

# **SOME LEGAL ASPECTS OF ENVIRONMENTAL PROTECTION IN AZERBAIJAN (ON THE EXAMPLES OF SUSTAINABLE DEVELOPMENT AND AIR POLLUTION)**

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In 1987, the World Commission on Environment and Development - the Brundtland Commission - defined Sustainable Development as the development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

Azerbaijan, the largest of the three republics of the South Caucasus, occupies the southern part of the isthmus between the Black Sea and the Caspian Sea. The country has a total land area of 86,600 km<sup>2</sup>. In 1988-1990 the national democratic movement in Azerbaijan campaigned for the restoration of the Country's independence.

The Constitution of Azerbaijan declares general principles, laying the foundation for the development of national environmental policy. During almost 20 years of independence, Azerbaijan has steadily improved its system of environmental protection. The first National Environmental Action Plan of Azerbaijan (NEAP) was developed during late 90th with the support of World Bank. It was historical time when different countries of Eastern Europe, the Caucasus and Central Asia identified problems requiring urgent actions in political, social, economical and nature protection fields.

The NEAP stresses the importance of policy reform and of integrating environmental policy to economical questions as well. The first NEAP of Azerbaijan has had a very positive effect on the development of environmental and natural resource protection, thus proving the value of NEAP as a policy instrument.

One of the main aspects of modernity in Azerbaijan is the National Programme on Environmentally Sustainable Social and Economical Development of Country, as requested in Presidential Decree 612. The Programme covers the environmental aspects of the country's overall development strategy. It determines main areas of sustainable development and includes a plan of action for 2003-2010 "to address the initial phase of the resolution of the current problems".

Azerbaijan's future economic growth relies in large part on the successful development of its oil and natural gas resources. Crude oil and oil product exports make up over 70% of exports, and oil-related revenue makes up nearly 50% of budget revenue.

Azerbaijan faces significant challenges in terms of promoting environmental protection. Key areas of environmental issues and problems identify air quality, limited water resources, nature protection (which includes protection of forestry and biodiversity, sturgeon stock as well), management of the environmentally unsound waste and industrial pollution (from oil production, energy and transport), oil-contaminated sites, the Caspian Sea water level fluctuation, coastal and marine pollution, degradation of soil resources and land use (in particular desertification). Protection of the natural and cultural heritage is the special block, which contents conventional aspects.

Furthermore, institutional and administrative capacities require strengthening, in particular as regards implementation and enforcement. Civil society also needs support in order to become a valuable partner for the government in the development and implementation of environmental policy.

The Law on Environmental Protection is the main piece of national environmental legislation. It defines ecological expertise as “the identification of conformity of the environmental conditions with qualitative standards and ecological requirements in order to identify, prevent and forecast the possible negative impact of an economic activity on the environment and related consequences”.

While the environment is protected by law and pollution is controlled by regulations, in fact, concern for the environment has been secondary to economic development. It is therefore important that environmental legislation and management should be given a higher priority to meet the future needs of Azerbaijan.

One of the substantive legal rules in Azerbaijan is the Law on Air Protection establishes the legal basis for the protection of air, thus implementing the constitutional right of the population to live in a healthy environment. It stipulates the rights and obligations of the authorities, legal and physical persons and NGOs in this respect, sets general requirements for air protection during economic activities, establishes rules for the State inventory of harmful emissions and their sources, introduces general categories of breaches of the Law that will trigger punitive measures.

The system of air emission charges is very similar to the systems used in most other countries of Eastern Europe, the Caucasus and Central Asia. Charges, which are levied on 88 different pollutants, vary according to the degree of hazard of the pollutants. Charge rates range from virtually zero for several pollutants to 10.1 million manats per ton for the most toxic components. The applicable charges vary among regions to reflect differences in environmental conditions. The base rate is multiplied by a regional coefficient between 1 and 5. The highest values are in Baku - Sumgayit area – most hot spot of the Country.

Talking about protection of the atmosphere and prevention of climate change, we found in some substantive sources that the closure of a number of

heavily polluting industrial enterprises since 1991 has led to a substantial reduction in air pollutants. In 1990 the volume of pollutants was approximately 2.1 million tons, but in 1998 it had declined to 352,000 tons. A number of problems remain. Most air filters at the working enterprises are in poor condition, and air pollutants from motor vehicles are on the increase. To help resolve worldwide air pollution problems, Azerbaijan ratified the United Nations Framework Convention on Climate Change and the Vienna Convention for the Protection of the Ozone Layer. In 2000, Azerbaijan ratified the Kyoto Protocol to the United Nations Framework Convention on Climate Change. As a Party to the Convention Azerbaijan has undertaken to develop, implement and disseminate national and regional programmes to reduce the expected impacts of climate change.

The main purpose is to draw up a national plan of action to minimize the negative impact of climate change on the country's economy and the health of population, also informing the international community. Work on this project has proceeded to:

- Prepare a national inventory of greenhouse gases;
- Assess opportunities for reducing the use of greenhouse gases and draw up proposals to implement a national policy in this regard;
- Evaluate the impact of climate change on ecosystems and major sectors of the economy, and prepare adaptation measures to minimize losses resulting from such an impact.

The key principles for the introduction of economic instruments for environmental protection are laid down in the Law on Nature Protection and Environmental Management of 1992 and the Resolution 122 of the Cabinet of Ministers on the Payments for Nature Use in accordance with the Application of Charges for Natural Resources, Discharge of Pollutants to the Natural Environment and Rates of Charges for Environmental Pollution. The Law on Environmental Protection reconfirms the legal validity and basis for economic instruments and its article number 23 specifies the principles for using economic incentives for environmental protection by means of charges for natural resource use and environmental pollution. The only instrument aimed at controlling air pollution from stationary sources is the charge on air pollution. There are several possibilities also by space investigations from various satellites, such as NOAA, Nimbus, LandSat etc.

The system of air pollution charges is very similar to the system used in the former Soviet Union. The charges were introduced in 1992 and are levied on 88 pollutants, according to their toxicity. The charge is paid every quarter, and the amount due is based on expected or actual emissions. The non-compliance fee applies when a company's emissions exceed the allowable limits, and the fee is 5 times higher than the base rates of the air pollution charges. The environmental effect of the charge and the non-compliance fee is rather

limited due to their low tariff levels, the failure to enforce the legal provisions and inefficient collection.

The Law on Air Protection also calls for changing the ambient quality standards from the old standards (called GOST during Soviet time) to those consistent with international guidelines and standards such as the health-based air quality guidelines of the World Health Organization (WHO).

The standards require not only changes in quantitative values, but also changes in the whole data collection, processing and analysis systems, which are resource- and time-consuming.

Reducing pollution and damage to human health cost-effectively requires an integrated approach to urban air quality management. An important step in developing an urban air quality management strategy is to be able to monitor and evaluate air quality. A good monitoring and modeling system is essential for policy-making suited to the primary objective of protecting human health. There are several key tasks for understanding the nature of urban air pollution, above all collecting data on ambient pollutant concentrations and developing an emissions inventory. Most monitoring stations in Azerbaijan appear to be measuring CO<sub>2</sub>, SO<sub>2</sub>, NO<sub>x</sub> and total suspended particles regularly. However, no data are available for fine particulates (PM10 and PM2.5), although they are far more damaging to public health than suspended particulates. In addition, ground-level ozone is not monitored in big cities where ozone levels are high. Ground-level ozone originates from transport emissions and could form summer smog. The six most important pollutants to monitor regularly are what the World Health Organization terms the “classical” pollutants: lead, PM2.5/PM10, carbon monoxide, sulfur dioxide, nitrogen dioxide and ozone.

In 2000 there were thrown 908 000 tons of pollution waste to atmosphere, 43% of which are transport pollution. Thrown pollution waste of stationary sources – 515 000 tons, of which about 430 000 tons extremely hazardous waste. Thrown pollution waste of gaseous and liquid substances counted 96% of total volume, which has sulfate anhydride – 35000 tons, carbon monoxide – 26 000 tons, nitric oxide – 24 000 tons. The main hazardous organic substances are most dangerous and their thrown level significantly decreased on 14% in comparison to the indicators of 1999. It should be noted that total value of pollution waste decreased on 59 000 tons or on 10% comparable to 1999.

As regards the environment, support is focusing on implementing multilateral environmental agreements, in particular the UN Framework Convention on Climate Change and its Kyoto Protocol and UNECE conventions. As we already mentioned, Azerbaijan ratified the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer. The Ministry of Ecology and Natural Resources is the national coordinating body that develops and establishes necessary regulatory and legal framework to control the trade in and use of ozone-depleting sub-

stances (ODS), to enable Azerbaijan to fulfill its obligations under the Montreal Protocol.

The National Ozone Centre was established to help it phase out ODS. The initial country programme for the phase-out of ODS was compiled in 1997, and several projects in cooperation with GEF have been implemented since then. The total consumption of ODS in Azerbaijan decreased from 966 metric tons of ozone-depleting potential (ODP) before the ratification of the Protocol to 13.6 metric tons ODP in 2002, fulfilling the obligations under the Montreal Protocol. This drop of almost 99% has been achieved through structural changes in industry and a significant decrease in the production of refrigeration equipment. It is foreseen that ODS consumption will continue to fall and that by the year 2005 it will be negligible or nil. Azerbaijan has been a Party to the UNECE Convention on Long-range Transboundary Air Pollution since 2002, but has not ratified any of the Protocols. The Government intends to ratify the Protocol on Persistent Organic Pollutants (POPs), the Protocol on Heavy Metals, and the Protocol on Long-term Financing of the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP) in the near future.

Today we're living in the world of rough economical growth, but on the other hand, industrial development shall not decrease a quality of natural surround of humanity. The nature protection aspects are secured a broad consensus among stakeholders (government, civil society and international partners) concerning the urgency of the measures to protect the national environment, thus setting a common basis for future actions. In 2007 Azerbaijan signed Memorandum of Understanding (MOU) on the "Clean Development Mechanism" projects. According to EU reports, by 2020 atmospheric emissions by European countries will decrease by 30%. As follow these figures, Azerbaijan will reduce the country's greenhouse gas emissions contributing to climate change. Germany – partner country in this agreement - uses modern technologies to reduce its greenhouse gas emissions, contributing to its energy efficiency. The purpose of signing the MOU is in order that Azerbaijan may apply Germany's experience in the country.

Approved by Presidential Decree State Programme on Poverty Reduction and Economic Development for 2004-2008 and up to 2012 is envisaged to play a significant role in the medium term; as a comprehensive strategy with a multi-sector approach, it influences now and will develop the environmental sector within the context of overall national priorities.

The Programme covers a long-term period and will be revised annually as the envisaged policy measures are implemented and yield results. Among other things, it addresses the role of environmental conditions as a cause of poverty as well as a tool to reduce it. Based on the assumption that "economic development which upsets the environmental balance cannot be sustainable", it obliges the Government of Azerbaijan to promote balanced growth and to

bring about improvements in some of the key economic sectors: to improve the investment to the climatic aspects, to increase access to credit among businesses and entrepreneurs, to develop the infrastructure, to encourage small and medium enterprises, to develop the industry and agriculture of different regions, to improve the environmental protection, to reform energy generation and distribution, and to promote tourism, including rural tourism and the ecotourism as well.

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**AZƏRBAYCANDA ƏTRAF MÜHİTİN MÜHAFİZƏSİNİN BƏZİ HÜQUQİ ASPEKTLƏRİ (DAVAMLİ İNKİŞAF VƏ HAVA HÖVZƏSİNİN ÇIRKLƏNMƏSİ TİMSALINDA)**

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Məqalə qlobal və yerli səviyyələrdə narahatlıq doğuran ən mühüm bəşəri problemlərdən olan - ətraf mühitin mühafizəsinin Azərbaycanda həllinə həsr edilmişdir.

Müstəqilliyini bəyan edəndən sonra Vətənimizin təkrarsız təbiətini qorumaq üçün bir sıra ciddi addımlar atılmışdır. Təbiətimizin mühafizəsi sahəsində hüquqi bazanın qurulması, Azərbaycanın bir sıra mühüm Beynəlxalq Konvensiyaları ratifikasiya etməsi, Minilliyin İnkişaf Məqsədləri ilə həmahəng olaraq, Regionların Davamlı İqtisadi İnkişafı Dövlət Proqramının icra edilməsi gənc respublikamız üçün fundamental nailiyyətlərdir.

Məqələdə ətraf mühitin mühafizəsinin bir aspekti olan – hava hövzəsinin təmizliyinin təmin olunması məsələlərinə diqqət yetirilir.