

SCTCMG 2019

International Scientific Conference «Social and Cultural Transformations in the Context of Modern Globalism»

LEGAL STATUS OF KABARDA, ENSHRINED IN INTERSTATE TREATIES IN THE 18TH CENTURY

Emma Kazgerieva (a)*, Murat Dyshekov (b), Murat Gukepshokov (c),
Muaed Khabachirov (d), Zalim Mirzoev (e)

*Corresponding author

- (a) Kabardino-Balkarian State University named after H.M. Barbekov, Institute of Law, Economics and Finance, 173, Chernyshevsky St., Nalchik, Russia, kazgerieva@mail.ru, +7-909-487-83-70
- (b) Kabardino-Balkarian State University named after H.M. Barbekov, Institute of Law, Economics and Finance, 173, Chernyshevsky St., Nalchik, Russia, kazgerieva@mail.ru, +7-967-415-05-22
- (c) Kabardino-Balkarian State University named after H.M. Barbekov, Institute of Law, Economics and Finance, 173, Chernyshevsky St., Nalchik, Russia, kazgerieva@mail.ru, +7-928-084-21-84
- (d) Kabardino-Balkarian State University named after H.M. Barbekov, Institute of Law, Economics and Finance, 173, Chernyshevsky St., Nalchik, Russia, kazgerieva@mail.ru, +7-928-717-35-89
- (e) Kabardino-Balkarian State University named after H.M. Barbekov, Institute of Law, Economics and Finance, 173, Chernyshevsky St., Nalchik, Russia, kazgerieva@mail.ru, +7-928-700-41-59

Abstract

The article describes legal status of Kabarda enshrined in interstate treaties: the Belgrade Treatise between Russia and the Ottoman Empire in 1739, the Kiuchuk-Kainardzhiiskii Peace Treaty concluded in 1774 between the Russian and Ottoman Empire. An attempt to determine the influence of Kabarda in the process of joining Crimea to Russia in the 18th century was made. A normative prohibition on the use of significant military support of Kabarda for conflicting parties is substantiated; a special legal protection of Kabardinian amanats and the possibility of their staying in two opposing states and vassal Crimean khanate are determined. It is argued that Belgrade Peace Treaty is the basis for international legal consolidation and recognition of a new subject of “Bolshaia and Malaia Kabarda” to establish diplomatic relations with it, both from the Russian Empire and the Ottoman Empire and the Crimean Khanate in resolving the issue of military support. The status of “free” Kabarda until signing of the Kiuchuk-Kainardzhiiskii Peace Treaty is characterized. It is established that during this period of confrontation among Russia and the Ottoman Empire and the Crimean Khanate, free Kabarda continued to adhere to the pro-Russian orientation and enjoy regular military support from Russia. It is argued that the period of “free” Kabarda is characterized by constant attempts to “pull” it from the Russian Empire and the Ottoman Empire and the Crimean Khanate. It is substantiated that representatives of Kabardian nobility continued to adhere to pro-Russian orientation and to resist claims of the Crimean Khanate.

© 2019 Published by Future Academy www.FutureAcademy.org.UK

Keywords: Ottoman Empire, Crimean khanate, Kabarda.



1. Introduction

The analysis of international normative acts, in determining the legal status of Bolshaia and Malaia Kabarda in the 18th century, plays a significant political and legal role, since in this period important changes for Russia take place. Some aspects of the posed problem were touched upon in the historical works of Abazov (2013, 2014), Kuzminov, Kumykov, and Dzamikhov (2013), Zhurtova, Kuzminov, Konovalov, and Muratova (2017) and Muratova (2010). However, comprehensive historical and legal research has not been carried out yet. We believe that the attempted juridical investigation of the legal status of Kabarda, enshrined in interstate treaties in the 18th century, will allow us to objectively characterize the position of Kabarda in geopolitical processes.

2. Problem Statement

Consideration of the legal status of Kabarda in the 18th century, enshrined in the Belgrade Treatise between the Russian and Ottoman Empire in 1739 (Belgrade Peace Treaty of 1739) and the Kiuchuk-Kainardzhiiskii Peace Treaty of 1774 concluded between the Russian and Ottoman Empire, will allow making conclusions regarding some of the problematic aspects:

- to determine the influence of Kabarda in Russian-Turkish interstate relations in the 18th century;
- to characterize the importance of military support of Kabarda for conflicting parties (on the one hand the Russian Empire, on the other - the Ottoman Empire and the Crimean Khanate);
- a special legal protection of Kabardinian amanats (causing harm to them could be the basis for interstate conflict between the Russian and Ottoman Empire);
- to reveal the significance of recognizing the independent status (“liberties”) of Kabarda, which made it possible to regard it as an interested party in Russian-Crimean-Turkish relations;
- to reveal the normative international legal consolidation and recognition of a new subject of “Bolshaia and Malaia Kabarda” in order to establish diplomatic relations with it, both from the Russian and Ottoman Empire and the Crimean Khanate in resolving the issue of military support;
- to establish the influence degree of Kabarda in the process of joining Crimea to Russia in the 18th century.

3. Research Questions

In the 18th century, the issue of legal status and belonging of Kabarda played a significant political and legal role in the Russian-Turkish relations and constantly served as a pretext for military confrontation of the parties and a violation of peace agreements between the Russian Empire and the Ottoman Porte and the Crimean Khanate. This state of affairs required the determination and consolidation of the legal status of Kabarda. The normative legal basis for such status was the interstate Belgrade Treaty, which was the basis for the international legal consolidation and recognition of a new subject of “Bolshaia and Malaia Kabarda” in order to establish diplomatic relations with it, both from the Russian Empire and the Ottoman Empire and the Crimean Khanate in resolving the issue of military support.

The period of “free” Kabarda from 1739 to 1774 was characterized by constant attempts to “pull” it from both the Russian and Ottoman Empire and the Crimean Khanate. In turn, part of the Kabardian nobility

continued to consistently adhere to the pro-Russian orientation and to resist the claims of the Crimean Khanate.

The Kiuchuk-Kainardzhiiskii Peace Treaty in 1774 determined the legal status of only Circassian and Mountain Dukes, and the legal status of Kabarda was not determined and their belonging to the Russian court was based on the will of the Crimean Khan.

4. Purpose of the Study

The main purpose of the study is to determine the legal status, significance and influence of the Bolshaia and Malaia Kabarda in interstate relations in the 18th century (between the Russian and Ottoman Empires).

5. Research Methods

Both general scientific and private scientific methods, in particular, historical, dogmatic and legal methods were used in the work.

6. Findings

At the beginning of the 18th century, the Ottoman Empire and its vassal Crimean Khanate repeatedly declared their claims on Kabarda. Sultan of the Ottoman Empire made attempts to incline Kabarda to his side: “*Kabardian owners, the Circassian Dukes, why you joined Moscow Sovereign army, ravaged our nationals, Kuban inhabitants defeated their troops; if it were not for you, then we would not have been in ruin, why did you raise your hands on your sovereign and on faith...*”. Kabarda in the period under review consistently adhered to the pro-Russian orientation and had a constant resistance to the Crimean Khanate.

In August 1731 in Promemoriia the resident I.I. Nepliev filed the Sublime Porte, which pointed to an ancient citizenship of Kabardians in Russia and their permanent resistance to the Crimean Khan troops: “... Kabarda, those attackers didn't bow down, the Crimean Khans, and the commanders sent from them with the troops sometimes from the very Kabardians with resistance and sometimes through sending of Russian troops, they were averted from Kabarda”. The formulation of “ancient citizenship of Kabardians” used by I. I. Nepliev in Promemoriia is not normative in nature and does not establish the legal status of Kabarda, but only serves as historical evidence of relations between Kabarda and Russia.

Military-political content of the relationship was repeatedly subjected to scientific analysis. According to Malbakhov (1999), Kabarda became the object of the Caucasian policy of tsarism since the mid-50s of the 16th century, which was characterized by the entry of a certain part of Kabardian feudal lords into a military-political alliance with Russia. It should be noted that the researcher determines only partial and not universal nature of support of the Adyghes by the Kabardian sub-ethnos within these relations. In 1561, the first Russian Tsar Ivan IV the Terrible married the daughter of Kabardian Duke Temriuk Idarov after Maria christening, the Tsarina of Russia. For nearly two hundred years, representatives of the ducal family of Kabarda have been the part of political elite of Russia. This state of affairs ensured the pro-Russian orientation of Kabarda and opposition to the vassal Crimean Khanate and the Ottoman Empire respectively, with constant financial and military support and interest from the Russian

Empire, beginning in the middle of the 16th century until the beginning of the 18th century, which is confirmed by state diplomas.

By the middle of the 18th century, the situation had radically changed, since the issue of Kabarda belonging continued to play a significant political and legal role in Russian-Turkish relations and constantly served as a pretext for military resistance to the parties and violation of peace agreements between the Russian Empire and the Ottoman Porte and the Crimean Khanate. This state of affairs required the determination and consolidation of the legal status of Kabarda.

The normative legal basis for such a status was the interstate Belgrade Treaty, in which the interested parties were the Russian Empire, the Ottoman Porte, the Crimean Khanate and Kabarda. According to the article 6 of the Belgrade Treaty between Russia and the Ottoman Porte, the legal status of “free” Kabarda was fixed “on both Kabardas, that is, Bolshaia and Malaia, and Kabardian people, on both sides it was agreed to be free to those Kabardas and not to be under the influence of one or another Empire”, which meant the absence of claims to the territory of Bolshaia and Malaia Kabarda of the Russian and Ottoman Empires, and the Crimean Khanate, respectively.

A particular legal interest is the condition of the treaty, according to which the Kabardians “*tokmo za barrieru mezhdu obeimi Imperiiami sluzhit imeiut i chto i ot drugoi storony blistatelnoi Porty Turkam i Tataramvo onyia ne vstupsia i onykh ne obezpokoivat ta-kozhde i ot Vserossiiskoi Imperii onyia v pokoe ostavleny budut*”, which meant, on the one hand “barrier” functions of Kabarda and a prohibition to use the existing armed forces of Kabarda by the Russian Empire, the Ottoman Empire and the Crimean Khanate. The analysis of the above-mentioned public legal norm of an interstate treaty reinforces on the one hand, the political significance of military support of Kabarda for conflicting parties, and on the other hand, the admissibility and probability of military forces use of Kabarda by previously conflicting parties.

The Belgrade Treaty also set forth the conditions for the stay of Kabardian amanats both in the Russian Empire and the Ottoman Porte, but with the proviso “*if the Kabardians give the reason for the complaint to one or another Power, every will be allowed to punish*”. It followed from the normative regulation that the protection of private-legal interest of Amanat-Kabardians was ensured by the possibility of applying measures of a public-legal nature by both Powers. The concept of “amanatstvo” comes from Arabic amanat (arab.) - according to the customary law of a number of Arab and other Eastern countries, a hostage taken to secure a debt obligation was also used in ancient Russia. Samrina (2018) notes that “honorable hostage” was practiced. Many “honorable” prisoners studied at Russian military specialized schools, and they returned home being completely different people. As a rule, children of the elite part of the population became amanats. The special status and protection of amanats meant that the harm caused to them, could serve as the basis for an interstate conflict.

The legal analysis of normative regulations of the Belgrade agreement allows making some conclusions: a ban on the use of significant military Kabarda support for conflicting parties (one side of the Russian Empire, another - the Ottoman Empire and the Crimea Khanate); special legal protection of Kabardian amanats (causing harm to them could be the basis for an interstate conflict) and the possibility of their being with two opposing states and the vassal Crimean Khanate; recognition of the independent status of (“free”) Kabarda, which made it possible to consider Kabarda as an interested party in Russian-Crimean-Turkish relations. In this regard, the Belgrade Peace Treaty is the basis for the international legal

consolidation and recognition of the new independent subject of “Bolshaia and Malaia Kabarda” with the aim of establishing diplomatic relations with it, both on the part of the Russian Empire and the Ottoman Empire and the Crimean Khanate in solving the issue of military support.

The status of “free” Kabarda lasted 35 years from 1739 to 1774, until signing of the Kiuchuk-Kainardzhiiskii Peace Treaty. During this period of confrontation between Russia and the Ottoman Empire and the Crimean Khanate, free Kabarda continued to adhere to the pro-Russian orientation and enjoy regular military support from the Russian side, as evidenced by numerous facts of the opposition of Kabarda to the Crimean Khanate troops. In 1740, a letter from the Kabardian owners to the Empress Anna Ivanovna stated that “*according to the decrees of Your Majesty, we performed all kinds of services*”.

In 1742, the appeal of the Kabardian owners to the Empress Elizaveta Petrovna with a statement of their merits in battles with the Crimean Khan indicated that “*with the Russian army and the Duke Aleksandr Bekovich Cherkaskii we went on Kuban together and there defeated the Crimean Sultan with a large number of his troops*”.

In 1747, Crimean-Kabardian relations were repeatedly the subject of discussion of both Russian and Turkish parties, as well as the complaints of the Crimean Khan against the Kabardians.

The Russian Imperial Court sent a note about the desirability of non-interference of the Crimean Khan and Kuban Seraskier in Kabardian affairs of 1750 to Turkey “*the Crimean Khan ... do not cease to interfere in Kabardinian affairs under various pretexts, using sometimes caress and sometimes threat and force to make those local inhabitants leave their homeland and go to them...*”. The reason for such interest of the Crimean Khan in Kabarda was explained in the decree of the Board of Foreign Affairs in 1763: “*The Kabardian people, revered in that local side for their excellent bravery, ... are always the subject of jealous efforts of the Crimean khans to have this subordinate*”.

In 1769, the Russian side also made efforts to attract Kabardian owners. This fact was confirmed in 1770 in the presentation of Captain M. Gastotti to the Board of Foreign Affairs on the behaviour of Kabardian feudal lords during the Russian-Turkish war, outlining his opinion on the policies that should have been pursued by the tsarist government in Kabarda: “*Quite a lot of work should be done, that inhabitants of Great Kabarda would preserve committed by them in the past year, the oath of allegiance*”. In 1771, in the diploma of Kabardian owners Ekaterina II indicated: “*... when we were informed that ... Kabardians came out of the delusion, brought the acknowledgement of guilt, recognized themselves as our residents and took the oath of allegiance, and warned their final misfortune*”.

Thus, the considered period of “free” Kabarda was characterized by constant attempts to “pull” it both from the Russian and Ottoman Empire and the Crimean Khanate. In turn, part of the Kabardian nobility continued to consistently adhere to the pro-Russian orientation and resist the claims of the Crimean Khanate.

The next interstate agreement was the Kiuchuk-Kainardzhiiskii Peace Treaty in 1774. In this agreement, in addition to the interests of the Crimean Khanate and Kabarda, the Russian Empire and the Ottoman Empire, the ownership of other territories was also determined, but only the legal status of Kabarda remained uncertain, and was directly dependent on the Crimean Khanate. But in the considered treaty, the independence of the Crimean Khanate is not fixed directly, and in article 6 all Tatar peoples are recognized as free and independent: “All Tatar peoples: Crimean, Budzhat, Kuban, Edisants, Zhambuiluks and

Edichkuls without withdrawals from both Empires have to be recognized as free and completely independent of any third party in power, but staying under the autocratic power of their own Khan of Genghis generation ... neither the Russian court nor the Ottoman Porte have to intervene both the election and setting of the mentioned Khan...". The Crimean Khanate was not separated by a separate independent subject in the agreement, as the "free" Kabarda was previously distinguished. The legal status of Kabarda was normatively uncertain, and this uncertainty was expressed in the bilateral dependence of Kabarda both on the Russian Empire and the "will of the Crimean Khan". On the one hand, in the preamble of the Kiuchuk-Kainardzhiiskii Treaty "*Kabardian lands and lands of Circassian and highland Dukes*" are listed on a par with the other all-Russian possessions of the Empress. But it should be noted that the names of lands where the representatives of the single Adyghe ethnic group of "*Kabardian and Circassian lands*" lived, are differentiated in the treaty. On the other hand, the regulation of the article 21 of the Kiuchuk-Kainardzhiiskii Treaty, according to which: "*Both Kabarda, that is, Bolshaia and Malaia, neighboring with the Tatars have a great relationship with the Crimean khans, for which their belonging to the Imperial Russian Court must be granted to the will of the Crimean Khan*". The normative wording used in the treaty draws attention to itself: "*both Kabardas, that is, Bolshaia and Malaia, in the neighborhood of the Tatars have a great relationship with the Crimean khans*". The analysis of historical sources allows us to conclude that "*a great relationship*" can include both family and political military relations. Historical sources mention that many Crimean khans were brought up in Circassia, or had relatives in the side of mother or wife (In the 18th century, the total number of Crimean khans was 20 people whose mothers and wives were mainly representatives of the clans of Circassian nobility; consequently, the young Girey, according to tradition, were sent to the Atalyks (tutors) Circassians), thus the circassiation of Girey clan passed through the system of atalych and marriages with representatives of the Circassian nobility).

The Russian Empress undoubtedly included to Russian lands only "*lands of Circassian and highland Dukes*" that is, parts of the Adyghe ethnic groups, and provided for "*belonging of Bolshaia and Malaia Kabarda to the Imperial Russian Court ... to the will of the Crimean Khan*". Thus, the land inhabited by representatives of a united Adyghe ethnic group, for the first time, by means of the Kiuchuk-Kainardzhiiskii Treaty was divided into "*Circassian lands and Bolshaia and Malaia Kabarda*". This regulatory consolidation allowed determining "*lands of Circassian and highland Dukes*" who did not support the policy of tsarism as Russian territory, and before this, the pro-Russian-oriented "free" Bolshaia and Malaia Kabarda should be transferred "*to the will of the Crimean Khan*", under the autocratic power of whom the Tatar people was admitted "*free and independent*". Such a political-legal disposition allowed the Russian Empire to use the military-political confederate Bolshaia and Malaia Kabarda as a "*territorial lasso*" in further geopolitical processes related to the joining Crimea to Russia. Thus, the analysis of normative regulations of the Kiuchuk-Kainardzhiiskii Treaty of 1774, allows us to state the significance of the influence degree of Kabarda in the processes of joining Crimea to Russia in the 18th century.

7. Conclusion

Determination of the legal status of Kabarda, enshrined in interstate treaties in the 18th century, made it possible to formulate certain conclusions:

- Kabarda has a significant impact on Russian-Turkish interstate relations in the 18th century, since the importance of Kabarda military support for conflicting parties is of paramount importance;

- the issue of Kabardian constantly served as a pretext for military confrontation of the parties and a violation of peace agreements between the Russian Empire with the Ottoman Porte and the Crimean Khanate;

- a special legal protection of Kabardinian amanats (causing harm to Kabardinian amanats as the basis for interstate conflict), confirms the interest of the Russian and Ottoman Empires in Kabarda;

- the international legal consolidation and recognition of a new subject of “Bolshaia and Malaia Kabarda” assumed further development of diplomatic relations, both from the Russian and Ottoman Empires and the Crimean Khanate in solving the issue of military support from Kabarda;

- a political-legal disposition allowed the Russian Empire to use the military-political confederate Bolshaia and Malaia Kabarda in further geopolitical processes related to the joining Crimea to Russia.

The analyzed problem requires further interdisciplinary research, since not all relationships are of formally-defined character. In this regard, many regulations of the considered interstate treaties should be substantiated by comprehensive historical and historical-legal research.

References

- Abazov, A. Kh. (2013). Customary law as an element of socionormative culture of Kabardians in the 19th century. *Past Years. Russian Historical Journal*, 28(2), 18–22.
- Abazov, A. Kh. (2014). “Marriage by stealing” as an element of the sociological culture of Kabardians in the last quarter of the 19th century. *Woman in Russian society*, 3, 3–9.
- Kuzminov, P. A., Kumykov, A. M., & Dзамikhov, K. F. (2013). Regional historiography in the system of university science. *Higher education in Russia*, 6, 76–81.
- Malbakhov, B.K. (1999). *Mutual relations of Kabarda with Russia: from the military-political union to the establishment of Russian administration, the middle of the 16th – the first quarter of the 19th* (Doctoral Dissertation). Vladikavkaz.
- Muratova, E. G. (2010). Study of history of the North Caucasus of the 19th – early 20th century. *Issues of history*, 5, 160–169.
- Samrina, E. V. (2018). Amanach as a socio-political institution of joining and conquering new territories to the Russian state in the 17th–19th centuries. *Bulletin of Dagestan Scientific Center*, 49, 63–69.
- Zhurtova, A. A., Kuzminov, P. A., Kononov, A. A., & Muratova, E. G. (2017). The problem of russian-caucasian historical interaction in the national liberal historiography of the late XVIII – XIX centuries. *Past years. Russian Historical Journal*, 45(3), 776–784.