for return of the Meskhetian Turks deported from the country has been adopted, in Azerbaijan the relevant law has not been adopted and in this connection there are difficulties with return of these subjects living in our country to their homeland - to Georgia. In this context, it is necessary to adopt such a law for return of the Meshetian Turks living in Azerbaijan without nationality.

We believe that acceptance in our country of the Law "On Repatriation" should be considered expedient. Deportation in 1988-1992s from their homes in Armenia of 250 thousand ethnic Azerbaijanis, expatriation in 1992-1993s as a result of the armed aggression of Armenia against Azerbaijan from the Nagorno-Karabakh Autonomous Region and 7 adjacent regions of 750 thousand Azerbaijanis and their becoming displaced persons in their own country, resettlement of 50 thousand Meshetian Turks expelled from Uzbekistan in Azerbaijan as refugees, in general resettlement of more than 1 million of our compatriots in the country who became refugees and displaced persons gives a legal ground for adoption of law "On repatriation". Adoption of this Law could promote the correct regulation of questions of repatriation of citizens of the Azerbaijan Republic to places of full-time residence.

We consider that each person who forcedly has left for one reason or another his country has the right to be returned to the country of full-time residence on the basis of rules of international law. In paragraph 2 of Article 13 of the Universal Declaration of Human Rights of December 10, 1948 of the United Nations General Assembly, Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950 and Article 12 of the International Covenant on Civil and Political Rights of 1966 as the fundamental human rights fixed in this area, it is specified the right of all citizens for repatriation (homecoming) to their countries [4, p.2; 15-16; 10, 8].

It should be noted that the Republic of Azerbaijan has joined a number of the international conventions connected with regulation of the migration of citizens, foreigners and persons without citizenship, granting to them the status of refugees, displaced persons and a political asylum and also deportation, repatriation of these subjects, etc. questions, has signed unilateral, bilateral or multilateral agreements. One of the normative legal acts adopted in the direction of solution of the matters is the Law of the Azerbaijan Republic on adoption of the Constitution of International Organization For Migration of December 8, 2000, adopted in 1953/№33-IIQ [3, p.3].

Besides, by the Law of the Azerbaijan Republic of February 8, 2000, №806-IQ it was approved "The cooperation agreement concluded between the Government of the Azerbaijan Republic and International Organization For Migration". On the basis of this Agreement, the Government of the Azerbaijan Republic, recognizing the role and experience of International Organization For Migration (IOM) in the field of migration, the purposes and the IOM functions and also activity of this organization and its workers, considers granting IOM and its workers of the same privileges and immunities, as other international intergovernmental organizations in Azerbaijan [1, p.14].

One of the legislative acts adopted in this sphere is the Law of the Azerbaijan Republic of October 24, 2000, №943-IQ. This Law has approved with dissenting opinion the Regulations on the “Provision on the general database on illegal migrants and persons” signed on January 25, 2000 in Moscow, entrance by which to the State Parties of the Cooperation Agreement of the CIS in fight against illegal migration is closed according to their existing national legislation, and the order of exchange of information about illegal migration [7, p.61].

Equally as around in the world, in the Azerbaijan Republic there are the government institutions regulating migration processes. The structure regulating questions in this sphere in our country is the State Migration Service created on the basis of the Decree of the President of

the Azerbaijan Republic of March 19, 2007, №560. The State Migration Service is engaged in the activity connected with implementation of state policy, development of a control system in the field of migration, regulation and forecasting of migration processes.

According to the regulations of the State Migration Service, one of the directions of its activity consists in participation in questions of repatriation of refugees.

Apparently, because of absence of the law on repatriation, the structure and single mechanism, in complex resolving issues of repatriation (homecoming), it hasn't been created. We consider that repatriation (homecoming) has to concern not only refugees, but also all citizens of the country falling under a sphere of influence of questions of repatriation.

It should be specified that for further increase in efficiency of cooperation with the world countries in questions of migration in the Azerbaijan Republic, it is of great importance the Order of the President of the Azerbaijan Republic of August 17, 2006, №1628. This Order approves the Cooperation agreement concluded between the Government of the Azerbaijan Republic and the International Center of Development of Migration Policy (ICDMP). The Agreement pursues the aim of further strengthening and development of friendship and cooperation between the Azerbaijan Republic and the Organization for acceptance of the additional measures connected with migration, repatriation, shelter, visa policy and border control [11, p.31].

It should also be noted especially that in the Azerbaijan Republic effective measures against illegal migration are also taken. For timely and expeditious implementation in our country of fight against illegal migration, the solution of the relevant matters is assigned to the State Border Service. So, on the basis of the Order of the President of the Azerbaijan Republic of April 15, 2009, №235, the power of signing "The memorandum of understanding between the State Border Service of the Azerbaijan Republic and Service of Repatriation and Deportation of the Kingdom of the Netherlands on Fight against Illegal Migration" has been provided to the State Border Service of the Azerbaijan Republic [8, with.120].

Besides, on the basis of the Order of the President of the Azerbaijan Republic of October 1, 2009,№508, after the approval of "The memorandum of understanding signed on July 1, 2009 in the Hague between the State Border Service of the Azerbaijan Republic and Service of Repatriation and Deportation of the Kingdom of the Netherlands on Cooperation against Illegal Migration" ensuring implementation of this Memorandum, was entrusted to the State Border Service of the Azerbaijan Republic [12, with.14].

Apparently, from the agreements concluded between two countries, from the Government of Azerbaijan the illegal migration is combated by the State Border Service of the Azerbaijan Republic, while from the Kingdom of the Netherlands – by the Service of Repatriation and Deportation. We consider that it would be expedient creation and functioning in our country, as it takes place in the Kingdom of the Netherlands, of the Services of Repatriation and Deportation against illegal migration and it meet the requirements of the current situation. So, creation of the offered structure could render assistance to repatriation of refugees and displaced persons to their former places of full-time residence as the fundamental human rights enshrined in paragraph 2 of Article 13 of the Universal Declaration of Human Rights, paragraph 12 of the International Covenant on Civil and Political Rights of 1966.

We believe that from the above-noted it is possible to come to such a conclusion that the concept of repatriation can be perceived as homecoming and also as deportation. Questions of repatriation are applied in each certain state in a specific form.

Often the concept of repatriation is used usually concerning the persons wishing to return to the country as the refugees and emigrants who have replaced the place of residence. For example, in Israel, repatriation (homecoming) is expressed by the word "Aliyah".

“Aliyah” in Hebrew means "ascent" and which is the immigration of Jews from the diaspora to the Land of Israel. It is also defined as "the act of going up", that is, towards

Jerusalem "making Aliyah" by moving to the Land of Israel (Or, means return to Palestine till foundation of the State of Israel [15, p.114].

The word "Aliyah" is also reflected in the Law of Israel "On Return" and is one of the most basic tenets of Zionism. The opposite action, emigration from the Land of Israel, is called "yerida" ("descent") [15, p.114].

Apparently, the Jewish tradition views the returning to the land of Israel from the foreign countries as an "ascent", and the emigration from Israel – as a "descent".

The following 5 waves of repatriation (homecoming, migration) - Aliyah (return to Israel) has been identified: the first Aliyah took place in 1882-1903s. In this period, the Jews, escaping from the Jewish pogroms in Eastern Europe, have found shelter in Palestine. In 1882-1903s from the provinces of the Ottoman Empire 35 thousand Jews have been moved [13, p.212].

The second Aliyah took place in 1904-1914s. These years about 40 thousand Jews who have moved from Eastern Europe have been placed in Palestine. The third Aliyah covers 1919-1923s. In 1922, the League of Nations has provided to the Great Britain the mandate for creation in Palestine of political, administrative and economic conditions for safe education in the Jewish National Home in the country. After providing this mandate in 1923 40 thousand Jews have moved from the Eastern Europe to Palestine [13 have moved, with. 212].

The fourth Aliyah covers 1924-1929 s. These years, generally, from Poland and Hungary 82 thousand Jews have moved to Palestine. As a result of economic crisis in Poland the Jewish people were oppressed. It has caused migration of Jews to Palestine. In 1924 the Jewish immigration has introduced restrictions for departure to the USA. Therefore, the Jews could move not the USA, but to Palestine. The economic difficulties taking place those years in Israel have forced 23 thousand Jews to leave the country.

The fifth Aliyah covers 1929-1939s. These years because of the emergence of Nazism in Germany 250 thousand Jews have moved to Palestine. The restrictions introduced since 1936 by the British authorities on immigration were named illegal "Aliyah Bet" [13, with.213].

Thus, in 1949-1950 s., Israel, saving more than 50 thousand Jews in Yemen, has returned them by air to the country. This operation has received the name "flying carpet" or "on wings of an eagle". Since September 1949, planes daily transported 500 Yemenites to Israel. Until the end of 1949 from Yemen 35 thousand refugees have moved to Israel [13, p.214].

It should be noted that in Israel, as well as in a number of world countries, the Law "On Repatriation" has been adopted. So, in this country in connection with questions of repatriation in 1950, it was adopted the Law "On Return". On the basis of this Law, homecoming and also obtaining nationality was applied to all persons of the Jewish origin. The government has undertaken to create an opportunity for their homecoming (repatriation). According to the changes made to the Law in 1970, repatriation extended to children and grandsons of persons of the Jewish origin and also to husbands and wives of children and grandsons. After the amendments made in this Law, many have fallen under the sphere of its influence. After 1950 some three million people have moved to Israel [2, p.201].

Repatriation of Jews continued also in the next years. At the time of the Soviet Union these processes continued in a special form. So, after establishment in 1968 of the relations between the former USSR and the State of Israel, according to the decision of the Central Committee of the Communist Party of the Soviet Union it was allowed to the Soviet Jews to emigrate from the country. In 1969-1975 s., it has been repatriated more than 100 thousand Jews from the USSR to Israel (they have returned home).

In Poland, it was adopted the Law "On Repatriation (Homecoming)" on January 1, 2000. This Law establishes bases of obtaining the Polish citizenship by homecoming, the rights of repatriates and also procedural rules of legal bases of the help to repatriates and members of their families.

The persons of the Polish origin moving to Poland on the basis of the repatriation visa are considered as repatriates. For obtaining the repatriation visa these persons or one of their parents

(the grandfather, the grandmother or the great-grandfather and the great-grandmother) have to be the Polish nationality. They are obliged to know the Polish language, customs and traditions. Besides, it is necessary the arguments proving the Polish origin of the person. So, they have to confirm presence of the Polish citizenship, or, at least, presence of the Polish citizenship by one of the parents, earlier (grandmothers, grandfathers, the great-grandmother, the great-grandfather). The decision on the matter is made by the consul [14, with.107].

By repatriation (homecoming) the repatriate's children can also obtain citizenship of Poland. If one of parents is a repatriate, then on the basis of the written statement of other parent the child with participation of the consul can obtain the Polish citizenship.

According to the national legislation of Poland, the minors who have reached 16-year age can on the basis of special consent obtain citizenship. According to the contract signed between Poland and the USSR, the persons repatriated to Poland in 1947-1951 s., have no right of homecoming.

Besides, to the persons undermining the interests of Poland, or violating human rights, the repatriation visa is not issued.

On the basis of the Polish laws, the persons, with the citizenship belonging to other nationality or not having citizenship (who doesn't have nationality), members of families of repatriates, persons interested to live in Poland, file an application for obtaining permission for residing in the territory of Poland during an established period. Permission to residence (homecoming) of these subjects in Poland is given by the chairman of management concerning foreigners and repatriation. According to procedural rules of issue of repatriation visas, these visas depending on the place of residence of the repatriate are given by the consul of the respective territory [14, p.192].

To the repatriates who have arrived in Poland from the former USSR or Asian territories, and who are interested to live in Poland and be provided with housing, the state provides financial assistance from the state budget. Repatriates can attend courses for studying of Polish and adaptation in society.

On the basis of the Law "On the Polish Citizenship" of February 15, 1962 the persons who have obtained the Polish citizenship till January 1, 2001 and being earlier citizens of one of the states formed after the collapse of the USSR, can be recognized as repatriates if until the end of 2001 they file a petition to Voevoda. According to the Polish laws, the female repatriate, who reached 60-year age, are to have length of service of 20 years, and the male repatriates who have reached 65-year age - 25 years. In Poland, for granting pension to repatriates it is considered length of service in foreign countries.

In the Federal Republic of Germany (FRG), as well as in a number of the European states, homecoming is regulated by provisions of the Constitution. According to Article 116 of the Constitution of Germany, resettlement to Germany and obtaining nationality is allowed to the persons of the German origin living in borders of Germany till December 31, 1937 as refugees and displaced persons, living in the territory of the USSR and Eastern Europe and also their spouses. After the World War II from Eastern Prussia, the countries of Central and Eastern Europe eighteen thousand ethnic Germans have moved to Germany [2, p.204].

Questions of repatriation (homecoming) in Germany are regulated both by the Constitution, and on the basis of the Federal Law "On Refugees and Exiles". Generally, the German emigrants get under this Law. The German emigrants are called the persons who, being persons of the German origin or citizens of Germany, get under the Law of Germany "On Refuges and Exiles" and also members of their families sent to Germany for full-time residence in quality of "emigrants". Subjects of this category in German are called “Auszidlere”.

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THE ISSUES FOR EVALUATION AND PREDICTION OF CURRENCY RATE

Aytan Isazadeh
PhD Candidate
(Baku State University)

Abstract

The article has been dedicated to the issues of modeling the currency rate of manat-dollar. In the article, the issues such as consideration of external factors in the econometric model which allows to evaluate and predict the change dynamics of exchange rate in currency market of Azerbaijan on the basis of statistical analysis methods, as well as analysis of model quality indicators.

Keywords: *national exchange rate, price of oil, multidimensional regression model, Durbin-Watson criterion, expanded Dickey–Fuller test, cause and effect tests*

In recent decades, rapid growth of global capital and financial services market is observed. So this further enhances the effect on the general macroeconomic situation of changing the exchange rates of national economies in world. Especially, this is referred to the states without more great open economy experience, it means that domestic money-credit, currency policies are referred to the countries that are unable to influence the interest rates. In these circumstances, national currency rate becomes the only instrument of state "adaptation" to changing foreign conditions.

The effect of currency rate on the functioning economic system isn't appreciated unequivocally. So the changes occurring in the dynamics of currency rate are accompanied with the macroeconomic effects that characterized by both stabilizing and destabilizing effects. Therefore, the study of factors influencing the conditions for changing and formation of the national currency rate has scientific and practical significance. It is very important in terms of issues for the investment strategy development that substantiated at the state and regional levels, formation of protection measures from currency risk in the enterprises that engaged in foreign economic activity.

In the condition of the globalization of world economy, the impact of external factors on the economic development of many countries has further increased. In the years of 2007-2009 and 2014-2016, world financial and economic crisis has fully confirmed this idea. So in the period of these crises, significantly dependency of national economic systems on the uncertainties in the world financial and commodity markets showed itself vigorously.

Our analysis shows that, the researches in this direction is more fragmentary character by investigating separate issues of the exchange rates theory, it means that scientific researches that conducted the complex analysis of the factors for the formation of exchange rates and combined both the external and internal factors are less commonly encountered [1-3,5,7-11,13].

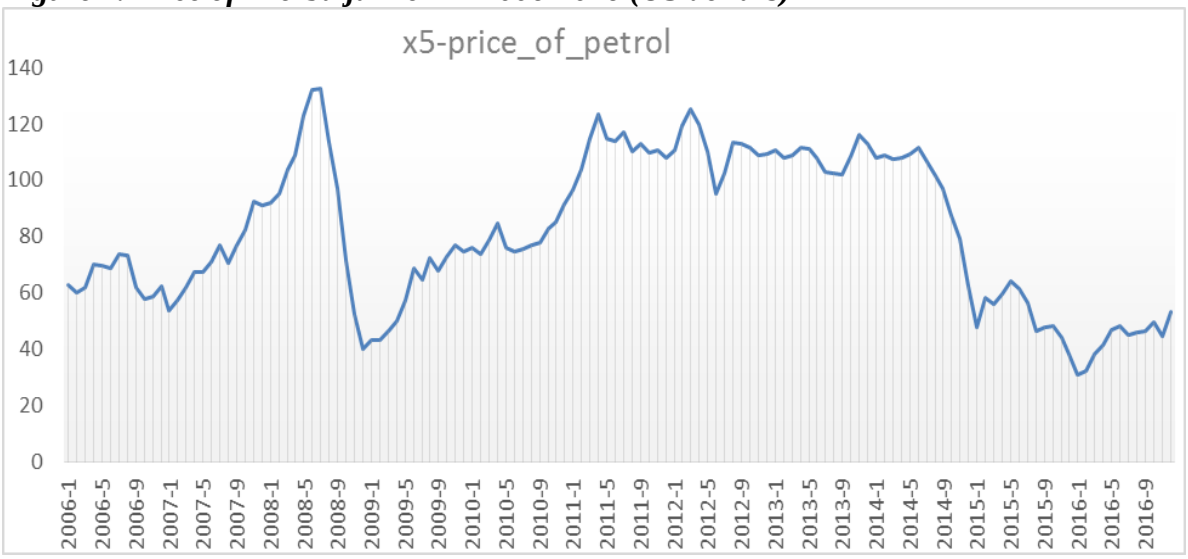
The above-mentioned necessitate the improvement of modern methods with fundamental and technical approaches for analysis of changes of exchange rates in the international currency market, as well as the development of new concepts predicting the dynamics of the exchange rate in principle.

Study of dependencies in the dynamics of exchange rate allows to set the possible development perspectives of exchange rate for getting more efficiency in the import and export of commodities and services in order to earn maximum income, as well as to be insure. By using statistical methods in analysis of exchange rate, it is possible to define the main tendencies in its formation, namely the character and degree of the dependence on the factors forming its rate, to assess quantitatively by determining whether or not there are factors and periodic, seasonal

deviations, as well as mutual dependencies on other "leading" currencies affecting randomly to the research object, to conduct comparative analysis on the basis of the creation of effective predictive models and quality indicators of models [6, 11,13].

By conducting the econometric analysis of dependence of national currency rate on the factors as inflation rate, GDP (Gross Domestic Product), trade balance, budget deficit in [4, 12,14,15] and monetary aggregates of manat for M1, M2, M3, M4 in [14] in our research works, we have obtained the indicators for strong enough and intense dependence of currency rate on these factors. We consider that it is necessary to research the effect of the factors as oil price, gold and currency reserves and monetary base of the republic on the dynamics of currency rate in order to provide more complex and systematic formulation of the research. The "heavy" impact of the oil price on the exchange rate is inevitable in the countries engaged in oil-exporting. With the falling oil prices, sharp devaluation of Azerbaijan's manat twice in 2015 - on February and December make necessary the reviewing of main provisions of the state's economic policy, re-processing, formation and development of new priority areas of the economy, the implementation of important measures in the direction of reduction and regulation of financial risks and strengthening of control. The dynamics of oil prices in world markets has been described graphically in Figure 1.

Figure 1. Price of Azerbaijani oil in 2006-2016 (US dollars)



Source: author's work

The fact for the direct impact on the manat exchange rate of falling oil prices is important for us in research. When looking at the graph, this dependence can be seen clearly. Falling oil prices pracically overlap with rising US dollar rate and correspondingly, falling Azerbaijan manat rate. For conducting quantitative assessment of this dependence of economic indicators, the necessity arises for econometric analysis.

Thus, the next research works have been carried out in order to study the effect of internal and external factors on the dynamics of national currency rate in Azerbaijan. In order to assess the impact of the price of oil in world markets expressed in US dollars, currency reserves and monetary base in the republic on *national currency rate* of Azerbaijan, wide regression analysis has been performed by including these three factors into the multidimensional regression model, adequacy of which has been shown by us in our previous researches [14,15] and which has reflected the independent factors such as *inflation rate (%)-x1, GDP (mln.manat)-x2, budget deficit (mln.manat)-x3. Money supply (mln.manat)* as *x4*, *oil price (USD dollar)* as *x5* and *currency reserves (mln. USD dollar)* as *x6* have been included in the model. Note that, the observations cover the years of 2006-2017 for months [16,17,18]. The involvement of statistical

information into research work as a sufficiently large massive is explained by the provision of maximum representativeness of the empirical basis of the research. Accuracy, representativeness of data, and a wide range of methods for scientific investigation of studied process ensure the effectiveness of the obtained results and that the theoretical results, practical suggestions become argumentative.

Regression analysis has been performed in Eviews-10 software package (Table 1).

Table 1. Multiplicative regression analysis results for y and x1, x2, x3, x4, x5, x6

Dependent Variable: Y_MAN_DOL__AZN_
Method: Least Squares
Date: 04/21/18 Time: 23:30
Sample: 2006M01 2017M10
Included observations: 142

Variable	Coefficient	Std. Error	t-Statistic	Prob.
X1_RATE_OF_INF___	0.010518	0.007832	1.342958	0.1815
X2_GDP_MLN_AZN_	-2.59E-06	7.04E-07	-3.677337	0.0003
X3_BUDGET_DEFICIT__MLN_A	2.36E-05	1.81E-05	1.299898	0.1959
X4_MONETAR_BASE_MLN_AZN_	0.000185	8.75E-06	21.15612	0.0000
X5_PRICE_OF_PETROL__ABS_	-0.002300	0.000483	-4.764576	0.0000
X6_FOREIGN_EXCHANGE_REZE	-0.000142	7.23E-06	-19.63329	0.0000
C	1.001669	0.038059	26.31894	0.0000

R-squared	0.879110	Mean dependent var	0.959758
Adjusted R-squared	0.873738	S.D. dependent var	0.307835
S.E. of regression	0.109384	Akaike info criterion	-1.539857
Sum squared resid	1.615269	Schwarz criterion	-1.394147
Log likelihood	116.3299	Hannan-Quinn criter.	-1.480647
F-statistic	163.6202	Durbin-Watson stat	0.438482
Prob(F-statistic)	0.000000		

Source: author's work

According to the results of regression analysis (See: Table 1), the number of observations is *n=142; determinate coefficient* - $R^2 = 0{,}88$*; corrected determinant coefficient* - $R^2 = 0{,}87$; *Fisher criterion - F-statistics=163(p=0,000); Akaike criterion=-1,54; Schwarz criterion=-1,4; Durbin Watson coefficient DW=0,43.* Except for the value getting by *Durbin Watson coefficient*, all the results are satisfactory and it confirms the adequacy of model. Critical values for d_l and d_u of *DW* coefficient are defined from the specific table. According to Table, critical values are d_l =1,343 və d_u=1,708 for number of observations - *n=150* (because it's the closest rate to 142) and number of independent factors - *k=6*. The rate of *DW=0,43* expresses positive autocorrelation for residuals in the model, it means that previous values of residuals cause an increase of subsequent values, so they have correlation between them. H_0 hypothesis which presumes the absence of autocorrelation is rejected. This lowers the quality of the model. There are several ways that you can apply theoretically and practically to eliminate this situation. We have used autoregressive schemes: *AR(1), AR(2), AR(3)* from several compilations and method of differences from the first and second compilations. Augmented *Dickey–Fuller test* allows to consider the mentioned terms.

In order to define the usefulness of the established model for prediction, namely to determine the stationarity of time series, augmented *Dickey–Fuller test* (*Augmented Dickey-Fuller Test – ADF*) had been conducted and the results shown in Table 2 were obtained: according to the autoregression model (*AR*) with first drawn differences, constant and trendy, maximum number of lags – 13, length of lag – 2, number of observations – 138, t= -7.972673,

p=0.0000. Estimated probability level allows the rejection of H_0 hypothesis about having a single root of model. The rate of t-styudent statistics due to the model is less enough than critical prices of t at the 1%, 5%, 10% significancy level. The rate of *DW=2,05* indicates that autocorrelation in the model has been eliminated. The characteristics *F-statistic=32 (p=0,000)* also is satisfactory. But $R^2 = 0{,}49$ is insufficient for the quality of the model.

That's why, we have obtained more effective results by continuing the research and making a certain change in the parameters of augmented Dickey–Fuller test (See: Table 3).

Table 2. Advanced Dikki-Fuller test

Null Hypothesis: D(Y_MAN_DOL__AZN_) has a unit root
Exogenous: Constant, Linear Trend
Lag Length: 2 (Automatic - based on SIC, maxlag=13)

		t-Statistic	Prob.*
Augmented Dickey-Fuller test statistic		-7.972673	0.0000
Test critical values:	1% level	-4.025924	
	5% level	-3.442712	
	10% level	-3.146022	

*MacKinnon (1996) one-sided p-values.

Augmented Dickey-Fuller Test Equation
Dependent Variable: D(Y_MAN_DOL__AZN_,2)
Method: Least Squares
Date: 04/22/18 Time: 01:36
Sample (adjusted): 2006M05 2017M10
Included observations: 138 after adjustments

Variable	Coefficient	Std. Error	t-Statistic	Prob.
D(Y_MAN_DOL__AZN_(-1))	-1.026576	0.128762	-7.972673	0.0000
D(Y_MAN_DOL__AZN_(-1),2)	0.157291	0.111638	1.408933	0.1612
D(Y_MAN_DOL__AZN_(-2),2)	0.288289	0.083199	3.465074	0.0007
C	-0.010404	0.007866	-1.322688	0.1882
@TREND("2006M01")	0.000225	9.81E-05	2.294237	0.0233

R-squared	0.494576	Mean dependent var	3.19E-05
Adjusted R-squared	0.479375	S.D. dependent var	0.060709
S.E. of regression	0.043804	Akaike info criterion	-3.382611
Sum squared resid	0.255203	Schwarz criterion	-3.276551
Log likelihood	238.4001	Hannan-Quinn criter.	-3.339511
F-statistic	32.53635	Durbin-Watson stat	2.051677
Prob(F-statistic)	0.000000		

Source: author's work

According to the next results of augmented Dickey–Fuller test (See: Table 3), *t=-9.272274, p=0.0000* (autoregression model (AR) with second drawn differences, constant and trendy, maximum number of lags – 13, length of lag – 8, number of observations – 131). These results reject H_0 hypothesis, the rate of t-styudent statistics due to the model is less enough than critical prices of t at all levels of significancy. *DW =2,1; F-statistic=73,5 (p=0,000)* characteristics are also satisfactory, it means that autoregression isn't observed at the time series, *F-statistics* (with the minimum error) is also more enough than the compared table price, R^2 =

0,86 for model and the results of Akaike, Schwarz criteria confirm the stationarity of the established time series for currency rate of manat on multidimensional regression model.

Table 3. Results of the Extended Dikki-Fuller test

Null Hypothesis: D(Y_MAN_DOL__AZN_,2) has a unit root
Exogenous: Constant, Linear Trend
Lag Length: 8 (Automatic - based on SIC, maxlag=13)

		t-Statistic	Prob.*
Augmented Dickey-Fuller test statistic		-9.272274	0.0000
Test critical values:	1% level	-4.029595	
	5% level	-3.444487	
	10% level	-3.147063	

*MacKinnon (1996) one-sided p-values

.
Augmented Dickey-Fuller Test Equation
Dependent Variable: D(Y_MAN_DOL__AZN_,3)
Method: Least Squares
Date: 04/22/18 Time: 01:38
Sample (adjusted): 2006M12 2017M10
Included observations: 131 after adjustments

Variable	Coefficient	Std. Error	t-Statistic	Prob.
D(Y_MAN_DOL__AZN_(-1),2)	-6.495203	0.700497	-9.272274	0.0000
D(Y_MAN_DOL__AZN_(-1),3)	4.716435	0.653596	7.216133	0.0000
D(Y_MAN_DOL__AZN_(-2),3)	4.157757	0.580394	7.163682	0.0000
D(Y_MAN_DOL__AZN_(-3),3)	3.359120	0.514786	6.525275	0.0000
D(Y_MAN_DOL__AZN_(-4),3)	2.541450	0.433726	5.859575	0.0000
D(Y_MAN_DOL__AZN_(-5),3)	1.986220	0.331451	5.992501	0.0000
D(Y_MAN_DOL__AZN_(-6),3)	1.420142	0.244031	5.819515	0.0000
D(Y_MAN_DOL__AZN_(-7),3)	0.759021	0.173380	4.377782	0.0000
D(Y_MAN_DOL__AZN_(-8),3)	0.352305	0.087333	4.034048	0.0001
C	0.003966	0.008268	0.479604	0.6324
@TREND("2006M01")	-5.36E-05	9.75E-05	-0.549753	0.5835

R-squared	0.859751	Mean dependent var	-1.98E-05
Adjusted R-squared	0.848063	S.D. dependent var	0.107972
S.E. of regression	0.042086	Akaike info criterion	-3.417952
Sum squared resid	0.212552	Schwarz criterion	-3.176523
Log likelihood	234.8759	Hannan-Quinn criter.	-3.319849
F-statistic	73.56192	Durbin-Watson stat	2.107644
Prob(F-statistic)	0.000000		

Source: author's work

One of the important issues of regression analysis is that to define the explanatory factors with the undeniable role in the formation of its dynamics by maximum impacting on the result factor in the process of establishing a useful model for prediction. As we know, Pearson coefficient which is one of the main characteristics of correlation-regression analysis defines the direction and density of the dependencies among pairs for all the factors included in the model. But with the obtained results, it can't be determined which factor is more dominant on pairs, namely playing the role of cause for another factor. These issues are investigated on the basis of *Granger* causality test. The results for F-statistics criteria obtained due to the tests are compared and evaluated with the table prices. According to the number of lags allowed by test depending on the number of observations, the results in Table 4 confirm to arrange causality for the result factor by the explanatory factors included in the model and with greater probabilities, H_0 hypotheses about the fact that one factor is not a reason for other factor for each pair is rejected.

Note that, the results in Table 4 have been chosen from the tests with numerous and positive ending.

Table 4. Results of Granger Causes tests

Null Hypothesis:	Obs	F-Statistic	Prob.
Lags: 1			
X3_BUDGET_DEFICIT__MLN_A does not Granger Cause Y_MAN_DOL__AZN_	141	4.44613	0.0368
X5_PRICE_OF_PETROL__ABS_ does not Granger Cause Y_MAN_DOL__AZN_	141	5.04882	0.0262
Lags: 2			
X1_RATE_OF_INF___ does not Granger Cause Y_MAN_DOL__AZN_	140	7.25168	0.0010
X2_GDP_MLN_AZN_ does not Granger Cause Y_MAN_DOL__AZN_	140	3.76436	0.0257
X6_FOREIGN_EXCHANGE_REZE does not Granger Cause Y_MAN_DOL__AZN_	140	7.46270	0.0008
Lags: 3			
X1_RATE_OF_INF___ does not Granger Cause Y_MAN_DOL__AZN_	139	6.78706	0.0003
X2_GDP_MLN_AZN_ does not Granger Cause Y_MAN_DOL__AZN_	139	3.89947	0.0104
X6_FOREIGN_EXCHANGE_REZE does not Granger Cause Y_MAN_DOL__AZN_	139	4.42699	0.0053
Lags: 4			
X1_RATE_OF_INF___ does not Granger Cause Y_MAN_DOL__AZN_	138	4.08442	0.0038
X2_GDP_MLN_AZN_ does not Granger Cause Y_MAN_DOL__AZN_	138	2.43434	0.0506
X6_FOREIGN_EXCHANGE_REZE does not Granger Cause Y_MAN_DOL__AZN_	138	3.66293	0.0073
Lags: 5			
X1_RATE_OF_INF___ does not Granger Cause Y_MAN_DOL__AZN_	137	3.49708	0.0054
X6_FOREIGN_EXCHANGE_REZE does not Granger Cause Y_MAN_DOL__AZN_	137	3.28552	0.0080
Lags: 10			
X1_RATE_OF_INF___ does not Granger Cause Y_MAN_DOL__AZN_	132	2.19336	0.0231
X2_GDP_MLN_AZN_ does not Granger Cause Y_MAN_DOL__AZN_	132	2.28064	0.0180
X3_BUDGET_DEFICIT__MLN_A does not Granger Cause Y_MAN_DOL__AZN_	132	2.04335	0.0353
X4_MONETAR_BASE_MLN_AZN_ does not Granger Cause Y_MAN_DOL__AZN_	132	1.91003	0.0510
X5_PRICE_OF_PETROL__ABS_ does not Granger Cause Y_MAN_DOL__AZN_	132	2.00697	0.0390
X6_FOREIGN_EXCHANGE_REZE does not Granger Cause Y_MAN_DOL__AZN_	132	2.64115	0.0063
Lags: 11			
X1_RATE_OF_INF___ does not Granger Cause Y_MAN_DOL__AZN_	131	2.94664	0.0019
X2_GDP_MLN_AZN_ does not Granger Cause Y_MAN_DOL__AZN_	131	2.06576	0.0289
X3_BUDGET_DEFICIT__MLN_A does not Granger Cause Y_MAN_DOL__AZN_	131	2.54170	0.0068
X4_MONETAR_BASE_MLN_AZN_ does not Granger Cause Y_MAN_DOL__AZN_	131	1.95343	0.0402
X5_PRICE_OF_PETROL__ABS_ does not Granger Cause Y_MAN_DOL__AZN_	131	1.88983	0.0484
X6_FOREIGN_EXCHANGE_REZE does not Granger Cause Y_MAN_DOL__AZN_	131	2.08885	0.0270

Source: author's work

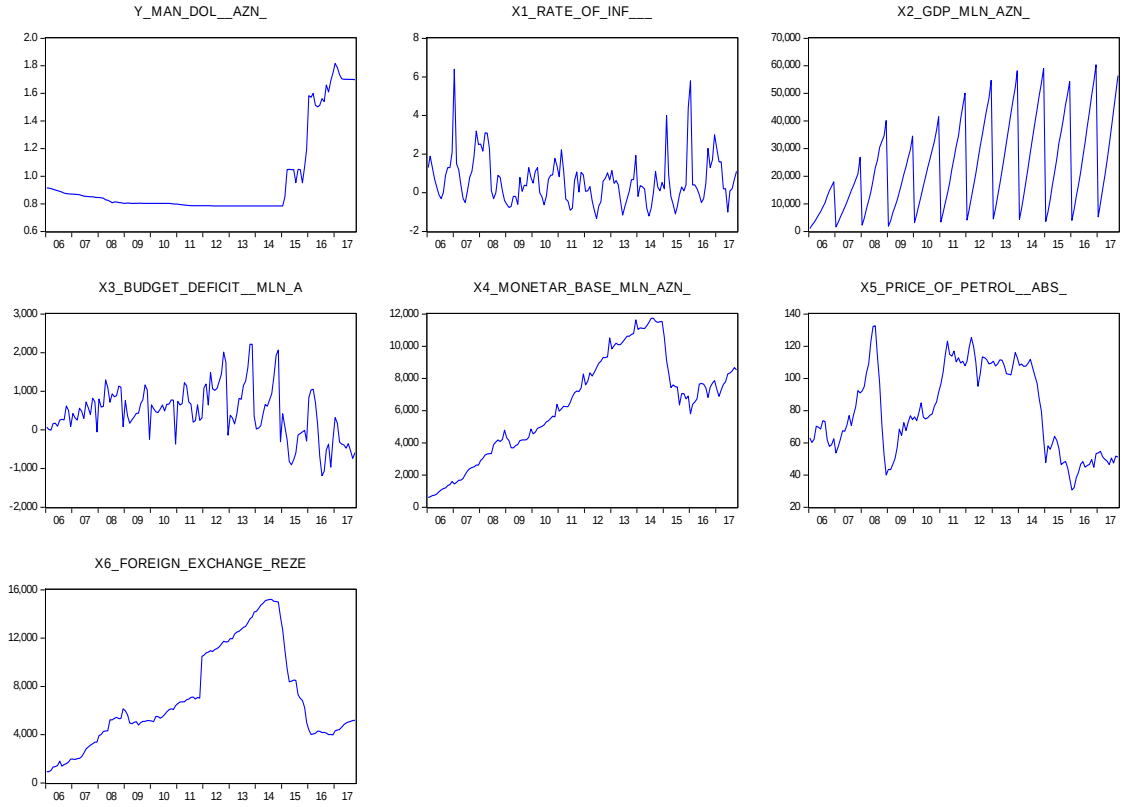
According to the obtained results, independent variables of x1, x2, x3, x4, x5, x6 generate unilateral causality for dependent variable of y.

Thus, the established multidimensional regression model is as follows:

MAN_DOL=1+0,01INF-2,59GDP+2,36BUDGET_DEFICIT+0,001MONETAR_BASE-0,002PRICE_PETROL-0,00014FOREIGN_EXCHANGE_REZERV

The independent dynamics of the result factors in the period of 2006-2017 which included in the model is presented graphically in Figure 2.

Figure 2. Graphic description of dynamics of y, x1, x2, x3, x4, x5, x6 rows



Source: author's work

Our research work has formed the following results:

-the factors that have more impact on the dynamics of the exchange rate in Azerbaijan and which are more important in its formation have been defined by investigating the theoretical aspects and approaches of the formation and regulation of currency rate;

- comparative analyses have been performed for the established models in order to prepare efficient proposals for the protection of stability of manat;

- wide econometric analysis has been carried out for the multidimensional regression model and the factors included in the model; the results confirming the adequacy of the model have been obtained; positive and negative moments have been analyzed;

- the stationarity of the model has been confirmed with the results of Dickey–Fuller test;

-the dependencies have been defined by conducting Granger causality test among the factors that are not dependent with the result factor;

- in research work, graphics and computing opportunities of Eviews-10 software package have been used.

We consider that, in comparison with standard models, the proposed model allows to conduct more accurate and adequate assessment of the factors affecting the exchange rate and in

its turn, it offers opportunities for its being applied as a "diagnostic tool" and significant means of model in the regulation and prediction of exchange rate.

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