REPUBLIC OF AZERBAIJAN

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ABSTRACT

of the dissertation for the degree of Doctor of Philosophy

INTERNATIONAL LEGAL REGULATION OF INHERITANCE RELATIONS AND LEGISLATION OF THE AZERBAIJAN REPUBLIC

Specialty: 5603.01 – "International law; human rights"

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GENERAL CHARACTERISTICS OF DISSERTATION

Relevance of the research topic and degree of scientific elaboration of the theme. International cooperation between states acting as a manifestation of integration in the economic and cultural areas, together with interstate relations, accordingly, stipulates the establishment of property and personal non-property relations between individuals that belong to these states. In order to regulate these relations, a certain system of norms is needed. In modern times, it is impossible to regulate these relations without the norms of international law.

One of the types of such relations is inheritance relations. The three main signs characteristic of these relations are: 1) the emergence of these relations from international life; 2) their deviation from the legal system of one state; 3) the physical persons that belongto different states act as subjects, all of which distinguishes them from national inheritance relations. Inheritance relations, which are characteristic of the mentioned signs, are international relations, being related to the legal systems of various states. And this stipulates that these inheritance relations are the object of internationallegalregulation.

The international legal regulation of hereditary relations which arise in the international area can also be justified by the following factors: 1) implementation of this regulation within the framework of human rights protection; 2) use of generally accepted principles of international law in this regulation as a legal basis; 3) use of sources of international law in this regulation; 4) the existence of hereditary relations that constitute the object of regulation related to the legal system of several states, the emergence of international interaction (cooperation) between the national legal systems of these states.

As practice shows, inheritance relations formed by the influence of religious, cultural, economic, social characteristics are distinguished by their “conservatism”. This feature stipulates that the national legislation of states on the regulation of inheritance relations should be different. These differences can only be overcome by bringing national legislation closer (harmonization) or by creating

generalized legal norms (unification). And this is impossible without international legal means. That is why harmonization and unification of national legislation in the field of inheritance relations is one of the main problems of modern international law.

The integration of AR into the system of international relations stipulates the entry of natural persons belonging to AR into various international succession relations. The death of natural persons belonging to the AR abroad, the preparation of a will by them abroad, the inherited property belonging to them being located in the territory of another state, etc. all necessitates the internationallegal regulation of inheritance relations. In order to enhance the effectiveness of this regulation, it is urgent to ensure the alignment of the inheritance legislation of the Republic of Azerbaijan to the relevant legislation of the other states, as well as creating fertile conditions for the implementation of the means of international legal regulation of these relations in the national legal system.

The above mentioned conditions determine the relevance of the problem of international legal regulation of inheritance relations. In this context, the dissertation work is of great importance from a theoretical and experimental point of view.

The analysis of the scientific works of local and foreign authors who conducted research on the topic was carried out in the dissertation. Although studies were conducted on separate aspects of the international legal regulation of inheritance relations, this issue was not developed as a separate research object. Thus, in Soviet times and in the modern post-Soviet space, research was conducted, as a rule, in the direction of conflict-of-laws regulation of international hereditary relations. We can mention the names ofA.M.Abdulkhaligov (“Inheritance in international private law”[1], A.V.Alyoshina ("Collisional issues of inheritance on law in international private law”[2]), M.S.Abramenkov ("Problems of

[1] Абдулхалигов, А.М. Наследование в международном частном праве: / дис. доктор философии по праву / - М., 2010.

[2] Алешина, А.В. Коллизионные вопросы наследования по закону в международном частном праве. Монография. / А.В. Алешина. - Санкт-Петербург, - 2008.

collisional legal regulation of inheritance relations in modern international private law”[3]), M.V.Nikonova ("Legal regulation of inheritance on a will of Foreign composition”[4]), I.L.Popushoy ("Civil legal regulation of the institution of inheritance with a foreign element”[5]), G.A.Samailov ("Modern legislative and doctrinal problems of collisional legal regulation of inheritance with a foreign element”[6]) , Z.Sh.Shamuhamedova (”İnheritance in international private law"[7]), etc. among them.

In the national legal doctrine, the international legal regulation of inheritance relations has not been the subject of research. Only textbooks (Allahverdiyev S.S., Demirchiyeva M.D.) and scientific articles (Dunyamaliyeva R.S., Yusifov Sh.M.) have covered separate issues of legal regulation of inheritance relations. Only one study was conducted at the level of a dissertation on inheritance relations in Azerbaijani legal doctrine. Thus, Ilham Bayram oghlu Ahmadov's dissertation titled "Inheritance by will" is dedicated to only one aspect of inheritance relations

Moreover, separate aspects of the legal regulation of inheritance relations have been researched at the level of textbooks, teaching aids and scientific articles by foreign authors such as Angelika F., Anufrieva, L.P., Boguslavsky M.M., Hilal Ozay, Feriha B. T., Garb L., Kenneth C.G., Lisa N.F., Lunch, L.I., Medvedev, I.Q.,

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[3] Абраменков, М.С. Проблемы коллизионно-правового регулирования наследственных отношений в современном международном частном праве: / дис. доктор философии по праву / - М., 2007.

[4] Никонова, М.В. Правовое регулирование наследования по завещанию с иностранным составом: / дис. доктор философии по праву / - М., 2007

[5] Папушой, И.Л. Гражданско-правовое регулирование института наследования с участием иностранного элемента: / дис. доктор философии по праву /- М., 2007.

[6] Самаилов, Г.А. Современные законодательные и доктринальные проблемы коллизионного регулирования наследственного правопреемства, осложненного иностранным элементом: / дис. доктор философии по праву / - М., 2012

[7] Шамухамедова, З.Ш. Наследование в международном частном праве. Ташкент, 2012

Popescu, D.A. Rubanov, A.A., Sema, Ch. K., Schwind M.A., Sukhanov, E.A., Godbilir F.B., Yerpilayeva N.Y. and so on. These researches were used in the dissertation as a scientific and theoretical base.

Object and subject of research. The object of the study is the issue of international legal regulation of inheritance relations. The subject of the research work constitutes legal issues related to the international legal regulation of inheritance relations in mutual relation with the legislation of the Republic of Azerbaijan: features of the international legal regulation of inheritance relations, principles and sources of International Legal Regulation, features of application of international legal norms in the legal system of the Republic of Azerbaijan .

Goals and objectives of the study. The purpose of the study is the formation of scientific and theoretical foundations for the determination of the possibilities of international legal regulation of inheritance relations in the context of mutual correlation with the legislation of the Republic of Azerbaijan and the features of the implementation of relevant international legal norms.

To achieve the stated goal, the following tasks were determined in the study:

- to determine the features of international legal regulation of inheritance relations;
- to clarify the place of the right of inheritance in the system of human rights;
- to analyze the principles of international legal regulation of inheritance relations;
- to compare the legislation of the Republic of Azerbaijan and the legislation of other states in the direction of determining the harmonization possibilities of national legislation on the regulation of inheritance relations;
- to analyze the importance of international agreements as the main source of international legal regulation of inheritance relations;
- To determine the role of community legal acts in the international legal regulation of inheritance relations based on the example of the European Union;

- to analyze the precedent experience of the European Court of Human Rights (ECHR) in terms of its importance in the international legal regulation of inheritance relations;

-determine the international judicial affiliation of the international legal regulation of inheritance relations;

- to examine the features of application of international legal norms in the area of inheritance relations.

Research methods. In the preparation of the research work, general-theoretical and special legal research methods were used. In particular, such methods as comparative-legal, formal-logical, systemic analysis have been widely used.

The main provisions for the defense. The following new scientific provisions are presented for defense, expressing the scientific novelty of the research:

1. The international-legal regulation of inheritance relations is determined primarily by the specific features of relations as a material basis. This feature is due to the fact that they are included in the system of international relations by going beyond the borders of a state. International legal regulation of inheritance relations is also conditioned by the following factors: 1) regulation of international inheritance relations within the framework of international legal protection of human rights; 2) acting as the legal basis of the generally recognized principles of international law in the regulation of international inheritance relations; 3) use of sources of international law in the regulation of international inheritance relations; 4) the fact that international inheritance relations are connected with the legal system of several states and stipulate the establishment of international interaction (cooperation) between these national legal systems.

2. The specificity of the international legal regulation of inheritance relations within the framework of the protection of human rights is conditioned by the following: 1) as the subject of international inheritance relations acts not any natural person, but categories of population with Special Status (foreigners, stateless persons, refugees, migrant workers, etc.).); 2) subjective inheritance rights obtained in a foreign state or on the basis of foreign law are

recognized. Within the framework of the mentioned uniqueness, it is necessary to determine the following: 1) determining the place of the right of inheritance or acquired right of inheritance of special subjects in the system of human rights; 2) using the principle of citizenship in order to ensure the necessary protection of these rights.

3. The generally accepted principles of international law constitute the source of the international legal regulation of inheritance relations in the material legal sense. In this sense, the mentioned principles, being imperative norms, form the basis of the rule of international law. On the one hand, other international legal principles used in the international legal regulation of inheritance relations, including international agreements, arise on the basis of these principles and in accordance with them (normcreative or material aspect). On the other hand, any norms of international law that contradict these principles cannot be applied (applied or procedural aspect).

4. International legal regulation of inheritance relations is determined by the special legal nature of these relations and their implementation within the national jurisdiction of the respective states. This feature necessitates the substantive and procedural legal implementation of international legal norms relating to inheritance relations within the jurisdiction of these states. The noted implementation occurs in the forms: incorporation, sending and reception.

The harmonization of the national legislation of States in the direction of international legal regulation of hereditary relations acts as a manifestation of relations between national legal systems. In practice , these relationships are implemented in the following forms: 1) reception of legislation; 2) mutual harmonization; 3) indirect unification.

6. Unification is the main goal in the international legal regulation of hereditary relations. Although an international treaty is considered to be a more effective means of achieving this goal, the forms of unification are not limited to this. Thus, this unification is also possible in the form of internal legal acts of international

organizations, including community acts (on the example of the European Union).

7. International treaties, acting as the main source of international legal regulation of inheritance relations, not only have their own characteristics due to the subject area and the nature of the norms established by them, but also contain requirements specific to international treaties: 1) in accordance with the 1969 Vienna Convention on the Right to Treaties, they cannot contradict and apply the norms of jus cogens international law; 2) only in accordance with the requirements of this Convention (m.31-33) should be interpreted.

8. In the absence of universal or regional international acts (primarily treaties) unifying material or collusion norms in the international legal regulation of inheritance relations, bilateral international treaties act as a source of more effective regulation. In the conditions of the existence of the mentioned acts, the application of bilateral international treaties is conditioned by the fact that they establish a more specific regulatory regime between their respective parties. In this case, the application of the norms of bilateral international treaties cannot contradict the imperative norms of multilateral international treaties to which member states are parties.

9. The decisions of the ECHR, considered in the legal system of the AR as an "interpretative precedent", act as an additional legal source of international legal regulation of inheritance relations. This is a new trend for international legal regulation of inheritance relations. The decisions of the ECHR in this form are important in determining the place of inheritance law in the human rights system, as well as in interpreting the provisions of international human rights treaties that provide or do not contain a specific provision on the right of inheritance, but may also apply to the right of inheritance (for example, concerning property rights).

Scientific novelty of the study. The international legal regulation of inheritance relations has not been the object of complex scientific research in the doctrine of law. In the presented dissertation, this issue is analyzed in a complex manner in mutual proportion with the legislation of the Republic of Azerbaijan. For the first time, the international legal regulation of inheritance relations is analyzed in the

context of human rights. At the same time, international legal regulation of inheritance relations is investigated in the plane of international relations between national legal systems. Features of the application of international legal norms on inheritance in the legal system of AR, for the first time in the doctrine of national law, were studied at the level of dissertation work.

Theoretical and practical significance of the study. The fact that the research work has scientific novelty stipulates that the presented scientific provisions and proposals are significant from a theoretical and experimental point of view. Scientific provisions, recommendations and proposals in the research work can be used as a theoretical base in future scientific research on the legal regulation of inheritance relations. The results of the study can be used in the process of teaching international private law, inheritance law. At the same time, the recommendations and proposals presented may be used in the process of creating norms and judicial practice regarding inheritance.

Approbation and application. Important scientific results of the research work were published in prestigious scientific journals and international conference materials published in AR and abroad.

The name of the organization in which the dissertation work is performed. The dissertation work was performed at the Department of "international special law and European law" of the Faculty of Law of Baku State University.

The structure of the research work. The dissertation work consists of an introduction, 3 paragraphs which include 10 chapters, a conclusion and a list of used literature.

THE MAIN CONTENT OF THE DISSERTATION

In the introductory part of the dissertation, the relevance of the topic is substantiated, the degree of development of the study, its object and subject, goals and objectives, scientific novelty, theoretical and practical significance of the new scientific provisions submitted for defense are explained, information is given on the approbation of the results of the study and the structure of the study.

The first chapter of the dissertation work is called **"Features of the international legal regulation of inheritance relations**" and consists of three paragraphs. This chapter examines the features and principles of international legal regulation of inheritance relations.

The first paragraph analyzes the content and features of the international-legal regulation of inheritance relations It is noted that the characteristics of inheritance relations taking place in international circulation stipulate that they are the object of international legal regulation. In addition, this opinion, which may cause controversy in the copyright community, is justified by the following factors.

The first factor, if we take into account the fact that hereditary relations arise in the process of implementing "the right of inheritance, which is a condition for the development of human society as a whole" (Rudolf Iering), it is impossible for international legal regulation of these relations to occur outside the sphere of human rights protection. This can be justified in two ways: 1) not any individuals act as a subject of international inheritance relations, but categories of the population with a special status (foreigners, stateless persons, refugees, labor migrants, etc.) act. In this regard, the following preliminary conclusions can be noted: a) international human rights treaties, in particular those related to the legal status of these categories of the population, act as the legal basis for the international legal regulation of international inheritance relations; b) the legislation of the Republic of Azerbaijan establishes the application of national legislation in the field of human rights in accordance with international treaties; 2) subjective inheritance rights acquired in a foreign state or on the basis of foreign law are recognized.

The second factor is the use of generally accepted principles of international law as a legal basis for regulating international inheritance relations. It is noted that these principles constitute the source of international legal regulation of hereditary relations in the substantive sense. That is, special principles and norms of an international treaty are based on these principles, including national legislation involved in the international legal regulation of inheritance relations. In this sense, it is also necessary to recognize the establishment in the legislation of the AR of the "supremacy of generally accepted principles and norms of international law" as the main principle of rule-making activity.

The third factor is the use of resources of international law in the international legal regulation of inheritance relations. Based on the statement in the UN Charter "international treaties and other sources of international law", it is noted that the scope of these sources is regulated by international law. Article 151 of the Constitution of the Republic of Azerbaijan, which is called "legal force of international acts", refers only to international agreements among these acts, and confirms on the one hand, that the international agreement is the main legal act, and on the other hand, that other international acts can be used. The presence of other international acts does not mean the complete rejection of international agreements. Thus, European Regulation No. 650/2012 "On jurisdiction, applicable law, recognition and enforcement of decisions, acceptance and execution of notarial acts, including the creation of a European certificate of succession" (hereinafter - Regulation No. 650/2012) does not exclude the application of international agreements in which this or that member state participates until its adoption. On the other hand, the decisions of the ECHR are used as an additional source in the international legal regulation of inheritance relations.

The fourth factor, the connection of hereditary relations with the legal system of several states, determines the emergence of international interaction (cooperation) between the national legal systems of these states. This legal relationship is carried out mainly in two forms: 1) application of the rules of foreign law related to

inheritance on the basis of a conflict of laws rule; 2) recognition of the subjective right of inheritance obtained on the basis of foreign law. In fact, these forms are a manifestation of the extraterritorial application of national law. At the level of human rights protection, a will drawn up in accordance with the legislation of one State, or the acquired right of inheritance must be accepted in the legal system of another state.

The second paragraph analyzes the place of inheritance law in the human rights system in the context of international legal regulation. In the absence of a specific norm on inheritance in existing international agreements on human rights, the author analyzes the issue of the place of inheritance in the human rights system on the basis of the European Convention of 1950 "on the protection of Human Rights and fundamental freedoms" (hereinafter-the European Convention) and the decisions of the ECHR.

Based on this analysis, it was established that the rights envisaged in Articles 6 (fair trial), 8 (respect for personal life and family life) and 14 (Prohibition of discrimination) of the European Convention and Article 1 (property right) of Protocol No. 1 indirectly include the right of inheritance.

However, based on the analysis of the ECHR decision of 06/18/2020 "Molla Salih v. Greece" (case number: 20452/14), the author defines the right to a will as a substantive element of the right to use property. That is, the content of the right to use property also contains the right to make a will.

In order to determine the place of the right of inheritance in the human rights system, the author conducts a comparative analysis of the legislation of a number of states. It is noted that in the legislative practice of states there is no such attitude to this issue. Thus, the right of inheritance is enshrined in the legislation of some States as part of the "property right" (for example, Spain, Qatar, Poland, the Russian Federation, Turkey), in the section of economic rights (for example, Yemen), in the order of rights related to the family (for example, Bahrain). But as a result of a comparative analysis, it is noted that in the legislative practice of states, the fact prevails that the right of inheritance is defined as an integral element of property rights. AR

legislation also occupies this position. According to this position, in accordance with article 29 of the Constitution , the right of inheritance in a subjective sense includes the following rights: 1) the right to inherit a person's property; 2) the right to a will; 3) the right of heirs to a share in the inheritance.

The third paragraph analyzes the principles of international legal regulation of inheritance relations. It is noted that the principles are used both in the creation of norms (as a source in the material sense) and in the application process (directly) on the international-legal regulation of inheritance relations. These principles are conditionally classified as follows: 1) general principles of law; 2) generally accepted principles of international law; 3) principles of international private law.

At the same time, the principles of international legal regulation of inheritance law are considered in the plane of human rights protection. It is noted that, although this regulation is based on generally accepted principles of international law, the principle of respect for human rights and freedoms acts as a fundamental principle. The fundamental principle of prohibition of discrimination and equality of rights is analyzed as an element of content.

It is noted that in relation to inheritance relations, these principles are: 1) equality of men and women; 2) equality of rights between children born of official marriage and children born of non-official marriage; 3) religious marriage and equality of rights of officially married parties. In the direction of determining the characteristics of these forms of manifestation, existing international agreements in the field of human rights, including decisions of the ECHR on this issue, are analyzed.

At the same time, it is noted that, along with the generally accepted principles of international law, arising from these principles and more characteristic of the sphere of special international relations: 1) reciprocity; 2) protection of the national general order; 3) the principles of the national regime play an important role in the international legal regulation of inheritance relations.

The second chapter includes five paragraphs titled “Basis of International Legal Regulation of inheritance relations and legislation of the Republic of Azerbaijan".

The first paragraph examines the problem of harmonization of national legislation on inheritance. For this purpose, the legislation of the Republic of Azerbaijan and the legislation of other states are analyzed comparatively. It is noted that harmonization of inheritance legislation, which is distinguished by a more “conservative” character, is of great importance in terms of international legal regulation of inheritance relations. In this regard, the paragraph analyzes the prospects for the harmonization of national legislation. Here, the possibilities of applying forms of reception and mutual harmonization in the practice of ART legislation are determined. The advantages of the latter form are examined by the example of the model Civil Code adopted by the CIS Interparliamentary Assembly in 1996. It is noted that these forms of harmonization used in practice actually act as a manifestation of national legal intersystem relations.

As a result of the analysis, the following proposals are put forward in the direction of harmonization of the inheritance legislation of the Republic of Azerbaijan: 1) in the direction of realization of Article 1243 of the Civil Code, Article 1256 should be excluded from the Civil Code, and the absence of any actions related to the acceptance of inheritance property should be equated; 2) from the point of realization of the right of inheritance it would be more appropriate to change article 1193 of the Civil Codeto “transfer of the right of compulsory share to incapacitated children, incapacitated parents or spouse and dependent incapacitated persons of the deceased person”; 3) from the point of view of human rights, it would be appropriate for persons who have reached the age of 16 to have the right to make a will; 4) the abilityto exercise the right to make a will should be carried out regardless of the situation and circumstances. In this regard, it is appropriate to allow persons in the event of any emergency or in the war to draw up an oral will in the presence of three witnesses; 5) in the context of the realization of Article 1165 of the Civil Code, articles 1134 and 1135 should be

supplemented with a provision according to which legal entities can also be heirs.

In the second paragraph, universal international treaties such as the Hague Convention of 1961 “on the Conflict of Laws concerning the Form of a will”, the Washington Convention of 1973 “on the Uniform Law on the Form of a will”, “on the Management of the estate of the deceased at the international level", 1973 the Provincial Hague Convention, The Hague The 1989 Convention “on the Law applicable to the property of the deceased” are analyzed separately as the main legal basis for the international legal regulation of inheritance relations: . It is noted that, although it has unique features from the point of view of the subject area, the purpose of international treaties is to achieve the creation of general legal norms in the field of hereditary relations. That is, these contracts are the main means of unification of material, conflict of laws and procedural legal norms related to inheritance.

In the direction of analysis, the legislation of the AR is compared with the provisions of these international treaties. It is noted that since the AR is not a party to these agreements, their provisions do not have direct application in the legal system of the AR (in the form of incorporation and reference). From this point of view, these agreements cannot be considered as part of the system of legislation of the Republic of Azerbaijan in accordance with article 148.II of the Constitution of the Republic of Azerbaijan. However, the experience of effective implementation of mechanisms in these international agreements requires the AR to be a supporter of these agreements.

As a result of the comparative analysis, it was established that the current legislation of the Republic of Azerbaijan on inheritance complies with the main provisions enshrined in the mentioned international treaties. That is, the AR has adapted its legislation to the provisions of these agreements, without being a supporter of these agreements, indirectly through unification. In this case, indirect Unification, which is a form of harmonization, acts as a form of acceptance of the implementation of the mentioned international agreements in the legal system of the Republic of Azerbaijan.

However, implementation in this form does not exclude: 1) the existence of contradictions between the legislation of the Republic of Azerbaijan and the norms of the international treaty; 2) the application of the law of the Republic of Azerbaijan on the basis of the international treaty norm (collision norm).

The third paragraph is called "Features of the international legal regulation of inheritance relations at the regional level" and includes two half-paragraphs.

The first subparagraph examines regional international agreements as a legal basis for the international legal regulation of inheritance relations. As part of the study, the Bustamante Code, the Basel Convention of 1972 "On the registration system of wills" are analyzed. It is noted that, in accordance with the principles enshrined in universal international treaties, the mentioned agreements carry out generalization at the regional level. Although the Bustamante Code is considered at the regional level as a codifying act of conflict of laws rules, it contains only a certain number of rules concerning inheritance. In contrast, the aim of the 1972 Basel Convention is to create a unified regime for the registration of wills at the regional level. It is noted that the commitment of the Republic of Azerbaijan as a member of the Council of Europe to this Convention would simplify the process of creating an international system of registration of wills in the Republic of Azerbaijan. Until the Republic of Azerbaijan joins this Treaty, the implementation of its norms in the national legal system may be possible only in the form of reception.

The Minsk and Chisinau Conventions "On Legal Assistance and Legal Relations in Civil, Family and Criminal Cases" of 1993 and 2002, to which the Republic of Azerbaijan is a party, play an important role in the regional international legal regulation of inheritance relations. Although these conventions provide for certain norms regarding inheritance. Nevertheless, the establishment of both collision and material and procedural norms on inheritance stipulates that these conventions act as an important international legal source in regulating international inheritance relations arising between the subjects of CIS member states. It should be borne in mind that in

relation to states that are not members of the Chisinau convention of 2002, the provisions of the Minsk convention of 1993 are valid.

The second subparagraph examines the features of the regulation of inheritance relations within the framework of the comunity law of the European Union. For this purpose, the European Regulation No. 650/2012 (hereinafter - Regulation No. 650/2012) "on jurisdiction on inheritance issues, applicable law, recognition and execution of decisions, adoption and execution of notarial acts, as well as the establishment of a European certificate of inheritance" adopted by the European Parliament and the Council is analyzed.

It is noted that regulation 650/2012, which establishes new international rules for the regulation of inheritance relations, applies to inheritance relations arising after 2015. In accordance with the principle of a single legal regime enshrined in international treaties, Regulation No. 650/2012 also provides for the application of a single right to inherited property. Regulation No. 650/2012, which provides for the issuance of a European inheritance certificate, gives the heirs the right to exercise their rights on the territory of other member states through this certificate.

The participation of regulation 650/2012 as a source in the international legal regulation of inheritance relations is based on Article 81 of the TFEU. However, the existence of Regulation No. 650/2012 does not exclude: 1) the application of international treaties in which one or another member state participates before its adoption; 2) the non-application of its provisions to non-participating states (Denmark, Ireland, England); 3) the application of national legislation of member states.

The fourth paragraph examines the importance of bilateral agreements in the international legal regulation of inheritance relations. Here, first of all, agreements on bilateral legal assistance involving the AR are analyzed. It is noted that in the presence of multilateral international legal acts, bilateral international treaties establish a more specific mode of regulation between the parties to the treaty in the international legal regulation of inheritance relations. At the same time, the features characteristic of multilateral international treaties are also valid for bilateral international treaties.

Based on the comparative analysis, the following features of bilateral legal aid agreements are noted.

Firstly, these agreements deal with certain aspects of inheritance (for example, regarding the national regime, on calculating the period of acceptance of inheritance property, on property without an heir, etc.) are enshrined in substantive legal norms regarding.

Secondly, not all bilateral agreements on legal assistance establish collision norms regarding inheritance. For example, the 2002 legal aid agreements with the Republic of Turkey, the 2006 agreements with the United Arab Emirates, and the 2011 agreements with the Kingdom of Morocco provide only provisions related to the recognition and execution of court orders and decisions.

Thirdly, unlike national legislation, agreements on bilateral legal assistance do not use the principle of a single regime for determining the statute of inheritance.

Fourthly, agreements on bilateral legal assistance, as a rule, provide for material legal norms related to inheritance without heirs.

The fifth paragraph examines the place of decisions of the ECHR in the system of international legal regulation of inheritance relations**.** To this end, many decisions of the ECHR affecting various aspects of inheritance law are examined ("Marx v. Belgium" (13.06.1979, No. 6833/74), "Inca v. Austria" (28.10.1979, № 8695/ 79), "Mazurek v. France" (01.02.2000, No. 34406/97), "Kemp and Burimi v. The Netherlands" (3.10.2000, No. 28369/95), "Karner v. Austria" 24.07.2003, No. 40016/98), "Pla and Punsernau v. Andorra v." (13.07.2004, No. 69498/01), "Brauer v. Germany" (28.05.2009, № 3545/04)), "Sharifa Yigit v. Turkey" dated 02.11.2010).

It is noted that the court decisions of the ECHR concerning inheritance are of a different nature. These include the court decisions containing issues of inheritance of children born out of wedlock, inheritance issues arising from the marriage of same-sex couples, hereditary relationships arising on the basis of religious marriage, etc.

The importance of the decisions of the ECHR as a source is assessed from the point of view of the legal system of the AR and it is noted that in the legal system of the AR these decisions should be

considered as “precedent of interpretation”. Decisions of the ECHR in this status can serve as an additional legal source in the international legal regulation of inheritance relations. Based on the judicial practice of the Republic of Azerbaijan, the following forms of using the decisions of the ECHR as an additional source can be noted: 1) in the absence of a specific norm regarding the relatio; 2) in the case of determining the content of any concept for the purpose of interpretation. In these forms, the decisions of the ECHR are of great importance in the interpretation of the provisions of international treaties in the field of human rights that do not provide for or hold a specific provision on the right of inheritance, but which can also apply to the right of inheritance (for example, to the right of property).

The third chapter of the dissertation is entitled **”Features of application of international legal norms related to inheritance relations in the legal system of the Republic of Azerbaijan"** and includes two paragraphs.

The first paragraph deals with the issue of ”establishing international judicial affiliation in disputes arising as a result of international hereditary relations." For this purpose, a comparative analysis of international treaties, Regulation 650/2012 and the national legislation of the Republic of Azerbaijan is carried out.

It is noted that the emergence of the issue of international judicial affiliation is due to the need to implement inheritance relations within the framework of the national legal system of a state. In this regard, when the courts of the Republic of Azerbaijan apply the norms of international law in relation to inheritance, first of all, the issue of international judicial affiliation should be clarified. Of course, in this case one should refer to the norms of international legal acts, international treaties in the practice of the Azerbaijan Republic. In the context of the existence of the norms of an international treaty, it is not so important whether the national legislation of the Republic of Azerbaijan contradicts these norms. An analysis of the international treaties in which the Azerbaijan Republic participates gives reason to conclude that there is inevitably a contradiction between the norms of these treaties and the position of

the legislation of the Azerbaijan Republic in relation to international justice.

It is noted that in order to minimize this contradiction, it is advisable to replace the term "testator" in Article 443.0.11 of the Code of Civil Procedure (NPM) with the term "person making an inheritance".

The second paragraph analyzes the peculiarities of the application by the courts of the Republic of Azerbaijan of the norms of international law concerning inheritance. It is noted that the legislation of the Republic of Azerbaijan provides for specific provisions on the application by courts of the norms of an international treaty. It can be applied directly in accordance with Articles 23.4 of the 2010 Constitutional Law "On Normative Legal Acts" and 3.1 of the Code of Civil Procedure. Depending on the content of the international treaty norm, it can directly apply this norm.In accordance with the above-mentioned legislative provisions, the norms of an international treaty with a specific content (self-executing) are directly applied by the court.In this case, the implementation of the norms of the international treaty in the legal system of the AR takes place in the form of sending.

It is noted that the nature of the application of the norm of an international treaty differs depending on whether the norm is a conflict or substantive norm. The substantive legal norms of specific content are directly applied, for example, those relating to the legal status of escheated property. Although the conflict rules apply directly, the court applies the rules of substantive law determined on the basis of this rule.

As a result of the analysis , it is determined: 1) the existence of norms of an international treaty precludes the application of national legislation. In this case, the application of national legislation is auxiliary. The subsidy exists regardless of the contradiction between the norms of an international treaty and the national legislation of the Republic of Azerbaijan; 2) the norms of an international treaty cannot be applied contrary to the norms of jus cogens of international law in accordance with the 1969 Vienna Convention on the Law of Treaties. In this context, the court does not

apply international treaty norms that contradict the public order of the AR (ordre public); 3) international treaty norms should be interpreted in accordance with the purpose of the agreement according to articles 31-33 of the Vienna Convention of 1969 "On the law of treaties"; 4) in terms of determining a specific regulation regime, the application of bilateral international treaty norms is preferred. In this case, the application of the norms of bilateral international treaties cannot contradict the imperative norms of multilateral international treaties to which member states are parties.

The Conclusion of the dissertation notes the important proposals and results obtained in connection with the research. In general, they can be expressed as follows:

1. International legal regulation of inheritance relations is complex in nature due to the fact that it includes international and national legal features. The complexity of regulation is based on the principle of reconciliation of national legislation with the norms of international law, and the application of national law in this regulation is subsidized.

2. International legal regulation of inheritance Relations takes place within the framework of the protection of human rights. In this regard, international agreements in the field of human rights act as a legal basis in this regulation. And the legislation of the Republic of Azerbaijan is applied in accordance with these international agreements.

3. Inheritance law forms a constituent element of property law. In accordance with Article 29 of the Constitution, the right of inheritance in a subjective sense includes the following Rights: 1) the right to inherit the property of a person; 2) the right to bequeath; 3) the right of heirs to share the inheritance.

4. Unanimously accepted principles of the international law, which are used both in norm-making (as a source in substantial sense) and in the application process (with direct application) of the international-legal regulation of the inheritance relations, form both the legal basis of the rule of the international law and are included in the public order (ordre public) of the Republic of Azerbaijan.

5. Reception and mutual harmonization of forms of harmonization are widely used in the inheritance legislation of the Republic of Azerbaijan. In the direction of implementing this, the following is proposed: 1) in the direction of the implementation of article 1243 CC, article 1256 should be excluded from CC, and the refusal of any actions related to the acceptance of hereditary property should be equated with the refusal of inheritance; 2) in terms of the realization of the right of inheritance, it would be more appropriate to change article 1193 of the CC as "the transfer of the right of compulsory share to incapacitated children, incapacitated parents or spouse and dependent incapacitated persons of the deceased person"; 3) from the point of view of human rights, it would be appropriate for persons who have reached the age of 16 to have the right to make a will; 4) the ability to exercise the right to make a Will must be carried out regardless of the situation and circumstances. In this regard, it is advisable to allow persons in the event of any emergency or in the war to draw up an oral will in the presence of three witnesses; 5) in the context of the realization of article 1165 CC, a provision should be added to articles 1134 and 1135 that legal entities can also be heirs by law.

6. The hereditary legislation of the Republic of Azerbaijan was adapted to the main provisions of international treaties, for which the Republic of Azerbaijan did not advocate, through indirect unification. Indirect unification, which in this case is a form of harmonization, acts as a receptive form of implementation of the mentioned international treaties in the legal system of the Republic of Azerbaijan. But the implementation in this form does not exclude: 1) the existence of a contradiction between the legislation of the Republic of Azerbaijan and the norms of an international treaty; 2) the application of the law of the Republic of Azerbaijan on the basis of an international treaty norm (conflict of laws norm).

7. As a more effective form of unification of legal norms regulating hereditary relations, the national legal implementation of international treaties, of which the Republic of Azerbaijan is a supporter, is carried out in the form of incorporation and dispatch. The application of this type of norms of international treaties in the form of sending occurs according to the principle of lex specialis

deregat lex generalis (special law prevails over common law). There is no need to amend or repeal national legislation that conflicts with this agreement.

8. The presence of unified substantive legal norms excludes collisional legal regulation, even if it is based on the unified collisional norm in the system of international legal regulation of inheritance relations.

9. As a member of the Council of Europe, the accession of the AR to the Basel Convention of 1972, which created a single regime of registration of testaments at the regional level, would simplify the process of joining the unified system of registration of testaments in the AR.

10. Regulation No. 650/2012 acts as a source in the regional international legal regulation of inheritance relations. However, the existence of Regulation No. 650/2012 does not exclude: 1) the application of international treaties in which one or another member state participates before its adoption; 2) the non-application of its provisions to non-participating states; 3) the application of national legislation of member states.

11. Bilateral agreements on legal assistance establish a special regime for the international-legal regulation of inheritance relations in relation to multilateral international agreements. In this regard, in the absence of multilateral international agreements, these agreements act as a favorable means of international legal regulation.

12. In the legal system of the AR, the decisions of the ECHR are used as an additional source in the following forms: 1) in the absence of a specific norm regarding the relationship; 2) for the purpose of interpretation, in the case of determining the content of any concept. In the latter form, the decisions of the ECHR may be significant in the interpretation of the provisions of international treaties in the field of human rights regarding inheritance law.

13. It is appropriate to replace the term "testator" with the term "decedent" in Article 443.0.11 of the Civil Procedural Code of AR in order to minimize the conflict that may arise in relation to international treaty norms on determining the international jurisdiction.

14. The following should be taken into account when applying the norms of international law by the courts of AR: 1) generally accepted principles of international law and international contractual norms of self-execution are applied directly; 2) beynəlxalq müqavilə normaları "Müqavilələr hüququ haqqında" 1969-cu il Vyana Konvensiyasına müvafiq olaraq, beynəlxalq hüququn *jus cogens* normalarına zidd olaraq tətbiq edilə bilməz. Bu kontekstdə məhkəmə AR-in publik qaydasına (ordre public) zidd olan beynəlxalq müqavilə normalarını tətbiq etmir; 3) international contractual norms are applied regardless of the presence of contradictions between it and the national legislation of the Republic of Azerbaijan; 4) international contract norms are interpreted in accordance with the purpose of the contract according to Articles 31-33 of the 1969 Vienna Convention on the Law of Treaties; 5) the application of bilateral international treaty norms is preferred in terms of establishing a specific regulation regime. In this case, the application of the norms of bilateral international treaties cannot contradict the imperative norms of multilateral international treaties to which member states are parties.

The following scientific works were published by the author in connection with dissertation research:

1. Beynəlxalq xarakterli daşınmaz əmlakla bağlı vərəsəlik münasibətlərinə tətbiq edilən hüquq // Azərbaycan xalqının ümummilli lideri Heydər Əliyevin anadan olmasının 93-ci ildönümünə həsr olunmuş "Heydər Əliyev və Azərbaycanda hüquqi dövlət quruculuğu" mövzusunda beynəlxalq elmi-praktiki konfrans, - Bakı: - 3 iyun, - 2016, - s. 186-188.

2. Vəsiyyətnamənin formasına dair 1961-ci il Vyana konvensiyasının xüsusiyyətləri // Azərbaycan xalqının ümummilli lideri Heydər Əliyevin anadan olmasının 94-cü ildönümünə həsr olunmuş "Müasir dövrdə Azərbaycan Respublikasında hüquq elminin və təhsilinin əsas inkişaf tendensiyaları" mövzusunda beynəlxalq elmi-praktiki konfransın materialları, - Bakı: 2017, - s. 208-211.

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