

УДК 341.221.1

МЕЖДУНАРОДНО-ПРАВОВЫЕ АСПЕКТЫ ИСПОЛЬЗОВАНИЯ ВОДНЫХ РЕСУРСОВ ТРАНСГРАНИЧНЫХ РЕК ЦЕНТРАЛЬНОЙ АЗИИ

ЖУНУСБЕКОВА АЙГЕРИМ ЖУНУСБЕКОВНА

PhD докторант 1 курса
Евразийский национальный университет имени Л.Н. Гумилева

Аннотация: в данной статье рассматриваются состояние трансграничных рек в центрально азиатском регионе, в частности в Республике Казахстан, проблемные вопросы взаимовыгодного использования водных ресурсов трансграничных рек Центральной Азии, трансграничный статус рек региона

Ключевые слова: трансграничный водный ресурс, статус рек, ирригационный режим, энергетический режим, экологические последствия, гидроэнергетический объект, региональный международный договор, международная организация

INTERNATIONAL LEGAL ASPECTS OF USE OF WATER RESOURCES OF THE TRANSBOUNDARY RIVERS OF CENTRAL ASIA

Zhunusbekova Aigerim Zhunusbekovna

Abstract: in this article are considered the state of transboundary rivers in the Central Asian region, particularly in the Republic of Kazakhstan, some problem issues of mutually advantageous use of water resources of transboundary rivers in Central Asia, the transboundary status of the rivers of the region, international legal cooperation of the Central Asian states in the field of protection and use of transboundary watercourses

Key words: transboundary water resource, status of the rivers, irrigational regime, energy regime, ecological consequences, hydropower object, regional international treaty, international organization

Nowadays one of the most urgent environmental problems is the condition of water resources of the Republic of Kazakhstan. Existence and a condition of water resources is the vital factor influencing economic development of the country. At the same time, the general condition and quality of water resources in the Republic of Kazakhstan considerably worsens, and their intensive pollution can make destructive impact on the environment

By 2030 in Kazakhstan decrease in water resources from 100 to 85 billion cubic meters, that is for 15% of requirement is expected. The problem of water safety in the conditions of limitation and vulnerability of water resources is considered as threat of national security of the state. One of the main reasons for decrease in water resources is a geographical arrangement of Kazakhstan which is in lower reaches of the large transboundary (cross-border) rivers as the Syrdarya, Ili and Irtysh. The adjacent states annually increase water consumption, reducing level in our rivers [1].

About a half of a surface water of the republic (44, 9 km³) comes from the territory of the adjacent states. The condition of transboundary water objects of the Republic of Kazakhstan causes special alarm.

Level of pollution of these rivers has in recent years begun to exceed the level of threshold limit value several times.

People's Republic of China unilaterally begins implementation of plans for increase in use in the territory of water resources of the Irtysh and Ili Rivers. Increase in an intake of water is provided in headwaters of the river Ili for needs of agriculture. Transfer of a part of waters of Irtysh and Ili aims to provide with water resources quickly developing economic region where the growing industry, first of all, oil, and also again under construction settlements, suffer an acute shortage of water. Besides, growth of water consumption is connected with planned in Xinjiang significant increase in acreage under grain and cotton. The water intake planned by China from the rivers can have serious consequences for economy and ecology not only the Republic of Kazakhstan, but also the Russian Federation. The water intake from black Irtysh, at the existing pollution sources, will lead also to deterioration of water from a condition of an ecosystem of the Irtysh River which is estimated already now as very unsuccessful [2, c. 19].

Within Kazakhstan 2,5 million people live in the basin of Irtysh, in Northeast and Central regions large industrial centers on production and processing of minerals - Ust-Kamenogorsk, Semipalatinsk, Pavlodar are located. Further development of energy, the industry and agriculture is directly connected with use of resources of this river [1].

Questions of mutually advantageous use of water resources of the transboundary rivers of Central Asia still remain as a main problem of the countries of the region. At the same time they don't intend to reconsider the policy on the matter. It is confirmed by the statements which were heard at the beginning of 2015 from representatives of Tajikistan and Kyrgyzstan in which they have confirmed construction plans of new hydropower objects on the transboundary rivers [3].

The most acute contradictions arise concerning an operating mode of the Toktogul Reservoir (is in the territory of the Kyrgyz Republic) which is the largest in the basin of the Syrdarya and in all Central Asia. Here, mainly, interests of three Central Asian states – the Kyrgyz Republic, the Republic of Uzbekistan and the Republic of Kazakhstan have faced. Two states located in the lower flow of the Syrdarya River are interested in preservation of the irrigational mode of the Toktogul Reservoir whereas the energy mode of its operation is favorable to the Kyrgyz Republic.

The long-term average drain of water of the Syrdarya makes 37,9 km³. Resources of the river are divided in the following proportion: to Kyrgyzstan - 73,1 percent, to Uzbekistan - 14,8 percent and to Kazakhstan - 10,8 percent.

The long-term average drain in the Amudarya basin about 79 km³, from them 80 percent is in Tajikistan, and in Uzbekistan - only 6 percent.

Kyrgyzstan and Tajikistan ignore the transboundary status of these rivers. Unilateral transition of these states from the irrigational mode to power complicates water management work in the lower and average flow of Syrdarya, leading to adverse ecological effects.

Emergence of this problems in the lower and average flow of Amudarya can be resulted in shortage of water for irrigation during the summer period, and during the winter period to flooding of the irrigated lands, pastures and objects of the national economy. As a result of closing of numerous points on supervision over a flow of the rivers and the hydrometeorological mode in places of formation of a drain in the mountain regions of Kyrgyzstan shortage of necessary hydrometeorological information for elaboration of strategy of works in water management during the intervegetative period is felt [4, c. 52].

The conflicts and contradictions between the countries of Central Asia have brought to life a question of property on water as it is has appeared on different "sides" of frontiers. This approach is most actively defended by Kyrgyzstan and Tajikistan. The national legislation accurately considers water as a resource of which the state can dispose at discretion. According to these states most actively support development of water resources, construction of hydropower objects, they see in it a possibility of strengthening of the energy security and an additional source of obtaining the income. Proceeding from it, Kyrgyzstan and Tajikistan don't suit the agreements signed in the nineties the last century. In them the commitment to the Soviet system of use of water resources of the transboundary rivers at the heart of which there was an accounting of interests

of all parties and orientation of activity of reservoirs to the irrigational mode has been recorded. At the same time the countries of the region aren't ready to follow to the international legal norms. The Central Asian states, except for Kazakhstan, didn't ratify the international documents and in realization of the policy for water resources of the transboundary rivers continue to be guided by bilateral agreements which temporarily remove the acuteness of the problem, but do not solve it in principle.

The countries of the lower flow are forced to react to the policy of the neighbors controlling a drain of the transboundary rivers. Turkmenistan realizes large-scale projects on creation of artificial reservoirs in Karakum. Kazakhstan adopted a number of decisions that should improve the situation with water resources.

The solution (Solving) of problems of joint use of hydro-electric resources in Central Asia has not only decisive economic, but also huge ecological, political and international significance.

Despite the agreements which the countries of the region are periodically reached, increasing number of interstate agreements, there is still no effective mechanism of joint management of water resources. National egoism generates aspiration to unilateral actions concerning use of water resources of the transboundary rivers of Central Asia. Taking into account that water resources in these countries are one of the major factors defining a condition of most branches of economy, and first of all agriculture, constantly increasing deficiency of water and decline in quality of a river drain strengthen contradictions between the countries of the region [5].

The current dual assessment of transboundary water resources which has developed today from positions of their navigational and non-navigational use doesn't answer to the problems of complex use, protection, preservation and management of such resources. Transboundary water resources have to be considered in their unity, and the legal regimes of their use shouldn't be divided and differentiated. For the proper protection of each concrete transboundary water resource it is necessary to adopt a comprehensive international regional treaty between the countries of the water basin (all states of Central Asia) which would regulate all aspects of use, management and protection of a transboundary waterway.

In order to optimize the management and protection of transboundary water resources and their use, it is necessary to establish a system of international organizations (commissions) on analogy, for example, with the International Commission on management of the Great Lakes or the Mekong River Committee. But their structure and functions have to undergo certain changes. In particular, it is necessary to expand the membership of these organizations by granting the right of participation in their activity to interested non-governmental organizations, which would correspond to the ideas of international management and the role of civil society in it. This transformation, in particular, should be subjected to the International coordination water management commission in the Central Asian region. Besides, according to the principles of sustainable development, it seems appropriate to establish a Water Bank within each concrete basin of the Central Asian region, which basis has to be a realization of the principle of the international ecological law "polluter pays", transformed to the principle: the state that exceeds the water intake limit has to pay.

Establishment of such Bank would also allow to remove the disagreements existing between the states of Central Asia concerning realization of the principle "the pollutant pays".

For permission of the international disputes in the sphere of use of transboundary water resources it would be necessary to establish an international judicial institution, both at the level of the water basin and at more universal level. The last could be provided in the universal convention on regulation of use of protection of transboundary water resources by analogy with the International tribunal for marine law [6, c. 106].

The Republic of Kazakhstan pays special attention to the international cooperation in the sphere of use and protection of water resources of the transboundary rivers.

Kazakhstan is an active supporter of the solution of all issues in the field of transboundary water resources in accordance with international legal norms.

For the solution of the above-stated tasks the Republic of Kazakhstan has adopted the state program on water resources management of Kazakhstan developed according to the National plan of measures on implementation of the Message from the President of the Republic of Kazakhstan from December 14, 2013 "The Strategy of Kazakhstan - 2050".

The specific place in policy of the state have to hold questions of interaction with neighboring countries on sharing and protection of transboundary water resources.

Despite everything the taken measures of political, legal, economic nature, in the countries of the Central Asian region the acute shortage of water resources owing to their irrational use and inadequate protection is noted.

The solution of the existing hydro-electric problems of the region is possible only in case of close interaction of all countries of Central Asia and coordination of the basic principles of the guaranteed use, protection and division of water resources of interstate sources on which, there is a general understanding and constructive intentions of the countries of the region.

Список литературы

1. Трансграничные реки – стратегический ресурс водообеспечения Казахстана // Электронный ресурс [Режим доступа]: <http://www.inform.kz>
2. Дускаев К. К. Трансграничные проблемы водных отношений Республики Казахстан // Экология и устойчивое развитие. – № 2, февраль, 2004. – С. 19-21.
3. Усиливающийся дефицит воды и снижение качества речного стока усиливают противоречия между странами ЦА, - эксперт // Электронный ресурс [Режим доступа]: <http://dem.kg/ru/article/14057/usilivayushchisya-defitsit-vody-i-snizhenie-kachestva-rechnogo-stoka-usilivayut-protivorechiya-mezhdu-stranami-tsa-ekspert>
4. Кожакматова Н.С. Кризис водных ресурсов: конфликт интересов в Центральной Азии // Материалы XLVII международной научной студенческой конференции. – Новосибирск: СибАГС, 2009. – С. 52-60
5. Центральная Азия делит водные ресурсы // Электронный ресурс [Режим доступа]: http://www.ng.ru/ng_energiya/2015-03-17/10_asia.html
6. Кожакматова Н.С. Водно-энергетическое сотрудничество Центрально-Азиатских государств в рамках ЕврАзЭС // Актуальные проблемы международных отношений в начале XXI века: Материалы 12-й научно-практической конференции молодых ученых / Под ред. Т.А. Закаурцевой. – Восток-Запад, 2009. – С. 106-116.